

FOR PUBLICATION

CIVIL AVIATION AUTHORITY

MINUTES OF THE 473rd BOARD MEETING HELD ON WEDNESDAY, 16<sup>th</sup> APRIL 2014, AT  
AVIATION HOUSE, GATWICK

Present:

Dame Deirdre Hutton

Chair

Mr Andrew Haines

Chief Executive

Dr Catherine Bell

Mr David Gray

Mr Richard Jackson

Miss Chris Jesnick

Mr David King

Mr Iain Osborne

AVM Edward Stringer

Mr Mark Swan

Mrs Kate Staples

In Attendance:

Dr Stephen Rooney

Director, Corporate Communications

Mr Dominic Marino For Item 5

Mr Mike Barnard For item 5

Mr Matt Claydon For Item 6

Mr Mike Goodliffe For Item 6

Mr Thomas Carr For item 6

Mr Peter Tormey For item 6

Mr Richard Hannah For item 7

Mr Lars Calvert For item 7

Mr Simon Baker For items 7, 8 & 9

Mr Conrad Thompson (PA-Consulting)

For item 7

Ms Kerry Simmons

For item 7

Mr Mark Chesney

For item 10

Mr Peter Gardiner

Ms Imogen Brooks Minute Taker

## **II Apologies**

1. Apologies were received from Chris Jesnick.

## **II Minutes of the Previous Meetings and Matters Arising**

2. The Chair confirmed that she would oversee and provide scrutiny of the CAA's whistle blowing process.
3. The Minutes of the previous Board were approved.

## **III Chair's Update – by Dame Deirdre Hutton**

4. The Chair reported on recent meetings she had attended which included the CAA's Leadership conference, dealing with the framework for Better Regulation. She reported an impression that culturally the CAA was moving on and was encouraged by the participation and questions from those that attended. Additional appointments included visits to Belfast City and International Airports and a roundtable discussion with Howard Davies, Chair of the Airports Commission. The Chair also reported she had visited the Manchester Regional office and attended the Better Regulation Steering Group, chaired by Lord Currie.

## **IV Chief Executive's Report - Doc 2014-040 by Andrew Haines**

5. Mr Haines advised the Board that the deadline for any appeal against the CAA's airport market power determinations and licence conditions, in respect of Heathrow, Gatwick and Stansted (passengers) had now passed. He noted that there appeared to be a low risk of an appeal of the Stansted cargo determination, which had recently been published. The Chair recorded congratulations to Iain Osborne's whole team on this work.
6. As part of the Performance Based Navigation (PBN) initiatives, Gatwick airport and NATS are trialling new departure routes. The ADNID Standard Instrument Departure trial has attracted many complaints from residents in Warnham, which is an area of a "high level of tranquillity" within 2 Km of the trial route. CAA is encouraging NATS and Gatwick to proactively manage communications with those affected and is also challenging NATS and Gatwick to ensure that the trial is ended as soon as sufficient data is available. It was confirmed that the CAA had handled the initiation of the trial in accordance with the Air Navigation Guidance issued by the Secretary of State. Should NATS or Gatwick wish to propose an airspace change that included the ADNID route it would be subject to full consultation requirements. The Board acknowledged the levels of local interest and the fact that an absolute level of noise is not a measure of public irritation and that different groups of people have different expectations of acceptable levels of ambient noise.
7. Mr Haines reported that the transfer of certain aviation security responsibilities had successfully taken place on 1 April 2014. The Board congratulated Kate Staples, Peter Drissell and the whole of the team.
8. Mr Haines reported that the CAA had received the NATS response to the CAA's request for a report on the VCCS<sup>1</sup> failure.
9. Mr Haines noted that there have been no movements towards the introduction or otherwise of an Independent Aviation Noise Authority.
10. Mr Haines reported that he had agreed to a meeting with the Oil and Gas industry to hear their representations why they should not comply with the 1 June 2014 deadline to introduce Action 8 of the CAA review into Offshore Helicopter operations (CAP1145). Mr Haines said it had been made clear to Oil and Gas UK that any submission needed to be evidence based. To date no evidence has been submitted but the CAA would clearly listen and take all relevant evidence into account when reviewing

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<sup>1</sup> Voice Communications Control System

industry submissions regarding compliance with the 1 June 2014 deadline.

## **V Draft GA Policy Framework - Doc 2014 – 041 by Iain Osborne and Mark Swan**

11. Mr Osborne presented the paper and introduced Dominic Marino (PPT) and Mike Barnard (GA). Mr Osborne explained that PPT had worked with GA Unit colleagues in developing the framework but the GA Unit would be responsible for applying the framework in future. Mr Marino and Mr Barnard explained that the general philosophy of the framework is that the GA community will manage its own risk and should be allowed to do so provided that 3<sup>rd</sup> parties are protected. This approach requires the CAA to assess the risks presented to 3<sup>rd</sup> parties by GA activity and to take steps to sentence those risks through appropriate mitigation.

12. Mr Barnard explained that there would be no removal of the requirement for a pilot to comply with the Rules of the Air. Other requirements might be adjusted where willing non-pilot participants were informed of and accepted the safety standards. The nature and extent of the information to be given to participating non-pilot 3<sup>rd</sup> parties would vary depending on the facts of the individual situation and its inherent risks. Mr Barnard reported that the intention of this approach would be to make compliance as easy as possible, thus improving safety overall.

13. Mr Barnard gave some examples. The current regulation of micro-lights (based on take-off weight) encouraged pilots to fly flimsy airframes. The de-regulation proposed (moving away from criteria based on weight) should mean sturdier micro-lights, making them safer for both pilots and passengers, whilst at the same time not increasing the risk to 3<sup>rd</sup> parties on the ground. The de-regulation proposed for bona fide commercial experimental aircraft would focus our regulation on the expertise of the designer and the production organisation rather than the aircraft. CAA might require these aircraft to fly in limited test zones for a period. Mr Barnard referred to the CAA's use of the flexibility provided in EU law, to allow non 8.33 kHz handheld radios to be used in certain aircraft in certain airspace. Previously, CAA considered handheld radios as non-compliant, resulting in aircraft flying without such radio aids, which was a perverse safety outcome. By relaxing the rules in certain airspace, the use of radios would become more widespread and therefore safety would increase significantly.

14. Mr. Haines noted that the latest announcements from EASA on GA regulation look very similar to CAA proposals.

15. The Board acknowledged the assistance that the draft framework provided. The Board asked whether there was a risk that commercial work would be de-regulated; whether the framework would enable commercial flights to be treated as de-regulated or lightly regulated GA flights. Mrs Staples explained that the framework gave the CAA a structure through which to look at requests for de-regulation, enabling the CAA to adopt a principles and evidence-based approach to decisions. Accordingly, air taxi flights would be treated differently from an enthusiast paying for a flight in a Spitfire.

16. Mr Haines confirmed that the Board was being asked to agree the framework on which the CAA would consult and not to agree to the specific results of any requests that might be considered using the framework. The Board asked that some specific examples be added to the consultation.

### **Action: Iain Osborne/Mark Swan**

17. The Board noted the interaction between illegal public transport and the proposed framework. Enforcement issues would continue to arise, including the difficulty in proving that a passenger has paid for his or her flight and in what circumstances. The Board emphasised that it was important to ensure that the CAA carried out appropriate enforcement of the obligations that would remain. Mr Haines noted that whilst prosecution was important he wanted the CAA to be confident in its use of its

licensing powers as part of the CAA's "enforcement toolkit".

18. The Board considered that the evidence relied upon from the North East USA was not compelling and ought not to be relied upon in the consultation. The Board noted that obtaining informed consent could be difficult and that in return for more freedom the GA community needed greater training, for example to prevent them infringing controlled airspace. It was noted that the PPL syllabus was due for review; that education regarding airspace infringements was one of the CAA's most active areas and that considerable attention is required to maintain the educational messages on this issue.

19. The Board was content to agree to a consultation provided it contained appropriate coverage on enforcement (including licensing) if privileges are abused; set out guidance on the margins of commercial activity (with examples); considered the practical steps of obtaining informed consent; and foreshadowed the review of the scope of PPL syllabus.

#### **Action Mr Osborne/Mr Swan.**

20. Mr Haines reported that the consultation would be discussed with DfT and if they had concerns the matter would come back to the Board; otherwise, the consultation would be published at the end of June.

#### **VI RP2 Performance Plan - Doc 2014-042 – by Iain Osborne**

21. Mr Osborne explained that the UK's draft UK-Ireland performance plan for RP2 had been published for consultation and the consultation period had now closed. Mr Osborne noted that the CAA was not the decision maker. The CAA's role was to produce a draft plan for the Secretary of State, who would in turn submit the draft to the Commission, which would make the decision. The purpose of the paper was to bring the amendments proposed, to the attention of the Board and seek their views.

22. The Board noted that the proposals had been drawn up very quickly after consultation closed, in order to be put before the April Board. Airlines, NATS and the NATS TUs had met for face to face deliberation before the consultation closed.

23. Mr Claydon and Mr Goodliffe took the Board through the proposals and explained the changes to the original plan, which were highlighted in the updated schedule tabled at the meeting. The Board accepted the revised proposals, noting the following:

- a. in respect of the 3Di measure that the deadbands should be tighter;
- b. that NATS role in implementing transition altitude was apt for inclusion in the plan, as compared with the LAMP<sup>2</sup> programme, which was monitored through the NATS licence;
- c. that there would be a slight increase in the number of days where performance monitoring would be suspended, in order to encourage NATS to introduce beneficial new projects;
- d. that whilst some technical adjustments would be made with respect to the cost of capital in light of NATS consultation response, no substantive changes would be made in that regard;
- e. that the proposals with respect to pensions costs and staff costs would not be changed.

24. As regards terminal ANS<sup>3</sup> capacity there had been considerable feedback from the airline community and NATS. This feedback had triggered a revised approach, which noted that at most airports competition is developing, except at Heathrow. The CAA considers that Heathrow should be separated out into a different charging zone, enabling the CAA to increase the possibility of competition at other towers.

25. The Board asked whether the targets were achievable, being conscious of the fact that in some cases the recommendations are more onerous than the EU targets. It was explained that the CAA

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<sup>2</sup> London Area Modernisation Programme

<sup>3</sup> Air Navigation Services

could justifiably seek to require better performance from NATS in the interests of airspace users.

26. Mr Osborne highlighted the creation of the FAS Deployment Facilitation Fund and the particular factors underpinning its inclusion in the proposed settlement for NATS.

27. The Board agreed to the proposals and delegated approval of the final form of the CAA's recommendations to DfT to Mr Haines, Mr Osborne, Mr Swan and Mrs Staples, provided that any change in overall policy is referred back to the Board.

#### **Action Mr Haines/Mr Osborne/Mr Swan/Mrs Staples**

### **VII PPI – Appointment of System Integrator and Authorisation of Phase 1 of the Programme - Doc 2014-043 – by Andrew Haines**

28. The Board was asked to approve the appointment of Systems Integrator and to approve expenditure. In explaining the recommendations to the Board, Mr Hannah stated that the phasing of the project was difficult to manage due to the number of interdependencies. It was recognised that irrespective of the funding, there was a limit to the amount of change that could be managed at any one time. The consumer case management/account management capability would be prioritised since it would provide platforms for licensing and data management, which are critical to performance based oversight.

30. The Board noted that the key risks were the capability of the CAA to deliver this transformation, including the cultural aspects of the change, and the ability to intelligently identify what was needed to be purchased. The Board identified that funding relies on benefits being realised.

31. In response to a request to provide his views, Mr Thompson (PA Consulting) confirmed that he was content with the recommendations. He noted that there would be local accountability for managing work streams, that the risk and assurance board had been shown to work well and that over the last 6 months, the CAA had met key deliverables in the project plan: the exams portal is live and the Hub has achieved staff savings.

32. The Board asked whether the procurement process and the comments of the non-successful bidders highlighted any problems with the project itself. It was reported that some applicants had different opinions on the right technical solutions for our strategy. For example, one bidder had asked whether LiveLink is capable of document management, which is an option that would be explored. The process also prompted discussion on 'private clouds' and whether these were appropriate for HR and Finance. It was confirmed that ultimately the remaining bidders had converged on the appropriate technical solutions..

33. The Board also asked for confirmation that the project planners had obtained assurance from users that there would be no change in requirement. Mr Haines referred to the length of time the CAA had spent mapping its needs and it was explained that the change control mechanism in place would not allow the project to drift off the cost allocated to it. Any request for any additional requirements would need to also propose additional benefits and a decision would then be made whether to allow the change or not. The project included strict governance controls and only ExCo was authorised to change the scope.

34. The Board asked if it had been made clear that it was the personal responsibility of senior users not to seek special changes and how the CAA could track benefits realisation post implementation. Mr Hannah explained that there would be benefits contracts which will monitor where tangible benefits have been captured. In respect of efficiency savings, it was reported that the CAA was ahead of schedule and, by way of example, that an extra 15% of savings could be made through the operation

of The Hub, in addition to those included in the business case numbers.

35. The Board considered the funding proposals and asked whether the project had stop points that allow the project to halt without losing realised benefits. Mr Baker assured the Board that the funding model was structured so that those projects that delivered fewer savings were at the back end of the programme. Plans could, if necessary, be altered to meet the funding reality of the time. The Board was advised that there had been an overwhelming shift away from use of external consultants to using internal CAA staff (from a ratio of 10:90 to 50:50).

36. It was noted that there would always be user resistance to change but Business Change Managers were trained to deal with this. It was mentioned that the way in which the CAA is going about the transformation project reduced the risk of such resistance. The Board was informed that the CAA is not buying bespoke IT, which in turn, reduces any risk of going over budget. Business change itself is a risk because, although IT will match system requirements, some may consider it not fit for purpose from their individual perspective. The Board agreed that a most important way in which that this business risk could be addressed was allocating time and budget for adequate and consistent training throughout the CAA before roll out and to ensure support post-implementation.

37. The Board accepted the recommendation as the Systems Integrator and approved the funding required for Phase 1. In doing so, the Board noted that the scale of cultural shift required was large and the Board took comfort from the decreasing proportion of external consultants delivering this project and the fact that ExCo retains control over the scope of any change. The Board also identified:

- a. the importance of regular checks (e.g. monthly) on benefits realisation, and
- b. that the Board needed to be notified immediately if there is any slip in the programme.

38. The Board agreed that the CEO would include a short monthly update in his report to the Board and in particular would flag if the project was going off course. Otherwise, the CEO would provide substantial updates every six months identifying actual outcomes against those planned.

**Action: Mr Haines/Mr Hannah**

39. AVM Stringer noted that the risk register required some work. The risks identified were not owned by anyone with the authority to sentence them. It was agreed that the risk register should be reviewed and more tightly defined, with allocation of ownership of the individual risks.

**Action Mr Hannah**

## **VIII Draft CAA Group Budget 2014/15- Doc 2014-044 – by Simon Baker vice Chris Jesnick**

### **IX Finance Report- Doc 2014-044 – by Simon Baker vice Chris Jesnick**

40. Mr Baker presented the Group budget for 2014-15 to the Board. He explained that each group in the CAA had been tasked with achieving a 5% reduction in costs, taking into account salary and pensions costs increases. Mr Baker noted that March would be the lowest point in the cash cycle (as many charges are paid in April) and that cash flow dips and surges had been taken into account and would be critical for the PPI funding plan.

41. Mr Baker explained that the strategic plan envisaged £16m savings and that the CAA would have achieved a £22.4m reduction a year early. The 6% rate of return included the £1.3m loss arising in relation to aviation security activity, where a 50% concession was given to charge payers in year 1. It is anticipated this will be recovered by efficiency savings and rebalanced income in future years. The most significant risk was the realisation of the PPI savings and whether the CAA has calculated the

level of back-fill correctly. 37 FTE savings needed to be achieved by the end of the year.

42. The Board noted the high professional fees for CAAi. These included overseas tax and legal advice as early-days costs, whilst overseas premises were being set up. The internal audit is substantially outsourced; hence the cost of internal audit is higher than for external.

43. As regards the key assumptions on page 4, the key challenges were whether each regulatory group could achieve its 5% savings target and whether the PPI programme balances and records the correct credits going back into the budget, to prevent a false picture being created.

44. It was noted that the budget assumed quite a substantial growth in income from charge payers. The assumed level of growth was based on expert advice from MCG, which in turn relied on a DfT model that, in turn, relied on GDP predictions. Mr Osborne would provide more information on this issue.

#### **Action Mr Osborne**

45. The Board was informed that OFCOM revenue passes through the CAA books. However, even if that revenue is stripped out, there remains a significant growth in revenue from advisory services.

46. The Budget was approved by the Board.

47. The Board was informed that the Regulatory Policy Committee, chaired by Michael Gibbons, had received a complaint from BATA that the error regarding the scale of security costs was due to a lack of consultation between CAA and DfT. A response had been written to explain that the CAA had not been included in the DfT process of assessing its costs but the Regulatory Policy Committee had not accepted the CAA position. In addition, the Transport Select Committee has asked the CAA questions about this issue. There will be a review of the matter by CAA and DfT and the Board acknowledged these developments.

#### **X European Liberalisation Programme – Update on Tactical Actions – Wet leasing In – Doc 2014-045-Mark Swan**

48. It was explained that wet leasing in has increased 20% over the last 2 years. Traditionally, it had been a method of managing capacity changes throughout the year, but increasingly it is an all year round option. Liberalisation of the market depends on the premise that safety standards are equal across Europe. With the full support and interest of EASA, the CAA had developed a framework, which has been tested by major UK airlines, to enable UK operators to assess and safely manage the risks from any wet leasing in proposal.

49. The Board noted that there would be consumer financial protection consequences should a flight operated under a wet lease, be cancelled or delayed. It was agreed that it should be the subject of further consideration. It was noted that an unintended consequence of Regulation (EC) 261/2004 was that operators are likely to wet lease at short notice to avoid Regulation (EC) 261/2004 compensation payments for cancelling or delaying flights. The Board was informed that UK airlines do not have a good compensation record. Problems for consumers are not so much the identity of the airlines, but that regulations require the nominated state authority from where the affected flight departed to deal with consumer complaints under Regulation (EC) 261/2004.

50. EASA supported the ongoing work and asked the UK to feedback the outcome to both it and other Member States. EASA consider this alternative route may be the best way of achieving the standardisation they require but do not have the resources to facilitate.

51. The Board concluded that this paper was a good way forward on the safety issues and that the focus would be around consumer protection.

**Action: Mr Osborne**

**XI Safety and Airspace Regulation Group Report – Doc 2014-06-Mark Swan**

52. In addition to the paper, which the Board was invited to note, Mr Swan reported that ESP successes are being promulgated throughout the CAA and that senior management was retaining a tight control of ESP training.

**XII Report from Audit Committee – Doc 2014-054-Graham Ward**

53. Mr Ward reported on the March Audit Committee meeting. He advised that more information was needed in the annual report for this year, relating to performance, efficiency and business models. Remuneration disclosure requirements had changed and a mock up of how remuneration disclosure might look, would be prepared. As regards other business, the committee needed more information on two matters (data protection and ATT) in order to assess how their risks were controlled.

54. The internal audit contract had been put out to competitive tender and been re-awarded to KPMG. The external audit has to be re-tendered. The process will be complete by the end of August

55. The Board gave its approval to the Audit Committee's activity and performance report. The Board also approved a slight amendment to the Audit Committee's terms of reference, enabling fixed-life sub-committees to be established to deal with specific issues.

**XIII Health and Safety Annual Report – Doc 2014-047-Mark Swan**

**XIII Occupational Health Annual Report – Doc 2014-048-Mark Swan**

56. Mr Swan presented both reports and highlighted that there was a spike of incidents in November 2013: 4 road traffic accidents, one fall through scaffolding and increased slips, trips and falls due to the wet weather. The Board was unable to be provided with long term sickness absence data but this should be available by the end of the next reporting period.

**Action: Mr Swan**

**XV General Counsel's Quarterly Report – Doc 2014-049-Kate Staples**

57. In addition to the information in her report, Mrs Staples drew attention to a freedom of information case and the CAA's response to the ICO.

**XVI Any other Business and Forward Planning**

58. No AOB. PIE agenda.

**Date and Time of Next Board Meeting: 21 May 2014, starting at 0930 a.m. in the Earhart Meeting Room CAA House London.**