

# UK Airspace Design Service: Governance and engagement

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## Summary

1. This paper sets out the proposed governance and engagement approach for the UK Airspace Design Service (“UKADS”) following consideration of the feedback provided through the joint Department for Transport/CAA consultation<sup>1</sup> which ran from October to December 2024. This includes the relationship between NATS (En Route) plc (“NERL”) (in its capacity as the provider of the UKADS function) and the DfT and the CAA (acting as co-sponsors for the Airspace Modernisation Strategy), and how the UKADS Advisory Board might function.
2. The UKADS provider<sup>2</sup> will have clear governance and accountability arrangements to enable it to function effectively to deliver its objectives. These governance arrangements aim to provide sufficient visibility and oversight for the co-sponsors to have confidence in delivery, and demonstrate transparent, fair and effective decision making to stakeholders.
3. Analysis of the feedback received to the consultation has been considered when developing this paper. Further detail on that feedback, as well as the co-sponsors’ responses to the points raised, is set out in “Airspace modernisation: Outcome of the consultation on a UK Airspace Design Service” (CAP 3106). Chapter 3, Analysis of the responses (questions 16 and 17) discusses governance, and related areas such as transparency and how potential conflicts of interest might be managed. A number of free-text comments were also provided about different aspects of governance and the relationship between the UKADS and other parts of NERL and other organisations.
4. The co-sponsors are minded to establish the governance arrangements for the UKADS on the basis set out in this paper, and this approach is reflected in the CAA’s Initial Proposal consultation about changes to NERL’s air traffic services licence (“licence”). The final details of how the governance arrangements will operate will reflect consideration of any feedback on the proposition set out in this document.
5. Some elements of these governance arrangements will be implemented through NERL’s licence. This paper covers points that will be reflected in the licence as well as more general points about how DfT and CAA will work with the UKADS provider in

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<sup>1</sup> All references in this document to the consultation relate to the joint DfT and CAA UKADS consultation (CAP 3029), rather than the CAA Economic Regulation consultation about the NERL air traffic services licence (CAP 3063).

<sup>2</sup> References to the UKADS in this document mean NERL in role as the UKADS.

practice. In addition, there will be a degree of independent and stakeholder oversight through an UKADS Advisory Board.

## UKADS structure and governance

6. The UKADS function will be carried out by NERL, which is a regulated subsidiary of NATS Holdings Ltd.
7. The UKADS function will be responsible for delivering a range of airspace design services for a defined geographical area. It will act as a ‘guiding mind’ to design and deliver holistic airspace design for a geographic area containing multiple major airports, manage trade-offs between different parts of airspace change proposals (“ACPs”), and ensure the requirements of different stakeholders are managed effectively to deliver the best overall outcome for the UK. The UKADS provider will be empowered to deliver this role effectively.
8. The key decisions on whether an airspace change proceeds through different stages of the airspace change process will continue to be taken by the CAA as airspace regulator, or the Secretary of State for Transport if an ACP is “called in”.
9. The co-sponsors will hold the NERL Board to account for timely delivery of the tasks that the co-sponsors assign for the UKADS and for the way that the UKADS provider delivers them. NERL will be responsible through the obligations in its licence, and NATS will be indirectly responsible through its ownership of NERL. The NERL Board will also be responsible, under its licence, for ensuring that NERL has the necessary resources, capabilities, expertise, tools and data to deliver the UKADS requirements and should keep this under review as the UKADS provider’s role evolves.
10. The “minded to” position is that NERL’s licence will oblige it to carry out the UKADS. The CAA will oversee compliance with the licence and relevant obligations under the Air Navigation Directions, legislation and guidance in the same way as it does with other obligations on NERL. As co-sponsors of the Airspace Modernisation Strategy (“AMS”), DfT and CAA will manage the practical relationship with the UKADS, including reporting, through the existing AMS governance arrangements, such as the DfT/CAA Joint Airspace Modernisation Programme Board structure.
11. As proposed in the joint consultation, the co-sponsor’s view is that the licence should:
  - a. require NERL to provide a UKADS function as a distinct unit within the licensee;
  - b. provide a mechanism to set the geographical area of the UKADS and include provisions such that the geographical scope could be amended in the future<sup>3</sup> without the need for subsequent amendments to the licence;

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<sup>3</sup> Any change would involve prior engagement with NERL, including to ensure that the UKADS function is resourced/ has capacity to take on any additional scope.

- c. require NERL to inform the co-sponsors about the appointment of the Head of the UKADS or changes to the operation of the UKADS;
  - d. include a robust mechanism governing UKADS's relationship with stakeholders through an UKADS Advisory Board; and
  - e. ensure that NERL remains accountable for the outputs and performance of the UKADS.
12. It would be for the UKADS and NERL Board to determine the appropriate internal governance arrangements for the UKADS in line with its licence conditions and best practice. The UKADS may wish to put in place its own internal Board structure, but this would be a decision for the UKADS and NERL Board. However, the co-sponsors would expect there to be clear accountability and performance management arrangements for the leaders of the UKADS, and would expect to be informed about the appointment of the Head of the UKADS and major organisational change.
13. A number of consultation responses raised concerns about conflicts of interest – for example, would a UKADS based within NERL favour ACPs being taken forward by NERL and/or NSL (NATS (Services) Ltd), or favour large airports over small ones. Many of the concerns related to other parties who are not covered by the licence. Any actual, potential or perceived conflicts of interest should be managed through NERL's existing processes and licence requirements.

## Role of the co-sponsors

14. The co-sponsors will principally have input at a strategic level into the UKADS objectives and priorities, consistent with the need for UKADS to maintain an evidence-based approach to making day-to-day design choices without interference from the co-sponsors. This would be managed through the licence, through guidance issued under the licence, and through the strategic objectives and strategic delivery plan described below.
15. Through the licence and AMS governance arrangements, the co-sponsors will set **strategic objectives** for the UKADS in writing. This could include the geographic scope of the UKADS activity to be undertaken, and a **prioritised list of design principles** for the UKADS, if not set out elsewhere. These will allow NERL to develop a **Strategic Delivery Plan** for airspace change. The obligation to create the Strategic Delivery Plan, to **consult** with the co-sponsors, and to keep the Plan up to date would be a requirement in the licence.
16. The **Strategic Delivery Plan** should set out the UKADS plans to deliver the airspace changes in the geographical area that it is responsible for, including its approach, assumptions, milestones, timescales and appropriate risk management allowances.
17. Where appropriate, the co-sponsors may also provide **guidance** to the UKADS, for example in the event of a new policy or a change in government priorities that could affect the work of the UKADS, or at the request of the UKADS.

18. It is our expectation that delivery against this Strategic Delivery Plan will be one of the key metrics against which the effectiveness of the UKADS could be measured. The co-sponsors would expect to agree with the UKADS a regular reporting mechanism against delivery of the plan (see also paragraphs 19 to 22). It is envisaged that this would be part of the working relationship with the UKADS.

## Meeting structure

19. Progress under the AMS is monitored by the co-sponsors at the regular joint DfT/CAA **Airspace Modernisation Programme Board**<sup>4</sup> attended by the co-sponsors and the MoD. This Board would be adapted to provide a decision-making and oversight forum for the co-sponsors in relation to the UKADS. This does not include any regulatory decisions in relation to ACPs under CAP 1616, which are not part of the Board's remit. The Head of the UKADS will be invited to attend for the relevant agenda items at this Board, although would not be a member. Management information on the progress of the UKADS (see below) would be added to this Board's regular reporting. The Programme Board would also consider any areas where NERL may be seeking guidance from the co-sponsors.
20. There should be a regular rhythm of **Oversight Meetings** (e.g. monthly) between the UKADS and the co-sponsors at a working level to monitor delivery and discuss ongoing UKADS performance and coordination with its stakeholders. These meetings would be supported by clear terms of reference ("ToRs"). It is expected that they would be attended by members of the UKADS, the DfT Airspace Modernisation team and the CAA's UKADS and Airspace Modernisation Oversight teams. Others, such as subject matter experts etc, could be brought in as needed. These meetings would be supported by appropriate **management information**, such as timelines, milestones, risk logs, stakeholder engagement and resource plans etc, which would be developed and agreed as part of the ToRs. This information would feed into regular reporting to the Joint DfT/CAA Programme Board and annually to the Secretary of State for Transport, to avoid duplication. The meetings will be scheduled by the AMS Secretariat to be timed to align with the Joint DfT/CAA Programme Board cycle to reduce duplication of effort and to ensure timely information-sharing and decision-making. The licence would include an obligation for the UKADS to agree the reporting and meeting approach with the co-sponsors but in other respects these arrangements would sit outside the licence.
21. To ensure that the UKADS has its own identity and is given sufficient priority by the co-sponsors, DfT and CAA envisage that these meetings would be standalone from the ongoing AMS delivery monitoring and oversight engagements.

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<sup>4</sup> The AMSPB is not involved in regulatory decision making in relation to individual ACPs or the NERL licence.

22. The co-sponsors expect to support the UKADS and its set-up through dedicated resources. Through the existing AMS governance structure, the co-sponsors will have a regular, ongoing dialogue with the UKADS to ensure that any risks or items requiring co-sponsors' views or guidance can be escalated quickly, and that stakeholders are kept up to date with progress. The co-sponsors will not be directly involved in the day-to-day activities of the UKADS in progressing ACPs through the airspace change process or the administration of that decision making process, which will remain the responsibility of the CAA's Airspace Regulation department. This is in part to give the UKADS space to provide the fair and holistic direction to airspace design and make trade-offs. In addition, functional separation from the CAA and the DfT should support robust decision making on airspace changes by the CAA and Secretary of State and mitigate the risk of perceived bias or conflict of interest.
23. It should be noted that the regulatory regime in Part 1 of the Transport Act 2000 provides a mechanism for enforcement, but better outcomes would likely be delivered if those mechanisms do not need to be used because the relationships and ways of working are in place from the start. **The co-sponsors acknowledge that this means that they will need to ensure that they are appropriately resourced and give priority to the work of the UKADS once it is established and on an ongoing basis.**

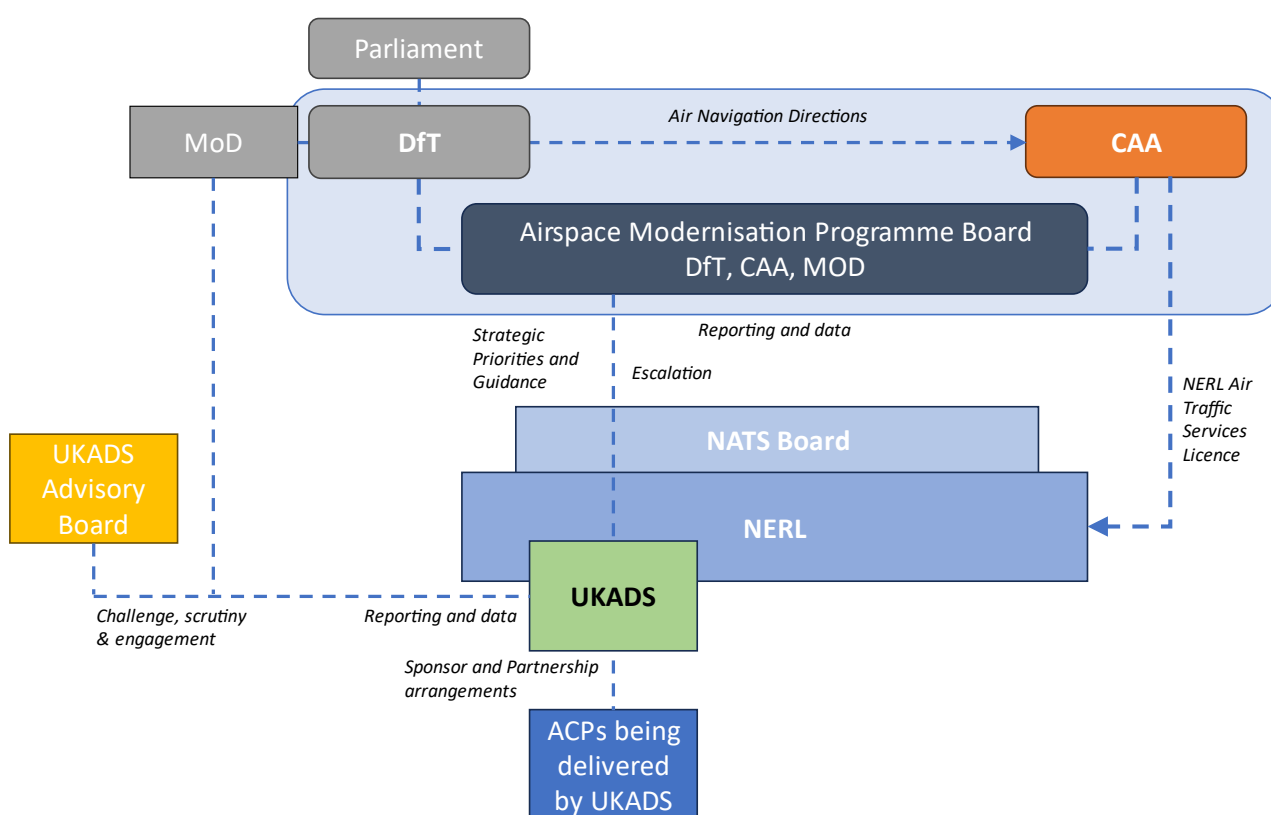
## Reporting

24. The reporting provided by the UKADS described above will be used to:
  - a. hold NERL to account for the UKADS's performance and delivery;
  - b. understand progress in delivering ACPs against the priorities and milestones in the Strategic Delivery Plan and give early visibility of any risks or issues, including whether the UKADS has sufficient resources and capabilities to deliver the plan;
  - c. understand dependencies and coordination between UKADS delivery and other programmes under the Airspace Modernisation Strategy;
  - d. demonstrate non-discrimination and fairness;
  - e. develop an evidence base on delivering airspace modernisation to inform future policy development, for example, to assess the effectiveness of the UKADS as a concept compared with the previous airspace change framework;
  - f. provide evidence to support regulatory interventions that might be required (for example, the use of powers under the Air Traffic Management and Unmanned Aircraft Act 2021); and
  - g. provide information to fulfil any statutory or parliamentary reporting requirements, including for example select committee inquiries, parliamentary questions and the CAA's annual AMS progress report.

25. These reporting requirements should use data that the UKADS would already be collecting and using for its own purposes. The co-sponsors will work with the UKADS to develop specific Key Performance Indicators. As a backstop, the licence will include a provision allowing the co-sponsors to specify the format and minimum requirements of such reporting, although our aim would be that this should be managed through normal working engagement, as any data needed by the co-sponsors should also be needed by the UKADS for its own work.

## Overview of proposed governance

26. The proposed approach is summarised in the diagram below.



## Proposed governance arrangements for the UKADS

## UKADS non-discrimination, transparency and managing conflicts of interest

27. NERL must make its choices and trade-offs fairly, independently, based on evidence and transparent processes, and in line with relevant guidance. The UKADS will make choices in relation to airspace design and trade-offs between different options, but will not be responsible for regulatory decisions to approve airspace changes as these



will remain the responsibility of the CAA and Secretary of State. A large number of consultation responses emphasised the importance of environmental considerations in developing airspace designs, so the UKADS will need to take into account (and be seen to take into account) the various environmental requirements for airspace change. Any potential or perceived conflicts of interest need to be mitigated to ensure it is credible and trusted to deliver.

28. This should include an appropriate degree of impartiality in relation to the rest of the NERL organisation so the UKADS can demonstrate that, for example, it is basing work on evidence to deliver its objectives in line with the design principles. At the same time, the UKADS function must be able to draw on NERL's wider resources and expertise to achieve economies of scale and effective delivery.
29. It is proposed that this would be managed through the existing provisions in NERL's licence relating to non-discrimination against parties in the provision of its licensed activities. In addition, the UKADS will be accountable to the NERL Board, and through it NATS (and accountable to the co-sponsors through the licence), for ensuring that any potential or perceived conflicts of interest are addressed.
30. This may include any ethical walls and appropriate separation of functions to ensure that information is shared appropriately, so it cannot be used to the advantage of one party over another. This should also include maintaining commercial confidentiality where needed. While this is covered by provisions in the NERL licence, the UKADS should be prepared to demonstrate that it is doing this to mitigate any stakeholder concerns.
31. It is proposed that NERL will be supported by a UKADS Advisory Board, that it will be required by the licence to put in place, to provide a degree of independent and stakeholder oversight.

## UKADS Advisory Board

32. The UKADS **Advisory Board** will act as a mechanism for key stakeholders to engage with and have oversight and visibility of the work of the UKADS at a strategic level. This was strongly supported by consultation responses as an important way for stakeholders to engage with and have appropriate visibility of the work of the UKADS. As well as being a mechanism for key stakeholders to hold the UKADS to account and raise issues of concern, it is also a means for the UKADS to test and work issues through with a smaller group of stakeholders, reducing future risks to delivery.
33. The co-sponsors' view is that the UKADS Advisory Board will have no decision-making role and it will not have a role, for example, regarding decisions or design choices around individual ACPs: its role will be to provide visibility and ensure that the UKADS is approaching these matters in the right way.

34. The co-sponsors will require the UKADS to set the structure, membership and to publish ToRs for the UKADS Advisory Board. There should be a requirement in the licence for the UKADS to consult the co-sponsors on this structure, membership and ToRs. The co-sponsors would not have a veto on this structure but may wish to attend the UKADS Advisory Board as observers.

## Stakeholder engagement

35. The co-sponsors will require the UKADS to prepare an overarching **Stakeholder Engagement Plan** setting out how it plans to manage its relationships with key stakeholders. This is likely to be an umbrella document setting out a high-level approach: engagement with specific stakeholders (including airport partners) on individual ACPs will be managed initially through the partnering arrangements with airports and the ACP on-boarding process and then through the processes set out in CAP 1616.
36. The co-sponsors do not propose to specify a format or detailed requirements for this Stakeholder Engagement Plan, but do envisage that it should capture how relationships will be managed with key stakeholder engagement entities with the AMS governance (specifically NATMAC and JANSC<sup>5</sup>), and any organisations and groups who might not be picked up through other engagement, such as other air navigation service providers, others with an interest outside the UKADS's area of geographic responsibility, General Aviation and military users, new airspace user groups like drones and commercial space flights, interest groups, and elected representatives.

## Dispute resolution

37. A number of consultation responses raised questions about how disputes would be managed with the UKADS and what the routes of escalation would be. For example, a dispute might arise if an organisation or individual disagreed with what the UKADS was doing, how it was doing it, or with its proposals on a specific ACP.
38. In such a case the dispute might be raised formally or informally with the co-sponsors – and this could be through the UKADS Advisory Board, at official level or through elected representatives. Similarly, the UKADS may need to take action to require or enforce, for example, an airport to cooperate with it or deliver a specific output.

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<sup>5</sup> National Air Traffic Management Advisory Committee, a non-statutory advisory body chaired by the CAA, and Joint Air Navigation Services Council, the principal mechanism for maintaining high-level oversight of arrangements between the CAA, NATS (En Route) plc and the MoD for the continued provision of joint and integrated air traffic services (J&I ATS).



39. It is, therefore, important that there is a clear process for managing such disputes which balances:

- the mechanisms to be consulted and raise concerns that exist as part of the CAP 1616 process;
- protecting the ability of the CAA and DfT to make fair and robust decisions in relation to ACPs;
- empowering the UKADS to deliver its functions: as noted above it is not the intention of the co-sponsors (and nor would it be appropriate) to get involved in the day-to-day working of the UKADS; and
- the ability of stakeholders to raise concerns and for the co-sponsors to discuss them to understand stakeholder views and the performance of the UKADS.

40. In any event the first port of call for someone with a concern would be to raise the issue with the UKADS. If they were a member of the UKADS Advisory Board and the disagreement related to a matter of principle or general approach, then it could be raised in that forum. If it was an issue with a specific ACP being delivered by the UKADS, then concerns could be raised in line with the approach set out in CAP 1616.