



**CAP3121**

**Economic Regulation of NERL: Initial proposals for modifying the Licence to support the implementation of a UK Airspace Design Service**

Submission by Prospect to the Civil Aviation Authority

24 July 2025

## **Prospect response to CAP3121: Initial Proposals for Modifying the NERL Licence to Support the Implementation of a UK Airspace Design Service (UKADS)**

Prospect represents over 2,800 professionals working across the UK's air traffic management (ATM) sector, including the vast majority of Air Traffic Control Officers (ATCOs), Air Traffic Systems Specialists (ATSS), and associated technical and operational staff. We welcome the opportunity to comment on CAP3121 and support the broader ambition to modernise the UK's airspace. However, we emphasise that the success of UKADS is contingent upon rigorous governance, sufficient resourcing, and clarity in regulation.

### **Reflection on Stakeholder Engagement**

While we welcome the CAA's consideration of stakeholder input in CAP3121, Prospect remains concerned that several of our previously stated positions, particularly in response to CAP3063 have not been sufficiently addressed. We acknowledge positive developments in governance structure, the separation of charges, and the general approach to transitioning legacy ACPs. However, concerns regarding workforce sustainability and the absence of mechanisms for longer-term review remain unresolved. These omissions risk undermining both the operational integrity and stakeholder confidence in the UKADS programme, and we urge the CAA to address them in the next phase of statutory consultation.

### **1. Governance, independence, and conflict of interest**

We acknowledge the proposal to create an Advisory Board (para 2.58) and agree that such a body is essential for transparency and stakeholder trust. However, we stress that this board must include operational expertise, particularly representation from expert front-line ATM staff / staff representatives, and must not be limited to commercial or executive voices. As noted in para 2.59, Prospect supports the inclusion of airport and airspace change experts.

While para 1.20 suggests that enforcement concerns should not be overplayed, we remind the CAA that Project Palamon (referenced in our CAP3029 response) illustrated what can happen when resourcing and governance are misaligned. The proposed modifications must take cognisance of the conflicts of interest that can and almost certainly will arise between NERL's en route operations and its UKADS responsibilities. We refer to Condition 9 and fully support the maintenance of cross-subsidy prohibitions and financial ring-fencing as detailed in page 47.

We also ask whether there are proper dispute and resolution processes in place, as called for by a number of stakeholders (paragraph 2.97). It is unclear what strength the "guiding mind" as referred to in paragraph 2.74 will have, and as referred to in paragraph 2.81, the CAA may have to step in. Clearer processes for how problems may

be escalated and resolved need to be developed with the same importance as the framework for UKADS itself.

## **2. Staffing and resource constraints**

Prospect remains deeply concerned about the implications of this model for staffing. While para 1.19 states that core air traffic services will not be compromised, this assertion underestimates the fragility of current staffing levels, especially in light of NR23. Nor does it properly engage with the flip side of the argument - the pull that NR23 (and NR28+) and licensing requirements to provide an operational service will have on staffing and execution of UKADS activities.

Whilst we have made the point before and indeed it is noted in our response to both CAP3029 and CAP3063, the risks that this will have on staffing and deliverables for both UKADS and NERL (as ATS provider) as a result of demand on what will oftentimes be the same pool of resource, has the likely potential to result in issues directly from UKADS itself, or for NERL operationally, i.e. penalties under NR23, NR28 and beyond. Whilst it is almost acknowledged by the CAA that this could present an issue with the wording in paragraph 5.18, it must not be allowed to happen at any cost.

In para 2.26, stakeholders rightly highlight that any geographic expansion must not prejudice LTMA delivery. We agree and stress that even LTMA delivery is at risk if appropriately skilled ATCOs, engineers, and procedure designers cannot be released. This aligns with our position in CAP3063 paras 3.18 and 4.19: both NERL's en route obligations and UKADS functions must be independently and adequately resourced.

We support the approach in para 2.31 (Option 4) which allows UK-wide ambition while enabling UKADS its own prioritisation.

## **3. Licence structure and procedural protections**

We recognise the benefits of a high-level licence structure (para 1.25) but caution that the flexibility offered in paras 2.29-2.32 must not be used to bypass appropriate scrutiny. A change in the scope of UKADS must trigger formal consultation, including meaningful engagement with stakeholders. Paragraph 2.49 rightly acknowledges the need for licence modification if resource requirements shift materially; we expect the CAA to define the threshold for such a shift clearly.

We welcome the use of strategic objectives and guidance from the CAA/DfT to steer NERL (para 2.54), but emphasise that transparency and accountability in how those objectives are formulated is essential.

#### **4. Funding and charge design**

Prospect supports a cost-recovery model, as noted in CAP3121 para 5.9. However, we reiterate concerns from our response to CAP3029 that the term “efficient costs” is vague and must be clarified. Without tighter definitions, there is a risk that charges will be challenged or mischaracterised. A disparity in the definition of “efficient costs” was evidenced most recently in the cost-recovery mechanism for the 2020-2022 “Covid years” as part of RP3.

We support the separation of the UKADS Airspace Design Charge from the en route service charge as stated (page 47) for two principle reasons: the need to ensure proper funding streams to both NERL (operationally) and UKADS, and also to ensure transparent financial accountability and clarity for users of both services. We already warned in our response to CAP3063 (reference para 5.22), that airlines may attempt to conflate the two to campaign for overall reductions, particularly when it comes to future price controls and NR28 for example. The CAA must communicate clearly that these are distinct services, in particular to airspace users and airlines; we encourage the CAA to ensure consistent messaging in future reference periods.

We further endorse the use of a correction mechanism at NR28 (para 5.20).

With regards to the funding and cost recovery mechanisms (from paragraph 5.30 onwards), it is likely that the upfront costs, even up to the end of NR23, will be more lumpy than previously assumed. We tend to agree with NATS’ position on this as stated in paragraph 5.35, and in particular around the cost pass-through to customers that will likely be particularly inflated during the first few years. As the RAB-model will have a lower cost to customers and passengers over the long term as stated in Table 5.3, we believe due consideration should be given to this model as a funding mechanism.

In terms of cost recovery, the STATFOR forecasts have been proving more and more unreliable as the years go on - we think it is therefore appropriate that the CAA uses this otherwise “low-risk” opportunity to explore alternative traffic forecasts.

#### **5. Transition of ACPs and legacy work**

Prospect supports the principle of merging London TMA ACPs into a first cluster as part of this process to be tackled by UKADS<sup>1</sup>. However, we caution that the transition must respect stakeholder engagement already conducted by previous sponsors, and in particular avoid duplication of any workload already completed, or the invalidation of the same.

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<sup>1</sup> <https://www.caa.co.uk/media/3lhj1c2/policy-paper-ukads-25-1.pdf> paragraph 12

In CAP3029, we agreed in principle with merging ACPs but flagged potential legal and technical risks (our response to Question 13, CAP3029). These risks remain and must be actively managed.

We support para 2.55's emphasis on strategic, high-level guidance over micromanaging NERL's design work. Nonetheless, we believe there is merit in requiring NERL to report how prior commitments (such as agreed design principles) have been integrated or adjusted in the final proposal. This would increase transparency and operational continuity, helping to manage stakeholders' expectations.

## **6. Future provisioning**

Prospect recommends that a formal performance review framework be introduced as soon as is practicable, for after the commencement of the NR28 period (given that UKADS is unlikely to be up and running with significant deliverables produced by the time consultation for NR28 begins in coming months). References to reviews in relation to UKADS in CAP3121 seem to refer mainly to cost reviews at the end of NR23 and going into NR28, however a functional review of the UKADS operation and output should also be considered. Such a framework would support learning while ensuring that UKADS delivery continues to evolve in a transparent and sustainable manner.

## **Conclusion**

Prospect remains cautiously supportive of the UKADS initiative and the broad approach outlined in CAP3121. However, the initiative's success depends on securing:

- Resilient staffing and resource planning - this may include the need for new facilities so that airspace change activities do not hinder ATCO training programmes;
- Clear governance and operational separation, including transparent funding streams;
- Transparent and accountable licence mechanisms.

We welcome continued dialogue with the CAA and DfT to support the implementation of UKADS in a way that protects service quality, enhances safety, and reflects the expertise of the ATM workforce.