

Heathrow Response to:

Economic Regulation of NERL: Illustrative proposals for modifying the Licence to support the implementation of a UK Airspace Design Service (CAP3063 & CAP3063a)

Introduction

Heathrow is the UK's largest single site of employment, with around 90,000 colleagues employed here. Independently recognised as the world's most-connected airport, Heathrow handles around 480,000 Air Traffic Movements ('ATMs') per year. In 2024 83.9 million passengers travelled through Heathrow, nearly 3 million more than our previous (2019) record.

The value of exports and imports through Heathrow was £198bn in 2023, making Heathrow the UK's largest port by value and demonstrating how we are already helping the UK's push for export-led growth. With 95% of the global economy within reach from a single flight from Heathrow, we are the UK's largest port by value and 'front door to the world'. From air cargo delivering GVA of £5.5 billion in Scotland, £7.6 billion in the West Midlands and just under £8 billion in London each year, Heathrow's role across all of the UK's economy is significant. We host over 900 businesses and support a thriving supply chain, 60% of whom are SMEs. Heathrow's new annual Investment Impact Report outlines how the airport's £1.1 billion investment in 2024 reaches every corner of the UK. Towards the end of 2024 Heathrow announced a £2.3 billion accelerated investment plan to upgrade the airport over the next two years. This is the largest private sector capital investment in UK transport infrastructure, with an increase of almost a quarter of a £billion compared to previous estimates.

We are a long-term partner in Airspace Modernisation and remain committed to playing a full part in delivery of the programme. Our 'Heathrow 2.0 - Connecting People and Planet: Our Sustainability Strategy' sets out our commitment to working towards "...a better, more successful and more sustainable business for our colleagues, our communities and all the other groups who have a stake in Heathrow". There is a clear alignment with the CAA's Airspace Modernisation Strategy, which includes the strategic objective that "environmental sustainability will be an overarching principle applied through all airspace modernisation activities....".

We strongly support the creation of UKADS to accelerate and improve the delivery of Airspace Modernisation, particularly in the London TMA region, to deliver benefits to our local communities and the entire UK. To maximise benefits and assure delivery by of airspace change to schedule, a number of important changes should be made, including:

- developing an agreed and clear timeline for airspace change in the London TMA region to be deployed by 2030. Given the rapid progress airspace change proposal (ACP) sponsors are already making, UKADS should be accountable for delivering against that;
- agreeing a transition model that preserves the good work done to date and the expertise of airports, including preserving Heathrow's design principles and local commitments;
- prioritising ACPs that deliver maximum benefit to the UK in airspace efficiency, carbon reduction and economic growth;

- enhancing community cohesion and delivering balanced ACPs by ensuring willing airports retain responsibility for engagement and consultation on the ACP they currently sponsor;
- creating governance structures that promote effective working relationships between airports and UKADS and appropriate scrutiny of UKADS, allowing ACPs to be delivered on time whilst balancing the needs of different stakeholders; and
- the importance of ensuring that any changes to CAP1616 are proportionate and do not delay the work required to deliver the London TMA region changes.

a) our overall approach to establishing licence modifications for NERL that will enable it to successfully provide the Airspace Design Service;

The UK Airspace Design Service will require a combination of factors to enable Airspace Modernisation within the London TMA (LTMA) to be delivered successfully. In principle, we agree that the overall approach taken in this consultation to establish the NERL licence modifications required for the establishment of UKADS1 is satisfactory. However, we consider that further detail and more precise licence provisions are necessary in certain respects, for example for the operation and role of the Advisory Board in relation to NERL, how NERL has regard to the views of the Advisory Board and demonstrates that it has done so, and what happens where there is a disagreement or dispute between parties.

b) the views set out above that this approach is consistent with our statutory duties, including in relation to safety, furthering the interests of customers and consumers, economy and efficiency, and NERL's financeability.

Heathrow is content that this consultation is broadly consistent with the statutory duties as described. We would recommend that a greater emphasis is placed on impacted stakeholders to ensure that alongside these statutory duties, the environmental impacts are appropriately considered. In this respect, we make two observations:

- First, we highlight that the CAA's statutory duties under section 2 of the Transport Act 2000 include a duty to further the interests of airport operators (amongst other parties) regarding the range, availability, continuity, cost and quality of air traffic services. Relevant airports are current ACP sponsors and will have some responsibilities for implementing London TMA region ACPs once approved. Airports will be key partners for UKADS once the ACPs have transitioned. These important roles should be reflected in the licence conditions, and CAP 1616 guidance, and so we have suggested drafting for that in the Annex 1.
- Second, paragraph A2 of CAP 3063 refers to the CAA's duty to take account of any guidance on environmental objectives given to the CAA by the Secretary of State but notes that no such guidance has been given to the CAA. We consider that the Air Navigation Guidance 2017 is relevant in the context of the proposals relating to UKADS. In particular, it should be made clear that NERL in performing the Airspace Design Service is required to take into account that guidance and have suggested a licence provision to that effect (see Annex 1).

c) the prospective obligation on NERL to perform the Airspace Design Service and the approach to setting the geographic scope of these activities;

We set out our response to the mobilisation, transition and operation of UKADS in our response to the complementary consultation (CAP3029) on the 17th December 2024. Our points there are germane to this issue and should be read and considered alongside this response.

In providing the ADS, NERL should be pragmatic and utilise completed work from in-scope ACPs, particularly Design Principles and current options which has been developed based on deep community engagement and wider understanding. For Heathrow, taking the Design Principles, Stage 2 commitments made to stakeholders, identified local circumstances, and options into UKADS and the future ACP stages is a 'non-negotiable' and will be key to the success of the relevant ACPs. More detail is contained in our response to Appendix B at the end of this document. Assuring and then adopting these principles will deliver outcomes which best meet local circumstances and community expectations, take on board the input and expertise provided by our local stakeholders, and maintain momentum by avoiding the need to redo large parts of the CAP 1616 process.

We have questions about the proposal to merge existing ACPs into a single ACP. There is limited detail on how this would be delivered, and both creating and then managing the single cluster will be complex and challenging. We stand ready to work with partners on exactly how a single ACP would be created from multiple (current) ACPs with different operational requirements and priorities, stakeholders, design principles and local geographies and circumstances. More detail is contained in our response to Appendix B at the end of this document.

Geographical Scope

The setting of the geographical scope of the UKADS seems reasonable and as expected.

A question remains over London Airspace South (LAS) (a core component of the LTMA) and whether and how this should be handed over to UKADS, particularly if the LAS ACPs have not passed a Stage 3 Gateway by UKADS's mobilisation. We understand that LAS is considered independent in design, but it is important to consider resource & prioritisation difficulties within NERL if continued outside of the ADS.

In respect of the widening of the geographical scope, our view is that to ensure the success of the UKADS concept and the realisation of benefits to the UK, the London TMA region should be the **sole** priority through the short term. We note that the CAA proposal is for NERL to be the sole sponsor of an ACP when providing the UKADS stage 1 for the London TMA region. The consultation document indicates that it would be essential to ensure consistency with new parallel rules to be introduced into the Airspace Change Process in order to prevent other parties bringing forward ACPs in respect of the London TMA region. We assume this is a reference to changes to CAP 1616 that are to be the subject of future consultation. It is Heathrow's view that these "parallel rules" should be brought forward as soon as possible so that they can be considered alongside the Licence modifications further supporting the delivery of airspace change for the London TMA under a UKADS.

There should also be a clear statement around prioritisation of the London TMA region pending the move to UKADS1 medium-term/expanded geographical scope. This will ensure that the

overall Airspace Modernisation programme and the London TMA region can be delivered to time, quality and cost.

- d) the prospective obligations on NERL with respect to its relations with third parties, including through the Advisory Board and working arrangements with partner organisations; and

Advisory Board

We agree with the need to constitute a specific Advisory Board and that NERL should establish this group. That Board must be at a senior level and be empowered to make recommendations based around a transparent benefits analysis. UKADS (NERL) should be placed under an obligation to consult the Advisory Board and other affected parties before taking specified decisions. To command the confidence of key sectors, the Board should include representatives of key parties and contain significant operational, and airspace change knowledge and experience. That level and depth of expertise is necessary to give the programme the right level of challenge and assurance and, ultimately, to deliver the best possible outcomes for the UK.

There is a clear need to ensure that the Advisory Board's remit, standing, membership and ways of working are clearly set out to avoid confusion between it and other Groups which will be set up within UKADS (NERL) and, potentially, the non-UKADS parts of NERL. In establishing the Advisory Board, it is key that the membership and ways of working deliver productive and timely meetings convened on a regular basis with appropriate expertise.

Heathrow fully agrees that the Advisory Board's membership should include "members that... are subject matter experts from airports, airlines and other key stakeholders" to give UKADS appropriate advice on key matters and stakeholders confidence in the rigour of the process.

Our view is that the Board should comprise two types of members: standing and time-limited members. The standing members should include affected airports. Given the range of sizes and capacities there should be several airport members to reflect the range and breadth of interests.

We are of the view that these matters should be set out explicitly in the licence.

UKADS (NERL) and others should be put under a requirement to consult the Advisory Board when developing key documents, such as the 'Strategic Plan', and key or potentially contested decisions, such as the deployment schedule. In addition, there should be a clear and achievable dispute resolution and escalation process which has full oversight from the co-sponsors.

Partners

Heathrow believes NERL is best placed to take on the initial task of providing airspace design services through UKADS1, subject to appropriate licence condition changes. These changes must ensure NERL acts transparently and provides appropriate capability and governance structures, consults with partners and stakeholders, and deploys Airspace Modernisation in the LTMA at the earliest appropriate opportunity. NERL will need to work collaboratively with partners both on the transition to UKADS1 and then during its steady-state running. The best outcomes for all stakeholders will be delivered by open and transparent partnership-working with strong lines of communication, and this should be reflected in the licence conditions. In

the Annex to this response, we have suggested strengthening the requirement on UKADS for collaboration with airport partners. In our view and given the suggestion in the parallel consultation that airports should lead on local consultation and engagement where appropriate, UKADS should be required to use 'best endeavours' to agree written ways of working with airports.

At present airports are typically 'sponsors' of ACPs. As described, UKADS (NERL) would become the sponsor for London TMA Region ACPs through the transition process. Airports would become one of many 'partners'. We strongly argue that where they wish to and have the capacity to, airports should retain a more active role in the ACPs for which they are currently the 'sponsor', particularly design activities, consultation and engagement, and environmental assessments.

The precise scope of the airport's role should be defined clearly in the onboarding plan and partnership agreement to be developed as part of the transition process. In situations where airports are taking that more active role, Heathrow's view is that it would be confusing and unhelpful to simply label them as one partner amongst many. Instead, we believe it would be more appropriate to define them as 'requirements-sponsors', 'delivery sponsor' or similar.

As provided for in Annex B Part D paragraph 15, the detail of the engagement model between UKADS and the airport would need to be agreed and set out formally.

e) the approach to NERL's new obligations and those existing obligations relating to ACOG

Our view is that once an ACP has been transferred to UKADS1's ambit ACOG should cease to have a formal role with regard to it. Providing ACOG with residual responsibilities would simply lead to a lack of clarity about roles, responsibilities and accountability, which may delay and complicate delivery of both UKADS and, crucially, the ACPs. The transfer and production of a Masterplan for the LTMA to UKADS (NERL) requires careful consideration, including whether a Masterplan is required at all once the UK ADS takes responsibility for the co-ordination of the ACPs in the LTMA.

There will be touchpoints between ACPs under UKADS1 and under ACOG. This will require a clear separation of roles and responsibilities between UKADS1 and ACOG, transparent governance for managing interactions between them and ACPs for which they are responsible, and an agreed approach to calculating benefits and prioritising deployments. A clear dispute resolution and escalation process should be in place for when issues cannot be resolved.

f) Consequential Licence Changes: Views on changes discussed in Chapter 3.

No Comments. Response to the proposed licence changes is included in Annex 1.

(g) the estimates of the costs of providing the Airspace Design Service and the Airspace Design Support Fund discussed in chapter 4 (Costs of new airspace design services) and

(h) any other information stakeholders have on costs or the assumptions it is reasonable to make in projecting costs for the period 2025 to 2035;

There are uncertainties in the establishment of the UKADS and the cost of providing successful service rates is one of the most difficult to assess. Due to this uncertainty, Heathrow in the main is supportive of the estimates provided. However, this is subject to the following comments.

- It is not clear where the assumptions made in Para 4.8 have been derived from. Four deployments over 10 years does not provide the focussed and fast outcomes that UKADS is being set-up to achieve. The consultation also states than only two deployments can be handled at any one time – this does not align with the obligation on UKADS to produce a coherent design for the LTMA, as based on these assumptions, at least 2 of the deployments may not be progressed until later. Delivering at a quicker pace, which will require an appropriate funding approach, will deliver considerable benefits to the UK in terms of connectivity and growth, as well as the environmental improvements airspace modernisation is intended to deliver. Our working assumption is that an expedited timetable may require extra funding and resources (from bringing work forwards) that may be balanced by reducing the funding period, but we accept that should be evaluated thoroughly. Heathrow proposes that a new cost estimate is created that is more aligned to meeting the Airspace Modernisation objectives of 2030 for deployment to evaluate the costs and ROI on proceeding with the prioritisation of the LTMA.
- As recognised in the document, the timing constraints of data collection have contributed to the uncertainty on the cost estimate. Heathrow was asked to provide data in October 2024, and this has been transposed alongside other respondents to provide the baseline for the cost estimate. This appears to be a very short timeline to estimate the cost for a new, complex and vitally important role in Airspace Modernisation.
- To mitigate the uncertainty outlined, it should be incumbent on the Co-Sponsors and NERL to be transparent in the cost of UKADS and that this should be reviewed with all interested parties on a regular basis.
- Any subsequent cost adjustments should be agreed with all interested parties through the Advisory Board and Co-Sponsors.

Airspace Design Support Fund

The airspace design support fund will be important to ensure that Airspace Modernisation for the UK is achievable and delivered in the timeframes expected. Aligned with our main comments across both consultations, the support fund should not detract from priority of the UKADS to deliver airspace modernisation in the LTMA by 2030. The Fund's scope should potentially include airports in the London TMA region (contrary to the assumption in paragraph 4.13 and paragraph 5.3 etc). To support this, transparency in decision making is paramount to ensure that prioritisation is a consideration when assessing applications for the support fund. Heathrow is of the opinion that the administration of the support fund should not sit with NERL but be managed by the co-sponsors in an equivalent way to the re-mobilisation funding stream established after the COVID pandemic. NERL and UKADS should be absolutely focused on designing and delivering relevant airspace change, rather than developing their ability to administer third party funding. Consequently, it may be better for the Fund to be managed elsewhere.

There is more information required on the following matters:

- What are the eligibility criteria to apply for the Airspace Design Support Fund?
- How will the applications for funding be presented and how/who will assess the application?
- What happens if the funding does not achieve the outcome/milestone applied for e.g. Gateway failure.

- Can sponsors keep returning for further funding, will funding applications and totals be capped?

Further, Para 4.13 states that 'this is broadly consistent with the approach taken to the Airspace Design Service for airspace change proposals in the London TMA region.' To ensure an equitable weighting to any funding for Airspace Modernisation activities, the support fund should mirror the core requirements of the UKADS requirements for sponsors. Alternatively, LTMA sponsors should be able to apply for support funding for activities that fall outside of the main UKADS responsibility e.g. engagement & consultation.

As stated, due to the uncertainty outlined it is difficult to assess if the proposed funding amounts for UKADS and the Support Fund will achieve the successful outcomes required for Airspace Modernisation. However, experience indicates that these projections could underestimate the scale of work and spending required to deliver the programme successfully. Under-funding UKADS would risk delivery. As further information becomes available e.g. mature projections of resource requirements, the cost estimates should be updated and shared ahead of mobilisation of UKADS1. Funding should not be a constraint to a successful, timely and benefits led delivery of Airspace Modernisation for the LTMA and wider. This could be achieved, as suggested in Para 5.51, through a more in- depth assessment and proposal as part of the NR28 price control, taking the learnings and spend profiles of the initial charge control duration into account.

(i) whether the cost pass through approach for recovering costs related to the Airspace Design Service and the Airspace Design Support Fund is appropriate;

Heathrow agrees that Option 1 (Cost pass-through) is the best approach to delivering UKADS effectively and at pace and, ultimately, the benefits of airspace modernisation for passengers, airlines, communities and the UK economy. As set out in the consultation, costings for UKADS are inherently uncertain (and may be front-loaded, given the need to set up the new organisation), which makes it extremely difficult to accurately set fixed allowances (either Option 2 or most forms of Option 3). Consequently, those models create the significant risk of unhelpful incentives or requirements that stop the delivery of intended outcomes. The proposed model (Option 1) is also likely to be significantly easier and cheaper to administer than more complex structures, focusing resources on airspace change and not administration.

If it becomes clear that UKADS is inefficient or ineffective then there will be other mechanisms to drive improvement available to the co-sponsors (including those foreshadowed in paragraphs 5.34 to 5.38), likely to be more precise and effective than the broad brush of a fixed cost allowance.

(k) whether the duration of the initial charge control for the Airspace Design Service and Airspace Design Support Fund should be 2½ years and then be aligned with NERL's main price control reviews;

Heathrow is supportive of the proposed initial charge control duration of 2.5 years to align with the current NR23 price control period. As stated earlier in our response, it is essential that work to establish a cost projection for NR28 is commenced at the earliest opportunity and aligned to the strategic plan and delivery of airspace modernisation for the LTMA in 2030.

Annex 1: Response to Illustrative draft licence modifications, Appendix B of CAP3063

Consultation Reference	Current proposed drafting	Suggested updated drafting from Heathrow	Heathrow explanation for suggestion
<p>Page 51</p> <p>Possible modifications to Condition 1 (Interpretation and construction)</p> <p>Illustrative draft new definitions:</p> <p>"Airspace Design Service"</p>	<p>"Airspace Design Service" means:</p> <p>(a) assessing, shortlisting and selecting proposals to change the design of UK airspace promoted by the Licensee, interested parties such as airports, the Ministry of Defence and others, taking into account relevant law, Government policy and CAA policy;</p> <p>(b) combining those proposals to develop a single airspace design proposal for changes to UK Airspace that prioritises maintaining a high standard of safety and secures system-wide benefits and overall network optimisation, maximising the efficient use of airspace and the resilience of the airspace network, while giving due consideration to local circumstances and environmental impacts; and</p> <p>(c) sponsoring that single design for changes to UK airspace through the Airspace Change Process.</p>	<p>"Airspace Design Service" means:</p> <p>(a) assessing, shortlisting and selecting proposals to change the design of UK airspace promoted by the Licensee, interested parties such as airports, the Ministry of Defence and others, taking into account relevant law, Government policy and guidance and CAA policy and guidance;</p> <p>(b) combining those proposals to develop a single airspace design proposal for changes to UK Airspace that prioritises maintaining a high standard of safety and secures system-wide benefits and overall network optimisation, maximising the efficient use of airspace and the resilience of the airspace network, while giving due consideration to local circumstances and environmental impacts; and</p> <p>(c) sponsoring that single design for changes to UK airspace through the Airspace Change Process.</p>	<p>Sub-paragraph (a) should be updated as formal guidance has been issued by the CAA (e.g. CAP 1616) and Government (e.g. the Air Navigation Guidance 2017) which must be taken into account by the Licensee in providing the Airspace Design Service.</p>
<p>Page 53</p> <p>New Provisions: Obligation to provide the Airspace Design Service</p>	<p>1. The purpose of this Condition (the "Purpose") is to require the Licensee to undertake the Airspace Design Service so that it prepares and submits proposals for permanent changes to the design of UK Airspace to the CAA that, if approved by the CAA in accordance with the Airspace Change Process, would deliver</p>	<p>1. The purpose of this Condition (the "Purpose") is to require the Licensee to undertake the Airspace Design Service so that it prepares and submits proposals for permanent changes to the design of UK Airspace to the CAA that, if approved by the CAA or the Secretary of State in accordance with the Airspace Change</p>	<p>This is to reflect that either the CAA or the Secretary of State may approve proposals through the Airspace Change Process.</p>

Illustrative draft new provision	<p>the objectives of the Airspace Modernisation Strategy.</p> <p>2. This Condition sets out:</p> <p>(a) in Part A, the Licensee's obligations to provide the Airspace Design Service;</p> <p>(b) in Part B, the Licensee's obligations on how it shall deliver the Airspace Design Service;</p> <p>(c) in Part C, the arrangements for an Advisory Board to assist the Licensee in providing the Airspace Design Service;</p> <p>(d) in Part D, obligations in respect of interested parties; and</p> <p>(e) in Part E, Administration of The UK Airspace Design Fund.</p>	<p>Process, would deliver the objectives of the Airspace Modernisation Strategy.</p> <p>2. This Condition sets out:</p> <p>(a) in Part A, the Licensee's obligations to provide the Airspace Design Service;</p> <p>(b) in Part B, the Licensee's obligations on how it shall deliver the Airspace Design Service;</p> <p>(c) in Part C, the arrangements for an Advisory Board to assist the Licensee in providing the Airspace Design Service;</p> <p>(d) in Part D, obligations in respect of interested parties; and</p> <p>(e) in Part E, Administration of The UK Airspace Design Fund.</p>	
<p>Page 53</p> <p>New Provisions: Obligation to provide the Airspace Design Service</p> <p>Illustrative draft new provision</p> <p>Part A</p>	<p>3. The Licensee shall, provide the Airspace Design Service to deliver the Purpose in such geographic area as is specified by the Secretary of State from time to time.</p>	<p>3. The Licensee shall, provide the Airspace Design Service to deliver the Purpose in such geographic area as is specified by the Secretary of State from time to time provided that the Secretary of State has first consulted the Licensee and all other relevant parties on any expansion of the geographic area outside the London TMA region.</p>	<p>Neither the consultation document nor the illustrative licence provision identifies the statutory power that would be used by the Secretary of State to make a direction specifying a change to the geographic area of the Airspace Design Service. Please can the CAA explain how this would be done, what relevant power the Secretary of State would issue this under and what the process would be for this. If the intention is that a change to the geographic scope of the service would be specified in a direction given under section 66(1) of the Transport Act 2000, then Heathrow notes that such a direction can include provision requiring consultation with specified persons in relation to specified matters (see section 68(2)(a)).</p>

			Heathrow reiterates its view that it is critical for the success of stage 1 of UKADS, as delivered by NERL, to prioritise the London TMA. Therefore, any expansion of the geographic area for the delivery of the Airspace Design Service to areas outside the London TMA should be strictly limited until it is clear that this would not prejudice the delivery of airspace change for the London TMA. Where such expansions are still deemed necessary these should be subject to consultation with relevant parties including the London TMA airports.
<p>Page 54</p> <p>New Provisions: Obligation to provide the Airspace Design Service</p> <p>Illustrative draft new provision</p> <p>Part A</p>	<p>6. If the single design for changes to UK airspace prepared by the Airspace Design Service is approved by the CAA, the Licensee shall be responsible for the elements of the post-implementation review required to be undertaken by sponsors of airspace changes by the Airspace Change Process.</p>	<p>6. If the single design for changes to UK airspace prepared by the Airspace Design Service is approved by the CAA or Secretary of State, the Licensee shall be responsible for the elements of the post-implementation review required to be undertaken by sponsors of airspace changes by the Airspace Change Process.</p>	<p>As mentioned above this change is to reflect that either the CAA or the Secretary of State may approve proposals through the Airspace Change Process.</p>
<p>Page 54</p> <p>New Provisions: Obligation to provide the Airspace Design Service</p> <p>Illustrative draft new provision</p> <p>Part B</p>	<p>8. In preparing and submitting a single proposal for permanent changes to the design of UK airspace, the Licensee shall take account of those elements of possible designs for UK airspace put forward by itself and third parties, including airports and the Ministry of Defence, that are seeking to initiate changes to UK airspace needed to deliver the Purpose.</p>	<p>8. In preparing and submitting a single proposal for permanent changes to the design of UK airspace, the Licensee shall: (a) take account of those elements of possible designs for UK airspace put forward by itself and third parties, including airports and the Ministry of Defence, that are seeking to initiate changes to UK airspace needed to deliver the Purpose including those elements of design undertaken before NERL has responsibility for the delivery of the UK Airspace Design Service; and (b) consult those third parties on how it proposes to</p>	<p>As set out in body of our consultation response, for Heathrow it is imperative that its work undertaken up to the introduction of UKADS (including the design principles, Stage 2 options, and commitments given to stakeholders) forms the starting point for further work to be undertaken by the Licensee. Heathrow is of the view, therefore, that NERL must also be under a specific obligation to consult airports that previously sponsored the relevant airspace change proposals and through that consultation explain how NERL has taken account of the elements of</p>

		take account of such design options and have regard to any comments made.	possible designs for UK airspace that are included in this Licence Condition. This will increase NERL's transparency and improve governance standards when it is delivering the Airspace Design Service.
Page 54 New Provisions: Obligation to provide the Airspace Design Service Illustrative draft new provision Part B	9. The Licensee shall use its best endeavours to deliver any strategic priorities set by the [CAA and/or Secretary of State] and comply with any guidance issued by the [CAA and/or Secretary of State], provided that such guidance shall not have effect unless the [CAA and/or Secretary of State] has first consulted the Licensee and any other relevant parties on that guidance or any revision of it (whether or not such consultation commenced prior to this condition coming into effect).	9. The Licensee shall use its best endeavours to deliver any strategic priorities set by the [CAA and/or Secretary of State] and comply with any guidance issued by the [CAA and/or Secretary of State], provided that such guidance shall not have effect unless the [CAA and/or Secretary of State] has first consulted the Licensee and any other relevant parties (including airports and the Ministry of Defence) on that guidance or any revision of it (whether or not such consultation commenced prior to this condition coming into effect).	We have proposed this additional wording for clarity.
Page 54 New Provisions: Obligation to provide the Airspace Design Service Illustrative draft new provision Part B	10. In delivering the Purpose, the Licensee shall have regard to: (a) any prioritisation principles that the CAA is required to produce by Direction 4(4) of Air Navigation Directions made under sections 66(1), 68 and 104(2) of the Act, as amended from time to time; (b) local circumstances and practical constraints, including, but not limited to, resourcing, air traffic controller training requirements and the schedule for changing airspace structures and routes set out in the Aeronautical Information Regulation and Control (AIRAC) published by the International Civil Aviation Organisation from time to time; (c) the views of the Advisory Board that the Licensee is required to maintain in	10. In delivering the Purpose, the Licensee shall have regard to: (a) any prioritisation principles that the CAA is required to produce by Direction 4(4) of Air Navigation Directions made under sections 66(1), 68 and 104(2) of the Act, as amended from time to time; (b) local circumstances and practical constraints, including, but not limited to, resourcing, air traffic controller training requirements and the schedule for changing airspace structures and routes set out in the Aeronautical Information Regulation and Control (AIRAC) published by the International Civil Aviation Organisation from time to time; (c) the views of the Advisory Board that the Licensee is required to maintain in	As outlined above, our view is that NERL must also be under an obligation to explain how it has had regard to all of the factors listed under 10. We reiterate that this will improve NERL's transparency and governance standards when delivering the Airspace Design Service. The term "local circumstances" is used in CAP 1616 and the Air Navigation Guidance 2017 in the context of environmental and community considerations, which is different to the local operational matters referred to in sub-paragraph 10.(b). To avoid confusion, Heathrow considers that "local circumstances" should not be included in sub-paragraph 10.(b) but, NERL should be explicitly required to have regard to Government and CAA policy and guidance including that

	<p>accordance with paragraph 11 of this condition; and</p> <p>(d) the views expressed by respondents to consultations on specific proposals for changes to UK airspace, whether or not that consultation is undertaken by the Licensee or other party in accordance with any written ways of working agreed pursuant to paragraph 15 of this condition.</p>	<p>accordance with paragraph 11 of this condition; and</p> <p>(d) the views expressed by respondents to consultations on specific proposals for changes to UK airspace, whether or not that consultation is undertaken by the Licensee or other party in accordance with any written ways of working agreed pursuant to paragraph 15 of this condition-;</p> <p>(e) relevant policy and guidance issued by the Government including (but not limited to) any guidance on environmental objectives given to the CAA by the Secretary of State pursuant to section 70(2)(d) of the Transport Act 2000; and</p> <p>(f) relevant policy and guidance issued by the CAA including (but not limited to) the guidance relating to the Airspace Change Process published from time to time pursuant to Direction 4(1) of the Civil Aviation Authority (Air Navigation) Directions 2023;</p> <p>and the Licensee shall produce a written report within timeframes to be agreed with the CAA demonstrating how it has had regard to the matters set out in sub-paragraphs (a) to (f) and share such report(s) with the Advisory Board.</p>	<p>contained in the Air Navigation Guidance 2017 and CAP 1616 (as suggested at proposed sub-paragraphs (e) and (f)).</p>
<p>Page 55</p> <p>New Provisions: Obligation to provide the Airspace Design Service</p>	<p>11. The Licensee shall appoint an Advisory Board to provide a forum for interested parties to:</p> <p>(a) review and comment on the strategy developed by the Licensee for delivering the Purpose;</p>	<p>11. The Licensee shall appoint an Advisory Board to provide a forum for interested parties to:</p> <p>(a) review and comment on the strategy developed by the Licensee for delivering the Purpose;</p>	<p>Heathrow is of the view that NERL's obligations related to the Advisory Board will be critical to the success of stage 1 of UKADS. Therefore, the detail on membership and operation of the Advisory Board should be clear and</p>

<p>Illustrative draft new provision</p> <p>Part C</p>	<p>(b) secure that NERL operates in the best interests of the system of UK airspace overall;</p> <p>(c) oversee and comment on the Licensee's plans for, and progress in, delivering the Purpose in a timely manner so that stakeholders have confidence in those plans;</p> <p>(d) secure that the Licensee demonstrates transparent, fair and effective decision-making, in the best interests of UK airspace without unreasonably favouring particular person or groups of persons (including itself);</p> <p>(e) secure that the Licensee communicates clearly with parties initiating permanent changes to UK airspace (including in relation to matters agreed between NERL and that party; and</p> <p>(f) provide a forum to enable stakeholders to raise matters of concern or seek more information on the Licensee's approach to, and progress in, delivering the Purpose.</p> <p>12. The Licensee shall ensure that the Advisory Board meets regularly and sufficiently frequently to enable it to discharge its activities in relation to the matters set out in paragraph 11 of this condition.</p> <p>13. The Licensee shall secure that the Advisory Board includes members that:</p>	<p>(b) secure that NERL operates in the best interests of the system of UK airspace overall;</p> <p>(c) oversee and comment on the Licensee's plans for, and progress in, delivering the Purpose in a timely manner so that stakeholders have confidence in those plans;</p> <p>(d) secure that the Licensee demonstrates transparent, fair and effective decision-making, in the best interests of UK airspace without unreasonably favouring particular person or groups of persons (including itself);</p> <p>(e) secure that the Licensee communicates clearly with parties initiating permanent changes to UK airspace (including in relation to matters agreed between NERL and that party) and demonstrates to those parties how comments made by them through the Advisory Board or otherwise have been taken into account; and</p> <p>(f) provide a forum to enable stakeholders to raise matters of concern or seek more information on the Licensee's approach to, and progress in, delivering the Purpose.</p> <p>12. The Licensee shall, in consultation with airports and other interested parties, develop a draft Terms of Reference document for the operation of the Advisory Board to be approved by the CAA. The Licensee shall ensure that the Advisory Board is run in accordance with</p>	<p>sufficient to enable it to operate properly.</p> <p>At present the Licence conditions do not include enough detail. For instance, there are no details as to how the CAA proposes the Advisory Board will provide its views to NERL, how NERL shall have regard to its views, explain how it has done this and what happens if members across the Advisory Board have differing views or disputes on matters pertinent to the delivery of the Airspace Design Service.</p> <p>To resolve the last point we have suggested a further Licence Condition that the CAA might consider including as a way for Advisory Board members to resolve differences and disputes. This would cover both disagreements between different members of the Advisory Board and those between the Advisory Board and NERL. We have suggested that these could be resolved by reference to the Airspace Modernisation Board.</p> <p>We have also suggested including the detailed procedure of the Advisory Board in a Terms of Reference document.</p>
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	<p>(a) are independent from the interests of parties initiating permanent changes to UK airspace;</p> <p>(b) are subject matter experts from airports, airlines and other key stakeholders; and</p> <p>(c) represent the interests of passengers.</p>	<p>such a Terms of Reference document that has been approved by the CAA.</p> <p>123. The Licensee shall ensure that the Advisory Board meets regularly and sufficiently frequently to enable it to discharge its activities in relation to the matters set out in paragraph 11 of this condition.</p> <p>134. The Licensee shall secure that the Advisory Board includes members that:</p> <p>(a) are independent from the interests of parties initiating permanent changes to UK airspace;</p> <p>(b) are subject matter experts from airports, airlines and other key stakeholders; and</p> <p>(c) represent the interests of passengers.</p> <p>15. The Licensee shall ensure that in the event of:</p> <p>(a) disagreements between different members of the Advisory Board; and/or</p> <p>(b) disagreements between the Advisory Board, and/or individual members of the Advisory Board, and NERL; then</p> <p>the Licensee and/or a member of the Advisory Board may refer the matter for resolution by the Airspace Modernisation Programme Board which shall consider the disagreement and issue a decision to resolve it.</p>	
New Provisions: Obligation to	15. The Licensee shall use reasonable endeavours to agree written ways of	15. The Licensee shall use reasonable best endeavours to agree written ways of	We have not suggested updated numbering but note if there are any new

<p>provide the Airspace Design Service</p> <p>Illustrative draft new provision</p> <p>Part D</p>	<p>working with any party promoting permanent changes to UK airspace in the geographic area covered by the area in which the Licensee is required to provide the Airspace Design Service in accordance with paragraph 3 of this condition. Any such written ways of working should set out how the Licensee shall work with the relevant party in respect of the Airspace Design Service. Any such agreement shall address matters including which party has responsibility for particular elements of the consultation processes required to be undertaken by the Airspace Change Process and the level of control each party is to retain over such processes.</p>	<p>working with any party promoting permanent changes to UK airspace in the geographic area covered by the area in which the Licensee is required to provide the Airspace Design Service in accordance with paragraph 3 of this condition. Any such written ways of working should set out how the Licensee shall work with the relevant party in respect of the Airspace Design Service. Any such agreement shall address matters including which party has responsibility for particular elements of the consultation processes required to be undertaken by the Airspace Change Process, the level of control each party is to retain over such processes and procedures for referring any material disagreements for resolution by the Airspace Modernisation Programme Board.</p>	<p>Licence Conditions inserted or deleted then these will need to be updated.</p> <p>Our view is that NERL should be under an obligation to use best endeavours to agree written ways of working with parties. This will increase the cooperation and understanding between the parties and be beneficial to both NERL and the party it is entering into the agreement with.</p>
<p>New Provisions: Obligation to provide the Airspace Design Service</p> <p>Illustrative draft new provision</p> <p>Part E</p>	<p>16. [Placeholder for an obligation for the Licensee to administer The UK Airspace Design Support Fund in accordance with [the policy document referred to in the Joint Consultation at paragraphs 9.12 and 9.13.]]</p>	<p>16. [Placeholder for an obligation for the Licensee to administer The UK Airspace Design Support Fund in accordance with [the policy document referred to in the Joint Consultation at paragraphs 9.12 and 9.13.]]</p>	<p>Heathrow reserves its position on the proposed new wording for this Licence Condition as it is currently a Placeholder. Heathrow will comment on this in due course.</p>