

CIVIL AVIATION AUTHORITY
MINUTES OF THE 536th BOARD MEETING HELD ON
WEDNESDAY 11 DECEMBER 2019, WESTFERRY (CANARY WHARF)

Present:

Dame Deirdre Hutton Chair
Mr Richard Moriarty
Mr Rob Bishton
Ms Katherine Corich
Ms Marykay Fuller
AVM Ian Gale
Mr David King
Ms Anne Lambert
Mr Michael Medicott
Mr Paul Smith
Ms Kate Staples Secretary and General Counsel
Mr Chris Tingle
Mr Graham Ward

Apologies:

None

In Attendance:

Mr Tim Johnson
Mr Peter Drissell
Mr Richard Stephenson
Mr Philip Clarke
Ms Barbara Perata-Smith Minute taker
Mr James Eales for items 6
Mr Jim Frampton for item 6
Ms Helen Zambuni for item 6
Mr Iain Libretto for items 8 and 9
Ms Ella Payne for items 8 and 9

I. APOLOGIES AND INTRODUCTIONS

1. There were no apologies.

II. CONFLICTS OF INTEREST, PREVIOUS MINUTES AND MATTERS ARISING

2. No new conflicts of interest were declared.
3. The minutes of the November 2019 Board meeting were agreed with a minor amendment to paragraph 24.

III. CHAIR'S UPDATE

3. The Chair gave an update of meetings and events she had recently attended.
4. These included a number of speaking engagements on the repatriation operation that followed the Thomas Cook failure, a guest lecture at University College London and a key note address at the Cambridge Global Risk Index Conference 2020. The latter was interesting because aviation sits across many global risk issues – terrorism, cyber, economic performance, weather and pandemics. There would be an opportunity for CAA to collaborate with the Judge Business School of Cambridge when it looks next year at global airports.

ACTION: Mr Johnson

5. Ms Lambert suggested that a copy of speeches made by the Chair are put on the CAA website, as the last one was from 2015. Mr Stephenson confirmed there is a place on the website for speeches, which is being updated.
6. The Board noted the update.

IV. CHIEF EXECUTIVE REPORT (DOC 2019-089) BY RICHARD MORIARTY

Key live issues

7. Mr Moriarty sought delegated authority from the Board for himself and Ms Staples to agree the specifications relating to Eurocontrol, Denmark-Iceland charges and NATS En-route charges for 2020.
8. The Board endorsed the request.
9. Mr Moriarty requested that the Board note the Annual Report from the Air Safety Support International (ASSI) and commented that Maria Boyle, ASSI's CEO, would present an overview of ASSI at the January PIE session.

ACTION: Secretariat, Mr Johnson

10. Mr Moriarty asked a number of colleagues to provide updates on specific topics.
11. Thomas Cook refunds: Mr Smith reported that claims were being processed as speedily and efficiently as possible without compromising accuracy. The teams and procedures were being challenged every day to achieve this. Colleagues would be working over the Christmas and New Year period to progress the task, with a lessons-learnt exercise to follow.

12. The Chair and Dr King enquired about the wellbeing of the teams. Mr Smith reassured them that support was available from managers and colleagues. The Chair asked Mr Smith to send a message of appreciation and support to the teams on behalf of the Board.

ACTION: Mr Smith

13. Mr Stephenson added that, from a communications perspective, there had been significant public and media interest in progress with the refunds. Messages posted on social media had caused several issues as some users had been rude and offensive to staff. A zero-tolerance approach had been taken, blocking and reporting abusers.

14. The CAA's Communications Team had been engaging openly with a number of journalists to explain the nature and scale of the refunds operation together with the overall progress being made. We were not providing a running commentary of every development but were providing regular public updates instead.

15. The Chair remarked that some of the CAA's NEDs had asked whether the CAA should be clearer in explaining the need for accuracy in processing the claims, particularly as we had been faced with a reasonable number of fraudulent claims. Mr Stephenson commented that this was part of the overall communications with all stakeholders and was being communicated to those individuals who hadn't completed the application correctly. One of the lessons drawn from this exercise was that describing the process as a refund was not helpful: ATOL was an insurance scheme rather than a mechanism for returning consumers money.

16. Ms Corich observed that there seemed to be a number of delivery and communications challenges happening at the same time, such as the Thomas Cook refunds exercise, the Boeing 737 Max 8 return to service, the NATS CMA reference. Mr Stephenson commented that the Communications Team was planning its communications activities six months ahead.

17. Litigations updates – Jet2: Ms Staples said that, following the Court of Appeal last week, the judgement would be likely delivered in February or March 2020.

18. Accident investigation updates – Piper PA-46/N264DB: Ms Staples confirmed that the CAA had responded to the draft AAIB report and that she would provide a more thorough briefing at the next Board meeting.

Other issues

19. Mr Moriarty commented that the organisation had received several requests from external parties for confidential safety reports to be shared in the interest of transparency. He added that, after consultation with the Legal and Communications teams, a decision had been made to write back explaining that we would not be

- releasing the reports unless doing so served safety purpose, as per s.23 of the Civil Aviation Act and relevant international and European legal provisions.
20. Mr Moriarty informed the Board that the next Brexit deadline was 31 January 2020, as such, Yellowhammer contingency planning arrangements might be stood up again.
 21. Mr Medlicott praised the CAA's Communications Team for having highlighted and resolved issues with a specific holiday provider to Medina, which resulted in considerable service improvements.
 22. The Chair concluded the agenda item by congratulating the organisation for having won three awards: Best Comms Campaign of the Year, Best Operation of the Year and Wellbeing Team of the Year.
 23. The Board noted the report.

V. SARG MONTHLY SAFETY ISSUES REPORT (DOC 2019-090) BY ROB BISHTON

24. Mr Bishton highlighted three key points from his report: first, an update on the return to service of the Boeing 737 Max 8; second, planning for the coming year, including engaging constructively with the new Government's agenda and with other CAA teams, including CSP and CAAi; and third, progress on the review of SARG's Board reports, carried out with the assistance of Ms Corich, which he was aiming to balance high-level strategic issues with detail.
25. Mr Bishton also provided a brief update on other issues. At a general, as opposed to specific, level, the Chair reflected on what might be classified as an adequate level of safety and requested that a PIE is scheduled to explore this question.

ACTION: Mr Johnson, Mr Bishton, Secretariat

Max 8 Return to Service (RtS)

26. Mr Bishton provided an update of the latest developments on the Max 8 Return to Service (RtS). He explained that Boeing and the FAA were progressing their work and seemed to be looking for a global RtS early next year. However, there was a risk that this timeframe was too ambitious and wouldn't be delivered.
27. The CAA's plan had been to remain engaged with EASA as much as possible and keep in touch with operators' positions and their interactions with EASA and Boeing. Mr Bishton added that his team had spoken to a number of other European National Aviation Authorities who also seem confident in the process to date. Mr Bishton explained that we should be cautious about considering a RtS solution solely focused on simulator training, as he was unsure that on its own it would necessarily be sufficient. CAA would need to continue to work with EASA on the RtS

- programme but retain its ability to understand the programme and act differently if it considered that was the right course of action.
28. The CAA had the ability to continue to ground the aircraft should it believe any RtS programme did not meet safety requirements, if needed. Mr Bishton would make a 'minded-to' decision on RtS and seek the Board's endorsement. The Chair requested the Board confirmed support for this approach and for the process of validation so far followed by the team.
 29. Ms Fuller enquired about consumer confidence in the aircraft. Mr Bishton commented that the team had explored various scenarios to better understand this issue. EASA had encouraged EU Member States to remain aligned. However, operators were concerned on how to best manage the communications with the wider public once the RtS plan had been finalised and actioned. Regulatory alignment and a global announcement might address some of the risk, though both pilot and public confidence would be critical.
 30. Mr Tingle asked that whilst following the path determined by the FAA and EASA was one scenario, had the team considered an alternative scenario where we wouldn't. Mr Bishton replied that events were continuing to develop, and he would report back to Board in January 2020.
 31. AVM Gale commented that the set of questions the CAA's team was using with EASA and for its own investigations was good and so was the proposed governance process but noted that any difference of view between the UK and EASA could be difficult to manage. As such reopening airspace in a coordinated way would be an important step to preserve integrity of regulatory decision making, as well as considering the 'grandfather rights' application culture and ways to safely regulate innovation.
 32. The Chair asked the Board to endorse the set of questions and the decision-making and governance process.
- ACTION:** Mr Bishton
33. Mr Moriarty advised the Board that the decision might have to be taken between meetings and that the Board should be on notice for this eventuality.
 34. The Board endorsed the questions and the process.
 35. Mr Stephenson provided an overview of the communications strategy, saying that the team had been working on planning a response to the various scenarios, with statements and Q & As ready to be issued.
 36. AVM Gale asked about the CAA's thinking about sharing publicly, when the RtS is agreed and actioned, the analysis and assessment process the CAA had undertaken before deciding whether to allow the Max back into UK airspace. This

could help support confidence in this scenario. Ms Corich added that, as there was going to be a lot of information in the public domain, it might be beneficial to encourage industry to provide a clear, unified explanation for consumers. The Chair requested Ms Corich and Mr Stephenson discuss this issue further.

ACTION: Mr Stephenson, Ms Corich

37. The Board noted the report.

VI. CAA ROLE IN SPACE REGULATION (DOC 2019-091) BY TIM JOHNSON

38. The Board welcomed Mr Eales, Mr Frampton and Ms Zambuni to the meeting.

39. Mr Johnson set the scene by saying that, since the first conversation with the Board at the July 2019 PIE, the team had engaged extensively with the UK Space Agency (UKSA) and the Department for Transport to define the basis on which the CAA might assume a wider role on space regulation. Today, the discussion would explore the policy principles of the CAA's role in space regulation, the Government's position, the terms and conditions for success for the CAA taking on additional responsibilities, our bandwidth to do so and timing.

40. The CAA already had a substantial role in space regulation, particularly for launches from horizontal spaceports, all airspace design and access approvals and for approvals for sub-orbital launches under the existing Air Navigation Order. The Government had proposed we take on additional functions to coordinate better the regulation of space flight and streamline the work that will come from the space market, following the introduction of the Space Industry Act 2018. The proposed additional functions included both vertical launch and range operations as well as issuing licences to allow organisations to launch satellites under the Outer Space Act. The licensing process would assess the insurance and financial position of the organisation and would be followed by regulatory oversight. Requests for operational changes, for example seeking permission to relocate satellites already in space, would have to be actioned by CAA on a case by case basis.

41. If the CAA were to take this wider regulatory role on, it would be essential that the conditions for success were in place. The Government's ambition is to have legislation in place by early 2021, which providing there is a confirmed decision about CAA's role early in 2020, would give us 12 months to build our regulatory capability and processes. CAA already have a number of colleagues in place but will need to bring in staff from the UKSA who have relevant knowledge and expertise. Others may have to be recruited externally. We would aim to ensure that the UKSA provided a thorough but phased handover to assure continued support for a certain amount of time.

42. Mr Moriarty said that BEIS was the current sponsor for the UKSA. There would be questions to resolve to confirm whether policy responsibilities would be held by BEIS or DfT. Mr Johnson added that the key issue to clarify would be understanding who would fund the work and who would be responsible for the legislation. Ms Fuller enquired whether the market would be buoyant enough to fund the work. Mr Johnson commented that whilst there were some statutory provisions for user pays charging in the space regulation legislation, in the early years, some of the regulatory activity would likely be funded directly by Government. The CAA was developing a cost model for its new team and would be seeking a sufficient funding commitment from Government to enable it to recruit and retain the resources it would need to make a success of this new function. Board members were supportive of this approach and stressed their view that space regulation activity should not be cross-subsidised from the CAA's other activities.
43. The Chair commented that space regulation would be included in CSP's portfolio of work during its inception phase and would transfer to SARG once properly established. She questioned whether assuming these additional functions would stretch the bandwidth of CAA Directors, who are already covering an extensive range of subject matters. Effective prioritisation would become very important along with recruiting a new senior capability team leadership to manage this new activity. Mr Frampton added that, if the CAA did not assume these new functions, it would mean managing space activities across two regulators – CAA and UKSA – which would require even greater bandwidth. Mr Bishton agreed and said that the CAA had expertise at managing people, entities and airspace users, but space, which was currently managed on a case by case basis, would require a further airspace expertise in particular. Mr King suggested setting up a new directorate or group would be one way to manage the increased workload, rather than merge it into existing departments.

ACTION: Secretariat, Mr Johnson

44. The Chair brought the discussion to a conclusion by asking the Board to support the principle of the CAA becoming the single UK space regulator once the parameters listed in slide 14 are satisfied. Board members agreed to those but asked Mr Johnson to reflect on a number of points. First, to secure written confirmation that under the legislation, government retains the liability on uninsured entities and end of life / decommissioning. Second, that the cost and funding model for this new function should include all relevant costs, including all those associated with employing relevant experts and a reasonable provision for other CAA corporate services who will need to support the establishment of this new function. Third, to

secure a phased transfer to manage better the delivery risk profile. The Board emphasised that its final agreement could not be given until the parameters were satisfied.

45. The Board noted the paper.

VII. CSP ANNUAL REPORT (DOC 2019-092) BY TIM JOHNSON

46. Mr Johnson set the scene and observed that it had been a challenging and interesting year for his team, shaping the strategy for a broad range of topics and interacting intensively with other parts of the CAA and with many external stakeholders, particularly the DfT. Successes included the launch of the Drone Registration and Education Scheme (DRES), the creation and work of the Innovation Hub, readiness for Brexit and progress with the Airspace Modernisation Strategy. Two areas of the team required some development, such as horizon scanning and the resilience of the ERCD. The CSP team had a variety of skills but could benefit with people being able to be flexibly deployed across a wider range of policy roles.

47. Mr Ward enquired about the methodology for prioritisation in such a multi-faceted team. Mr Johnson commented that it was continuous process, as the internal and external requirements on the CAA and the CSP evolved. To do this, he had a clear understanding of the skills available within the team, the established business planning priorities and then access to his colleagues to help make priority calls. Once the Brexit process was concluded, scheduled for the end of January 2020, the team would be refreshed to focus on preparing for the future regulatory framework negotiations and its implementation. Ms Fuller asked whether it would be better to separate the Innovation Hub from CSP to improve bandwidth. Mr Johnson commented that there were still some strategic positioning issues to focus on over the next 12 months, but at a point in the future, consideration could be given to its best home in the CAA. On a day to day level, the Innovation Hub had a strong management team who were running the team day to day and had a good sense of when to seek a strategic steer.

48. Ms Lambert complimented Mr Johnson for an interesting and clear report but suggested there could be more work on sustainability and the environment, to ensure the CAA is able to take a credible position with stakeholders and demonstrate we understand and consider key issues. Ms Corich added that the organisation should take a more strategic stance, employing horizon scanning to identify future disruptors and capitalise on these. For example, Rolls Royce's biofuel engines which were ready for deployment despite others in the industry lagging

- behind. Stakeholders required a clear steer from the regulator and the CAA should lead beyond authority.
49. The Chair commented that, in the sustainability question, our legal and regulatory powers were limited. Mr Johnson added that an initial discussion on the environment was already scheduled for the February PIE.
 50. The Board noted the report.

VIII. TOP STRATEGIC AND BUSINESS RISK UPDATE (DOC 2019-093) BY TIM JOHNSON

51. The Board welcomed Mr Libretto and Ms Payne to the meeting.
52. Mr Libretto provided an overview of new and updated risks since May 2019 and invited the Board to look at Annex A that contained the strategic risks, including risk 6 on the airline insolvency review.
53. Mr Libretto moved on to risk 6, which was about the repatriation arrangements in the event of an airline failure. He explained that the Air Insolvency Review had made recommendations about improving the existing framework and that Government had announced in the Queen's Speech that it intended to implement new legislative proposals to strengthen the regime. The risk was that there was a lot of work to do in a short space of time to meet the legislative window. Mr Smith commented that DfT had set up a steering board which would be working on a future Bill.
54. Mr Libretto highlighted two risks in Annex B, which covered business risks. These were risk 10, relating to resourcing in the finance team, which had arisen mainly due to the pressures of Matterhorn, implementation of new finance systems and a spell of sickness. And risk 13, concerning the resourcing for the GA Unit, which had seen its work increase and required support to ensure oversight did not reduce.
55. The Chair congratulated Mr Libretto for a very informative slide deck and the Board noted the report.

IX. CAA BUSINESS PLAN UPDATE AND CAA BUSINESS PLAN ASSURANCE QUARTERLY REPORT 2019/20 (DOC 2019-094) BY CHRIS TINGLE

56. Mr Tingle introduced the paper and said that the organisation had made good progress in setting the business plan, following it, tracking performance and monitoring delivery of the key priorities. Due to well-known challenges, such as Matterhorn, the plan was more amber than previous editions, however a great deal of work had been carried out prior to the repatriation exercise commencing, to identify projects that could be paused, so it had been well managed from the start.

57. Ms Payne brought the Board's attention to Annex A, which contained a set of proposals to revise Directors' priorities and asked whether the Board members would endorse the changes, which had been discussed with individual Directors. The Board agreed to the changes but requested that activities were stopped and re-initiated as appropriate, rather than paused.

ACTION: Ms Payne

58. Ms Payne explained that next year the team would work with Directors to agree their own priorities as well as the cross CAA priorities. Furthermore, a piece of work would be carried out to unpack and separate the mandatory and discretionary activities. And lastly, the team intended to work closely with finance to ensure the budget was better integrated with the business plan to show the impact and cost of carrying out activities.

59. The Board agreed with the approach. The Chair commented that it was a good set of data. Mr Tingle said that the next update to the Board would be in April.

60. The Board noted the report.

X. FINANCIAL REPORT FOR SEVEN MONTHS TO 31 OCTOBER 2019 (DOC 2019-095) BY CHRIS TINGLE

61. Mr Tingle presented the financial report for the seven months to 31 October 2019. Mr Tingle noted that the organisation had recorded a profit with a positive variance over the budgeted profit, and some adverse variances on the operating costs, offset by favourable CAAi profit. As previously highlighted, the regular forecast meetings had been postponed due to Matterhorn, as such as updated forecast position would be presented with the report in quarter three.

62. The Board approved the report.

XI. GDPR SIX-MONTHLY UPDATE (DOC 2019-096) BY KATE STAPLES

63. Ms Staples highlighted three aspects captured in the paper. First, the organisation had recorded a modest number of GDPR breaches, considering the large amount of transactions that the CAA carried out. Second, because the majority of breaches were caused by human error, the team had been looking at ways to minimise these by using hardware and software to best effect and relying on the Data Asset Manager (DAM) network to provide support and knowledge to individual teams. Third, the organisation had to ensure that the colleagues involved remained enthusiastic and that the DAMs were refreshed if they needed to be. The Data Protection Manager carried out regular audits, which helped to keep breaches low.

64. Mr Tingle commented that it was easier to spot external breaches than internal ones and Mr Moriarty added that, although the organisation could not be assured that it was doing everything it could, it could ensure it encouraged a good culture of reporting, which so far had been working well.
65. The Board noted the paper.

XII. REMUNERATION COMMITTEE REPORT (DOC 2019-097) BY DAVID KING

66. Dr King informed the Board that he had taken over the Chair of the Remuneration Committee from David Gray. Dr King provided a summary of the key points mentioned in the paper. The focus of the meeting in November had been performance management. The Committee had agreed that Mr Bishton would inherit Mr Swan's objectives unchanged for now. The Committee had agreed to defer the review of the ToRs until February 2019, which would include a review of the performance bonus criteria, in consultation with Ms Cosgrove and the HR team.
67. The Board noted the report.

XIII. FORWARD AGENDA AND ANY OTHER BUSINESS

68. Mr Moriarty ran through the Forward Agenda. Mr Johnson commented that the agenda might be subject to change depending on the outcome of the General Election, however, in the meantime, we had detailed agendas planned for three months.

Any other business

69. Mr Stephenson provided an update on the research that had been agreed at the Board Awayday in June 2019 and commissioned from Britain Thinks. The work would comprise three strands that captured colleague engagement, consumer attitudes and public notion of safety, providing a rich spectrum of data. A firmer proposal with more details would be presented at the February or March 2020 Board.
70. Dr King suggested that the Board should have a conversation to explore what regulator the CAA should be in the future, preferably well in advance of the next June 2020 Awayday.

ACTION: Secretariat, Mr Johnson

**Date and Time of Next Board Meeting:
22 January 2020, 9:30 hours, Aviation House**