



CAA Non-Executive Board Members:

**Ms Anne Lambert
Mr Manny Lewis**

By email: [REDACTED]

08 April 2025

Dear Mr Jhala

Your Regulation 6 Review

Hearing Date: 7 March 2025

The Review Panel's decision is as follows:

Introduction

1. This Decision Letter relates to Mr Jhala's (the "Applicant") request for a review under Regulation 6(5) of the Civil Aviation Authority Regulations 1991 to determine whether his flight test for a Commercial Pilot Licence ("CPL") was conducted properly. The Panel does not have jurisdiction to decide whether the Applicant should or should not have passed the test.
2. The Applicant made two attempts of the flight test on 30 April and 2 May 2024 ("Attempt 1" and "Attempt 2" respectively, and both together, the "Test"), flying out of Mesa Falcon Field ("KFFZ"), Phoenix, USA. Both of the attempts of the Test were conducted by a UK CAA examiner, Caroline Olson (the "Examiner").
3. On 13 May 2024, the Applicant emailed the CAA's Office of the General Counsel ("OGC") requesting a preliminary review of the conduct of the Test and provided grounds on 27 May 2024 ("May 2024 Email").¹ The CAA's OGC replied by letter dated 11 December 2024 setting out the conclusion of the review by the CAA's Safety and Airspace Regulation Group ("SARG") that it appeared to be a training issue rather than an issue with how the Test had been conducted ("December 2024 Letter").²
4. On 12 December 2024, the Applicant requested a review of the conduct of the Test under Regulation 6(5) of the Civil Aviation Authority Regulations 1991 ("Regulation 6 Review"). Following the exchange of written submissions between the Applicant and SARG, the hearing took place on 7 March 2025 (the "Hearing").
5. The submissions and evidence relating to the conduct of the Test have been considered by a CAA Panel comprised of Anne Lambert and Manny Lewis, who are appointed by the Secretary of State for Transport as Non-Executive Members of the Board of the CAA (the "Review Panel" or the "Panel").

¹ Bundle 1, pages 112-115

² Bundle 1, pages 117-119

6. The Panel convened to consider the following aspects of the Test as requested by the Applicant:
 - a. Navigation route and planning
 - b. Flight navigation profile changing mid-flight
 - c. Stall recovery
 - d. Examiner report and documentation
 - e. Other factors
7. The Panel heard orally from both the Applicant and representatives of SARG, including the Examiner who conducted the Test. The following written material has also been considered by the Panel, which were incorporated into Bundles 1 and 2 for the Hearing:
 - a. the Applicant's representations and supporting bundle;
 - b. SARG's brief and supporting bundle;
 - c. the Applicant's response;
 - d. SARG's response to the Review Panel's Request for Information dated 25 February 2025.
8. This Decision Letter is structured as follows:
 - a. Section A summarises the applicable legislation and policy;
 - b. Section B sets out a summary of the Test;
 - c. Section C sets out the Applicant's grounds for appeal and the merits in relation to each; and
 - d. Section D sets out the Panel's conclusion.

Section A: Applicable Legislation and Policy

9. UK Regulation (EU) 2018/1139 ("Basic Regulation") and UK Regulation (EU) No. 1178/2011 ("Aircrew Regulation"), Part FCL, set out the requirements which an applicant for a CPL must meet, as well as the requirements for the practical skill test.³
10. The CAA Standards Document 3, Version 11, CPL Skill Test (Aeroplanes) - Policy and Guidance for Applicants and Examiners ("Standards Document") sets out the CAA's policy in relation to, and provides guidance for applicants taking, the CPL skill test ("CPL Skill Test") for the grant of a CPL (Aeroplanes).⁴
11. The front page states: *"This Standards Document defines UK policy and means of compliance with (UK) Part FCL, Subpart D Commercial Pilot Licence (CPL) and the associated Appendices, Guidance Material and Acceptable Means of Compliance."*⁵
12. The Foreword states:

³ Bundle 1, pages 28-50

⁴ Bundle 1, pages 51-77

⁵ Bundle 1, page 51

“The information will help applicants prepare for the test, but it must be remembered that aspects mentioned here are of a general nature only and do not give precise details of every potential exercise or manoeuvre.

This document is intended as a reference document for pilots, instructors, and examiners, to explain the administrative procedures required to undertake the skill test for a CPL and to ensure that the way skill tests are conducted is standardised across the aviation community.”⁶

13. Part 3 of the Standards Document is titled “Conduct of the Test” and is divided into seven sections: Preview of events; Initial Briefing; Planning; Weather Minima; Main Briefing; The Flight; and Post Flight Action. Part 4 is titled “Assessment Criteria and Administrative Procedures” and is divided into three sections: Assessment Criteria; Administrative Procedures; and Applicant’s Appeal Procedure.

14. In Part 3, paragraph 3.1.2 provides:

“The examiner is required to complete each test in compliance with the required schedule and tolerances to achieve a meaningful, fair and valid assessment. The applicant will be given a clear and unhurried briefing and airborne direction so that he understands what is being asked of them.”⁷

15. Paragraph 3.1.3 provides that applicants will be assessed on “*all aspects of the operation*” and that the examiner may elect to evaluate certain aspects by oral questioning.⁸

16. Paragraph 3.1.4 sets out that the CPL Skill Test is divided into six main sections⁹:

- *Section 1 Pre-flight Operations and Departure*
- *Section 2 Airwork*
- *Section 3 En-route procedures*
- *Section 4 Approach and landing procedures*
- *Section 5 Abnormal and emergency procedures*
- *Section 6 Simulated asymmetric flight and relevant class or type items”*

17. Paragraph 3.1.5 further explains that all sections of the test are normally to be completed during one flight, although the sequence of sections may vary and that the examiner’s briefing will outline the expected profile: “*Examiners are responsible for ensuring an efficient test, but applicants must remain flexible, particularly if weather conditions, ATC requirements etc dictate a different scenario during the flight.*”

18. Other extracts from the Standards Document which are relevant to each of the Applicant’s grounds of appeal are set out in the relevant sections below.

⁶ Bundle 1, page 53

⁷ Bundle 1, page 57

⁸ Bundle 1, pages 57-58

⁹ Bundle 1, page 58

19. The Panel considers that the burden of proof in this Regulation 6 Review is on the Applicant. The standard of proof is the balance of probabilities. The Panel is therefore required to determine whether the Applicant has proved, on the balance of probabilities, that the Test was not conducted properly. Where the facts are in dispute, the Panel must determine the relevant facts on which they have based their decision.

Section B: Outline of the Test events

20. The Applicant received the initial briefing for Attempt 1 on 8 April 2024. It was around this time that the Examiner gave the Applicant the route he was to plan for the purposes of the CPL Skill Test. However, there was a longer-than-usual interval between the Initial Briefing and Attempt 1, due to a delay in the Applicant getting his test flight signed off.
21. Attempt 1 took place on 30 April 2024 after a pre-flight briefing. The Applicant successfully completed and passed Section 1 of the CPL Skill Test.¹⁰ While some items in Sections 2 to 3 were ticked, overall those Sections were marked as incomplete (“INC”) and Sections 4 to 6 were marked as not flown (“N/F”) because the Applicant became ill due to air sickness and had to be flown back to KFFZ by the Examiner.
22. A debrief was conducted on the same day, although not immediately after the flight as the Applicant had to go home to change his clothes due to his air sickness. The debrief also covered the pre-flight briefing for Attempt 2.
23. Attempt 2 took place on 2 May 2024 after another pre-flight briefing. The Examiner Report for Attempt 2 shows that Section 1 was completed on 30 April 2024, Sections 2 and 3 were failed, and Sections 4 to 6 were not flown.¹¹
24. A debrief was conducted immediately after Attempt 2.

Section C: Applicant’s Grounds of Appeal and Merits

25. The issue before the Panel is not whether the Applicant should or should not have passed the Test, but whether the Examiner properly conducted the Test, such that the Test complied with the applicable legislation and the Standards Document referred to in this Decision Letter, or where the Examiner did not apply the Standards Document, whether it was reasonable for her to depart from it.
26. The Applicant raised four main grounds for appeal, as well as raising some other points which are dealt with in the final section:
 - Navigation route and planning
 - Flight navigation profile changing mid-flight
 - Stall recovery
 - Examiner report and documentation

¹⁰ Bundle 1, page 10

¹¹ Bundle 1, page 7

- Other factors

Taking each of these in turn:

Ground 1: Navigation Route and Planning

Standards Document

27. In addition to the paragraphs highlighted above, the Standards Document sets out the requirement for two pre-flight briefings:
- a. the Initial Briefing (section 3.2): the purpose is to check that the Applicant has completed the necessary training and meets the prerequisite experience requirements;¹²
 - b. the Main Briefing (section 3.5): this is a comprehensive briefing covering all aspects of the flight. It should include questions from the examiner to check the applicant's understanding and the applicant should ask questions at any time if unclear about any aspect of the test.¹³
28. Further, the Standards Document provides:
- a. paragraph 3.1.5: *"The following notes reflect the style and sequence of the briefing that the applicant may expect to hear. However, the examiner may make variations in the delivery of the briefing and may have to modify the sequence in which items are briefed and flown"*;
 - b. paragraph 3.2.3: *"The examiner will outline the content of the skill test, which includes the route and any other airfields to be used. The navigation route will be chosen to give a leg time of at least 20 minutes"*;
 - c. paragraph 3.2.5: *"When the applicant is clear about the format for the flight, he will be given time to complete the necessary planning and pre-flight preparation, normally 45 - 60 minutes depending upon the circumstances"*;¹⁴
 - d. paragraph 3.5.1e: *"The examiner will go through the flight, item by item, explaining to the applicant what is required and asking questions as appropriate to check knowledge and understanding"*;¹⁵
 - e. paragraph 4.2.5: *"An incomplete test may be awarded if the applicant discontinues the flight and the reasons for doing so are agreed by the examiner or if the examiner deems any part of the flight unassessable. To complete an incomplete test, the applicant will be required to fly only those sections or items not previously flown and assessed; these items must be completed before the overall result of the flight can be determined."*¹⁶

Submissions

29. The Applicant submitted that the Test was not properly conducted on the basis that¹⁷:
- he was not provided with any navigation route for Attempt 2 and was not informed that he would be flying to Sacaton until mid-flight;

¹² Bundle 1, page 58

¹³ Bundle 1, page 60

¹⁴ Bundle 1, pages 58-59

¹⁵ Bundle 1, page 61

¹⁶ Bundle 1, page 68

¹⁷ Bundle 1, pages 1 and 125-126

- during the debrief of Attempt 1, he was informed to expect a diversion from Chandler Municipal Airport (“KCHD”) and to plan a flight to KCHD, but no further details were provided;
- a route from KCHD to Sacaton does not comply with the minimum requirements in Standard Document, paragraph 3.2.3;
- the Examiner reviewed the Applicant’s navigation chart before the flight and did not comment that it did not contain a leg beyond KCHD;
- if he had been informed of the intention to fly to Sacaton, he would have planned for such a destination. The Applicant considered that if the Examiner had already briefed that Sacaton was the starting point, it is unclear why she asked whether the Applicant was familiar with it;
- the Examiner’s oversight in not providing a navigation route “*significantly impacted my ability to adequately prepare for this navigational change and additionally plan a diversion point...*”

30. SARG responded that¹⁸:

- a. at the debrief for Attempt 1:
 - i. the Examiner was clear to the Applicant that she would need to see a diversion;
 - ii. the Applicant was not informed he would be flying to KCHD;
 - iii. the Applicant was told that he would be expected to fly the Chandler Departure procedure¹⁹ and the diversion would begin at Sacaton;
 - iv. the Examiner asked the Applicant whether he was familiar with Sacaton and the Applicant confirmed that he was;
 - v. the Examiner was clear that he should not plan a route because the diversion planning is required to be carried out in-flight;
- b. the Applicant was not informed he would be flying to KCHD;
- c. the Chandler Departure procedure ends much earlier than KCHD, at Val Vista Lakes;
- d. in accordance with the Standards Document, the Examiner provided a thorough pre-flight brief to the Applicant before Attempt 1 and Attempt 2, a debrief after Attempt 1 and Attempt 2, a 90 minute one-to-one CPL brief on 8 April 2024 and a 2 hour group CPL brief on 16 April 2024.

31. These submissions were explored by the Panel at the Hearing.

32. The Panel notes that the Applicant was unable to attend the group briefing on 16 April 2024.²⁰ However, the Applicant had a one-to-one briefing on 8 April 2024, which was the Initial Briefing as required by the Standards Document.²¹ The Examiner explained at the Hearing that the Initial Brief was thorough and included confirmation that:

¹⁸ Bundle 1, pages 21-22

¹⁹ Bundle 1, page 6

²⁰ Bundle 1, page 126

²¹ Transcript, from page 81

- a. the scenario was that the Applicant had been hired to take a customer, played by the Examiner, to one destination and that the customer would then ask to see another;²²
 - b. some navigation would be planned, which would require visual navigation so no navigation aids can be used;²³
 - c. there would be an unplanned diversion, during which the Applicant could use navigational aids.²⁴
33. While the debrief for Attempt 1 did not take place immediately after the flight as the Applicant had to return home to change his clothes, it was not disputed that the Applicant had a full debrief on 30 April 2024. The debrief included the briefing for Attempt 2: the Examiner explained that she *“went through the whole protocol again so he knew exactly what to expect, in detail”*.²⁵
34. The Examiner gave a further briefing on the morning of Attempt 2:

*“...the debrief after the first, I went through everything, I explained the expectations for the second flight and then prior to the second flight, I did another full pre-flight brief, running through exactly what order of events, what flow would happen.”*²⁶
35. Despite these briefings, there was still some confusion on the Applicant’s part as to the route for Attempt 2. At the Hearing, the Panel tested how this confusion could have arisen.
36. Referring to paragraph 3.1.2 of the Standards Document set out above,²⁷ the Panel noted *“that’s quite a high bar, really, in terms of you making sure that he understands what’s been asked of him. So tell us about the assurance that you had that he understood the requirements”*.²⁸
37. The Examiner replied:

*“So, as I go through their pre-flight brief, I do it in, obviously, small sections. I stop after each little small section, give them an opportunity: do you have any questions? They can stop me any time, interrupt me, do they have any questions. At the end of the brief, I confirm that they understand everything expected and then in-flight again, I did confirm with Raj that he had the start point for his diversion visually in sight and once he confirmed that, then it’s really up to him to navigate himself visually in a position to start the diversion.”*²⁹

²² Transcript, page 82

²³ Transcript, page 83

²⁴ Transcript, page 84

²⁵ Transcript, page 86

²⁶ Transcript, pages 91 and 92

²⁷ Bundle 1, page 57

²⁸ Transcript, page 96

²⁹ Transcript, pages 96-97

38. As noted above, the Applicant stated that he was not provided with any navigation route for Attempt 2 and was not informed that he would be flying to Sacaton until mid-flight. However, he also claimed that during the debrief of Attempt 1, he was informed to expect a diversion from KCHD and to plan a flight to KCHD.
39. The following paragraphs take these points in turn, firstly, the navigation route and, secondly, Sacaton as the first destination.
40. The Examiner explained that she did not give the Applicant a route to plan in relation to Attempt 2 and that this was deliberate.³⁰ The reason for this was that the Applicant had passed, in Attempt 1, Section 1 of the CPL Skill Test, as well as part of Section 3 which included the planned leg element³¹ and it was not necessary for the Applicant to repeat it. The Examiner said that she told the Applicant:

"So on the first attempt I gave him credit for the planned leg. I did tell him that I wasn't convinced he was using a recognised technique but I gave him credit for that planned leg. That's why I said "What I need to see is a diversion, so you can demonstrate a navigation technique", and I very specifically, after the first one, and then prior to the second flight, said to him "Do not plan anything because you'd completed the planning."³²

41. In the May 2024 Email,³³ the Applicant noted:

"During the debrief it was discussed by the examiner that I will need to retry this [the diversion] and that the only portion that I passed was the section 1 and so would need to do section 2 and section 3 (just the diversion) and the rest of the CPL profile."³⁴

42. The Applicant acknowledged that he was aware that he had passed Section 1 of the CPL Skill Test during the debrief after Attempt 1:

"We had the debrief regarding this and I was informed that I need to – the only section that I had passed at that point was section 1."³⁵

43. The Applicant agreed that he was aware Attempt 2 would consist of only the diversion element in terms of navigation at the Hearing:

"That being said, the examiner did mention that the navigation portion of the flight, I would only be doing the diversion, not the navigation point..."³⁶

"...and then I was informed that I would be doing diversion only..."³⁷

³⁰ Transcript, pages 88-91

³¹ Transcript, page 90

³² Transcript, pages 87-88

³³ Bundle 1, pages 112-115

³⁴ Bundle 1, page 113

³⁵ Transcript, page 12

³⁶ Transcript, pages 12-13

³⁷ Transcript, page 28

44. The situation was recorded on the Examiner Report for Attempt 1, signed by both the Examiner and the Applicant on 30 April 2024³⁸:
- a. Section 1 is marked as passed (“PASS”);
 - b. Sections 2 is marked as “INC” (incomplete) with only items (a) and (f) ticked;
 - c. Section 3 is marked as “INC”, with items (a), (b), (c) and (g) marked as “INC” and noted in the row below as not completed, while items (d), (e) and (f) were marked with a tick;
 - d. Sections 4 to 6 are marked as not flown (“N/F”).
45. At the Hearing, the Examiner explained *“Which is why section 3 was incomplete. He’d completed some of those items in section 3 which is planned leg...So he had not completed section 3G, which was tracking positioning, identification of facilities and implementation of diversion plan,. That was the bit I’d asked him to repeat, in order to demonstrate his navigational technique”*.³⁹
46. Despite the above, it seems that the Applicant was still expecting to plan a navigation route to a “first destination”, even though this was not required. The Applicant submitted that *“The examiner reviewed my navigation chart before the flight, which did not contain a leg beyond KCHD and no comments were made”*.⁴⁰ By contrast, the Examiner explained that she did not check the flight plan for Attempt 2 because no such plan was needed. When questioned by the Panel, the Examiner explained:
- “I still have the one [flight navigation log] from the first flight with my notes on it from in-flight. That is the only navigational log I had I saw. There was no other navigation log because I specifically asked him not to plan anything because it needed to be planned airborne.”*⁴¹
47. Turning to the question as to whether the Applicant was informed that the diversion would start from either KCHD or Sacaton. Following both of the quotations from the Hearing at paragraph 43 above, the Applicant went on to say:
- “...and I was informed that my diversion would take place from Chandler airport, KCHD”*⁴²
- “...and that to expect a diversion from KCHD”*⁴³.
48. The Examiner disagreed that the Applicant was unaware that he would be flying to Sacaton. The Examiner was clear that she explained to the Applicant that he was *“expected to fly the Chandler Departure procedure and that a diversion would begin from Sacaton Town”*.⁴⁴

³⁸ Bundle 1, page 10

³⁹ Transcript, page 90

⁴⁰ Bundle 1, page 125; Transcript, pages 29 and 38

⁴¹ Transcript, page 91

⁴² Transcript, page 13

⁴³ Transcript, page 28

⁴⁴ Bundle 1, page 21 and Transcript, page 88

49. The Examiner explained that the Chandler Departure is a procedure to take airspace users out of congested airspace around KFFZ to the practice area⁴⁵:

*"...the Chandler departure itself is called the Chandler departure, but it's never intended to overfly the airfield itself. We would never give a student a planned leg from Falcon to the departure destination because we have those departure plates for that...We would never ask them to plan a leg of that, because it doesn't make sense, but they have something already pre-planned, drawn up for them for that departure."*⁴⁶

50. The Examiner was satisfied that the Applicant had understood and he had confirmed, during the debrief after Attempt 1, that he was familiar with Sacaton:

*"So the diversion will be given in the air and I asked if he was familiar with the town of Sacaton. He confirmed he was, he's flown around it frequently..."*⁴⁷

51. When questioned by the Panel, the Examiner explained:

*"I feel that he was very clear on what was expected. I confirmed several times if he understood. He confirmed that he was familiar with the town of Sacaton. Again, in-flight, he confirmed he was visual with it. I'm not sure where a confusion could have come in."*⁴⁸

*"...you can visibly see Sacaton Town, which Raj did confirm with me on the ground he was familiar with, and in the air he confirmed he had it in sight."*⁴⁹

52. The Applicant, by contrast, when asked by the Panel whether he was familiar with Sacaton replied *"That's incorrect..."* However, he acknowledged that he knew Sacaton as he had flown there previously, but he explained that he had flown to the other practice site more recently:

*"...I've flown to Sacaton on previous occasion as a student, but I'm not familiar with the airport. A lot of the departures that we do during that final portion of the training, a lot of it is done at AJ departure, which is the other site."*⁵⁰

53. The Applicant re-iterated that the first time Sacaton was mentioned was in-flight, while he was conducting the Chandler Departure procedure.⁵¹

Panel's conclusions

(i) Briefings

⁴⁵ Transcript, page 88

⁴⁶ Transcript, pages 94-95; Bundle 1, page 6

⁴⁷ Transcript, page 87

⁴⁸ Transcript, page 95

⁴⁹ Transcript, page 89

⁵⁰ Transcript, pages 32-33

⁵¹ Transcript, page 33

54. The Panel notes that the Applicant was unable to attend the group briefing on 16 April 2024.⁵² However, the Applicant had a thorough one-to-one briefing on 8 April 2024, which was the Initial Briefing as required by the Standards Document.⁵³ It was not disputed that the Applicant had a full debrief on 30 April 2024 after the incomplete Attempt 1 and there was a further briefing on the morning before Attempt 2. The Examiner also explained that there was ample opportunity for the Applicant to ask questions if he was unsure as to what was required,⁵⁴ which was not disputed by the Applicant.

55. Taking account of the information submitted both orally and in writing, the Panel's conclusion is that, on the balance of probabilities, the briefings were given properly in accordance with the Standards Document.

(ii) *Route - Attempt 2:*

56. The Panel considers the Examiner was a credible witness. The Examiner is clear she did not give a navigation route because the Applicant had passed the planned leg element of the CPL Skill Test in Attempt 1 and there was no need to repeat this element in Attempt 2.⁵⁵ It appears the Examiner's intention was for the Applicant to fly to a practice area he knew so as to undertake the diversion element of the CPL Skill Test. The Examiner was certain that she was clear on her instructions to the Applicant and no confusion should have arisen.⁵⁶

57. The Applicant on the other hand stated that he was told the first destination would be KCHD, but he also stated that he "*was not provided with a navigation route for my second attempt.*" This latter statement accords with the Examiner's recollection of the briefing she gave. It appears that the Applicant unfortunately either misunderstood the briefing and/or misheard KCHD for Sacaton. This issue is considered further in Ground 2 below.

58. The Panel is satisfied that the Applicant was not provided with a navigation route for Attempt 2 and that there was no need to do the planned leg element for the reasons above. This is in line with the Standards Document which provides that, to complete an incomplete test, an applicant is required to fly only "*those sections or items not previously flown and assessed*".⁵⁷

(iii) *Route - Attempt 1:*

59. There was a longer-than-usual interval between the Initial Briefing on 8 April and Attempt 1 on 30 April 2024. As a result of the delay, the Examiner forgot that she had given the Applicant his route and so sent him another the night before.⁵⁸

⁵² Bundle 1, page 126

⁵³ Transcript, from page 81

⁵⁴ Transcript, pages 96-97

⁵⁵ Transcript, pages 87-91

⁵⁶ Transcript, pages 94-95

⁵⁷ Paragraph 4.2.5 of the Standards Document, Bundle 1, page 68

⁵⁸ Bundle 1, page 9

60. As noted above, while the Standards Document indicates that planning and pre-flight preparation is “normally 45 – 60 minutes”, such that receiving a route the night before does not breach those requirements, the Examiner agreed that the Applicant could continue with the original route.⁵⁹
61. The Panel considers the Examiner made a minor error when she sent the Applicant a route the night before Attempt 1, because she had also given him a route (KFFZ to VPEN to Chuichiu) on 8 April. However, the Examiner quickly agreed that the Applicant could fly the original route for Attempt 1. The Panel does not consider this to be a material error, such that Attempt 1 was not conducted properly.
62. The Panel notes that both the (original) route for Attempt 1 and the start point of the diversion were given verbally and there was no written confirmation. With hindsight it was unfortunate that the route instructions were not in writing, particularly given the length of time between the Initial Briefing on 8 April 2024 and Attempt 1 on 30 April 2024 on this occasion. However, the Standards Document does not require the route to be given in writing.
63. For the reasons above, the Panel is satisfied that the briefings and the Examiner’s actions in relation to the routes for both Attempt 1 and Attempt 2 were appropriate, such that, on the balance of probabilities, the Test was properly conducted in these respects.

Ground 2: Flight Navigation Profile changing mid-flight

Standards Document

64. In addition to the paragraphs highlighted in the sections above, the Standards Document provides:
- a. paragraph 3.2.3: “The examiner will outline the content of the skill test, which includes the route and any other airfields to be used. The navigation route will be chosen to give a leg time of at least 20 minutes”,⁶⁰
 - b. paragraph 4.2.5: “An incomplete test may be awarded if the applicant discontinues the flight and the reasons for doing so are agreed by the examiner or if the examiner deems any part of the flight unassessable. To complete an incomplete test, the applicant will be required to fly only those sections or items not previously flown and assessed; these items must be completed before the overall result of the flight can be determined.”⁶¹

Submissions

65. The Applicant submitted that the Test was not properly conducted on the basis that, on Attempt 2⁶²:

⁵⁹ Bundle 1, page 13

⁶⁰ Bundle 1, page 58

⁶¹ Bundle 1, page 68

⁶² Bundle 1, pages 2 and 127

- a. he was not informed that Sacaton would be the first destination or of the flight order or navigation route, as required by Standards Document paragraph 3.2.3.⁶³ If he had been so informed, he would have planned accordingly;⁶⁴
- b. he expected a diversion from KCHD due to the instructions he received during the debrief after Attempt 1;⁶⁵
- c. the instruction to fly to Sacaton mid-flight should have been considered a diversion itself;⁶⁶
- d. he did not have over three minutes to plan the diversion from Sacaton to Donnelly Truck Shop because he was also planning the route from KCHD to Sacaton;⁶⁷
- e. the navigation leg to Sacaton did not meet the 20-minute requirement in paragraph 3.2.3 of the Standards Document;⁶⁸
- f. the Chandler Departure is busy airspace and mid-flight route changes significantly impact workload. Being required to fly to Sacaton without prior briefing hindered his ability to perform to the required standard.⁶⁹ See Ground 5 below for consideration of this point.

66. SARG responded in its written submissions that:

- a. the Examiner went through the order of events before Attempt 2;⁷⁰
- b. the Examiner was clear that the Applicant was not informed the diversion would be from KCHD, and submitted that the Applicant was aware that the diversion would be from Sacaton;⁷¹
- c. the Applicant confirmed during Attempt 2 that he had a visual of Sacaton and that he was then given over three minutes to plan the diversion to Donnelly Truck Shop;⁷²
- d. the Applicant could have planned his diversion while visually flying towards Sacaton but was continuously looking at his chart rather than looking outside and displayed poor navigation technique.⁷³

67. The Panel considers that much of what was discussed in relation to Ground 1 above also applies to this ground. However, there are a few elements which still need to be considered, which are set out below.

68. The Applicant submitted that being told to fly to Sacaton mid-flight constituted an unplanned leg and so the flight to Sacaton should have been considered a diversion. At the Hearing he explained: *"...I was flying towards KCHD and I was given the instructions just before I got to KCHD and so then I had to fly towards what I believed was*

⁶³ Bundle 1, pages 2 and 127

⁶⁴ Bundle 1, page 127

⁶⁵ Bundle 1, page 2

⁶⁶ Bundle 1, page 2

⁶⁷ Bundle 1, page 2

⁶⁸ Bundle 1, page 4

⁶⁹ Bundle 1, page 127

⁷⁰ Bundle 1, page 22

⁷¹ Bundle 1, page 22

⁷² Bundle 1, page 22

⁷³ Bundle 1, pages 22-23

Sacaton...”.⁷⁴ He submitted that this meant that he had to plan the leg from KCHD to Sacaton, as well as the diversion.

69. The Applicant also submitted that a leg from KCHD to Sacaton was too short for a planned leg: *“The navigation leg to Sacaton does not meet the minimum 20 minute requirement, which was provided mid-flight and there was no briefing regarding this navigation leg”*.⁷⁵

70. As covered under Ground 1, the Examiner did not provide a route for planning because the Applicant had already passed this element of the CPL Skills Test. A representative of SARG explained that: *“I think the point that the examiner is trying to make is that you didn’t need to plan in the second time...She had marked you successful for that. Therefore, in the second attempt, you weren’t required to carry out something that you had already passed which is why she didn’t ask you to plan it”*.⁷⁶

71. The Examiner stated that she briefed the Applicant to take off using the Chandler Departure procedure and to expect a diversion from Sacaton.⁷⁷ The Applicant stated: *“I was informed that my diversion would take place from Chandler airport, KCHD”*.⁷⁸

72. At the Hearing, the Panel questioned the Applicant’s interpretation of the instructions :

“CHAIR: ...You agree you were told to fly the Chandler departure?”

MR JHALA: Yes.

CHAIR: Right. Then in addition to that, did you get a separate instruction to fly on to KCHD?

*MR JHALA: No, because when you do Chandler departure, it takes you to Chandler airport.”*⁷⁹

73. However, the Applicant also agreed that Chandler airport is not shown on the Chandler Departure procedure:

“MR JHALA: Right. So a normal process, again, as I understood it myself, we followed Chandler departure, we see the Val Vista Lake, you keep going straight. The airport's there and for the navigation, we always get told to overfly the Chandler airspace and the airport itself.

CHAIR: So on this map on page 6,^[80] where was KCHD? It's off the map?

*MR JHALA: It's off the map, yes.”*⁸¹

⁷⁴ Transcript, page 54

⁷⁵ Bundle 1, page 4

⁷⁶ Transcript, page 112

⁷⁷ Transcript, pages 87-88

⁷⁸ Transcript, page 13

⁷⁹ Transcript, page 31

⁸⁰ Bundle 1, page 6

⁸¹ Transcript, page 31

74. As noted in Ground 1 above, the Examiner explained that the Chandler Departure is a procedure to take airspace users out of congested airspace around KFFZ to the practice area⁸² and that: “...the Chandler departure itself is called the Chandler departure, but it's never intended to overfly the airfield itself.”⁸³

Panel's conclusion

75. As discussed under Ground 1, it appears the Applicant thought there should be a planned leg element in Attempt 2, even though he recognised that Attempt 2 would only test the diversion (see paragraph 43 above). It seems he therefore misunderstood that when, in flight, he was told to fly to Sacaton, he thought he was being asked to fly to Sacaton as a route which should have been planned or as a destination in itself. The Panel is satisfied that there was no planned leg element in Attempt 2 and so the instructions to fly the Chandler Departure procedure and then to Sacaton were simply to get out of the congested airspace to the practice area and then to the start of the diversion once the Applicant confirmed he had visual sight of it.⁸⁴
76. It is not possible for the Panel to resolve the contradiction between what the Examiner stated she told the Applicant about where the diversion would start during the Attempt 1 debrief and Attempt 2 pre-flight briefing and what the Applicant stated he heard. It seems there was an unfortunate misunderstanding. It seems that the Applicant did not fully understand the Chandler Departure procedure because while the Applicant agreed that he was told to fly the Chandler Departure, he appears to have interpreted this as an instruction to fly to KCHD (i.e. Chandler Municipal Airport) because he mistakenly thought flying to KCHD was part of the Chandler Departure.⁸⁵
77. The Panel considers the fact that KCHD to Sacaton is less than 20 minutes is not relevant because the 20-minute requirement in paragraph 3.2.3 of the Standards Document is for a planned leg which was not assessed in Attempt 2.
78. For the reasons above and in Ground 1, the Panel is satisfied that there was no planned leg required for Attempt 2, such that the instruction to fly to Sacaton did not amount to the flight profile changing mid-flight. Rather the Examiner's instructions were aimed at enabling the Applicant to fly to the practice area and the start of the diversion. Despite the briefings and the Examiner giving the Applicant the opportunity to ask questions (see also Ground 1), some misunderstanding between the Applicant and the Examiner unfortunately remained. Part of this misunderstanding appears to stem from the Applicant's misunderstanding of the Chandler Departure. The Panel does not consider that there were any actions or omissions from the Examiner, such as to lead to the conclusion, on the balance of probabilities, that the Test was not properly conducted.

⁸² Transcript, page 88

⁸³ Transcript, page 94

⁸⁴ Transcript, page 95

⁸⁵ Transcript, pages 31 and 112; page 94; Bundle 1, page 6

Ground 3: Stall Recovery

Standard Document

79. Recognition and recovery from stalls is set out in the Standards Document as one of the items to be flown.⁸⁶ It states that “*A series of stalls will be required, and the examiner will brief the sequence of these both pre-flight and in the air.*” The Standards Document includes a description of three different types of stall and how to recognise a stall and the procedure. It also provides: “*All recoveries should be using the SSR technique...*”

Submissions

80. In his representations, the Applicant:⁸⁷

- a. submitted that he “*executed the Standard Stall Recovery as per my training*”;
- b. disagreed with the Examiner’s assessment that he was unable to recognise a full stall, unable to explain what caused a stall and did not correctly use the Standard Stall Recovery (“SSR”).

81. In its written submissions,⁸⁸ SARG:

- a. replied that all applicants are required to show recognition and recovery from stalls, as set out in the Standards Document;
- b. noted that the SSR technique is not described, but explained that there is only one method for stall recovery taught in the relevant training and this is referred to as the SSR;
- c. submitted that the Applicant was given multiple opportunities to recover from a stall and was unable to do so correctly nor was he able to describe the correct method;
- d. referred to the Examiner Report setting out the reasons why the stall recovery attempts were unsuccessful and that the Applicant was advised to seek further training.

82. The Applicant requested that his flight performance data be reviewed but SARG responded that there was no flight performance data in this respect.⁸⁹

Panel’s conclusions

83. The Applicant confirmed that he had been given two attempts at a “clean stall” and a further two attempts at a “base to final” stall.⁹⁰ The Applicant noted: “*I was expected to be given one [attempt] and I was given two of each*”.⁹¹ The Examiner also gave the Applicant the opportunity to explain the SSR verbally both in flight and on the ground.

84. The Panel is therefore satisfied, on the balance of probabilities, that the stall recovery portion of the Test was properly conducted and that the Examiner gave the Applicant sufficient attempts to demonstrate the SSR.

⁸⁶ Bundle 1, page 64

⁸⁷ Bundle 1, pages 3 and 128

⁸⁸ Bundle 1, pages 23-24

⁸⁹ Bundle 1, pages 3, 128 and 23 ; Transcript, pages 61 and 106

⁹⁰ Transcript, page 17

⁹¹ Transcript, page 33

85. During the Hearing, the Parties discussed the SSR.⁹² The Applicant submitted that there was a difference and contradiction between the SSR as he had been taught,⁹³ and which the Applicant submitted he had executed, compared with the aircraft flight manual which the Examiner expected him to perform.⁹⁴

86. As noted above, the issue before the Panel is not whether the Applicant should or should not have passed the Test, and so the Panel is not in a position to determine whether the Applicant performed the correct manoeuvre. The Panel notes a difference in the wording, between the training manual and the aircraft flight manual. However, the Panel is satisfied with SARG's explanation that, while the wording is different, there is no contradiction between the two documents⁹⁵ as one describes the effect of the action (e.g. "*relax back pressure while simultaneously applying full power*"),⁹⁶ while the other describes the action to be taken (e.g. "*central control – centrally forward to control wings*").⁹⁷

Ground 4: Examiner report and documentation

Standards Document

87. Section 3.7 (Post Flight Action) of the Standards Document provides (amongst other matters) that⁹⁸:

- a. paragraph 3.7.1: the examiner will state the result of the test and conduct a debriefing to discuss the applicant's performance;
- b. paragraph 3.7.2: the forms will show the result, retest requirements, further training required and advice for improvements;
- c. paragraph 3.7.2: the applicant will be asked to sign the forms as having understood the result.

88. The route is to be recorded on the Examiner Report in section 2 titled "Flight Test". The Panel was not directed towards any evidence indicating that there is a specific way in which the "route" on the Examiner Report should be recorded.

Submissions

89. The Applicant submitted that the Test was not properly conducted on the basis that there are inconsistencies between the Examiner Report for Attempt 1 and the Examiner Report for Attempt 2 which "*raises concerns about the accuracy and integrity of the Examiner's report*".⁹⁹

90. The Applicant submitted that:

⁹² Transcript, page 21

⁹³ Bundle 1, page 15

⁹⁴ Bundle 1, page 16

⁹⁵ Transcript, pages 63, 100, 101, 103-105

⁹⁶ Bundle 1, page 15

⁹⁷ Bundle 1, page 16

⁹⁸ Bundle 1, page 67

⁹⁹ Bundle 1, page 4

- a. the Examiner Report for Attempt 1 followed the route: “KFFZ – VPREN – ChiuChu-(Div) MOTOWN – KFFZ”.¹⁰⁰ The Applicant noted that this route was recorded in full in the Examiner Report, including VPREN which was abeam the waypoint as part of the departure procedure;¹⁰¹
- b. the Examiner’s Report for Attempt 2 was noted as: “KFFZ – Sacaton Town – (Div) Donnelly Truck Shop”.¹⁰² The Applicant noted that, by contrast to Attempt 1, this record did not include KCHD, “a significant waypoint that is part of the Chandler Departure procedure”, it included Sacaton, which was not part of the brief nor provided as a route for planning purposes, and it did not include KFFZ as the return airfield;¹⁰³
- c. the omission of KCHD from the Examiner Report “raises further concerns about procedural consistency and documentation accuracy”;¹⁰⁴
- d. he attempted to address concerns regarding Sections 2 and 3 of the CPL Skills Test and his training in the Attempt 2 debrief, and that the Examiner replied that she could only discuss the test;¹⁰⁵
- e. he disagreed with what has been written in the Examiner Report for Attempt 2, but was informed that he would be given the opportunity to dispute the content of the Examiner Report and that by signing it, he did not agree with the comments.¹⁰⁶

91. SARG responded in its written submissions that¹⁰⁷:

- a. the Examiner’s recording of the routes was appropriate on both Examiner Reports, with the only inconsistency being that the Examiner did not record the flight back to KFFZ on the Examiner Report for Attempt 2;
- b. KCHD was not recorded on the Examiner Report for Attempt 2 because it is not part of the Chandler Departure procedure, it was not a planned waypoint and the Applicant was not asked to fly to KCHD;
- c. the Examiner completed a thorough debrief after Attempt 2 in accordance with paragraph 3.7 of the Standards Document and emphasised that she could not discuss any training issues with him. The Applicant did not raise any concerns with the conduct of Attempt 2 during the debrief, focussing only on the reasons for failure section of the Examiner Report.¹⁰⁸

Panel’s conclusions

92. The Panel notes that both Examiner Reports were completed and signed by both the Examiner and the Applicant on the day of Attempt 1 and Attempt 2¹⁰⁹, indicating that the Applicant understood the result, in accordance with paragraph 3.7.2 of the Standards Document.

¹⁰⁰ Bundle 1, page 10

¹⁰¹ Bundle 1, page 4

¹⁰² Bundle 1, page 7

¹⁰³ Bundle 1, pages 4 and 129

¹⁰⁴ Bundle 1, page 2

¹⁰⁵ Bundle 1, page 4

¹⁰⁶ Bundle 1, page 114

¹⁰⁷ Bundle 1, pages 24-25

¹⁰⁸ Bundle 1, page 110

¹⁰⁹ Bundle 1, pages 7 and 10

93. Both Parties submitted that the Applicant wanted to discuss the reasons for failing Sections 2 and 3 at the debrief of Attempt 2 and his training. The Panel notes that the Applicant did not dispute SARG's claim¹¹⁰ that he did not raise any complaints or concerns about the Examiner's conduct of the Test during either of the debriefs.
94. As noted above, the issue before the Panel is not whether the Applicant should or should not have passed the Test, but whether the Examiner properly conducted the Test.
95. Based on the submissions above and the Panel's findings in relation to the KCHD and Sacaton issues under Grounds 1 and 2, the Panel concludes that the Examiner Reports for both Attempt 1 and Attempt 2 were appropriately completed, save in one minor respect for Attempt 2. The Panel notes that the Examiner's Report for Attempt 2 does not show that, after the diversion, the flight returned to KFFZ. The Panel does not consider this omission from the Examiner Report is material, such as to lead to the conclusion, on the balance of probabilities, that the Test was not properly conducted.

Ground 5: Other factors

Standards Document

96. The Standards Document provides:
- a. paragraph 3.1.5: *"All sections of the test are normally to be completed during one flight. The sequence of sections may vary depending on circumstances and the examiner's briefing will outline the expected profile. Examiners are responsible for ensuring an efficient test, but applicants must remain flexible..."*¹¹¹
 - b. paragraph 3.1.6: *"The CPL Skill Test is very demanding. It is appreciated that even the most 'professional' or 'talented' pilots can make mistakes. This does not necessarily mean that a failure should result..."*¹¹²
 - c. Appendix 3 – Skill Tests – Managing Stress: sets out ways to manage and reduce stress, noting that *"Recurrent training and testing is going to be a feature of your aviation career. Coping with stress is just one ore skill to learn on the way..."*¹¹³

Submissions

97. The Applicant submitted that the Test was not properly conducted on the basis that the Examiner's *"behaviour during the test...contributed to an unprofessional and less conducive environment..."*¹¹⁴ As noted under Ground 2 above, the Applicant submitted that the Chandler Departure was busy airspace and so mid-flight route changes significantly impacted workload; similarly, being required to fly to Sacaton without prior briefing hindered his ability to perform to the required standard.¹¹⁵ In the May 2024

¹¹⁰ Bundle 1, page 25

¹¹¹ Bundle 1, page 58

¹¹² Bundle, page 58

¹¹³ Bundle 1, page 77

¹¹⁴ Bundle 1, page 4. The Applicant also requested a review of the Examiner's records as he believed *"there is a pattern of higher failure rates with the examiner"* but this is not within the Panel's jurisdiction for this review.

¹¹⁵ Bundle 1, page 127

Email, the Applicant submitted: *“The instructor demeanour was off and she kept huffing and questioned me as to what the stall recovery was as she disagreed with how I recovered the aircraft. On providing the answer I was informed that my answer was incorrect and proceeded to ask the same question again whilst I am flying the aircraft causing additional and unnecessary stress in the cockpit.”*

98. The Applicant explained that *“Having served as a police officer, I believe I am well-versed in managing stress and anxiety.”*¹¹⁶

99. The Applicant also noted that he appreciated the Examiner’s support during Attempt 1¹¹⁷ and this was repeated at the Hearing: *“I appreciate the empathy and the care that was shown to myself by the examiner”*.¹¹⁸

100. SARG responded that the Examiner would usually ask applicants to conduct the Unusual Altitudes portion straight after the diversion, but that she had agreed to delay this aspect until later in the examination at the Applicant’s request.¹¹⁹ In the December 2024 Letter,¹²⁰ the Applicant was directed towards Appendix 3 of the Standards Document and noted that *“Your airsickness may have been a contributing factor which may have caused confusion and/or the inability to follow the Examiner’s instructions during the test.”*¹²¹

Panel’s conclusions

101. The parties discussed the flight profile and both parties agreed that, in accordance with the Standards Document, the Examiner made reasonable adjustments to take into account the Applicant’s previous experiences of air sickness:

*“...we did discuss the flight profile, because I experienced motion sickness, so the examiner did also mention that she was going to change the profile of the flight to have some of the aerial manoeuvres later on, like emergency descent, which I really appreciate.”*¹²²

102. It is acknowledged that the CPL Skills Test is demanding and Appendix 3 contains ways to manage and reduce stress. Further, paragraph 3.1.3 of the Standards Document provides that the examiner *“may elect to evaluate certain aspects by oral questioning”*¹²³.

103. The Panel’s findings in relation to the KCHD and Sacaton issues are set out above under Grounds 1 and 2. The Panel does not consider the Applicant has

¹¹⁶ Bundle 1, page 4

¹¹⁷ Bundle 1, pages 4-5

¹¹⁸ Transcript, page 112

¹¹⁹ Bundle 1, page 2

¹²⁰ Bundle 1, pages 117-119

¹²¹ Bundle 1, page 119

¹²² Transcript, pages 25 and 26

¹²³ Bundle 1, page 58

demonstrated, on the balance of probabilities, that the Examiner's conduct was such that would mean the Test was not properly conducted.

Section D: Panel's Conclusion

104. Based on the written and oral submissions before the Panel, the Panel does not consider that the Applicant proved, on the balance of probabilities, that the Test was not conducted properly by the Examiner and the Panel is satisfied, on the balance of probabilities, that both Attempt 1 and Attempt 2 were conducted properly.

Yours sincerely

Anne Lambert
Chair of the Review Panel

Cc: **By email:** [REDACTED] (SARG Lawyer)