

**CIVIL AVIATION AUTHORITY
MINUTES OF THE 503RD BOARD MEETING HELD ON
WEDNESDAY 21ST DECEMBER 2016
CAA HOUSE, LONDON**

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should be kept secure.**

Present:

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| Dame Deirdre Hutton | Chair |
| Mr Andrew Haines | |
| Mr David Gray | |
| Mr David King | |
| AVM Richard Knighton | |
| Mr Michael Medlicott | |
| Mr Richard Moriarty | |
| Dr Ashley Steel | |
| Mr Mark Swan | |
| Mr Chris Tingle | |
| Mr Graham Ward | |
| Mrs Kate Staples | Secretary & General Counsel |

In Attendance:

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|------------------------------|-----------------------------|
| Mr Tim Johnson | |
| Mr Richard Stephenson | |
| Mr Peter Gardiner | |
| Ms Angela Lynch | |
| Mr Ben Alcott | (for item VI) |
| Mr Paul Golby, NATS | (for item IX) |
| Mr Martin Rolfe, NATS | (for item IX) |
| Mr Rob Bishton | (for items X and XI) |
| Ms Manisha Aatkar | (for item XI) |
| Mr Jeff Butler | (for item XII) |
| Mr Trevor Metson | Minute taker |

I Apologies

1. Apologies were received from Peter Drissell.

II Previous Minutes and Matters Arising

2. The Board approved the previous minutes from the November Board meeting.
3. Under matters arising, the Board confirmed that, in the eventuality of on-time performance worsening, the CAA would consider intervention in Gatwick Airport Ltd's capex programme (paragraph 19). Mr King also confirmed that the information from Cathay Pacific had been received, completing an outstanding action (paragraph 27).

III Chair's Update – by Dame Deirdre Hutton

4. The Chair informed the Board of her recent meetings, including one with Lucy Chadwick which had focused on the draft Modern Transport Bill. The Chair had expressed concern at some of the requirements that the draft text would place on the CAA in respect of the licensing of spaceplanes. The Chair had also met with the Shadow Secretary of State for Transport, Andy McDonald MP, and briefed him on the sector.

IV Chief Executive Report – Doc 2016-131 by Andrew Haines

5. The Board approved Mike Nicholson's reappointment as a NATS Employer-Nominated (Pensioner) Director of CAAPS for the period 1 January 2017 to 31 March 2020.
6. The Board approved the three specifications for charges for air services under Part I Chapter IV of the Transport Act 2000, covering air navigation services provided by the governments of Denmark and Iceland, revised Eurocontrol rates, and various NERL navigation services charges.
7. The Board noted the update on ASSI activities, and the ASSI Strategy 2020 and Business Plan 2017/18–2019/20. Mr Haines invited any questions and explained that the Board was not required to endorse or approve the ASSI plan, as this was outside the CAA's responsibility. The Board noted that there was no immediate prospect of the Overseas Territories self-regulating.
8. The CAA had now made a comprehensive submission to the AAIB about the forthcoming Shoreham accident report. The submission focused on actions that the CAA had taken and proposed to take. Mr Haines confirmed that the DfT had

been briefed. The Board noted that the Government was considering examining the governance requirements for accident investigation generally. Mr Haines and Mr Swan would seek a meeting with the new AAIB Chief Inspector when he took up his post in January.

Action: Mr Haines & Mr Swan

9. The DfT had, that morning, published a consultation document on drones. Although the document itself was balanced, the accompanying press lines had focused on registration and had also mentioned mandatory education. The main issue coming out of the consultation was the proposal for a registration scheme. The CAA had doubts about its effectiveness as an enforcement tool. Mr Haines said that the CAA was not keen to take on any registration role nor was it best-placed to design a registration scheme.
10. Mr Haines was asked about the runway capacity declaration process and whether the CAA could link any increase in capacity at Gatwick to deteriorating on-time performance metrics. Mr Haines explained that capacity declaration was a decision delegated to the airport and, therefore, there was no specific regulatory control in relation to any increase in the capacity declared. The airport had a commercial incentive to increase the hourly throughput, airlines would apply for the resulting slots rather than see their competitors secure them, and there was no overall movement cap to act as a constraint, unlike at Heathrow, for example. This had been picked up in the mid-term review, but for the CAA to constrain the airport's commercial freedoms it would need to have strong evidence to justify intervention. Currently there was no agreement on what was causing the poor on-time performance, with the airport and airlines blaming each other and a jointly sponsored study was underway.
11. Non-Executive Board members were invited to participate in the CAA mentoring scheme. Anyone willing to take part was asked to contact Mr Haines indicating how much time they were able to commit to this.
12. Mr Haines also updated the Board on his forthcoming visit to Airbus Helicopters in January, easyJet's continued exploration of their possible options post Brexit, the DfT Programme Coordination Board on new runway capacity, and media coverage of the CAA guidance on how airports should support people with hidden disabilities.

13. The Board noted the report.

V CMG Annual Review – Doc 2016-132 by Richard Moriarty

14. Mr Moriarty presented the annual review of the Consumers & Markets Group, which was created in May 2016 from the Consumer Protection Group and Markets and Consumers Group. One advantage of the single group was to allow cross-working of staff with financial and economic skills, which was beginning to develop; and to take a more holistic view of the aviation sector.

15. **Financial Protection:** Mr Moriarty outlined achievements and challenges in respect of the Selkirk project, ATOL IT project, ATOL compliance, ATT interface and revised Package Travel Directive.

16. **Markets and Performance:** Mr Moriarty outlined achievements and challenges in respect of liaison with UKRN, the CAA's first Competition Act case and updating the NATS regulatory framework. The Board also discussed the new Heathrow runway and related regulatory programme, including a preview of the January Board discussion; and asked to see a future schedule for what would be presented to the Board.

Action: Mr Moriarty

17. **Consumer Protection:** Mr Moriarty outlined the achievements and challenges. One challenge for 2017 was whether to adopt a more structured approach to reputational regulation, or to continue to rely on a case-by-case approach. The Board suggested that a 'name and fame' as well as 'name and shame' approach might work as an additional, more positive way of incentivising compliance.

18. The Board discussed the remit and make-up of the Consumer Panel and how it could best add value now that the consumer ethos was better embedded in the CAA. Mr Johnson suggested that this might be in putting specific questions to the Panel in advance for a considered opinion, consultancy-style, rather than solely through meetings.

19. The Board noted the report.

VI Update on the development of the International Directorate – Doc 2016-133 by Andrew Haines

20. The Board welcomed Mr Alcott to the meeting. This was the third update since the programme of change had begun; from May 2017 the reports would become

annual. The paper gave an overview of the key operational successes over the previous six months, immediate challenges and progress in developing and delivering the International Directorate strategy.

21. **CAAi:** The most high-profile project was Thailand, which had been challenging to resource, particularly in respect of flight operations, but which was starting to bear fruit. Plans to address the resource issues were in hand. **State Safety Partnerships** had seen a step-change with a longer-term and more ambitious strategy. ID had been working with industry to share information about countries where safety performance could be improved and how foreign airlines with a poor record in the UK could be assisted. **International Strategy and Engagement:** the primary focus remained the EASA Basic Regulation with forthcoming trilogues to agree a compromise text between the Commission, Council and Parliament.
22. Mr Alcott updated the Board on progress with the ID business model, organisational design and development strategy. He confirmed to the Board that as well as the safety objective, ID remained clear on the need to earn profit as a social enterprise.
23. **Investment fund:** the cap of £2.5m profit return to the CAA had been reached a year early, so it might be possible to jump-start the fund with £0.7m. Efforts to secure institutional funding were slightly behind. The Board asked whether it was possible to secure some of the funding provided by DFID to the World Bank, and discussed possible strategies. It was agreed that Mr Alcott would speak to Mr Ward for advice.

Action: Mr Alcott

24. Noting the resourcing issue in both the CAA and CAAi, the Board contemplated whether one option might be to turn down further CAAi contracts. Mr Alcott said that no contracts involving flight operations resources were being considered until the next financial year, and that this would be reviewed in the light of how successful contracting-in the necessary expertise had been. There were also reputational and business risks from pulling back from existing commitments.
25. In answer to questions, Mr Alcott explained the segmentation of the sector by reference to risk. He also explained that the Board would be made aware of any materialising risk in the first instance via the CAAi Management Advisory Board

chaired by Mr Haines and, once integrated, via the Regulatory Safety Management System (and thus through monthly Board reports). The Board asked about dependence on EASA contracts given Brexit uncertainties. Mr Haines replied that the ultimate financial risk was small.

26. The Board noted the report.

VII Report from the Remuneration Committee – Doc 2016-134 by David Gray

27. The Board noted the report.

IX Discussion with NATS

28. The Board welcomed Mr Golby and Mr Rolfe to the meeting.

29. **Safety:** NATS drew attention to controlled airspace infringements – around 1000 per year, of which around three-quarters were by the lighter end of General Aviation. Some infringements led to a loss of separation. There had been no improvement in 10 years and this was therefore high on NATS safety-mitigation priorities. Non-transponding aircraft were a particular problem as these only gave a primary radar return. In most cases the infringement was accidental, caused by lack of attention, becoming lost or technical failure. NATS considered the remedy was better education and training and, ultimately, enforcement against repeat offenders. A relatively simple navigation aid which NATS thought the CAA could push harder was a tablet with a moving-map app. The cost, relative to the potential risk-mitigation benefit, was quite attractive at around £0.5m in total to equip most GA pilots in the South-East. The Board noted that this issue had been discussed before. While the CAA was supportive of using technology, any action to mandate fitment needed to be supported by compelling evidence. The CAA also had to consider unintended consequences such as GA pilots distracted by the tablet or app not maintaining sufficient visual lookout. A meeting would be set up with NATS in the New Year to discuss this initiative further.

Action: Mr Gardiner

30. **Traffic growth:** NATS outlined the increase in traffic this year (5.6%) which exceeded the RP2 forecast (2.7%). Some sectors, particularly the London TMA, had been running at capacity. There had been record-breaking North Atlantic traffic, double-digit growth at some London airports, and a shift from North Africa and Egypt holiday flights to Southern Europe, all exacerbated by greater storm

activity and French ATC strikes. Consequently 75% of NATS-attributable delay had been capacity-related. Each airport made a capacity declaration independently without considering the airspace feasibility. With airspace modernisation some way off, different ways of managing this would be needed. For example at some point it might be necessary to consider how traffic could be prioritised, in a fair and practicable way. The Board noted this and outlined the CAA's position on improving resilience both to day-to-day operations and to events of significant disruption.

31. **Airspace change:** NATS had introduced performance-based navigation on some upper-airspace routes. The greater challenge was airspace modernisation below 10,000ft close to airports. The revised airspace change process required more community engagement on noise impacts, and greater policy clarity was needed from the Government. NATS was concerned at the implication that when modernising airspace, a negotiated settlement could always be reached with communities, or that noise should be distributed equitably; in reality, this was not always possible or sensible. NATS therefore proposed a table-top exercise to trial an airspace change where difficult choices were needed. The Board welcomed this initiative and explained the CAA's own position on securing clarity in government airspace policy. NATS thought that, given finite airspace design and regulation resources, the CAA may need to rank airspace change proposals to prioritise those where modernisation was most needed, if a cap on capacity in particular sectors was to be avoided. A new Heathrow runway also had significant airspace implications, including for other airports. Mr Swan commended the latest NATS airspace video, and agreed to circulate a link to the Board.

Action: Mr Swan

32. **Brexit:** NATS input to CAA and government discussions focused on NERL, unique among EU ANSPs as a private company, continuing to be able to finance its activities.
33. **Pension fund:** NATS drew attention to its large pension deficit (which had recently worsened significantly because of market conditions) relative to the economic value of the business. As a key strategic priority NATS was therefore evaluating options for pension reform. The deficit and market conditions had led

the NATS Board to decide not to pay a shareholder dividend in November. NATS said that stakeholders would be looking to the CAA to oversee how the RP3 settlement addressed the deficit, although airlines would also place considerable weight on the need to minimise delay, given the capacity pressures. The Board noted that the CAA would be looking to NATS to do everything in its power to mitigate the impact of the deficit.

34. The Board thanked Mr Golby and Mr Rolfe for their presentation and they left the meeting.

X Safety and Airspace Regulation Group Report – Doc 2016-135 by Mark Swan

35. The Board welcomed Mr Bishton to the meeting. Mr Swan updated the Board on the EC225/AS332 Safety Directive. The Airworthiness team continued to examine relevant data, including what features distinguish the gearbox design from other helicopter types. The CAA was visiting Airbus Helicopters again in January and awaited the forthcoming Norwegian accident report. Airbus Helicopters was understood to be facing three separate lawsuits from owners of these helicopter types who claimed that they were no longer airworthy. Mrs Staples briefed the Board on the legal position. Mr Swan noted that the FAA had also not lifted its grounding of the aircraft type. It was agreed to speak to the FAA to confirm that they understood the CAA position, and also to utilise Mr King's expertise from the G-REDL accident investigation.

Action: Mr Swan

36. The TRUSTED database, bringing together information relevant to aviation safety for analysis, was about to go live. A demonstration for the Board would be arranged.

Action: Mr Swan

37. Mr Swan briefed the Board on the slides on third-party safety impacts (excluding major incidents which had been briefed separately). The Board noted that in relation to these impacts there was no apparent underlying trend to which the CAA could apply regulation or mitigation.

38. Mr Bishton presented the slides giving an overview of Flight Operations, covering MORs, findings, audits and improved forward planning. While the scheme was designed to look at trends, MORs tended to be quite individual in nature. The Board discussed BALPA's claim that operators were using other MOR categories

for those that should be categorised as fatigue. Mr Swan said that a one-year review of the effectiveness of the Fatigue Risk Management System would be brought to the Board in due course.

Action: Mr Swan

39. The Board noted the report.

XI Flight Operations Resourcing Strategy – Doc 2016-136 by Mark Swan

40. The Board welcomed Ms Aatkar to the meeting. The Board noted the context of a continuing worldwide pilot shortage and recruitment of CAA staff by industry. Mr Swan explained that at the current attrition rate there was a six-month window to make changes. Mr Bishton said that in moving towards performance-based regulation oversight of organisation performance had become more important. The recruitment process majored on technical competence, but was quite light on organisation expertise, which was needed to assess organisational performance. It was a case of recruiting good quality staff, including non-pilots, with the right skill-set to operate more effectively, rather than necessarily paying higher salaries, though this may also be necessary for some roles. These staff might come from operational management roles, in particular staff from the CAA who could be seconded to industry to gain experience. They could carry out most oversight roles other than a flight check.

41. The pilot group was more challenging and current resources were being spread quite thinly. Here the proposed strategy was to explore in-sourcing technical expertise from industry, for example for simulator evaluation, with the decision-making remaining with the CAA. This was already normal practice for delegated roles like flight examiners. Airline pilots were known to be keen to add to their experience, and many had already elected to go part-time for this reason. That said, it was essential that the CAA still retained a core credible pilot resource.

42. The proposal was, therefore, to explore a different resourcing model to allow the CAA to oversee organisational performance as part of assessing the overall aviation system risk, as well as policing compliance with risk-mitigation. It was not simply about addressing a staff shortage, since fewer traditional flight operations inspectors would be needed as there was a move away from the legacy wholly-compliance-based system. This model was already recognised in industry where non-pilots had managerial roles; industry was aware of the CAA's thinking.

43. The Board approved the ongoing changes that were already underway alongside the recommendation to research a new model further and to flesh out the detail.
44. In terms of the proposal to be presented in June 2017, the Board asked for clarity around how the CAA would quality assure (including objectivity and independence) any in-sourced work, and how the CAA would retain credibility as independent regulator. The Board requested a thorough analysis of what functions could be out-sourced and why; of what irreducible minimum resource must be kept within the CAA; and of what people and skill-sets were needed. The Board agreed that further resources should be committed to the project rather than see timescales slip.

Action: Mr Bishton & Ms Aatkar

XII Second Buy-in within the CAA Section of CAAPS – Doc 2016-142 by Chris Tingle

45. The Board welcomed Mr Butler to the meeting. Mr Butler said that he wished to brief the Board on the trustees' proposed decision for a second buy-in within the CAA Section by way of a purchase of a £93m insurance contract with the Pensions Insurance Corporation (PIC). He explained the background. Although the paper showed the deficit as £137m, by the close of the previous Friday this had fallen to £68m because of significant volatility in gilt markets. The deficit, however, could continue to move substantially in either direction. Agreement had been reached with PIC for an option to transact in mid-January 2017, provided that the pricing hurdle was met. Mr Butler answered the Board's questions about the pros and cons of the timing and the relative size of the buy-in. Given the agreed price, the trustees proposed to go ahead in January (subject to any significant change that meant the pricing hurdle was no longer achieved). Although a keener price might be possible on a larger tranche, it would require this to be an order of magnitude bigger for there to be a significant saving. Although each tranche attracted a fixed administrative cost, one advantage to choosing PIC was that for future buy-ins, there would be a greater competitive tension.
46. The Board noted the proposal and was content for the trustees to continue.

XIII Finance Report – Doc 2016-137 by Chris Tingle

47. Mr Tingle explained that October results continued to show an operating result ahead of budget, mainly stemming from costs below budget. The paper showed which individual components were contributing to the higher operating profit for the year to date compared with the previous year. The Board noted that there was a spread rather than a windfall in any one category. A 'best case' scenario, given the costs anticipated in the remaining months of the year, was a profit of £6.3m, £4.5m over budget. The Board noted the intention to maintain proposals for higher CAA charges for 2017/18. The Board asked whether this year was a one-off or whether this trend might continue. Mr Tingle replied that, while the cost side was generally well planned, the revenue side was less predictable.

48. The Board noted the paper.

XIV Live Issues and Monthly Reports

CMG Live Issues – Doc 2016-138 by Mr Moriarty

49. In its Service and Investment Plan for 2017, NATS was proposing to increase its capex envelope by 20% compared with what had been assumed in the regulatory settlement. The CAA was considering its position on this pending further justification.

50. Mr Moriarty provided an updated on the position of two ATOL holders.

51. The Board noted the report.

PPT Live Issues – Doc 2016-139 by Mr Johnson

52. Mr Johnson drew attention to the DfT's forthcoming airspace consultation expected in January 2017. One issue that had arisen was the extent to which the CAA had enforcement powers over how airspace is used, a key issue for communities. The CAA was seeking to work with the DfT to ensure that the consultation document was clear that the CAA's powers in this area were quite limited.

53. The Board noted that the CAA would be expressing to BEIS its view that the Business Impact Target process should be kept proportionate.

54. The Board noted the report.

CD Live Issues – Doc 2016-140 by Mr Stephenson

55. The Board noted the report.

AvSec Live Issues – Doc 2016-141 by Mr Drissell

56. Mr Haines said Mr Drissell would update the Board at a future meeting on the accreditation of the CAA aviation security compliance auditors' course.
57. The Board noted the report.

XV Any Other Business and Forward Planning

58. Mr Haines drew attention to a briefing note circulated on three areas of potential industrial action. The Swissport dispute had now been resolved. This would have had a significant effect at regional airports. A second dispute concerned Virgin pilots who had broken away from BALPA and were seeking recognition. The third dispute concerned BA mixed-fleet cabin crew. Both Virgin and BA were maintaining a full flying programme and no additional oversight would be required from the CAA.
59. The Chair was exploring with the secretariat whether to organise more informal sessions for the Board to discuss live issues with CAA staff at the working level.

Action: Chair

60. Mr Haines asked for the Board's understanding that papers for the January 2017 meeting would not be circulated until Friday 13 January, because the preceding ExCo policy meeting was not until 11 January.

**Date and Time of Next Board Meeting:
18 January 2017 at 9.30am, K5 Earhart, CAA House, London**