

**CIVIL AVIATION AUTHORITY  
MINUTES OF THE 540<sup>th</sup> BOARD MEETING HELD  
ON WEDNESDAY 15 APRIL 2020, BY SKYPE**

**Present:**

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

**Apologies:**

None

**In Attendance:**

Peter Drissell  
Tim Johnson  
Richard Stephenson  
Ben Alcott  
Jane Cosgrove  
Philip Clarke  
Barbara Perata-Smith                      Minute-taker  
  
Andrew Walker                                  for item 7  
Nic Stevenson                                    for item 8

**I. APOLOGIES AND INTRODUCTIONS**

1. No apologies were received.

**II. CONFLICTS OF INTEREST, PREVIOUS MINUTES AND MATTERS ARISING**

2. No new conflicts of interest were declared.

3. Mr Johnson ran through the amendments to the minutes that had been agreed at the previous day's pre-Board. The minutes for the March 2020 meetings were approved subject to the changes being made and would be published on the CAA website in due course.
4. The matters arising from previous meetings were noted and Ms Staples confirmed that action number 1 had been completed.

### III. CHAIR'S UPDATE

5. The Chair commented that she had had no face-to-face meetings recently, due to the lockdown restrictions, but that she had participated in many phone calls with EDs, NEDs, the Gold Command group and external stakeholders, such as the DfT.
6. The Chair asked the NEDs whether they would like a weekly email summarising the latest developments for CAA on the Covid-19 crisis, and they welcomed the proposal.

**ACTION:** Dame Deirdre

7. The Board noted the update.

### IV. CHIEF EXECUTIVE REPORT (DOC 2020-35) BY RICHARD MORIARTY

8. Mr Moriarty noted that he would not include updates on the Covid-19 crisis as these were covered in a later agenda item.

#### **Update on live issues**

9. **Brexit:** Mr Moriarty commented that negotiations were continuing, despite the crisis, with the UK keen to secure an air traffic agreement and a broad bilateral air safety agreement (BASA). The EU wished instead to agree a narrower BASA, more focused on air-worthiness and environmental standards, with little recognition of the UK's certification function. Mr Moriarty noted that we would need to invest in capability and ensure the organisation was prepared.
10. In particular, we needed resource in place for the State of Design and rulemaking programmes. The former was a competency to be returned to the CAA from EASA, and required around 21 FTEs to match the current capacity EASA had working on UK matters. Ten potential candidates had already been identified within the organisation, but there was a plan to also consider contractors.
11. Rulemaking required us to have greater clarity on our role and the responsibilities we would have, taking into account the respective roles of DfT and EASA. We would need to be mindful of those wishing to make amendments to current rules and therefore manage expectations as well as the process.

12. Overall, our Brexit preparedness was at a satisfactory level, but we still needed to recruit and to test the processes before full assurance could be provided, and as such this programme of work was as much of a priority as the current crisis.
13. Mr King enquired whether we could manage the additional recruitment for the BASA development, in light of the recruitment freeze that was in place. Mr Moriarty explained that some of the capacity could be drawn from skill-sets already existing within the business, however, as this would be a core function it would have to be resourced and thus funded, either by government or through our Scheme of Charges. Mr Moriarty added that this area would be an exception to the recruitment freeze due to its strategic value and the fact that government was keen we were properly resourced, as this would be key to the UK's preparedness. Mr King asked there was merit in a review of our funding model, which did not seem to be wholly suitable for these instances and Mr Moriarty acknowledged that was the case, although we were not ready with a plan yet.
14. **Overview of financial situation:** Mr Moriarty commented that he had received helpful feedback from the organisation on the financial-saving measures recently announced and added that the situation would be reviewed at the end of June.

#### **Other issues**

15. **Future Flight initiative:** Mr Johnson provided an overview of the activity and explained that it was an aerospace research and development programme sponsored by government and worth around £300m, which focused on developing unified traffic management solutions and electric propulsion engines for aircraft. The consortium featured around 120 companies which would then be split into sub-consortia to work on specific areas of the programme.
16. For CAA, there was additional funding to that for the Innovation Hub - which would be sufficient for around 10 FTEs. Our input and resource requirements might increase over time although we should ensure that not only our regulatory independence was maintained, but that the regulatory framework developed benefitted everybody across the board, not just a few.
17. Mr Johnson added that CAA was in discussion with the Aerospace Technology Institute to agree the scope of the work; the point around maintaining regulatory independence and how we could input into novel technologies.
18. **Travel operators:** Mr Moriarty commented that the Thomas Cook refunds were now 99% complete and extended his thanks to the team for a great result.
19. With regard to the ATT, Mr Smith advised that the ATT no longer had insurance cover in place. Accordingly, the Trustees had been in discussions with DfT officials, as a result of which it had been proposed that HMG would stand behind the ATT for

a period of 18 months or so and do so in such a way that any vouchers issued by ATOL holders in lieu of refunds would be subject to ATOL protection. This would enable the ATT both to sign off its accounts for 2018/19 and cope with potential demands consequent on the impact of Covid-19 on the travel industry. The Chair extended her thanks to Ms Fuller for her useful interventions as Chair of the ATT and to the team working on the Thomas Cook refunds for their work to date.

20. AVM Gale suggested that 99% of claims settled could be a good news story amid the various challenges and Mr Stephenson replied that the Communications Department had already been in touch with the media to ensure progress was recorded and had a piece ready to be published on our website. The Chair commented that we should be mindful of the fact that the position we were in with regard to Covid-19 refunds was very different from the Thomas Cook one and that we should manage expectations.
21. **CMA reference:** Mr Smith provided an update on the CMA reference and explained that discussions continued as to how best to acknowledge the impact of Covid-19 on NATS' business.
22. The Chair encouraged the Board to note Annex A which featured a summary of the work we had done to date to support industry in relation to the impact of Covid-19. The document had been compiled at DfT's request and showed the extensive breadth and depth of the CAA's engagement with industry to help it through the crisis.
23. The Board noted Mr Moriarty's report.

## V. COVID-19 UPDATE

24. Mr Moriarty set the scene and commented that ExCo had a framework in place to help identify the different phases of the crisis and the appropriate type of decision-making required in each. He set out four stages to the framework: resolve, resilience, recovery and re-imagination.
25. Mr Moriarty explained that in his view we were very advanced in the resolve phase, as nearly the entire organisation was working remotely effectively, with calls to the IT Helpdesk having reduced. Westferry and the other regional offices were closed and Aviation House was open only for specific activities, such as collecting IT equipment, carrying out IT maintenance and dealing with incoming and some outgoing post that could not be handled electronically.
26. As for the resilience phase, we were making good progress on the financial challenge, and as such attention would be on the latter two phases, recovery and re-imagination. On the first, there was much work that was still continuing and some

that had to be de-prioritised mainly due to the lack of bandwidth of many of our stakeholders who were also dealing with the crisis. Gold command was meeting daily and as of next week, the team would focus on these two latter phases. He would also set up a working group to consider what returning to work might look like as it would likely need to be phased for 9-12 months, although this would be made easier by the fact that our remote working was taking place effectively. Internally we were therefore in a good position.

27. Mr Moriarty said that the conversation on the fourth phase, re-imagination, would be covered later in the meeting.
28. Mr Ward commented that much of our work at CAA involved interactions with stakeholders, so we should ensure we coordinate the pace and nature of how we return to work with the pace and nature of how our regulated entities recovered. Mr Moriarty agreed and added that the Directors would provide more details on the state of the industry.

#### **State of the industry**

29. **Safety:** Mr Bishton commented that industry was focusing on recovery and that ICAO had published a set of guidelines to support this work. The ICAO document was useful, providing endorsement of decisions taken so far and a framework within which alleviations and exemptions could be unwound, in a coordinated way, in collaboration with ICAO's own taskforce.
30. The guidelines covered personnel licensing, airworthiness and flight operations and proposed that activity for recovery for the many industry stakeholders should be aligned against a common plan, supported by Eurocontrol's statistics and IATA's analysis. At CAA, as well as commercial operations, we had provided assistance in managing cargo and helicopter activity, particularly for the emergency services and off-shore operations, to ensure social distancing was maintained.
31. Industry had identified a set of scenarios around the recovery, which indicated a 'V' or 'U' shape recovery, although recently the latter had seemed more likely. Mr King enquired whether the latter forecast would apply across industry or whether it was more probable that the recovery would occur at different paces. Mr Bishton agreed with Dr King's view as there were many varied types of operations, with the added complication of needing to connect countries which were at different stages of the virus cycle, which would require different recovery plans. While the UK market was based on a supply and demand model, other countries' were not, so it could be difficult to connect the public health corridors.

32. **Finance:** Mr Smith commented that HMT was still considering economy-wide financial measures and had urged the aviation industry to explore the range of options. The team was well engaged with DfT.
33. With regard to airlines and tour operators' refunds, the circumstances demanded a pragmatic approach. The law stated that consumers were entitled to refunds, but we had clarified that companies could offer vouchers instead, for example with an incentive of 120 per cent the value of the fare. Such an approach was acceptable, provided the consumer could pursue their right to a refund if they so wished. Nevertheless, it appeared that it was difficult for some passengers to claim their refunds in practice. We were working with the relevant companies to understand the true picture and would respond accordingly.
34. Airlines had been lobbying the European Commission to amend regulation EC261 to make vouchers compulsory and the UK government recognised it was a difficult issue, as both industry and passengers might need the liquidity. This matter would continue to create tension and we would need to respond deftly and with agility.
35. Mr Moriarty commented that he was keen the Board endorsed the approach on the refund work given the delicate balances to be struck. The Chair added that it was important to understand that the legislation was clear in this instance and that we had opted to use a pragmatic approach given the wider range of interests affected and the uniquely challenging circumstances.
36. AVM Gale commented that the focus should be on those airlines that were abusing the pragmatic approach and Mr Smith replied that the team was in the process of building a picture of the situation to understand where more action was needed. Airlines in a better cash position were generally more accommodating, however, the real challenge were the foreign airlines where we had less influence and where enforcement action did not necessarily bear fruit.
37. The Board supported the decision.
38. Gatwick, Heathrow and NATS were all in a reasonably strong position, but the team intended to revisit the price control in all three instances.
39. **Security:** Mr Drissell explained that the team had been working on supporting operations through appropriate alleviations. The crisis mode had now been replaced by recovery mode with additional consideration given to ensuring decisions were aligned with future Brexit requirements, to avoid duplication.
40. Mr Drissell stated that he was keen to ensure a coordinated approach with industry and appropriate touch points with government. He added that the team would produce guidance for industry with instructions for reinstatement of interventions.

41. **Strategy:** Mr Johnson summarised the short-term tactical response that was underway and commented that the CAA was assisting DfT on repatriation by providing advice rather than managing operations, which on this occasion were the FCO's responsibility. We were also focusing on freight and on keeping key supplies flowing.
42. We were now moving towards the recovery phase and DfT was in the process of setting up a recovery team. Mr Johnson added that the team would be concentrating on three aspects: getting plugged in to PHE advice for travellers and workers, as this was fundamental to building passengers' confidence; FCO travel advice; and the international stance, in relation to whether passengers outbound from the UK would be allowed to cross over into other countries.
43. The Board noted the updates.

#### **VI. FINANCIAL REPORT FOR ELEVEN MONTHS TO 29 FEBRUARY 2020 (DOC 2020-36) BY CHRIS TINGLE**

44. Mr Tingle provided an update to the financial challenge and budget and presented the report for the eleven months to 29 February 2020.
45. Mr Tingle added that conversations with DfT with regard to securing financial support were still ongoing and that the team had also liaised with the CAA's bank to explore options.
46. Mr Tingle also provided an update on a request that NATS had submitted.
47. The Board approved the report.

#### **VII. SARG MONTHLY SAFETY ISSUES REPORT (DOC 2020-31) BY ROB BISHTON**

48. Mr Bishton explained that the report had a different structure this month to reflect the fact that the team were in crisis mode, which required them to focus on key priorities – finance and people – and that the reporting requirements thus followed this position.
49. Mr Bishton added that the team had been quick to adopt the new operating model and had managed to maintain effective connection and oversight with stakeholders, as well as ensuring cohesiveness with people internally.
50. We had been monitoring the resilience of infrastructure, working with AAA on airspace and with some of the ground supply chain, as well as focusing on ongoing operations with cargo, emergency services and oil and gas. These had highlighted success stories in the way we had managed air operations.
51. In relation to airworthiness, we had ensured that existing protocols for ongoing maintenance and access to aircraft were followed, to enable industry to redeploy

quickly in the recovery. There had been a noticeable increase in work in the UAS area with requirements from government and commercial operators alike. General Aviation had remained a focus and the Future Safety, Medical and SP&R teams were working on the management of the crisis as well as Brexit.

52. **MAX 8:** Mr Bishton commented that CAA was still engaged with and included by EASA and the FAA in the work on the return to service. It was possible this could now be delayed to early 2021, due to the current crisis which had slowed down the ability for experienced personnel to travel and be involved in the core activity, such as flight tests etc.
53. The Chair opened the discussion to comments and asked for clarification of the way the effectiveness of oversight could be measured. Mr Bishton replied that a level of that could be ascertained from the extent to which operators had kept up with compliance, aided by a tactical approach and use of tools to understand the context of the decisions made by the entities. Industry was engaged and had responded to CAA's requests for information and in turn we had had good sight of how alleviations had been implemented.
54. Mr Ward enquired about the possibility of AOC suspensions and Mr Bishton replied that it would be difficult to predict the failures as industry was still in the middle of the crisis and had not exhausted options for recovery.
55. Mr Ward also enquired whether airspace management and ATC personnel would require re-training and whether there would be suitable simulators. Mr Bishton said that NATS were doing a good job to ensure training was ongoing for all personnel as such this did not represent a significant risk.
56. Dr King expressed concern about the balancing act between the financial needs of the organisation and SARG's own challenges and enquired whether it would be possible for the Board to see the implications of judgements as to what activities were going to be de-prioritised. Mr Bishton commented that Future Safety and the SP&R teams were working on two reports on this subject: one was a governance piece on alleviations and challenging decisions on balancing oversight; the other was a recovery plan for each capability area. Mr Bishton agreed to share the reports with the Board once in a final format.

**ACTION:** Mr Bishton

57. Ms Corich enquired whether the recovery plans for industry would be considered by CAA. Mr Bishton confirmed that to be the case, as the team was currently working on what should be communicated to industry in terms of our expectations and regulation. Ms Corich also asked whether there were provisions to ensure aircraft parked were kept safe and Mr Bishton reassured her that the protocol was well



- established. There was no requirement for alleviations, but there were some logistical issues to ensure people, who might have been impacted by the virus, and equipment had access to the airfield, which might not have staff to provide the security function.
58. Ms Corich enquired about the resilience of the emergency services and whether key crews should be booked. Mr Bishton commented that both the emergency services and oil and gas had been proactive in addressing this point and there had been no issues so far.
59. Dr King asked about security measures at local airports where the fleet was stored. Mr Drissell commented that we expected airports to extend surveillance accordingly, by using all available techniques, including drones. The AvSec team was aware of this possible issue and was working collaboratively with DfT to address.
60. The Chair expressed concern that safety inspectors might become too close to operators, but Mr Bishton provided reassurance that this was not the case. He explained that in the early part of the crisis the support had been tactical, focusing on industry's requirements rather than on what needed to be mitigated, punctuated by more frequent conversations to ensure we were kept up-to-date on stakeholders' decisions. CAA colleagues had provided support and advice to industry, as well as empathy towards their situation, however, we always ensured conversations were kept within the appropriate boundaries. When we returned to normal operations, we would ensure this risk was addressed.
61. The Chair then asked about airspace reclassification and whether it would be completed by December. Mr Johnson explained that we had renegotiated the original deadline and that the brief required us to have an enduring process and a team in place as part of providing engagement with industry. The SoS had confirmed that he would hold us to the December 2020 deadline, so we would need to recruit in the latter part of the year. The team had already consulted the GA community to gather suggestions where airspace could be reclassified and was working through the data to deliver the required process and the specific examples.
62. Mr Bishton concluded by saying that the safety event referred to in his report was an incapacitation event and had not been considered to be life-threatening. It was categorised as high severity in accordance with international standards.
63. The Board noted the report.

## **VIII. AVIATION AFTER COVID-19: LOOKING TO THE FUTURE BY TIM JOHNSON**

64. The Chair introduced the session, which was aimed at generating ideas of what aviation would look like once the crisis had ended. She added that there already were workshops taking place bringing together colleagues from various parts of the organisation and exploring the opportunities and threats to aviation that we should consider. Annex C had further detail and summaries of the sessions.
65. Mr Johnson added that the team would take away the ideas generated today and structure them into priorities and sequences so that they could be taken forward in a joined-up way.
66. The Board discussed the potential impact of Covid-19 on the economy, society and the aviation industry. The discussion considered key factors and their potential impacts on CAA and UK aviation, including the following: global context; number and impacts of further outbreaks; length and depth of recession; new social contract and societal expectations; ownership and structure of industry; government response to previous; role and funding of CAA; burning platforms; and project horizon.
67. The Chair extended her thanks to the Board for the range and breadth of ideas, thoughts and input.

## **IX. ECONOMIC REGULATION OF HEATHROW AIRPORT LIMITED: PROGRAMME UPDATE (DOC 2020-34) BY PAUL SMITH**

9. The Board welcomed Mr Walker, Mr Toal and Mr Wynn-Evans to the meeting.
10. Mr Smith set the scene and commented that, despite the ongoing crisis, stakeholders were still keen to engage to continue the work on price control. This activity was taking place in the context of the Court of Appeal's recent judgement on expansion and government's narrow bandwidth for reviewing the ANPS. These events meant Heathrow Airport Ltd (HAL) was now in the process of winding down its expansion programme, although it was still keen to appeal the judgement<sup>1</sup>.
11. Mr Walker explained that the focus for the year would be on defining a new price control for a two-runway model. Despite the uncertainty there were useful aspects of the work that could still be done by the team, such as on traffic forecasts and on aspects of the capital investment programme that related to repairs and maintenance.
12. If the team did not continue with this work now, the delay might create significant delivery and process issues in 2021. Price control was a substantial task that put

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<sup>1</sup> Since the meeting, the Supreme Court granted permission for HAL's appeal, but a date for the hearing has not yet been fixed.

pressure on an already busy department. Therefore, there were sensible reasons for taking forward the programme, despite the uncertainty.

13. Mr Ward enquired how the team intended to design a cost of capital regime considering the unsettled nature of the debt and equity markets. Mr Walker agreed it would be difficult and acknowledged markets would remain unstable for a while. He added that first, the team would consider the work the Competition and Markets Authority (CMA) had done on the cost of capital (WACC) in relation to the NERL reference, but state that would not be a final figure until 2021. The team would return to the Board in May with an update on the preliminary work on designing the cost of capital. Second, there was work taking place to explore the overall settlement that HAL shareholders and customers could reasonably expect.
14. The Chair asked the Board to agree that a high-level policy statement be published in April, with final drafting signed off by Mr Smith and Mr Walker. The Board agreed.
15. On next steps, Mr Walker said that the team would come back to the Board in May with further details on the policy documents, but that it was not looking for endorsement at this stage, but a confirmation on the direction of travel.
16. Mr Smith provided an update on the Gatwick Airport Ltd (GAL) Commitments, another important economic regulation matter. He explained that Gatwick airport was regulated with a licence conditions model, rather than a Regulatory Asset Base model and that reasonable progress had been made on the discussions between the airport and the airlines. These would likely have to be revisited due to the changes in volume assumptions and on the ancillary use of the second runway. Furthermore, some agility would be required as there was uncertainty on whether the airlines that had relocated to Heathrow to cut costs during the crisis would return to Gatwick. It was too early to forecast how this would pan out, but the price control renewal deadline was in 2021 so the team would come back to the Board in September with proposals.
17. The Board noted the report.

#### **X. AUDIT COMMITTEE REPORT (DOC 2020-33) BY GRAHAM WARD**

18. Mr Ward briefed the Board on the latest report from the Committee.
19. The Board approved the Audit Committee Activity and Performance report.

#### **XI. FORWARD AGENDA AND ANY OTHER BUSINESS**

20. Mr Johnson ran through the Forward Agenda and requested comments where applicable.

21. The Chair mentioned that she had recently had some assistance from Jacob Whitcombe-Ritchie in IT to be able to work from home more effectively. She requested that the same support was provided to each NED, particularly to install Skype on phones to better facilitate remote working.

**ACTION:** Mr Tingle

**Date and Time of Next Board Meeting:  
20 May 2020, 11:00, by Skype**