

GENERAL AVIATION ALLIANCE

Partnership in Aviation

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Date 15 June 2016

Mr. Trevor Metson
Principal - Policy Development
Policy Programmes Team
Civil Aviation Authority
CAA House, 45-59 Kingsway,
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GAA Response to CAA Consultation CAP 1389

Dear Mr Metson,

Please find attached to this document a response to the CAA Consultation CAP 1389 on behalf of the General Aviation Alliance.

Please confirm receipt of this response to the author.

Yours sincerely



Geoff Weighell

For the General Aviation Alliance

Please address any email reply to the author at: geoff.weighell@bmaa.org

CAP 1389 General Aviation Alliance Response

Introduction

The GA Alliance (<http://www.gaalliance.org.uk/>) is a group of associations representing, as far as possible, UK General Aviation (GA) and particularly Sports and Recreational Aviation (SRA) interests. The Alliance coordinates some 72,000 subscription-paying members of these bodies. These members represent the owners/operators of around 60% of the UK registered aircraft fleet, rising to over 70% when unregulated aircraft are included. Its members are:

BBAC - British Balloon and Airship Club
BGA - British Gliding Association
BHPA - British Hang Gliding and Para Gliding Association
BMAA-British Microlight Aircraft Association
BPA - British Parachute Association
HCGB - Helicopter Club of Great Britain
LAA - Light Aircraft Association
PPL/IR Europe - European Association of Instrument Rated Private Pilots
Royal Aero Club of the United Kingdom

The objective of the GA Alliance is to co-operate and engage with government departments and other relevant organisations on regulatory and directly-related matters, to support and progress the activities of SRA.

Summary

CAP 1389 is a lengthy and complex consultation document that discusses the CAA responses to the Helios study, commissioned in 2015, into the existing Airspace Change Process (ACP) and sets out proposals for change influenced by the findings of that study.

The Helios study highlighted a significant distrust of the current process principally by stakeholders who were not ACP Sponsors or the CAA. Particular areas of distrust include:

- Sponsor's consultations being written to mislead
- Final airspace change proposals not being available to consultees for further comment
- Perceived misrepresentation of responses from consultees
- Uncertainty of CAA involvement and influence on proposals
- Proper consideration of consultee responses in the CAA decision making process

CAP 1389 sets out to propose options to address these concerns as well as making the process of application clearer, systematic, repeatable and transparent. It also recognises that guidance for applicants will help to guide their progress resulting in more complete and robust applications. This should help reduce distrust as well as improving the quality of applications.

We also make the following points:

Avoiding the need for an ACP as the first step. Before starting the ACP process the potential sponsor should clearly state their objectives and then engage with all aviation stakeholders to review the need for an ACP. The sponsor, in conjunction with other interested parties, should look for possible

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alternative options which may avoid an ACP by adopting different practices or an alternative solution, to achieve the objectives. An ACP should not be considered as the only solution to a sponsor's concerns but, because of its effect on other parties and interests, as a last resort. CAA should act as the facilitator for this process.

Starting the ACP. It is crucial that the initial stages of any application are carried out correctly, thoroughly and honestly. If not, correction at a later date will cause unwarranted delay and unnecessary work and cost for both the sponsor and consultees. The CAA must monitor the initial stages and be robust in their assessment prior to agreeing that a Gateway has been achieved.

Consultation documents. Whilst many ACPs are sponsored by commercial interests with financial resource consultees are largely individuals or membership organisations with limited time and resource. Consultation documents should be presented so that they can be read and understood by the target audience. The CAA Gateway review prior to formal consultation should ensure that documents meet this requirement.

Time and Effort. There should be a principle that the ACP process is to be made as simple and straightforward as possible. Proper consideration of options prior to the formal ACP process and eventual production of easy to understand documents will reduce confusion, conflict and delay.

Prioritisation. We understand that the CAA has limited resources however it should be possible to assess each application on its complexity and prioritise the simpler applications so that they can be progressed speedily through the CAA stages to avoid any unnecessary delay that may occur if just treated as first come first served.

The GAA largely supports the proposals discussed in CAP 1389 and has commented further in its detailed response.

Discussion

The proposed stages of the process and Gateways

The proposal breaks down the current stages of the process and introduces "gateways", points of validation. The stages contain more detailed guidance for applicants which if followed should help them to scope, plan, consult and submit applications in a consistent and transparent way. Although the overall stages are not dissimilar to the current process the increased guidance is welcome.

The gateways are introduced throughout the process as points of validation so that an application will not progress to further stages and later be discovered to be missing necessary information or steps, forcing remedial action on behalf of the sponsor.

The GAA supports the plans for the stage reform, more detailed applicant guidance and gateways as proposed.

Stage 1 Specific Questions

Question 1: Will the new process gateways improve the airspace change process?

Yes

- a) By validating sponsor actions throughout the process to ensure that best practice has been followed to ensure a fair reflection of sponsor and consultee views and opinion.
- b) It is important that the gateways are more than just a bureaucratic check that procedural points have been followed. At each stage the overall merit of the proposal should be challenged to ensure that the design objectives are likely to be achieved and the process terminated if this is not the case. Without a robust check of ongoing merit there is likely to be major waste of time, money and volunteer effort from proposer, consultees and regulator alike.

Question 2: Should the sponsor engage local stakeholders to agree design principles for the airspace change?

Yes

- a) Design *principles* are secondary to design *objectives*. This is a critical distinction. There is little merit in spending time and effort on process or principles unless there is absolute clarity on what the proposer is intending to achieve. In the past sponsors have all too often decided on their preferred solution to a perceived problem and spent the rest of the time trying to bulldoze that "solution" (created in isolation and often in genuine ignorance of the interests and behaviour of other airspace users) through the process. We believe that sponsors should approach other airspace users with the perceived problem, not with a pet solution. This would allow co-operative problem solving which might well deliver faster, cheaper, better solutions to the original problem. As a minimum it would deliver a common understanding of desired outcomes against which any changes could be assessed; a major improvement on today's situation.
- b) It is unusual for an ACP to go unchallenged and so early engagement with affected parties is essential to develop a cooperative relationship from the outset rather than a combative relationship later in the process.

Question 3: What types of data would you find it useful for the sponsor to provide when engaging local stakeholders about design principles? How should this data be presented?

- a) Again it is critical that the focus is on design objectives rather than design principles.
- b) Data, or information, should honestly reflect the plans of the sponsor giving reasoning behind the proposal and alternative options. Some sponsors of past and current proposals almost ignore the effect of their proposals on other airspace users and ground based

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stakeholders. This generates a basic mistrust from the outset and leads to an adversarial relationship developing.

- c) Data, information, should be presented in a way that it can be clearly understood by the audience that it is presented to taking into account their knowledge and understanding of aviation and relevant matters, such as environmental impact.

Question 4: In addition to specific detail, what general background information would you find it useful for the sponsor to provide as context for its proposals?

- a) Data, or information, should honestly reflect the plans of the sponsor giving reasoning behind the proposal and alternative options. Some sponsors of past and current proposals almost ignore the effect of their proposals on other airspace users and ground based stakeholders. This generates a basic mistrust from the outset and leads to an adversarial relationship developing.
- b) Data, information, should be presented in a way that it can be clearly understood by the audience that it is presented to taking into account their knowledge and understanding of aviation and relevant matters, such as environmental impact.

Question 5: Overall, will Stage 1 improve the airspace change process?

Yes

- a) Early stakeholder engagement can only improve the process.

Stage 2 Specific Questions

Question 6: Will introducing the options appraisal we propose improve the airspace change process?

Yes or Possibly

- a) The “options appraisal” is the sponsors “justification” for the preferred option and should/could demonstrate that due consideration has been given to alternative options. Although this will inevitably involve more work to develop, as each option will require research and assessment, it should ensure that the sponsor has arrived at their preferred option following a thorough review of alternatives and that they can justify this option as best all-around to other stakeholders.

Question 7: Overall, will Stage 2 improve the airspace change process?

Yes or Possibly

- a) By setting out more detail to follow in the stage and requiring sponsor consideration and justification throughout the stage.

Stage 3 Specific Questions

Question 8: Would an independent third-party facilitator make a sponsor's consultation more effective?

Don't know or unlikely

If so, should a facilitator be a mandatory requirement for certain types of airspace change? Please give your reasons and any other views (including benefits and disbenefits) on facilitators.

- a) In some cases an independent facilitator might help regulate the process of discussion between the sponsor and consultee although the use of an open online portal, as proposed, will discourage inaccurate comment or extreme views as all material will be open to the public for scrutiny.
- b) If a facilitator is used as part of the consultation process it is important that the facilitator is totally independent and not part of the sponsor's campaign assets.

Question 9: Should the CAA publish all consultation responses in full, except to moderate them for unacceptable content?

Yes

- a) The opinion of other stakeholders can inform and guide others in their response.
- b) Issues of significant importance to specific groups of stakeholders will be openly displayed demonstrating transparency in the process.

Question 10: Should the CAA publish airspace change consultation responses as they are submitted, rather than at the end of the consultation period?

Yes and no

- a) The opinion of other stakeholders can inform and guide others in their response. However the publication of others' opinions (which may potentially be totally incorrect) has the potential to totally mislead or confuse the formal process of consultation – which should be based on consultees giving their views on fixed and clear proposals.

Question 11: Should consultation responses be made solely through the online portal?

No

- a) Not everyone has the ability to access the internet so this would be unfair on some individuals.
- b) The portal may not accept certain information formats and so could restrict the consultees' response options.

Question 12: Do you think that the consultation process proposed in Stage 3 achieves the right balance between fairness, transparency and proportionality?

No

- a) The system as proposed in this document allows\requires the sponsor to summarize feedback to the consultation and provide this to the regulator. This allows the sponsor to gloss over important feedback which does not support their desired outcome. It is akin to asking counsel for the defence to summarize the prosecution's case directly to the judge. Either a truly independent party or the regulator must summarize the feedback received.
- b) Feedback summaries often use pie charts etc. as a way of implying that certain proposals are broadly acceptable. It is however vital that all parties understand that the ACP process is not a referendum where decisions are governed by majority opinion. Even if 99% of respondents agree to some aspect of a proposal it is possible that one individual responder discovers a fatal flaw in the argument unseen by others. Clearly the minority view in such a situation must be properly considered and may rightly dominate the final decision.

Question 13: Overall, will Stage 3 improve the airspace change process?

Potentially

- a) CAA scrutiny of consultation documents prior to consultation should ensure that they are clear, complete and appropriate for the audience.
- b) The publication of responses to the consultation and reaction by the sponsor should ensure a greater degree of transparency in the process.

Stage 4 Specific Questions

Question 14: Should sponsors be required to adhere to a standard template for their airspace change submissions?

Yes

- a) This will make it more straightforward for all concerned to read and understand proposals.
- b) The proposal is for a scalable process so although there is a standard template simpler proposals may not be significantly disadvantaged by following the prescribed format.

Question 15: Is it reasonable for the CAA to publish a redacted version of the submission, with commercially sensitive details removed, as soon as we receive it, before we have assessed and decided upon it?

Yes

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- a) Currently only the first draft proposal is consulted upon. There can be significant changes between the first draft and the final submission and so consultees should have access to the final submission and be given the opportunity to respond where they consider there have been changes that they have not had the opportunity to comment on previously.

Question 16: Overall, will Stage 4 improve the airspace change process?

Possibly

- a) The Stage 4 proposals should give greater transparency to the process of consideration of responses and amendments to option design.

Stage 5 Specific Questions

Question 17: Will introduction of a new Public Evidence Session improve the airspace change process?

Possibly

- a) It will give the opportunity for points to be made and clarified in person, which some individuals may find less difficult than in writing.
- b) There is a possibility that unless well controlled such events could turn into an unproductive moaning session.

Question 18: Is Step 5B (CAA decision) a clear and transparent way of making an airspace change decision?

Possibly

- a) There seems to be no change in the decision making process itself, although the publishing of all material relevant to the decision is welcome.
- b) The decision itself will be made as the result of balancing the arguments for and against a proposal. It is important that the evidence and information presented is a true reflection of reality and that due weight is given to all factors, not just driven by commercial pressures. Recreational aviation, peace and tranquillity, air quality etc. are all important to those who might be affected negatively by a change and their concerns should be considered as at least as important as those who will directly benefit from change. There needs to be a balance of interests.
- c) The suggestion of an Oversight Committee would in our opinion add a level of "pressure to get it right" but could also delay decisions

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Question 19: Overall, will Stage 5 improve the airspace change process?

Possibly

- a) If transparency influences discussion and decision making.

Question 20: What are your views on our proposal not to introduce an appeal against process irregularities into the airspace change process?

- a) We do believe that there should be an appeal process. If due process is followed, then there is no reason not to have an appeal process available.
- b) Including an appeals process against process irregularities should be seen as essential to the sought after improvements in transparency that this process needs. The alternative, a Judicial Review, is expensive and time consuming; in reality a non-starter for most groups and individuals.

Stage 7 Specific Questions

Question 21: What types of data would you find it useful for the sponsor to provide, and in what form, when seeking feedback for its post-implementation review?

- a) Information on actual movements through the airspace shown in comparison to that indicated as expected in the ACP.
- b) Information on improvement of flight efficiency if that was a reason for the ACP.
- c) Reaction to the operation of the new / revised airspace from all the consultees who originally commented on the ACP to include:
 - Their view of the actual impact of the change compared to what they believed may happen and what they were told would happen.
 - Any changes in aviation behaviour as the result of the airspace change. For example rerouting to avoid the airspace.
 - Any knock-on effects of the airspace change such as the creation of choke points or increased local noise.

Additional comment:

- a) It is important that the PIR is carried out as soon as the period of 12 months has passed, and undue delay is avoided. The airspace sponsor should be in a position to present the required data to the CAA soon after the 12 month period has closed, as they will be aware of the requirement and can be preparing the response. The response should be with the CAA within 3 months of the PIR starting.
- b) The proposal should be more prescriptive about time limits to address PIR findings to avoid unsatisfactory situations continuing.

Question 22: Overall, will Stage 7 improve the airspace change process?

- a) A PIR is important as it has the potential to withdraw airspace and so should ensure that sponsors make initial applications that are responsible and proportionate to need. However the PIR process must be robust and not seen to be a box ticking exercise.

Question 23: Overall, will the airspace change process proposed in Chapter 4 achieve the right balance between fairness, transparency and proportionality?

Yes

Chapter 4 Specific Questions

Question 24: Should the CAA set up an Oversight Committee?

No

- a) The CAA should have sufficient expertise in the ACP review team to address all aspects of the proposal without an additional team to repeat the work, particularly if the Oversight Committee includes CAA staff as suggested. The CAA team can call on additional assistance if particular expertise is needed without having to have a formal committee on standby.
- b) If an appeal process is included in the ACP and all documentation and responses are available to view on the online portal there should be no need for an Oversight Committee to improve transparency of process.

Question 25: Are there any other areas where the CAA should provide guidance?

Don't know

Chapter 5 Specific Questions

Question 26: Does Table 5.1 give sufficient clarity and detail of how the process will be scaled?

Yes

- a) There is enough detail.

Question 27: Do you have (i) any views on the way the Levels are categorised in Table 5.1, (ii) alternative suggestions as to how we might categorise different airspace changes, or (iii) other views about the proposed scaling of the process generally?

No

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Question 28: Do you agree that the number of airspace change proposals put forward to the CAA is likely to increase in the future?

Yes

- a) There is a general belief that commercial aviation activity will increase and more regional airports will emerge. Each of these will seek airspace to provide a known traffic environment ostensibly for the purpose of flight safety but equally, in the view of many, for the sponsors' economic benefit.
- b) Direct routing of flights for economic benefit may in some cases require additional airspace to provide a known traffic environment for flight safety.
- c) The planned expansion of airport activity at places like London Oxford and Farnborough is already seeing airspace proposals being developed to facilitate business interests. This is likely to continue.

Chapter 6 Specific Questions

Question 29: Do you have any views about the CAA's interpretation of section 70 of the Transport Act 2000, as set out in Chapter 6?

No

Chapter 7 Specific Questions

Question 30: Do you have a preference for either of the long-term options for recovering the CAA's airspace change costs that are set out in Chapter 7?

Please give your reasons and any other views on how the CAA recovers its airspace change costs.

- a) The beneficiary should pay is a good rule of thumb. Controlled airspace is primarily established for, and used by, commercial traffic and in some cases the military, e.g. Brize Norton CTR. The beneficiaries in the case of commercial activity are the airports that provide operating facilities for the commercial activity and the en route service providers.
- b) It is not unreasonable to expect these business to contribute towards the cost of management of the airspace that they benefit from through annual charges. The businesses can recover their costs from the aircraft using the facilities or services through operating fees and en route charges.
- c) The direct costs of any specific ACP and follow up PIR should be paid for by the sponsor except in the example detailed in the answer to Question 31 below.

Question 31: In the short term the CAA will still have to set up a new statutory charge. On which entity would it be most appropriate to levy this charge? Please give your reasons.

- a) The charge should be levied on the ACP Sponsor who will ultimately benefit from the change except where the ACP is made for the release of airspace that can be shown to be not used, or under used in comparison to the proposal under which it was originally granted, in which case the charge should be levied on the airspace controlling beneficiary if they are not the

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sponsor of the ACP. This will encourage the release of airspace that is not used, such as some parts of the Glasgow airspace currently under a PIR.

Chapter 8 Specific Questions

Question 32: Are our proposed transition arrangements between the old process and the new process reasonable?

Yes

Question 33: Are our timescales for introducing the new process reasonable?

Yes

- a) And we agree with the transition proposals for ACPs in progress.

Appendix B Specific Questions

Question 34: Do you agree with the concept of an online portal?

Yes

- a) It allows all stakeholders access to documents and provides a greater degree of transparency.

Question 35: Should the online portal contain any functionality beyond what we describe, or documentation other than that shown in Table B1?

- a) The functionality of the portal should be under constant review and potential changes / upgrades should be expected as part of the development plan.

Question 36: What are your views on locating the sponsor's consultation on a CAA portal where the sponsor administers the documentation and responses?

- a) The CAA should host the portal but both the sponsor and CAA should have the ability to lodge documents.

Question 37: Is it essential that the online portal is a single website or could different websites (CAA, sponsor, consultation portal) be used for different aspects of the process?

Yes

- a) For ease of use the portal should be a one-stop-shop with all the information stored in one place. This is how local authority planning portals operate.

Question 38: Do you have any views on the CAA's analysis of the three options for an online portal, bearing in mind that the CAA will need to recover its costs through charges on those it regulates?

Yes

- a) There is no point in having a compromise for the design and operation of the portal. It should do what is needed for the best storage and presentation of documents from the start. If that involves a higher start-up cost so be it.

Appendix D Specific Questions

Question 39: Is our assessment of the effects of the new process in Table D1 reasonable?

Don't know

Please provide evidence of what you believe the effect will be on you, your organisation or on other stakeholders involved in the airspace change process, including estimates of the monetary costs and benefits where possible.

Question 40: We are interested in your views on the additional costs in terms of time and resources that the proposed process will create for all parties. We are particularly interested in estimates of the monetary costs and benefits to sponsors of previous airspace changes and how these would have been affected by the CAA's proposed new process.

If the proposed process is carried through diligently at each stage, following early engagement and due consideration having been given to design objectives and alternative options, it is possible that consultees' concerns will have been addressed at that early stage reducing the amount of resource required at the final consultation stage. This is a potential benefit provided by the revised ACP process.