

# General Aviation Alliance

## Red Tape Challenge - Response to CAP 1123

### Introduction

The General Aviation Alliance is a group of organisations representing, as far as possible, UK General Aviation (GA) and particularly Sports and Recreational Aviation (S&RA) interests. The Alliance coordinates some 72,000 subscription-paying members. These members represent the owners/operators of around 60% of the UK registered fleet. Activities cover parachuting, hang gliding, gliding, ballooning, plus sport and recreational flying in light and microlight aircraft and in helicopters. 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 S&RA. This response has been agreed by the member bodies of the GA Alliance.. Individual associations may also submit responses to deal with issues specific to their operation.

The GA Alliance has engaged actively with the Red Tape Challenge (RTC) and this document responds to 1) the 'CAA response to the GA Red Tape Challenge CAP 1123' and also to the Annex D spreadsheet giving the individual CAA responses to 287 identified comments from the RTC.

### Response to CAP 1123

GA Alliance welcomes the setting up of the new GA Unit within CAA, and looks forward to working closely with that unit. We note that the CAA had acknowledged the need for a GA Unit before the RTC, and has already started to establish it. We look forward to early dialogue and consultation on the "full GA reform programme" for the S&RA sector.

The CAA highlights "two guiding ambitions and principles: deregulation and delegation to remove the bulk of GA from the current regulatory oversight of the CAA." GA Alliance welcomes these principles. Our expectation is of general reduction in unnecessary regulatory complexity (e.g. gold plating) and streamlining of licensing and airworthiness processes. For example, one of CAA's current forms for changing a pilot's personal details (including a simple address change) runs to seven pages and requires among other additional documents a certified copy of the passport.

Below we respond to each substantive point set out in CAP 1123.

**Principle 1: Deregulate wherever possible.** This contains three points (briefly summarised below in italics):

a) *Removal of CAA oversight/rule-making in areas where the UK has no EU obligation, implemented by changes to CAP documents and the ANO.*

GA Alliance welcomes this intent, but would point out the continuing need for close engagement with stakeholders, even when seeking rapid progress in S&RA regulation. For example, the recent CAA proposal for blanket deregulation of all UK-registered single-seat microlights caused concern to some GA Alliance member associations, which would as well as being more "consultation efficient" have been alleviated by informal pre-consultation engagement. We note that the

Rules of the Air are shortly to be subject to EU obligation under SERA, which will restrict the CAA's aspirations in this area.

b) *Identify what areas within the GA sector might be removed from EASA oversight, primarily those that are nationally-based and where previous operating regimes have shown accepted safety, for example gliding and ballooning.*

GA Alliance supports these aspirations though highlights the need to fully evaluate consequences. For example overflight of third party states is important. UK aircraft must be able to fly overseas when necessary, e.g. general touring and when competing in international competitions.

c) *Ease the definition of 'commercial activity' by introducing the principle of 'informed consent' to move the onus onto participants to demonstrate their awareness of risks involved in certain GA activities.*

GA Alliance also welcomes this intent, which if it is to be effective must genuinely reduce the opportunities for litigation, for example by tackling the current UK legal position regarding waivers and disclaimers. At present, GA Alliance member associations are frequently the target of litigants supported by no-win-no-fee lawyers, seeking damages for events that were outside their control. We also note with approval the CAA's general intent to take an evidence and risk-based approach proportionate to the risk appetite of participants.

## **Principle 2: Maximise delegations**

CAA wish to maximise delegation of their regulatory activities, "to the extent that industry appetite and competence and resilience are the only constraints." The CAA would likely (and necessarily) retain overall accountability, but responsibility for delivery of the regulation would be delegated to one or more Qualified Entities.

In particular, GA Alliance would like to see all Airworthiness possibilities considered across the S&RA sector, ranging from CAA oversight, through delegated accountability to competent body full delegation as well as deregulated and full owner accountability.

For 'industry' we also read the GA Alliance's members, and point out that these are well established and mature voluntary associations with effective governance, run on behalf of their members. They are not primarily commercial organisations, and would not welcome the entry of commercial Qualified Entities into their sectors. Such competitive positioning would inevitably seek to 'cherry pick' the best business opportunities while leaving the less lucrative activities to the associations. In a worst case scenario capable voluntary organisations might be damaged to the point of liquidation. The CAA must avoid taking a doctrinaire position on commercial competition that would be damaging to S&RA in all but the shortest term. For example, the continuing airworthiness of amateur-built Annex II aircraft is regulated by the LAA and BMAA, but a commercial Qualified Entity entering the area could take over this activity, but without the substantial costs associated with initial airworthiness investigations, etc. That would be inequitable and could damage the voluntary association that supports the area.

GA Alliance reminds CAA of its response to the RA2 project in this context, viz:- There is no obligation for pilots/operators, etc. to join a GA association and neither the CAA nor government can mandate membership of an association as a

condition of being within an association's safety management system. However in the interests of the overall strategy it needs to be encouraged; the CAA could differentiate in its fees and charges between services which are mainly delivered by associations to their members and those services to individuals who are not members of a recognised association. That distinction is already in place in certain activities, such as where a pilot or owner is purchasing regulatory services via an association that has CAA approvals, as compared with purchasing the services direct from the CAA. The CAA could equally ensure that only certain bodies are approved for such activity. Such methodology could be the key to success of this approach and needs to be confirmed at the outset.

CAP 1123 proceeds to indicate some general areas into which the RTC issues feed, and responses to each. GA Alliance welcomes the helpful and flexible tone, and indeed many of the ideas, but note how the response is sometimes only to explain the CAA's current approach. In two important areas the need for further change must be accepted, if the RTC is to be properly addressed.

Firstly, in terms of CAA fees and charges, the inadequate representation of S&RA on the CAA's Finance Advisory Committee (FAC) must be tackled. The GA Alliance is not satisfied with the status quo which CAP 1123 merely reiterates, without any apparent intent to address the real issues of proper stakeholder representation. AOPA and BBGA do not represent S&RA at all, making the RAeC sole representative for more than half the UK's aviators. The result of this governance failing was clearly demonstrated in 2012/3 by the unfortunate lack of proper engagement over CAA fees and charges for the airworthiness of Annex II aircraft, which led to a great deal of unnecessary activity and damaged stakeholder confidence. Better pre-discussion and a wider consideration of costs and their allocation is essential, while equity suggest that S&RA must have greater representation on the FAC.

Secondly, on airspace, the promise of FAS to rationalise and reduce the airspace set aside for CAT is nowhere in sight, while the "dedicated FAS General Aviation Sub-Group facilitated by the CAA" is not making any progress at present. Meanwhile airspace demands from minor airports continue unabated. We see consultations with exaggerated traffic claims, antiquated airspace design concepts and a disregard for both FAS principles and the implications of SERA. The CAA seems unwilling to tackle such concerns, with the only significant opposition being the GA Alliance and its member organisations, who are volunteers with limited resources. The result of current and forthcoming proposals would be extremely damaging for S&RA in both Southern England and Northern Scotland. The CAA must take a more proactive approach which recognises the legitimate needs of all airspace users.

## **Annex D**

Annex D is where a specific response is made to the nearly 300 RTC inputs which were recognised as valid by the CAA. The format includes a CAA comment and a CAA intent. In some cases the inputs are aggregated and then the result is also addressed in the main body of CAP 1123. However, there is some devil hidden in the detail of Annex D which we must tackle, there are 'CAA comments' and 'CAA intents' of uneven quality, some of which will have significant adverse impact on GA if unchallenged.

One example is the dismissive and inadequate response to the issues of MOGAS and MOGAS containing ethanol (items 103, 104 and 170). Many recent engines are permitted to use fuels containing ethanol, and the effects on other fuel system components are well understood. Recent European research has provided a much better understanding of the real risks associated with these fuels, which have previously been somewhat overstated. Meanwhile several years of UK experience, in thousands of microlights, has not led to reported problems. Indeed, there is no AAIB report in which MOGAS containing ethanol appears as a cause of an incident. Around the world, recreational and GA aircraft routinely use fuels containing ethanol. Evidence of risk is lacking and the CAA should act in accordance with its stated principles to reduce Red Tape for GA.

### **Implementation Planning**

GA Alliance would like to assist with the development of an agreed implementation plan to achieve RTC overall objectives: We currently have the following elements:-

- 1** RTC and Challenge panel operating for Government. GA Alliance cannot have a direct input into these activities.
- 2** The recent RA2 document which was well-consulted and offers a list of matters to progress, with several similar objectives to the themes of the RTC.
- 3** Individual projects being raised by CAA - some of which were listed as to be considered later but were brought forward, e.g. the deregulation of single seat microlights.
- 4** The establishment of the CAA's GA unit and its development phase.

Overall, CAP 1123 is strong on announcement and intent, but to achieve real success with the RTC it also needs outstanding implementation, including planning for change in consultation with GA stakeholders. There are two key aspects: domestic and European. All parties need clarity on the likely steady-state shape of regulation and operations in, say, six and 12 months time. This is essential since much work will be required from voluntary organisations using volunteer resources. The RTC has had a strong impact thus far: mechanisms for partnership must now be established, leading to effective and sustainable change.

Prepared by James Tannock for the General Aviation Alliance  
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