

Minutes of the 37th Joint Meeting of the Civil Aviation Authority and the Aviation Community Advisory Group

Date:	Tuesday 24 th July 2018
Venue:	Level 15, Asteron Centre, 55 Featherston Street, Wellington
Attended:	<u>ACAG:</u> Paul Drake, Bruce Robertson, Steve Kelly, Dave Reynolds, Ian Andrews, Jonathan Shorer, Rob George, Mike Haines, John Nicholson, Kevin Ward <u>CAA:</u> Graeme Harris, John Kay, Brigid Borlase, Bryce Wigodsky, Kate McNabb <u>Observer:</u> Seamus Brady <u>Ministry of Transport:</u> Tom Forster

1. Welcome

The meeting opened at 1.00pm.

John welcomed all members of ACAG and introduced Janine Hearn, General Manager Organisational Development

2. Apologies

Kirstie Hewlett, John Cook, Lachlan Thurston, Qwilton Biel

3. Minutes of Previous Meetings

36th Joint Meeting of CAA and ACAG held Tuesday 6th March 2018.

All in agreeance.

Actions from last meeting: See Appendix A

All in agreeance, no further comments.

4. Directors Update

SMS Group 2 – Plans need to be submitted by the end of the month. The majority have submitted already, and only a small number still to submit. There is the odd one that has said they won't, as they will be ceasing operations.

Recently published some Q&A's on the website, which were also distributed internally as well.

Update from Ministry of Transport – Tom Forster

CAA Act Review – Work is continuing on this. Have had to go through the process of briefing the new Ministers of the content in the Bill, and the next step in the process is to put together a Cabinet paper to get policy approval to draft the Bill. This is a total rewrite of the whole Act and there is a huge amount of work involved.

The plan is to go out with an Exposure Draft, which will give people an insight into what the policy decisions are, and a chance to see the new drafting styles. Hoping to release this by the end of this year. Also open to having roadshows as well.

There was question around whether Just Culture would feature in the updated Civil Aviation Act. CAA is promoting it.

2018/19 rules update – Have discussed the Rules programme with the Minister, and will be going up for Cabinet approval on Monday (29th July). Expecting it to be approved. Most of the rule projects that were completed at the last financial year will be rolled over as well.

Projects added to the Rules programme for 2018/19 are:

- Private Pilot Licence Medical requirements

Projects hoping to be progressed to rules, but are still in Policy Investigation Phase are:

- Unmanned Aircraft Systems
- ADS-B below 245

At the last meeting there was discussion around a vision paper being completed by MoT. This is still being worked on and the hope is to have it completed in the next few months. Once it gets to a certain point, MoT will be contacting those ACAG members who wish to be involved for input.

ACAG keen to see some progress on what will be included into the Unmanned Aircraft Systems project particularly around Beyond Vision Line of Sight (BVLOS). CAA keeping in close contact with EASA as quite like some of the things they are doing in this space, and will help inform some of our thinking without reinventing the wheel.

Action – CAA to send final 2018/19 Rules programme to ACAG once approved by Cabinet

Action – MoT to send out Exposure Draft once completed.

5. Policy Project Update – Brigid

As per Project update sheet sent to ACAG members. ACAG was asked for comments/queries.

Fatigue Risk Management

Issue Review Panel have agreed in principle to look at rule changes to design the rules to enable Notices to target Fatigue regulations accordingly for each sector and be able to do so in a flexible and responsive way in order to keep up with the science and changing practice of fatigue.

Have been working very closely with CASA to ensure as much alignment as possible for seamless transitions. Will then progress to strong industry consultation and engagement. Big focus is to work closely with different sectors to ensure there is wide understanding and supportive for what is developed. Want it to be a collaborative exercise to make sure it does actually work.

ACAG raised a question about the companies that are currently required to submit flight-in-duty rosters and whether these will still be required if some of the other thinking around fatigue is progressed. CAA responded that flight-in-duty rosters are still included in the rules, and for those companies that have already adopted SMS an element of flight-in-duty should be captured within that. The hope is that any new rules put in place for fatigue do not require any rework of recent efforts.

If the new fatigue rules are going to be more sector specific then there will likely be changes to what companies are required to implement at the moment.

CAA responded that there are three things we are conscious of including HASAW obligations, existing flight in duty roster requirements expressed in current rules, and current rules that may not be seen as best practice on the international scene in coming times. A focus needs to be ensuring that we do not replicate things that have already been done, or in the process of being done that are working effectively, but on the same token where there are sectors where that are not as energetic as they need to be to encourage them to better manage some of the risks that may be associated with fatigue. May be a delicate process and could take a significant amount of time. Have watched closely at CASA and Canada's approaches and trying not to make the

same mistakes. It will need to include providing guidance internally and externally as to what is an acceptable standard of best practice.

Next steps are to look at implementation planning, and also to look at releasing good guidance ahead of time.

Charity Flights

Is a subproject of the Hire and Reward project.

The issue panel considered a paper that NZ recognize a model based on the UK CAA's approach to Charity Flights. The panel requested that more information is sought around the legal standing and health and safety obligations of any group that would be involved, and further illustration as to how it might work in practice – how often, who and where.

Will develop the next step paper and then engage with ACAG through a future issue assessment panel meeting.

This issue arose out of a petition for an exemption from the relevant rules, where they opted for the policy and rule making process to proceed.

ACAG expressed that this doesn't seem like a big issue and seems like a waste of time and resources. Seamus is tasked with delving into how big, if any this issue actually is.

Helicopter Flight Data Recorders

Came out of a TAIC recommendation. Filling a gap because effective from 2016 helicopters above a certain weight are required to fulfill the manufactured Annex 6 requirement. Also links to some of the proposals we have in the Act review would protect this. The camera would be focused on the controls, also with a view out the front of the helicopter.

An ACAG member said that they have strong objections to any kind of visual recorder on the flight deck. Have fought ICAO for a number of years to ensure they are not fitted, and ICAO will make reference in the SARP that the crewmembers themselves will not be filmed.

6. Issue Assessment Update – Bryce Wigodsky

Thank you to ACAG for their on-going feedback into the Issue Panel Meetings.

Receiving the papers to review typically in plenty of time. However, the Fatigue Management paper was only sent out a day in advance and ACAG made this clear that it was not acceptable and they were unable to add any value to that discussion with such little time.

CAA believe having ACAG present at the issue panel meetings is adding good value, and ACAG continue to want to provide constructive and effective feedback, and have their views captured in the final notes.

Having ACAG prioritize the Open issues list on a regular basis is helpful for the CAA.

GA have some concerns around the prioritization of STAs and SIDs, which is stopping GA from flying standard arrival by using RNAV unless they have radar surveillance, and there seems to be no progress towards rule development to fix it. There is extreme frustration around this issue. Was recommended to the GA representative that this be dealt with an exemption in the first instance, and that he meet with the appropriate CAA expert to discuss this directly.

Action – Kate to work with Qwilton to re-prioritize the Issue list.

7. Regulatory Operating Model

Currently going through process of developing a regulatory strategy, and revising the regulatory operating model (ROM). ACAG were provided with a draft revision of the ROM. Has changed very little from the current version, except that Just Culture principles have been added.

Won't be able to be implemented until we run a lot of Just Culture training throughout the organization.

Any comments are welcomed from ACAG.

A point was raised by ACAG was that it was not made clear in the document around the impact of regulatory activity on participants. Couldn't see the balance between the regulatory response versus the safety outcomes. It comes down to the CAA being very clear about when we need to intervene and why rather than there just being a general assumption of intervention everywhere, all the time.

Another point raised was that it wasn't clear through the use of language that the acceptable level of safety was the same as the standard requirement in the rule.

There was some discussion around 'all reasonably practicable steps' and how this is different in aviation because of the overlay of the prescriptive regulatory requirement. Aviation has been used to working in the rule based prescriptive environment for many years, and has made the assumption that if you comply with the rules that you are safe, but that is no longer the environment we are working in. It is the transition that CAA is facing as a regulator in terms of moving towards a nuanced regulatory environment where we have both prescriptive and performance based requirements, and how do we as a regulator work in this environment and be able to be transparent.

Action – ACAG to submit any further feedback on the ROM to John Kay by 3 August.

8. Regulatory Craft Programme

Janine handed out a slide pack. See attached.

This programme is a long-term multi-year programme about working through and balancing minimum standards through prescriptive regulation and then performance based regulation and the interplay between the two and what does that mean for CAA staff in terms of the way they engage with participants. This includes the way they articulate and explain their decision making so that when they are making a judgement about whether a participant is managing their risks effectively, they are able to articulate the thinking that underpins the decision reached, so that the participants can test and challenge that.

This programme has a significant internal facing element but as it starts to imbed in the organisation it will start to become much more visible externally. It is a core and significant organisational change programme for the regulatory part of the organisation. It is about driving our performance to be a better regulator, to enable us to contribute more effectively to creating a vibrant aviation system and to driving safe and secure skies. Internally the programme is about driving greater curiosity in the way we undertake our roles.

We are coming to the point where we will be wanting to engage with industry about some of the external facing elements and see ACAG as a key group to help support us to do that. But also, because ACAG may start to see changes in the way that CAA works and we want ACAG to understand what is driving the changes, what you can expect to see, and why we are making the changes.

Some of the core target areas as part of this programme are:

- a move towards being a 'thinking' organisation. Operating in a different regulatory environment that creates different challenges, different expectations on how we fulfil our regulatory role and need to ensure we are thinking about what those responsibilities are.
- ensure our people have the right tools and technology to operate in that environment and enable them to engage effectively with industry and work in partnership to drive safety improvements across the system.
- ensure we have the right people who can think in the more challenging environment where there isn't the same level of prescription
- ensure we have the right capability to drive these changes
- ensure that we are supporting the 'customer' to be effective and fulfil their regulatory obligations, and adding value in our engagements with them
- make it clear to participants the difference between intelligence driven and risk based

- use the intelligence to give us a better understanding of the new and emerging risks
- more flexible in the way we deploy our resources to enable us to deal with risks effectively. Looking into sectors and individual participants that have the highest risk profile and target our efforts to working with these people. This information needs to be visible, and transparent so that all participants have understanding as to what is driving our efforts and why.
- making it easier for participants to interact with us effectively. Modernise the way we engage and strip out a lot of the administrative burden placed upon participants
- being more agile in order to respond quickly to the every changing environment. The aviation system is changing more rapidly now than it ever has in the past and the speed and pace of change is only going to continue. It requires us to be agile around our understanding as to where those changes might be happening and how to position ourselves to regulate effectively.
- ensuring our resources are targeted where they will have the biggest impact on aviation system safety and security risks.

Initially the focus has been on building the capability internally to be more effective, but recognise that we need to engage with industry and want to do so through ACAG. So in future will want ACAG's guidance on how to best go out and engage with industry as the programme moves forward.

There are three work streams:

- Guidance work stream. This is where the ROM fits in. Has an internal and external focus. Internally, what is the guidance that we need to be able to undertake our regulatory role effectively and consistently. Externally, what can we be providing industry to help them fulfil their regulatory obligations.
- People work stream. Building the capability of our existing people and thinking more broadly about the type of people we might recruit in the future.
- Technology work stream. Is about upgrading our internal technology tools, but includes online access for industry

There was a suggestion from ACAG about also taking the opportunity to create more effective participants as well as more effective regulators.

9. NSS Update

Promoted the key messages that come out of each NSS working group meetings as a quick way of keeping up with what is going on. Can also be found on the NSS website.

Out of the last meeting on 23 June, key points were:

- concept of operations - version 2 is underway and is around where are we going to be at the end of this project in 2023.
- SBAS trial – currently underway. Australian government has made financial commitment. Business case for NZ is being led by LINZ. Really good example of cross-agency work that has arisen from NSS project.
- Performance based regulatory project. Groups together a bunch of issues to do with PBN rule modernisation in three groups/stages. Will drill right down to what are the common problems and addressing them as efficiently as we can.
- ADS-B – the first rule change came into effect 20 July. That rule change establishes the mandate for above FL 245 from 31 December 2018, and establishes the performance and equipment standards for ADS-B systems irrespective of altitude. Currently working on clarifying some information for Part 129 operators.
 - Ø Now that we have performance and equipment standards formalised in the rule we are able to give operators for ADS-B below FL245 certainty as to what is

required. The pressing issue now though is the capacity of the system as a whole to achieve the required uptake that we will need by 2021. The key point is the LAME 145 sector capacity to fit these aircraft.

- Ø Looking to go out to consultation in late October/early November around the rule change that will be required to extend the mandate to apply to all controlled airspace by the end of 2021.

Regarding PBN procedures: ACAG again expressed the frustration of the problem for GA in terms of the connection from the en-route to the approach. If we sit back and do nothing and wait for the NSS system to do its part, then we are subjecting the system to an increased level of safety risk by flying mixed-mode operations. The two issues that are important to GA is:

- The ability to fly the arrival piece following I16 guidance which says outside of surveillance you can use RNAV but you have to have separate safety case (RNP)
- Use of Part 19 restricting operators from using a GPS based alternate

With the right amount of effort and the right people in the room it should be possible to get a mandate to get something done, and come up with a proposal that would be suitable for CAA and an interim measure, and then in due course the regulatory framework adopts the rule.

10. General Business

Nil

11. Next Meeting – Tuesday 30th October 2018

CAA/ACAG Joint Meeting

ACTIONS

Matters arising from the 24 July 2018 meeting:

- Ø **Action 1: CAA to send final 2018/19 Rules programme to ACAG once approved by Cabinet**
Completed. Sent out with the minutes on 3 September 2018
- Ø **Action 2: MoT to send out Exposure Draft once completed**
Still underway
- Ø **Action 3: Kate to work with Qwilton to re-prioritize the Issue list**
Completed. Priority list sent to Kate on 31 August 2018
- Ø **Action 4: ACAG to submit any further feedback on the ROM to John Kay by 3 August.**
Completed.