



Drs J. Rademaker LLM MSc  
44 The Pantiles  
TN2 5TN Royal Tunbridge Wells  
rademaker01@yahoo.com

The Equalities and Human Rights Commission  
Fleetbank House  
2-6 Salisbury Square  
London EC4Y 8JX

25 October 2020

Dear Members of the Panel of the Equalities and Human Rights Commission,

## **COMPLAINT**

**Human Rights violations against multiple individuals by the Civil Aviation Authority**

**Human Rights breaches embedded in rules and procedures of the Civil Aviation Authority; absence of safeguards to protect pilots' basic human rights**

### 1. Summary

The Civil Aviation Authority of the United Kingdom (“CAA”) through its enforcement officers in their standard investigative procedures, coerces private and commercial pilots suspected of airspace infringements to incriminate themselves and others – threatening in phone conversations, that if they do not provide their flight records or other information to convict them with, their flying licences will be suspended immediately, without further ado or procedures, even if their flying licenses provide their only income and livelihood.

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The Civil Aviation Authority rules and procedures amongst others, do not provide for (i) *presumptio innocentiae*, (ii) fair trial, (iii) immediate provision of reason of prosecution and provision of detailed evidence against the accused (v) the right to remain silent (vi) the right to appeal.

Both conduct of and regulatory framework developed and used by the CAA fall short of adequate standards to be expected from the CAA, an institution paid for by pilots and the aviation industry, which can be expected to be a sophisticated, internationally visible, first world organization that should lead by example.

The CAA in the many instances we have reviewed, some of which are listed in this Complaint, violate in particular articles 5, 6 and 7 of the European Convention on Human Rights (“ECHR”) as implemented *inter alia* in the United Kingdom through the Human Rights Act 1998 (“the Human Rights Act”).

It has been confirmed in respect of driving licenses, by clear and repeatedly affirmed European Supreme Court Rulings, in the context of road-traffic offences punishable by fines or driving restrictions, such as penalty points or disqualifications which are not qualified as criminal law provisions in domestic legislation (*Lutz v. Germany*, § 182; *Schmautzer v. Austria*; *Malige v. France*; *Marčan v. Croatia*, § 33; *Igor Pascari v. the Republic of Moldova*, §§ 20-23) that nevertheless safeguards of article 6 and following of the ECHR apply.

Due to the similar punitive character of restricting, suspending or revoking flying licences, whether private or commercial, or imposing the penalty of a forced “airspace awareness course” at the expense of the pilot’s money and forcibly depriving the pilot of his freedom and a day of his life and time, it is clear and unequivocal that the safeguards of ECHR and Human Rights Act 1998 apply in the cases at hand, where the CAA investigates, polices, judges and enforces infringements of airspace allegedly committed by pilots using aircraft, and performing all these different functions through one single person, does so without providing evidence or grounds, writing up its decisions without any foundation and in the most summary and often imprecise of fashions, not respecting pilot’s rights to defend themselves, not being offered a fair trial, due process or a right to appeal.

The Human Rights violations by the CAA are many and grave as will be listed, outlined and detailed in this memorandum – and have had great impact on livelihoods and put great mental stress on pilots; many have had their licenses suspended, while not having been alerted to the need to have a lawyer present; often the fast processes done by the CAA are imprecise and often data provided is incorrect, vague or even non-existent, such that an “investigation” is conducted by bullying and threatening the pilot to give up evidence against him/herself.

The CAA do not give reasonable time to prepare a defence, only giving 12 days to answer questions, whilst not even having made sure the person in question is actually reached and not respecting privacy or GDPR rules in the process. In many cases, licenses are suspended in a first phone call, without giving suspects and details or explanation of procedures, or evidence, which behaviour is as disproportionate as it is unlawful. As *per CAA standard procedure* the investigating person is also the “judge” presiding the “trial”, one and the same person is the “prosecutor” in the “trial”, the “trial” has no safeguards, procedures or adequate standards but is really an unstructured interview, and the “verdict” issued is in most cases one to one and a half pages in which grounds are not discussed, arguments are not detailed, reasons are not given; and perhaps most importantly, *evidence is often not provided*, often someone calls, and CAA investigators call the aerodrome of departure, breaking GDPR privacy rules bullying controllers to just answer any questions to “the CAA” on the phone, and just call a pilot and force them to self-incriminate under threat of taking away their flying licence immediately, to then use that evidence provided by the suspected pilots, to convict them.

Also, in the “interview” which could be regarded as the “trial” in Human Rights technical terms, great pressure is applied by CAA investigators to get pilots to incriminate themselves and to “admit guilt” – again without any Caution or prior notification by the CAA investigators that the pilots have a right to remain silent and do not have to incriminate themselves, and should get legal representation. The sentence meted out by the CAA official is either forcibly doing an “awareness course” which the CAA generates profits from, or suspension of flying licences.

The CAA appears as will be demonstrated and becomes clear from their rules and enforcement thereof, to have never thought of any legal aspects, focusing

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merely with aviation technical staff, on aviation technical matters. It is noteworthy that a large part of the CAA is staffed by former Royal Airforce personnel who have of course no legal or procedural background or training.

The CAA and its personnel are as regulator, all-powerful, and what they say stands unchallenged, as there is no higher or supervising authority. This has been a matter of parliamentary committee questioning – the Memorandum in response to these questions is attached hereto as an annexe, and the CAA CEO concludes in that himself, that it in his own opinion the CAA does not need any oversight and that he as CEO is doing a good job – which as a circular argument without input from any stakeholders seems rather void indeed; and we believe self-praise cannot be a recommendation. A tidal wave of contrary opinions from pilots is present, a tip of that iceberg is visible on internet based pilot forums, even though the majority, being aware the CAA is all-powerful and accountable to no one, keep very quiet as they do not want their license taken away, and accept and live with lawless tyranny. I include as an annexe a telling article by *Pilot Magazine* of November 2020. This also has an explanation of how the CAA is technically wrong when it comes to infringements, where it relies on what pilots' aircraft transponders display as altitude of the aircraft, actually *never indicates the actual altitude* of the aircraft – and as the CAA knowingly incorrectly does not at all allow for a 200 ft or so margin of error in its prosecutions of tiny and very marginal infringements, this often leads to wrongful convictions, with disproportionate sentences whereby licences are taken away, which provide the sole source of income for pilots in certain cases and in all cases are a fundamental incursion in their life and freedom – so fundamental that due process and legal safeguards must be present, respected and adhered to.

This situation is exacerbated as the CAA as regulator is uniquely, *not subject to any oversight, regulatory or otherwise* as will be discussed below; when asked repeatedly for an explanation, CEO Stephen Hillier and Chairwoman of the Supervisory Board of the CAA Dame Deirdre Hutton responded with only “*we will not comment on human rights aspects*”, and that, as infringement and actions based on that by the CAA are not a criminal matter in UK law, they believe their behaviour of threatening people with licensing action in order to coerce them into incriminating themselves and others and forcing them to prove their own innocence, is entirely acceptable, as are the practices of investigative

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officers who believe the end justifies all means and that pilots have no rights whatsoever. Even where recorded evidence of an investigative officer lying is provided to the CAA, the CAA reacts with “*officer behaviour is of a high standard and is acceptable*”.

**However, as per the cited jurisprudence above, due to the punitive nature of licensing action such as suspension or revocation of licenses, we believe and request you to confirm and enforce, that Human Rights safeguards will be made to apply in the cases at hand, similar to their application if the matter were a criminal matter in the UK, such in conformity with standing European Supreme Court of Human Rights jurisprudence.**

Moreover, we note that CAA does in their publications, contrary to their legal counsel asserting as noted above, that there are no criminal legal provisions in play in the subject matter at hand, actually speak of a criminal investigation - which they perform without giving the Caution; and I note furthermore that pilots are threatened in writing in standard letters with “*an unlimited fine and a prison sentence*” which is pressing all the more and dictates use of safeguarding basic human rights of *presumption innocentiae*, and giving suspected pilots the Caution, the right to remain silent.

Finally, pilots have noted that they are informed in writing and verbally that a criminal record on them is kept by the CAA, of which they have not been formally informed, nor are they given details of this record, or how long it is kept for instance. Pilots who request in writing a copy of such and other records held on them, simply are ignored and not answered.

Even pilots who have received an Mandatory Occurrence Report (“MOR”) of an alleged infringement of airspace and have subsequently disproven this and so have cleared their name of such an allegation, are nevertheless deemed to have a cross against their name on file and if they in future asking for clearances from the CAA necessary for for instance Display Authorizations, on CAA forms they then indicate that they have not been subject to any actions, they receive a letter stating they have lied and are liable to an unlimited fine and a prison sentence as they have been “investigated under an MOR”.

**In summary – the CAA is acting illegally and many of its procedures and practices are *contra legem*, and the penalties they impose are often disproportionate and unfounded. One and the same person of the CAA performs all the different functions of policeman/investigator, prosecutor, judge, jury and executioner such that there is no separation of powers. The trial and decisionmaking processes are opaque, arbitrary, not buttressed and without provision, discussion or weighing of evidence and other factors or inputs; there is absence of *audi et alteram partem* and there is no clear sentencing process, there is no conducting of a fair trial with procedural safeguards or due process, and no right of appeal.**

The CAA system violates not only Human Rights but also GPDR and Privacy rules. It is clear the CAA have never thought of any legal aspects, rights of pilots affected by their actions in general, rights of appeal, or any basic human rights of pilots they regulate.

We fully appreciate, agree with the objectives of and support the CAA's infringement policy and its main objective which is safety of the travelling public.

However dealing with infringements must respect basic Human Rights and **the ends do not justify any means** contrary to CAA rules and practice. As an *obiter dictum* we note that many pilots coming forward with unjust treatment by the CAA which violates human rights, have come with matters other than infringements, such as for instance incorrect procedures with medical certifications where there is no appeal, proper trial, proper functioning of a whole department of the CAA, and similar situations with licensing – it seems there just is no legal review of any kind as all attention seems to be focused on technical matters in what of course is a very technical industry. Pilots who depend on their licence for their livelihood have filed complaints very precisely and using law firms at their own expense, waiting for years and have received no answers – the CAA is allpowerful and unchecked, knows it, has been in that situation for decades, knows it can *de facto* not be challenged. If reasonable question are raised, the legal department routinely, aggressively and heavy handedly threatens expensive legal action after which costs will be charged to the pilot, gambling on their pockets being deeper than the pilots as the CAA makes all pilots pay them.

Furthermore, pilots who have followed the complaints procedures within the CAA rule framework, sometimes spending many thousands of pounds on specialist lawyers engaged, have found these procedures are a farce – they simply do not receive reactions or are delayed to then be fobbed off. Pilots seeking answers and wishing to defend themselves by bringing forward facts overlooked, not admitted into the decision making process, or correct a wrong, have zero recourse in practice. The CAA is fully aware of this and its leadership reinforces this as being “good practice” and using scarce resources wisely. The CAA does not respect *audi et alteram partem*.

Finally, the CAA is knowingly abusing “Just Culture” which they cite and use to get pilots to self-incriminate. This term refers to EU regulation 376/2014 article 15.2 which defines what the CAA call “Just Culture”: “*Without prejudice to the provisions relating to the protection of safety information in Articles 12, 14 and 15 of Regulation (EU) No 996/2010, information derived from occurrence reports shall be used only for the purpose for which it has been collected. Member States, the Agency and organisations shall not make available or use the information on occurrences: (a) in order to attribute blame or liability; or (b) for any purpose other than the maintenance or improvement of aviation safety.*” The CAA however *do* use information obtained under this “Just Culture” for other purposes than safety – namely for the purpose of incriminating and punishing pilots with suspensions and revocations of flying licenses and for the purpose of generating income from “airspace awareness courses” – detail on which the CAA refuse to give.

The EU directive is reflected in the CAAs website (<https://www.caa.co.uk/Our-work/Make-a-report-or-complaint/MOR/Occurrence-reporting/>) where it states: “*The purpose of occurrence reporting is to improve aviation safety by ensuring that relevant safety information relating to civil aviation is reported, collected, stored, protected, exchanged, disseminated and analysed. It is not to attribute blame or liability.*”

In this memorandum we will set out a number of cases in as much detail as possible for you to base your actions on, and all of the Undersigned are at your disposal to provide further detail where you seek this.

We regret that a great majority of pilots who feel they were treated badly or unjustly by the CAA who talked to us, do not wish their names or case details

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to be made available for this submission to you, as they fear for reprisals by the CAA who in their view is all-powerful, and are a law unto themselves, having no regulatory oversight whatsoever, have deep pockets and routinely threaten with legal action, specifically referring to ensuring the costs of such CAA legal action will be aggressively recovered from the suspected pilot.

We refer also in this context to an article on this subject by “Pilot Magazine” who investigated the subject matter independently and reported in their October 2020 issue. We also refer to numerous discussions on pilot forums, a number of which we attach hereto as annexes. There is one case where a pilot fought back in Court and was awarded £ 11,000 in damages which the CAA did pay.

**I ask you herewith on behalf of the Undersigned pilots and myself, who all have been subject to injustice and illegal enforcement and other practices by the CAA, and all pilots in general whose rights are not protected but instead violated on a routine basis by the CAA, to use your powers to correct the current untenable situation by motivating the CAA to overhaul their rules, procedures and practice to become compliant with basic Human Rights, such in keeping with your constitution, and in your role of a statutory non-departmental public body established by the Equality Act 2006.**

The Cases and specifics supporting this Complaint, as well as Annexes, follow below. Any bolding or highlighting is by the hand of Jaap Rademaker.

Yours sincerely

*fuera signati*

drs Jaap Rademaker LL.M MSc

Flt Lt (Ret) Antony Parkinson MBE

Pete Kynsey

Alexander Robert Garman

Sqn Ldr (Ret) Christopher Victor John Heames

## EHR Complaint Against CAA Case 1 – Jaap Rademaker

Based on CAA internal information I managed to obtain, the start of my case was a visual report by a controller at RAF Shawbury Airfield, who was **looking out of the window**, which reads as follows: “*EGOS : Shawbury 26/06/2020 202008425. Infringement of the Shawbury ATZ (Class G) by a CJ6 and another aircraft in formation.*”

*I was the Supervisor at the time when the Approach controller made me aware of what appeared to be 2 Aircraft flying SE from Sleaford towards Shawbury climbout lane. One of these was squawking BS (7426) but was not in control of any Shawbury controllers and the other was primary only. Once Approach made myself aware, I asked LARS to transmit blind to the AS West of Shy 3 miles to come up on frequency but no reply was received. **I observed out the window that the 2 AS seemed to be within the ATZ, but without any mode C I cannot be sure (my bold and underline – this refers to distance measured by way of using radar transponder equipment transmitting in the aircraft flying, JR).** Even if the AS were above the ATZ, they then flew South of Shy, immediately in the climbout lane. I called Sleaford and they informed me that the AS they believed it was had departed as a pair, both departing for White Waltham. Shy were quiet at the time so no apparent risk”*

I responded as follows: in response to your email to me of Friday 3 July, please take the following as my report to you regarding the captioned MOR reference. I was pilot in command of G-JAAP on 26 June 2020.

**I did not infringe Shawbury ATZ** as confirmed visually and by GPS, and include my track as recorded by Skydemon to this email. I can testify to the fact that the other pilot in formation was even further to the West, even further away from Shawbury ATZ than I was – he too is able to prove his track with a recorded GPS track. You therefore have two witnesses and two independent GPS tracks with the information that we now have provided to you confirming neither of us infringed Shawbury ATZ.

I am familiar with what the RAF needs and have friends with an RAF background, who fly helicopters, warbirds and fastjet aircraft both privately and commercially, have flown these myself as a passenger and am very aware of

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their specific requirements and needs. I therefore made sure to pay due attention and had my eyes firmly on the map as well as outside, ensuring to clear their ATZ which I did, notwithstanding 35 knot winds and severe turbulence. I have 25 years of flying and close to 800 hours, and have flown all over the world, and fly to the Netherlands regularly for work.

I attach a copy of my licence, correctly revalidated and current, as well as an excerpt of flights recently recorded in my logbook.

I have spoken to the other pilot in formation. Both he and I have repeatedly requested the information you are basing your current actions on when we were called by your representative mr Rob Gratton; I herewith request calibration and certification proof of the equipment that has produced the alleged infringement data, as well as radar traces or other information concerning our respective tracks.

In conformity with information regarding Sleaford airfield, on our way in we notified Shawbury MATZ of our penetration in a radio conversation; this is not required on the way out of Sleaford and is not mandatory in any event for a MATZ.

I think the above concludes the matter of the MOR.

Now, I turn to another matter which has raised concerns with me and which I believe require your remedial action urgently:

- (i) the actions and conduct of your representative Mr Rob Gratton, who phoned both the pilot in formation and myself and
- (ii) your procedures, information, standards and safeguards including CAP1404 related to this case and the matter of infringement actions by you in general; both of these fall short of adequate standards to be expected from the CAA and in this instance violate in particular articles 5, 6 and 7 of the European Convention on Human Rights (“ECHR”) as implemented *inter alia* in the United Kingdom through the Human Rights Act 1998 which govern due process, fair trial, presumption of innocence and protection of our rights, especially where Mr Gratton threatened in a very first phone conversation with revoking licenses if his questions were not answered; coercing after issuance of a severe threat of licensing action, in a barrage of coercive commands to proving of innocence and undue process where punitive

measures are threatened without due process and safeguards, explanation or information.

Having read CAP1404, this I find woefully inadequate, for it does not at all speak of for instance rights of and protection for pilots being pursued; of proper and due process and the rules around that; weighing of factors involved; of how a decision is reached and buttressing that on facts and analysis; having read this leaflet, I believe it was never reviewed by a lawyer or otherwise thought through properly. It is amateurish and depicts a diagram going from frightening yellow to crimson red, where all possible outcomes lead to written warning, forced awareness courses or licence actions such as suspending or revoking – instead of also outcomes such as “insufficient or unclear information” or “no action can be taken as information obtained inadmissible due to coercion, undue process perpetrated by CAA investigative officer”.

**This is further exacerbated in casu, bearing in mind the other pilot is a commercial pilot whose livelihood depends on his licence.**

As expressed by Mr Rob Gratton forcefully – even not supplying information or not supplying information on time, without the CAA having also with a proper due process having made contact with the pilot in question, and having after that, provided the information leading to the accusation, or even providing adequate time to study and react to this. Instead, the procedure is aimed at proving one’s own innocence, or rather as it is all structured, the CAA wishes the pilot to self-incriminate.

An excerpt from a transcript of Mr Gratton’s conversation, verbatim from his interrogation of the other pilot in a telephone call on 2 July 2020:

*Rob Gratton* : “Were you using something like SkyDemon or Rocket Route or Runway HD ?”

*Pilot* :” I don’t think I will be answering any questions like this at this stage”

*Rob Gratton:*” **Why not, because at the end of the day this is not a criminal investigation and if you choose not to, then we can carry out what is called a CAP 1404, we carry out licensing action based on the MOR alone, so it’s much.....”**

*Pilot* : (interrupts Rob Gratton) “No, sorry sir, I don’t like you threatening me at all with licensing action and I would like to see you actually be imposition do anything against a license that you haven’t issued. You can send me your report and I will deal with it. I have made my statement that I stayed clear and safe and legal outside the ATZ at all times.”

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*RG: Ok, Ok, I will advise my colleagues then that you are refusing to to send a report to us as as I have asked politely. In accordance with the just culture.*

*Pilot : Thank you sir, this conversation is terminated, you have not asked it politely, you have threatened with taking away my license so, you...*

*RG: [butting in] can I have your phone number please*

*Pilot: gives phone number*

*RG: just to reiterate this is a just culture CAP 1404, I have your email address [ ] We will send the, a letter to you with a link to the form we want, we would like you to, you have a responsibility under EU law to submit an MOR anyway of the alleged infringement.*

*Pilot: Well when you send me some information, why don't you start with sending me the latest calibration and certification documentation of the Shawbury Radar. And once I have seen that, then I will respond to your letter.*

*RG: That's a military piece of equipment so you'll have to make your request with the ministry of defence*

*Pilot: Well you're relying on that equipment so..*

*RG: I will also pass this on to the military because they have a requirement when they submit a report to investigate as well so you would like the radar calibration, data*

*Pilot: Calibration and certification data yes*

*RG: so documentation yeah, I will see what I can do and I will also ask for radar hem radar trace be done mhm as well OK.*

*Pilot: Why not.*

*RG: I'm being, I'm being open and honest here, I think you are being, you're not wanting to work with me. All I am trying to do is to reduce airspace infringements in the UK and I have an alleged report and I have to review that in accordance with our requirement as the independent safety regulator ehm and.....*

*Pilot: Thats all good and well. Thats all good and well. You can review. There was no airspace infringement. That's crystal clear.*

***RG: OK. Can you tell me the name of the pilot in command of the other aircraft that you were in formation with please.***

*Pilot: I am not answering any further questions. I will wait for your letter.*

*RG: Ok, thats, thats ok, thank you very much for your assistance. And your ehm.. We will write to you ehm in the coming days and I will also copy in your details to the ministry of defence and ask them to provide that information to us in order that we can as the review goes on of this alleged occurrence we can put it all together in a case file so we can explain to you the details, OK.*

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*Pilot: Thats fine, thank you.*

*RG: Yeah, ok, nothing needs to be said at this stage, thank you very much.*

*Pilot: Thank you, bye bye*

*RG: Bye*

In my capacity as a lawyer, I questioned Mr Gratton in a recorded conversation on 3 July 2020 about the above conversation he had had with the pilot flying with me in formation where he spoke the following words:

*Jaap Rademaker :mr Gratton, what I have heard so far is ... you have called [the other pilot in formation] and you threatened to revoke his licence based on ..*

*Rob Gratton (butting in):No, no, noo, but no that is not true, no, no, no, no, no, no absolutely not, that is not first of all ehm I am not going to engage in any conversation with regards to what I said to another pilot but I have not said that to anybody with regards to this occurrence. Ehm so ehm I will also be speaking to my legal counsel in the CAA now that allegation has been made and has been recorded on a phone, I did not say that, ehm and I do not say that, I use a standard ehm procedure when I speak to pilots when requesting information relating to mandatory occurrence reports. I ehm I did not say, I did not threaten, to ehm revoke, suspend or do anything with anybody's licence because at the end of the day the initial phonecall was made to establish details of a pilot in command and to request further information with regards to the occurrence. No decision has been made the review of the occurrence report and the pilot reports have not even been been completed yet. It's not even been started yet. We are in the ehm gathering of information phase, of any review of any occurrence report, which is to be done in accordance with CAP 1404 so no eh no no threat was made with regards to any licensing action, I don't make threats to licensing action, we carry out actions and then anything we do is communicated in an appropriate manner with the pilot. So I*

*Jaap Rademaker : I understand from [the other pilot] that he had a phonecall from you, whereby literally you used the words "if you don't cooperate, your license can be revoked" ?*

*Rob Gratton :Eh no, that's not what I said, absolutely not, I am not in a position to to say that, and I am not in a position to revoke anybody's licence. I did not say that."*

I then proceeded to tell Mr Rob Gratton that I had heard the recording where he did threaten to take away the pilot in formation's licence. Principal Airspace Regulator Mr Rob Gratton has lied as is proven above.

I sent this disturbing information and the transcripts of the two recordings to the CAA and on 17 July 2020 received the following response on this point from Stu Wain of the CAA: *"I have reviewed the email correspondence for this matter (including the exert of the transcript taken from the recording of the*

*telephone call), I am satisfied that the process for investigating possible infringements has been followed. Moreover, I am also satisfied that Mr. Gratton's conduct did not fall below the standards expected of a CAA employee. As such, I do not propose to take any further action. It was clear that the sole purpose of the call was to ascertain whether you were the pilot-in-command of the aircraft at the time of the event. This is our standard response when we are unable to immediately identify the individual flying an aircraft where a suspected infringement of an ATZ has occurred."*

We feel strongly that as per the above transcripts, it was not the sole purpose of the call to establish who was pilot in command, no, the purpose was, as we have subsequently, in the following months where a snowball of pilots talking to pilots led to finding a multitude of cases where Mr Rob Gratton and other CAA investigators, as standard practice, coerce pilots to self incriminate and provide evidence against themselves that the CAA does not have, or to fool them into thinking that Just Culture is not about blame or liability and in so doing again cajole and lure them to self incriminate.

When now turning to article 6 ECHR, it has been confirmed by Supreme Court Rulings many times that road-traffic offences punishable by fines or driving restrictions, such as penalty points or disqualifications (*Lutz v. Germany*, § 182; *Schmautzer v. Austria*; *Malige v. France*; *Marčan v. Croatia*, § 33; *Igor Pascari v. the Republic of Moldova*, §§ 20-23) immediately mean that safeguards of article 6 and following ECHR must apply. This too, is the case here **but the safeguards of article 6 ECHR and article 6 Human Rights Act 1998 have not been adhered to at all** – and in general in fact, as the CAA both through Rob Gratton and the words he used in the above mentioned conversation, and through CAA standard procedures as for instance draconically expressed in CAP 1404, punish by restrictions such as suspending, revoking or otherwise in any way restricting or disqualifying or impeding flying.

I highlight that CAA procedures must *at minimum* include the following basic safeguards provided to a pilot contacted by the CAA and be described in an elaborated "CAP 1404"-like information leaflet:

**Further to article 6 ECHR and art 6 Human Rights Act 1998; the CAA must ensure that a pilot must have the right to:**

(i) be presumed innocent until proven guilty

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(ii) be told as early as possible what he is accused of and be presented detailed written documentation thereof

(iii) remain silent – without as happened in this case, being coerced by CAA officials citing taking licensing action or making incorrect statements on an investigation not being a criminal investigation as Mr Rob Gratton knowingly and fraudulently represented – as CAP 1404 states contrary to his words which were *“At the end of the day this is not a criminal investigation”*, that: *“ICG [“CAA Infringement Coordination Group”] may refer an ABANL report of intermediate or major severity to the Investigations and Enforcement **Team for a criminal investigation.**”*

(iv) have enough time to prepare his case – the mere 12 days given by the CAA are not at all sufficient, a minimum of six weeks after unequivocally and also specifically after making sure a pilot has been served by a court official or similar trained professional operating to court documentation delivery standards is required; a mere email that I had to accidentally find in my Spam folder is most certainly not acceptable as a starting moment of the above mentioned term

(vi) legal aid and time to organize for that and right to compensation of costs thereof if an action is brought by the CAA which is not strong enough, does not meet a reasonable minimum threshold, or is decided in favour of the pilot – a case brought by the CAA must be very well investigated and researched indeed

(vii) attend in person the trial-like procedure which the CAA as decision making authority performs

(viii) access all the relevant information which is available to the CAA and others involved, such as in question the Ministry of Defence

(ix) put forward his/hers side of the case at that trial-like procedure by the CAA as decision making authority

(x) question the main witnesses or accusers against the pilot which must be present in person and made available free of cost

(xi) and call other witnesses,

(xii) provide an interpreter

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(xiii) be explained how exactly a CAA court or decision making authority works and can work to the standards expected, and their decision needs to be written down to provide clear insight, to standards similar to a judicial verdict in a criminal case (which is as a matter of course, as freedoms of individuals are involved, a very high standard indeed, which requires extensive academic legal and practical training). And finally, an appeal procedure with an authority other than the CAA, such as an HM Court must be available.

I wish to receive the following: (i) the CAA procedures (ii) the history, *travaux preparatoires*, consultation and processes and underlying thinking, policy forming, opinions gathered, advice and reports regarding the CAA procedures in force, specifically to investigate their legality in the context of the above, underlying the current CAA procedures (iii) your considered opinion on the procedures in the context of fair trial, presumption of innocence, burden of proof and due process as enshrined in the ECHR and Human Rights Act 1998 and validation in that regard (iv) your considered opinion on GDPR and other data protection violations in this investigation so far and in CAA policy in general (v) your considered opinion on the competence, training and adherence to professional standards and best practice of representatives tasked with investigative duties (vi) your considered opinion on the coercing practices of Mr Rob Gratton aimed at instilling fear, achieving self-incrimination, coercing innocent people to provide personal information about others with a view to incriminating them in turn, coercing people to prove their own innocence (vii) in extension of the aforementioned, your considered opinion on referring yourself to the Equality and Human Rights Commission in respect of the punitive measures you are able to mete out and your safeguards and standards, process, procedure, practice and policy in that context.

I believe as I have said in my conversation with Mr Gratton – and I hope he has already given effect to this – that he must refer himself forthwith to the head of legal of the CAA, who in turn must refer himself to the Attorney General and the Crown Prosecution Service; it is also clear that at minimum disciplinary action due to dishonesty and (re)training and education are necessary in respect of Mr Rob Gratton who has proven unfit and has lied on record as shown in the above excerpts of transcripts of recorded conversations. I note one of our legal team is adamant he must be prosecuted.

In particular with interest that could not weigh more heavily - as I need my licence to fly to my work of developing and financing green technology

necessary to save the destruction of our planet in The Netherlands; and even more heavily for the other pilot who has a commercial licence which supports his livelihood - standards and practice by the CAA have been found to be unacceptable, and are in flagrant violation of the ECHR and Human Rights Act 1998. I will not go into which changes must be made as the required overhaul of process, procedures, safeguards and practice that the CAA must commission and enact, but look forward to reviewing these with the interest of the wider flying community and in particular pilots whose livelihood depends on their licence at heart.

It is good although I am shocked by it, that through this innocent situation it has been uncovered that proper procedure and very high level safeguards which were required to be in place, were non-existent, not by accident but by faulty design.

Pilots may not have seen this, but being a lawyer first and a pilot second, I most certainly was astounded that there are no basic human rights or safeguards for pilots protecting their rights present in the entire CAA organization, its systems, rules and practices, not just in the area of infringements, but hearing a multitude of complaints – now totalling over 60 cases - over the months after this, coming to me via pilots speaking to other pilots in all areas where there is no complaints procedure, no legal recourse, no appeal, just the CAA officer's word is law. Any argument – then the pilot concerned either gets no answer, or his licences or privileges such as display authorizations, examiner or instructor ratings are summarily and without due process, taken away.

The CAA responded to my letter above of 12 July 2020, by email on 13 July 2020 stating *“Thank you for your email of 12 July 2020. The information which you submitted has been reviewed and it has been agreed that no airspace infringement occurred; the MOR will therefore now be closed.”* I wrote back asking to receive answers to my questions, receiving as answer on 17 July 2020 from Stu Wain of the CAA: *“We will not address the issues you raised regarding alleged infringements of the Human Rights Act 1998 (HRA) nor alleged breaches of articles of the European Convention on Human Rights (ECHR). The CAA maintains the legality of CAP 1404. As our investigation into the alleged infringement has concluded I propose to take no further action and consider this matter to be closed.”*

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I am happy to provide your Commission the entire correspondence at your request.

Speaking to fellow pilots about this, at this stage I learnt that a great many of them had experienced identical coercion to self-incriminate, and other injustices at the hands of CAA Investigators and in particular Mr Rob Gratton and his son who has been hired by him and works for him in the CAA, whose name also appears everywhere online in pilot forums, where pilots lament the exact same issues as outlined above, I have included a number of detailed writeups from pilot forums as Annexes to this submission. Having said that, other CAA investigators worked on similar cases using similar inappropriate and illegal methods.

I wish to see the record the CAA keeps on me, to know what rules govern it, for my name to be cleared; my private data to be protected properly and in accordance with GDPR rules and I wish for the benefit of all pilots, that their personal data is protected properly, that due process and basic human rights will be respected and safeguarded in rules and practice of the Civil Aviation Authority and therefore I wish to see their rules changed to incorporate basic Human Rights afforded to us all by law, and EU and UN treaties.

## EHR Complaint Against CAA Case 2 – Anthony Parkinson

Royal Air Force Flight Lieutenant Antony Parkinson MBE, “Parky” has around 8,000 hours of flying experience both in the RAF flying fighter jets for over 30 years, of which 19 years as a display pilot amongst others with the Red Arrows, as well as in the private sector flying to preserve monuments of historic significance such as the Supermarine Spitfire, had his commercial ATPL and private licenses suspended and Type, Instructor and Examiner’s ratings suspended for four months. They were summarily, by telephone call on 21 December 2018, taken away by CAA Principal Airspace Regulator Mr Rob Gratton, based on (i) someone thinking they saw him in a Spitfire clipping Fleetlands ATZ, an inactive former Navy heliport, of which no documentary evidence was provided, and the controllers of Fleetlands and Lee-On-Solent Airfield which are directly adjacent to each other provide conflicting reports and (ii) the unproven alleged, very marginal 100 ft infringement of Stansted Airspace, where in fact Mr Parkinson later obtained proof of an overreading encoder and an underreading 80 year old altimeter - all this evidence was disregarded by Mr Gratton; such combined with earlier, entirely unproven allegation of infringements – which as Mr Parkinson suspects, have to do with the very same instrument and transponder errors which were later proven by him, at his own initiative and expense. This is exacerbated by the fact that the CAA should have known the tiny alleged infringements were in fact not infringements as the transponder showed a higher altitude than it and the aircraft it was in actually were at.

Furthermore in an array of mistakes, Mr Gratton states incorrectly in para of his decision letter 4 that the date of the first 2 infringements was 4 August 2018 when it was in fact 4 August 2017; and Mr Gratton stated in para 6 that Mr Parkinson attended the Airspace Infringement Course on 18 November 2018 when that was in fact 18 November 2017. He furthermore mentions 9 October 2018 as the date of the alleged infringement at Stansted whilst this was actually 19 October 2018. Finally, in the decision interview which did not take place until months later, it became clear Mr Gratton was not aware at all of various pieces of evidence submitted by Mr Parkinson; and in the decision following the March 2019 “regulatory interview” the CAA decided to take no action at all and rescind the provisional suspension with immediate effect, not providing reasons but providing a written threat to revoke – which means remove forever – all licenses of Mr Parkinson, also without providing a reason. To top all of that, Mr Rob Gratton deliberately altered evidence stating 1600 ft, to 1700 ft which was

incorrect and seems an attempt to falsely create validity to there being an infringement; as the increment of NATS radar traces indicating 1600 ft are in 100 ft steps things were very marginal indeed for Mr Rob Gratton. His “decision letter” was less than one page, having four short paragraphs and highly cryptic, did not include any evidence or even detail on the infringement, presumably as it was too marginal, and does not meet standards of a reasoned judgement and verdict regarding a matter where the livelihood of Mr Parkinson had been taken away, with all the necessity for legal and other actions, mental stress and anguish associated with that.

Mr Parkinson’s licence was suspended summarily in a phonecall by Mr Gratton acting singularly on 21 December 2018, without providing him time to prepare his defense, without providing any clarification of this disproportionate, idiosyncratic and hurried measure (a provisional suspension should be reserved for the gravest of cases, where extremely poor airmanship and reckless behaviour and endangering lives in Class A airspace is concerned), without providing him the Caution or any warning not to incriminate himself, or warning evidence he provided could be used against him, or explaining him there was a criminal investigation and he must bring a lawyer, without sufficient evidence or analysis and discussion thereof, with incorrectly represented prior conviction dates, without evidence he brought forward taken into account, in a CAA “trial” that does not meet minimum Human Rights Act 1998 standards on various counts, which is all the more flagrant in view of flying being Mr Parkinson’s livelihood and which resulted in the CAA’s heavily disproportionate taking away of his licenses and means to earn his living.

The NATS (National Airspace Traffic Service) radar trace rounds to increments of 100ft. Airspace Regulator Mr Rob Gratton changed last minute, to the surprise of Mr Parkinson, in the regulatory interview, the 1600 ft indicated on the NATS radar trace (“A16” in the radar trace picture included below), to 1700ft which is incorrect and smacks of tampering with evidence – the 1700ft point was challenged by Mr Parkinson in the interview to no avail. The ceiling altitude was 1500ft. The transponder gives an altitude that is very inexact indeed – and which is usually 200-300ft different to the actual height of the aircraft; and can be as far as 500-600ft wrong.

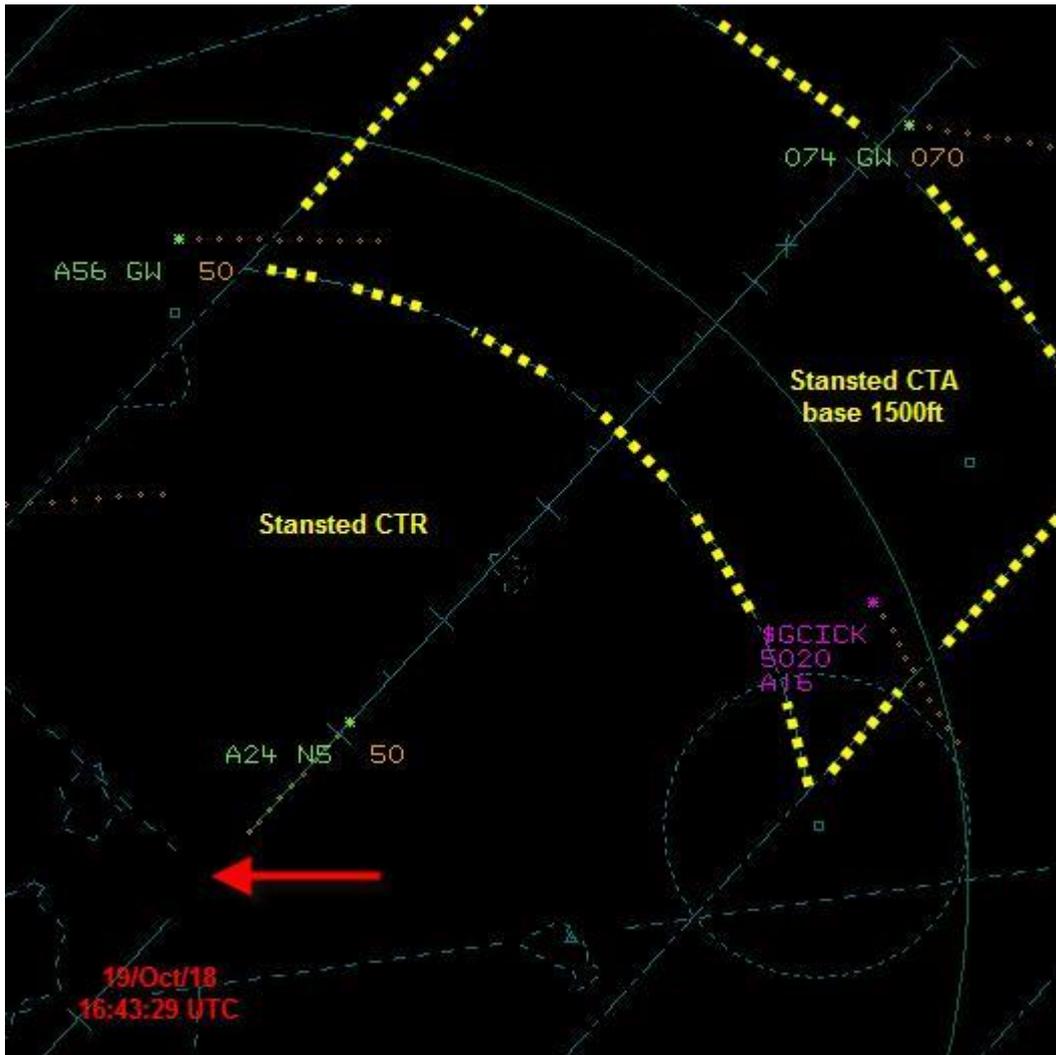
I Include below the NATS trace showing the A16 or 1600 feet, where it is important to note that a) the NATS system **shows what the transponder in the aircraft measures as altitude** – which transponder was later proven to be overreading b) the radar system cannot be more precise than increments of 100ft. We refer to the Annexe which has the Pilot Magazine, November 2020

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article which gives a technical analysis aptly named “*Catalogue of errors*” of why any transponder, even if functioning correctly, can make it seem as if the aircraft is flying up to 500 ft higher when it is in fact not – due to different barometric settings of the NATS system and the aircraft altimeter systems, its transponder encoder and other factors.

Therefore as we can prove unequivocally the errors, the CAA cannot rely on a NATS system displayed height, as the *actual* height is likely to be several hundred feet lower. We emphasise strongly in this case this point, because Mr Parkinson, obliged to fly under 1,500 feet, which is an extremely low altitude, with an extremely heavy aircraft, has no option to stay further away from the 1500 ft ceiling – whereas he could for instance apply more safety margin flying under say a 6,500 feet prescribed ceiling. Finally, this 1,500 ft is altitude above mean sea level, meaning that the height of the land being around 300 feet, already “eats into” the 1,500 feet making it less. And as said, the NATS systems have inaccuracies in addition to the aircraft system’s inaccuracies.

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Contrary to the CAA “decision letter” written by investigator and also conductor of the trial and also judge writing the verdict sentencing Mr Parkinson to handing in all his licenses, which depicts him as an irresponsible recidivist or recurring offender and makes the infringements look significant – whilst merely describing them, not providing any proof of them.

This case being minute in absolute terms to start with, is further to be seen in the context of the overreading encoder and underreading transponder, none of all this was weighed or discussed in the verdict of the CAA “decision letter” and weighed against the interests of the pilot – whose living depends on his flying licence – and the persona and character of the pilot – who is a highly experienced former RAF jet fighter pilot and has flown safely for decades and operates to the highest of standards – pilots of his calibre in the United Kingdom can be counted on one hand.

The decision taken is not buttressed or accompanied by any evidence, is one page only, and its result is disproportionate and unjust in various ways – time should have been left for Mr Parkinson to prepare his defense, and have the aircraft instruments such as transponder and altimeter examined; plus Mr Parkinson is not a person that is irresponsible or inexperienced – so there was no need for “suspension on the spot” which we believe to be inappropriate, not proportionate and not at all based on sufficient grounds.

Some further information on the transponder and investigations into this - the Mode C Encoder (this is the height information that is seen by Air Traffic Controllers and is converted from a 1013 pressure setting to the QNH by the NATS computer) was inexact as it proved to overread by 220ft. Therefore: If the pilot was flying at a height of 1200ft on an altimeter that UNDER-READ by 200ft, the aircraft would actually be flying at 1400ft. If the Mode C Encoder then added another 220ft (as this OVER-READ) the height readout shown on the Air Traffic Monitor would be 1600ft. So much for the practice and the result of investigation and testing by engineers – which was disregarded entirely by Mr Rob Gratton – despite a pattern of *perceived* alleged infringements that this aircraft had produced – about which Mr Rob Gratton even spoke with the aircraft owner, Mr Keith Perkins – see his affidavit below. Where Mr Rob Gratton should have followed up with an investigation of the *aircraft* which by the way the aircraft owner Mr Perkins was so diligent to perform himself immediately, Mr Rob Gratton did nothing in this regard, showing no apparent regard of care for safety in the air.

There is also a 200ft allowable error in the Conversion from the Encoder Mode C to NATS computer. Therefore, with the 2 proven errors on the Spitfire - the theoretical error could easily be 600ft. ie pilot flying this Spitfire at an indicated altimeter height of 1000ft could be indicating 1600ft on the Air Traffic Controller’s monitor. It is furthermore noted that as the NATS equipment has no smaller “scale” or increment than 100ft, the infringement shown on computer screens (which is nothing to do with the reality which is that the aircraft was way below 1500ft and therefore clear of controlled airspace entirely). We refer on the 200ft allowable error in CAA publication *CAP 493, Chapter 6, 10B. Verification of Mode C 10B.1 Controllers are to verify the accuracy of Mode C data, once the aircraft has been identified and the Mode A validated, by checking that the readout indicates 200 feet or less from the level reported by the pilot*”

In sum, it was unclear if there ever was an infringement, Mr Rob Gratton should have known that the infringement was too tiny to be proveable, but instead of

not prosecuting as there were no solid proveable grounds to base anything on, he pursued the matter and being investigator, judge, jury and executioner, and not being counterbalanced by reason and not allowing Mr Parkinson to defend himself or reading any of what Mr Parkinson had brought forward, the verdict rendered by Principal Airspace Regulator Mr Rob Gratton, is materially and formally flawed, compromised in fact, subject matter, analysis, reasoning, buttressing, legal technical senses and therefore cannot stand. As there is no right of appeal, Mr Parkinson is now in civil court procedure to clear his name and record.

This is exacerbated by the fact Mr Parkinson's livelihood depends on his flying licenses - decisions by the CAA affecting that must in that situation be very precise, proven beyond doubt by irrefutable evidence of the highest quality, measured and proportionate, and reached in a fair trial respecting and safeguarding pilot's rights - none of which were present in the case at hand; and the procedures followed and the onepager "decision letter" are woefully inadequate especially in view of the immediate, grave and destructive effect on the livelihood of the pilot concerned.

CAA Principal Airspace Regulator Rob Gratton, when confronted with evidence of the transponder and altimeter errors, realises the case is so marginal, he resorts to trying to strengthen his case by suddenly referring to "Take two" *guidelines* which *are not obligatory and only suggest* (and is guidance only, and is not obligatory) to pilots to stay 200 ft under the exact level of in this case 1500 ft.

Mr Gratton *forgets however, that this is not possible for the level of 1500 ft* (a mere 500 metres) because a) that is already very low b) the aircraft concerned here is a very heavy Spitfire of over 80 years old which does not glide well, and which when it has an engine malfunction, has no safety margin for the pilot when flown at 1300 ft which fact Principal Airspace Regulator Mr Rob Gratton who is not a pilot flying historic fighter planes, does not realize or recognize c) the height of ground where Mr Parkinson flew, is already 300 ft above mean sea level, making the height above ground Mr Parkinson was flying at precariously low – meaning that Mr Parkinson was flying very safely, being as close to the 1,500ft altitude as he could, maintaining maximum safety in the air.

It is important to note that safety in the air concerns not only airliners flying above him, but also his Spitfire which in case of engine failure, must have as much height as possible, for it to be able to be directed away whilst having very little time to glide with engine off, from towns or other areas congested with

people. Principal Airspace Regulator Mr Rob Gratton pays not attention to the mentioned factors at all and this is wrong in the opinion of the panel of expert pilots undersigning this Complaint.

From yet another perspective, this time not technical as the above but from a legal due process viewpoint, there is a most objectionable element. Before the “interview” which can be qualified as the “trial” in technical legal terms, the CAA put heavy pressure on a Squadron Leader friend of Mr Parkinson, who was coerced by the CAA to tell Mr Parkinson to *“just admit everything CAA Principal Airspace Regulator Mr Rob Gratton says, not argue with what he will be told, not offer any resistance anywhere, as that is the best hope of receiving a more lenient sentence”*. This “backchannel” influencing evidenced by the affidavit of the Squadron Leader below, is entirely unacceptable, influencing someone who does not even have a lawyer to defend him, who has never been in court in his life, clouding his judgement by dangling a possible “leniency” in advance of the “interview” and so impairing his defence.

On the interview, both Mr Parkinson and Sam Watmough, BA training captain and commercial airline pilot, who joined the meeting to support Mr Parkinson were **astounded at the alteration by Mr Gratton of the NATS radar trace showing 1600 ft to 1700 ft – they explicitly objected to this but Mr Gratton did not react to that**. At the end of the interview, Mr Gratton to everyone’s surprise said heavy handedly that if there were any MOR at all again against Mr Parkinson, “his licenses would be revoked permanently”, not basing this on any specific provisions.

A letter was sent by CAA Principal Airspace Regulator Mr Rob Gratton on 15 March 2019, comprising one page and four paragraphs only, stating that “no further action would be taken” and “the suspension of licenses was rescinded with immediate effect”; and the verbal threat made to revoke licenses permanently, was written in this letter. The decision letter is comforting in that the CAA acknowledge that indeed none of the alleged infringements were proven or such that action would need to be taken. This is probably due to the infringements being so tiny and marginal that it is down to the errors proven by Mr Parkinson, in transponder and altimeter faults established at his cost by engineers, **there never was an actual infringement**. Which in turn means there should be no “personal CAA file” mentioning any infringement; and the CAA is liable to compensate loss of income, cost of engineers and lawyers; and the CAA should apologize for causing a four month period of distress and unemployment.

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It is painfully unjust to see that Mr Parkinson who has spent his entire working life in the seat of a fighter aircraft to defend our freedom and rule of law, is subjected in his own country to lawless tyranny and not given the right to defend himself, the right to a fair trial, or the right of appeal or complaint. Mr Parkinson wishes to clear his record, name and reputation and wishes to be compensated for losses caused by the CAA and continues to fight in HM Courts to see that done. And for the benefit of all pilots, he wishes that their personal data is protected properly, that due process and basic human rights will be respected and safeguarded in rules and practice of the Civil Aviation Authority and therefore he wishes to see their rules changed to incorporate basic Human Rights afforded to us all by law, and EU and UN treaties.

We include below the salient elements of the decisions of the CAA and some of the evidence brought forward, disregarded by the CAA.

### AFFIDAVIT

I, Keith Michael Perkins am a British citizen (copy passport attached). I am a company director and owner of Spitfire NH341/civilian registration G-CICK, and I declare as follows:

I received a postal notification on the 18th December 2018 (letter dated 14th December) that Spitfire registration G-CICK had been involved in an alleged air space infringement and requesting the name of the pilot in command. Despite having been given 14 days to respond I was being aggressively chased for an immediate answer by telephone, with two phone calls being received on the 19<sup>th</sup> December.

I found this urgency to respond unusual and at odds with the timescale in the written request and on the 20th December emailed Linda Lake at the CAA requesting clarification. Shortly after I received a phone call from Mr Gratton of the CAA on my mobile phone.

Mr Gratton explained his role and used an aggressive and condescending tone throughout the conversation. The thrust of the call was to advise me that he was aware that G-CICK had been involved in several alleged air space infringements and that this was on his agenda, the inference being that the pilots were at fault.

I suggested to him that as the pilots flying that aircraft were some of the most experienced in the world that the likely cause was a faulty transponder and/or altimeter on the aircraft.

He was totally dismissive of any rationale other than pilot error and advised me that

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Anthony Parkinson had “admitted his guilt”. When I tried to explain that Mr Parkinson is unlikely to be making mistakes of this nature and that the alleged air space infringements were barely within controlled airspace and therefore well within the error margin of radar and transponders Mr Gratton became even more aggressive and proceeded to give me a lecture on how serious air space infringements of any magnitude were.

Post this telephone call I instructed the (independent of me) engineers at the Aircraft Restoration Company, Duxford to investigate the transponder and altimeter for accuracy and to use specialist contractors where needed. As suspected both instruments were giving inaccurate readings/signals and the transponder was giving artificially high readings. This information was provided to the pilot, Mr Parkinson to be used in his response back to the CAA.

Date: 19/10/2020

Keith Michael Perkins

- **Subject: Parkinson Provisional Suspension Letter**

21 December 2018  
Our ref: 334270L

Dear Mr Parkinson

**PROVISIONAL SUSPENSION OF EU PRIVATE PILOT’S LICENCE (AEROPLANES) REFERENCE GBR.PP.334270L.A AND UK AIRLINE TRANSPORT PILOT’S LICENCE (AEROPLANES) REFERENCE GBR.AT.334270L.A**

I am an authorised person for the purposes of part 6 of the Air Navigation Order 2016

1. This letter follows my telephone call to you on 21 December 2018, in which I informed you that your pilot’s licences are provisionally suspended.
2. You hold an EU Private Pilot’s Licence (Aeroplanes) reference GBR.FCL.PP.334270L.A and a UK Airline Transport Pilot’s Licence (Aeroplanes) reference GBR.AT.334270L.A. Your EU licence was issued under Part-FCL, Annex I of Commission Regulation (EU) No 1178/2011 (‘the Aircrew Regulation’). The Civil Aviation Authority (‘CAA’) is the competent authority for the purposes of the Aircrew Regulation and is required by the Aircrew Regulation, Annex VI, Part-ARA.GEN.300, to verify the continued compliance with applicable requirements of those to whom it has issued such a licence. Your UK licence was issued under the Air Navigation Order and the CAA is required by that Order to be satisfied that a person has the knowledge, competence and skill to act in the capacity to which a pilot licence relates.
3. On **4 August 2018 [note this date is incorrect and should be 4 August 2017, ed.]**, you were pilot-in command of aircraft registration G-CICK which twice flew within Class A controlled airspace, the London Terminal Manoeuvring Area, without air traffic clearance. As a result of those two infringements, you were required to attend an Airspace Infringement Awareness Course.
4. The CAA has received two further reports that you breached aviation regulations again whilst pilot-in-command of G-CICK. Firstly, on **9 October 2018 [note this date is incorrect and should be 19 October 2018, ed.]**, G-CICK flew within Class D controlled airspace, the

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Stansted CTA-1, without air traffic clearance thereby causing avoiding action to be given to aircraft inbound to London Stansted Airport.

5. You attended an Airspace Infringement Awareness Course on **18 November 2018 [note this date is incorrect and should be 18 November 2017, ed.]**.
6. Secondly, on 21 November 2018, G-CICK flew within Fleetlands Aerodrome Traffic Zone ('ATZ') without obtaining information from the flight information centre to enable the flight to be conducted safely in the ATZ and you did not obtain a watch on the appropriate radio frequency.
7. All four incidents call into question your compliance with the applicable requirements and whether you have the required knowledge, competence and skill to continue to exercise the privileges of your pilot licences. The October and November incidents indicate that you failed to learn from attending the Course and these failures further call into question your compliance, knowledge, competence and skill.
8. In circumstances such as these, the CAA is required by Part-ARA-GEN.355 to investigate and, if findings are made, to limit, suspend or revoke your EU licence, ratings or certificates pursuant to Part-ARA.FCL.250 of the Aircrew Regulation. The CAA may also, if satisfied that there is sufficient ground after inquiry, suspend or revoke your UK licence pursuant to Article 253(2) of the Air Navigation Order 2016.
9. You are requested therefore to attend an interview at Aviation House, Gatwick. The purpose of the interview is to investigate all the matters above so that the CAA can determine whether or not you comply with the requirements and have the necessary knowledge, competence and skill, and whether or not to limit, suspend or revoke your licences. The interview will be conducted by two members of CAA staff. You may bring a friend or adviser with you if you wish. Please email [linda.lake@caa.co.uk](mailto:linda.lake@caa.co.uk) within 28 days of the date of this letter to arrange a suitable date and time for the interview.
10. Your pilot licences are provisionally suspended, pursuant to Articles 253(1) and 254(1) of the Air Navigation Order 2016, pending the outcome of the investigation. You cannot exercise the privileges of your licences unless or until you have been advised in writing by the CAA that the provisional suspension is withdrawn. It is a criminal offence to act as a pilot without a valid licence.

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You are requested to acknowledge receipt of this letter to [linda.lake@caa.co.uk](mailto:linda.lake@caa.co.uk)

Yours sincerely

R E J Gratton  
Principal Airspace Regulator

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**From:** James Gilmour <[contracts@aircraftrestorationcompany.com](mailto:contracts@aircraftrestorationcompany.com)>  
**Date:** 11 January 2019 at 09:23:47 GMT  
**To:** <[annMr.Parkinson@icloud.com](mailto:annMr.Parkinson@icloud.com)>  
**Subject:** NH341/G-CICK Altitude reporting error

Dear Ben/Keith/Mr Parkinson,

Just an update on the above. Our initial test was with the transponder still installed to the aircraft which indicated that there was no error on the unit, following this we removed the Altimeter and carried out a calibration check. The Altimeter was accurate to 20FT between 1000FT-3000FT at various pressure settings.

We removed the transponder to carry out further testing utilising a different test set. We discovered that the encoder (which is built in to the transponder) was found to be over reading by 220FT at a

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standard pressure setting (1013). We have recalibrated the transponder and matched it to the Altimeter.

The aircraft will need an airtest to ensure that there are no other issues. If you could please carry this out when convenient.

If you have any further questions please do come back to me.

Kind regards

James

James Gilmour  
Hangar Manager  
The Aircraft Restoration Company  
Duxford Airfield  
Duxford CB22 4QR  
Tel: 01223 835313  
Fax:01223 837290

**From:** Gratton Rob <Rob.Gratton@caa.co.uk>  
**Date:** 30 January 2019 at 11:41:30 GMT  
**To:** "annMr Parkinson@icloud.com" <annMr Parkinson@icloud.com>  
**Cc:** MOR Responses <MOR.Responses@caa.co.uk>  
**Subject:** AIRSPACE INFRINGEMENTS

Mr Parkinson

Thank you for the email from Horizon Avionics. I have reviewed the MORs relating to the 4 airspace infringements in which you were PIC.

The first 2 airspace infringements (AI) were circa 6 months (August 2018) prior to the report; as such the problem with the altitude readout on the transponder cannot be proved to be a factor in these MORs plus the 2nd infringement of the day was some 900 feet into CAS.

As you are aware altitude readouts on radar are in 100 feet increments. The 1st and 3rd infringements were observed to be 200 ft into CAS so even with an altitude overread of 220 ft your altitude was at the base of CAS. As the published base is part of CAS, the occurrences remains AI. If you are considering that you were flying 20 feet below the base of CAS (as the Horizon report states a 220 feet discrepancy), I must advise you that it is the opinion of the Infringement Coordination Group that such level occupancy is poor airmanship. The TAKE 2 campaign and teaching at the Airspace Infringement Awareness Course advise pilots to fly a minimum of 200 feet below the base of CAS to mitigate inadvertent AI; no pilot can be expected to maintain level occupancy to an accuracy of +/- 20 feet in a GA aircraft.

The 4th was a horizontal infringement into an ATZ in breach of Rule 11 of the Rules of the Air Regulations 2015 so the MODE C/Transponder matter was not a factor in this AI. As such all 4 AIs are to be taken into account; as you completed the AIAC and then had 2 more AIs, CAP1404 left the ICG with no other option than to Provisional Suspend your Flight Crew Licence. Can I recommend that you book the interview with the CAA soonest to allow this to move forward. **I cannot, and will not, talk to Mr Perkins about the AIs as I am bound by strict guidelines associated with MOR disclosure. (note: see affidavit above by Keith Perkins who received a telephone call from Mr Rob Gratton on 19 December 2018 which violates GDPR and disclosure rules Gratton refers to; ed.)**

regards

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**Rob Gratton**

Principal Airspace Regulator  
Airspace, ATM & Aerodromes  
Civil Aviation Authority  
Tel: 0207 453 6586  
Mobile: 07917 614249

On 10 Jan 2019, at 10:49, [towersupervisor@solentairport.co.uk](mailto:towersupervisor@solentairport.co.uk) wrote:

Good afternoon Anthony,

Following on from our phone conversation earlier today I have found the Airport Occurrence Report submitted by the Fleetlands FIS unit which I have attached for you.

On the day you were flying, the winds at EGHF were approximately WSW with a mean average of 14Kts and gusting considerably up to 28-30Kts putting the crosswind component at approximately 24Kts in gusts and 12-15Kts average. With these wind speeds in mind, I opted to call Farnborough LARS, who were working you at the time, and ask to pass this information on to you so you could plan accordingly. I can understand that the concern about the winds combined with flying and navigating a very fast aeroplane in unfamiliar airspace could have led to an increased workload on both crew possibly reducing the quality of situational awareness slightly below the normal.

As we had already had quite a lengthy telephone conversation about how to correctly join the visual circuit at Lee, including the surrounding airspace, I was content as the AGO that a non-eventful join would take place. On your initial call to Lee Radio, I as the AGO passed the aerodrome information including circuit traffic and again an update on the wind conditions. As you commence your base leg join, I noticed that actually you were probably closer in than the standard circuit dictates but put this down to the wind conditions. You turned final and again I passed the wind, this time luckily no gusts were present and the aircraft landed safely without a hitch.

As there was no mention of any conflicting traffic inside the Fleetlands ATZ at the time of the alleged infringement, we would not have carried out any action with yourself. From the Tower at Lee, the AGO believed the Spitfire to be outside the Fleetlands ATZ during its flight through Right base and final to land runway 23 however the line of sight from the Tower is restrictive to aircraft flying on the Northern side of the Fleetlands ATZ which could have been where the alleged infringement was witnessed from the Tower at Fleetlands.

If an aircraft was reported to have obviously entered the Fleetlands zone through the overhead, then of course we would have taken action and re-briefed the pilot as necessary but this was not the case with yourself. This would also have been the case if an aircraft had made a joining intention that would potentially put the aircraft on a track through the Fleetlands ATZ, which of course would have been questioned by the AGO at the time. Again, because your join was in effect standard, no such information would have been passed by the AGO nor would the FISO at Fleetlands pick it up on it. Fleetlands and Solent Airport monitor each other's frequencies during opening hours.

As I said on the phone, it is an ongoing project between Solent Airport and Fleetlands to aim to reduce the number of alleged infringements they have and also try to find a method of certifying whether or not an aircraft has actually entered the Fleetlands zone as opposed to being misidentified visually from the Tower. This is obviously an issue when neither units have the use of radar positioning and most times aircraft are too low for Southampton to gain a radar track on them.

If there is anything else that I can help with on this matter please don't hesitate to get in touch.

Best regards

**David Voller**

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the Civil Aviation Authority

**David Voller**  
**Operations Supervisor**  
Solent Airport Daedalus  
Lee-on-the-Solent | Hants | PO13 9FZ | 02392 551 714 | 01329 82 4749  
[towersupervisor@solentairport.co.uk](mailto:towersupervisor@solentairport.co.uk)  
Solent Airport Daedalus is managed and operated by Regional & City Airports Ltd.

**From:** [michael@horizonavionics.co.uk](mailto:michael@horizonavionics.co.uk)  
**Date:** 4 March 2019 at 12:38:48 GMT  
**To:** [annMr.Parkinson@icloud.com](mailto:annMr.Parkinson@icloud.com)  
**Subject:** Spitfire

Hi

As discussed over the phone, during investigations into the Altimeter & Encoder faults on your aircraft I found the following defects:

1. Internal encoder (TRIG TT21) was 220ft over reading, I have never had a defect on these units before but this was re-calibrated and tested satis
2. Primary altimeter was tested at standard pressure to 10000ft and was found to be satis but when I carried out a barometric adjustment test I found that the barometric compensation was inaccurate therefore when flying using anything other than 1013 QNH the altimeter would read incorrectly. This has now been brought to owners attention and will be replaced.

If you have any further questions please feel free to contact me

Kind Regards

Michael Hodby  
Horizon Avionics Ltd  
[michael@horizonavionics.co.uk](mailto:michael@horizonavionics.co.uk)  
[www.horizonavionics.co.uk](http://www.horizonavionics.co.uk)  
Tel: 01702 808720  
Mob: 07825500609

*Affidavit by Mr Parkinson of the "CAA regulatory interview" - I attended a meeting with Mr Rob Gratton and Captain Mark Young on 4 March 2019. Captain Sam Watmough also attended the meet on my behalf and Ms Linda Lake was also present operating the recording equipment.*

*A few weeks prior to this meeting I had received a telephone call from a friend and colleague, Sqn Ldr Duncan Mason RAF informing me that he had been contacted by a CAA person to tell me not to argue my case as this could lead to me losing my licence. If I accepted their findings, it was unlikely this would happen. Because of this I tried to appear conciliatory to Mr Gratton's remarks throughout the interview.*

*I explained I had no recollection of the LTMA infringement flights on 4 August 2017. From my logbook, I said that I had flown 6 passenger sorties that day all similar in sortie content. I was perplexed by both alleged infringements as I was very familiar with the airspace and had flown many similar passenger sorties previously during the summer. I believe I mentioned the errors in the altimeter and Mode C Encoder at this stage.*

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*My recollection of the sortie on 19 October 2018 was better and described the route I flew on the transit from Headcorn to Duxford, receiving a Basic Service from Farnborough North and also a TMZ 1 transit from them. I recalled a relatively low setting sun just left of the nose and the reduced forward visibility this caused. I believe I mentioned that I would generally remain around 1300ft until I saw the pylons north of Andrewsfield ATZ. I recall surprise when Mr Gratton mentioned my aircraft trace showed me at 1700ft as I had been sent an image of the radar screen showing G-CICK at 1600ft. I did not argue this for the reasons mentioned earlier.*

*I do recall talking about the altimeter AND Mode C Encoder errors. It seemed that Mr Gratton was only aware of the Encoder error so I explained that the Altimeter had also been proven to be faulty. I recall Mr Gratton dismissing this information.*

*I recalled the events surrounding the transit sortie from Duxford to Lee on Solent on 21 November 2018 and in particular being sent and having read the ATC brief / phoning the Lee on Solent ATZ controller prior to take off and discussing the surface wind there. The wind was forecast and well within limits but as it was all across the runway, we discussed my 20kt crosswind limit on the phone as well. I recalled the fact that during the transit flight, I received a message from Lee on Solent via Farnborough LARS (who they had phoned) to tell me that the wind had recently gusted to over 25kts across the runway. I considered diversion options during the remaining transit and received further updates that the wind was now just in limits from Lee on Solent via Farnborough LARS. As soon as possible I called Lee on Solent to determine the winds were still in limits. I explained that I joined from the north west trying to avoid Fleetlands but that I was preoccupied with looking at the windsock on the airfield. Lee on Solent had informed me that there were no other aircraft in the vicinity*

*I explained that I had sent the CAA (via Linda Lake who was present) an email from the ATC Supervisor at Lee on Solent confirming our phone conversations and crosswind issues. Mr Gratton was unaware of this email and Ms Lake appeared apologetic as it had not been forwarded to Mr Gratton.*

*Captain Whatmough and I left the room for approximately 10 minutes and were then invited back into the room by Ms Lake. Mr Gratton explained that he had decided to rescind the provisional suspension of my licences. He then added that if I was involved in any other MOR then he would remove my licences permanently. At this point Captain Whatmough asked if he meant 'any' MOR for example an aircraft emergency, and he expanded that it would be an MOR relating to Infringements or Airmanship.*

4 weeks after the interview on 2 April 2019, I flew Spitfire G-CICK to validate the Mode C Encoder. The same altimeter had also been refitted so I performed a full check with the millibar setting knob and discovered I could make the altimeter under-read by approximately 160-180ft. I confirmed this was unserviceable and took some video evidence prior to the altimeter being replaced.

I was frustrated that both aircraft height errors (particularly the altimeter) had been dismissed in the interview and I got in touch with the CAA and requested Captain Young phone me which he did, in which telephone conversation I explained my frustration and sent him a copy of the video showing the altimeter under-reading and also the previous engineering reports stating the Encoder was over-reading AND the Altimeter was unserviceable. I explained that

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flying with the threat of permanent licence suspension was very unpleasant. He was very receptive and assured me that he never expected to see me for another interview and to enjoy my flying.

CAA Letter dated 15 March 2019 Ref:3098/3153 334270L

Dear Mr Parkinson

PROVISIONAL SUSPENSION OF EU PRIVATE PILOT LICENCE (AEROPLANES) REFERENCE GBR.FCL.PP.334270L AND UK AIRLINE TRANSPORT PILOT LICENCE (AEROPLANES) REFERENCE GBR.AT.3342070L

Thank you for attending the meeting at Aviation House, Gatwick on 4 March 2019 with myself and Captain Mark Young, during which the circumstances surrounding the events relating to the infringements of the LTMA which occurred on 4 August 2017, Stansted TMZ on 19 October 2018 and Fleetlands ATZ on 21 November 2018, along with the associated causal and human factors, were discussed in detail.

Throughout the proceedings you consistently demonstrated the values and behaviours that underpin a Just Culture and acknowledged that the responsibility for the infringement rested with yourself.

It was therefore agreed that the CAA was to take no further action at this time. However, you were issued a warning that should you come to the attention of the Authority again through any MOR which details another infringement or any other display of poor airmanship, in which you are held responsible, **that we would then move to propose revocation of your licence.**

In light of the above, I can now confirm that the Provisional Suspension of your licence has been rescinded with immediate effect. Nevertheless, please be aware that these events will remain on your CAA personal file and will, if required, be reviewed should a further occurrence or aviation related transgression occur.

You are requested to acknowledge both receipt of this letter and your understanding of its contents to [linda.lake@caa.co.uk](mailto:linda.lake@caa.co.uk)

Yours sincerely

R E J Gratton  
Principal Airspace Regulator

### EHR Complaint Against CAA Case 3 - Alex Garman

Young pilot and instructor training new private pilots, Alex Garman is a PPL fixed wing and helicopter, display pilot and flight instructor and received in November 2018 a CAA Mandatory Occurrence Report (MOR) notification letter via the owner of the aircraft he had been flying. The MOR arose from an alleged airspace infringement in September 2018 during the return flight from an airshow at which he had been displaying.

On the day the weather had rapidly deteriorated, so Alex elected to divert to nearby Sleaf airfield and spoke to RAF Shawbury Approach to announce his inflight weather diversion and was surprised when the ATCO denied access through the ATZ, despite there only being one aircraft in the circuit. He was given clearance to enter the MATZ but given instructions to turn north immediately, where the tops of the hills were hidden behind low cloud and drizzle and were definitely not VMC - visual meteorological conditions – illegal and in fact impossible to fly for a VFR - visual sight only, non-instrument trained pilot Alex is. He informed the controller accordingly, and that conditions were not VMC but in spite of that she became irate and continued to give him unsafe instructions to turn north immediately into non-VMC conditions which were impossible for him to do as he was not trained to or legal to fly in zero visibility conditions, and the aircraft he was flying was not legal or equipped with appropriate and certified instruments to do that; if he would follow the incorrect instructions, he would likely crash and gravely injure himself or cause his own death, and destroy the historic aircraft. The controller is trained to know these things and it is astounding that she did not provide a safe and legal alternative, of which there were plenty available.

As per his training and as is also legal and fully allowed, and as he was obliged to, he used common sense, and exercised good judgement, and airmanship to avoid this wrong and potentially lethal instruction and elected to track round the edge of the ATZ as much as VFR conditions allowed. Afterwards, he considered filing an MOR himself about the incident but it proved impossible to find the relevant procedure on the CAA website.

When he responded to the infringement MOR, he expected to receive the CAA's help and an explanation as to how this controller was able to behave in such a dangerous manner and her being taken to task on this and receive corrective instruction to avoid this dangerous and wrong action reoccurring in the future. Instead, he received an email saying the Infringement Group had reviewed my case already – such without his input - and that he was sentenced to go on an airspace awareness course within a few weeks, at his own expense, at any one of a number of locations that were all several hours away from his home.

Initially he thought there had been a mistake and contacted the CAA for clarification. A CAA staff member confirmed that the decision had already been made and he would indeed be required to go on a course.

He requested a copy of the MOR report, relevant transcripts, details on when the Infringement Group met, who was in the group and asked why he had not been invited to attend the meeting in order to give his explanation of events. All requests were refused outright. When he questioned this further, the same CAA staff member phoned him, again refused to answer any reasonable requests, and said threateningly that if he did not attend the course then my licence would be suspended immediately, along with all my associated accumulated ratings for different aircraft types. As a flying instructor with several students, he had no choice but to accept this and went on the 400-mile round trip to a 'local airspace awareness course'.

Alex stated: “Overall, I found my experience with the CAA very disheartening. I felt I was not taken seriously and, with no direct discussions allowed between myself and the Infringement Group, I was never given a fair chance to question the MOR, give my input and side to the story, I was never provided with anything in fact, or indeed know if my good name and character were being brought into question (which certainly appeared to be the inference in the aggressive and threatening communications). **The overall attitude of the regulatory authority seems to be we are the CAA, we refuse to engage with you and if you don't accept that, then we shall revoke your licence.**”

Alex gives the following detailed written up account:

I enclose a report and timeline of events of my treatment by the UK civil aviation authority (CAA) in what I believe to be unfair and illegal procedures

against myself in regards to a Mandatory occurrence report (MOR) about an alleged airspace infringement.

I was refused access to any evidence, including the MOR itself. I was also refused access to any meetings about myself, refused to know who the attendees were, the date of the meetings and I was not given any right of appeal. Several other injustices are shown in the timeline of events below.

I was shocked and appalled by the phone conversations I had with the Principal Airspace Regulator Rob Gratton, who not only threatened to suspend my license if I failed to pay for a course, but also brought into question the suitability of being a display pilot. Irrationally and insensitively I was questioned about my being a carer to a disabled relative, which made it near impossible for me to fit the forced awareness course which Rob Gratton demanded be done in too short a timeframe for me, and he did not even want to consider letting me join on a course closer to where I live, instead of a day's driving away.

I am disappointed and certainly concerned that a regulator of my profession behaves in such an unacceptable manner and where there is no due process, safeguards, openness, fairness or reasonable and professional behaviour.

05/11/2018 The aircraft owner Mr Brendan O'Brien receives a letter from the MOR team dated 29/10/2018 notifying him that an MOR report has been filed relating to an airspace infringement on 04/09/2018 and that they want the name and license number of the pilot involved. Mr O'Brien forwarded the letter on to me as I was pilot in command that day.

07/11/2018 I sent my email response as promptly as possible to the MOR team so as not to overrun the very short 12 day deadline set by the CAA. I also included my license number as requested.

09/11/2018. Email received from Linda Lake, coordinator at the CAA acknowledging my response and informing me that my report will be reviewed against the MOR.

14/11/2018. Email received from Kathleen Watson from the CAA informing me that the infringement coordination group (ICG) have reviewed my report about the MOR and that remedial training was required and that I was sentenced to attending an "airspace awareness course".

21/11/18 Mr O'Brien, as the aircraft owner and my mentor and a very experienced professional display pilot, requested a copy of the MOR from the MOR team. This request was denied.

16/01/19 Subsequently I had a telephone conversation with Mr Gratton. He informed me that a course date in three days time in Bucks Chesham was my last chance to attend one. As I am a carer for a disabled relative this was too short notice for me and problematic. I also said that I was still waiting for my earlier, very reasonable, requests for information including a copy of the MOR report and of various transcripts and wished to defend myself and to put my side of the story forward. He said that he was unable to provide such information and was not going to have “any further discussion”. He again threatened heavily handedly that If I did not attend the remedial course in three days time that there would be another review of my case and that my license and all associated ratings would be suspended with immediate effect.

I then explained that I was unable to attend that particular course date being, at the time, a sole carer to a disabled relative. I also reminded him that in my previous email from Kathleen Watson on 14/11/18 that there was another suggested course date on 16/02/19. He said that was not the case and that I would have to attend the date in 3 days time and proceeded to question the nature and severity of my relatives disability which I felt uncomfortable with as it is a private matter, inappropriate to discuss the relative and his disability with Mr Gratton but felt I was coerced and compelled to as it was clear that he did not believe me. I then explained in detail to Mr Rob Gratton that I was a live-in carer for my blind grandfather. He questioned the disability and I answered that he was registered as blind. He then said “how can you care for your blind grandfather if you are doing an air display ?” which I was baffled by. I explained that I make all meals, breakfast, lunch and dinner for my grandfather and assist with everything else he cannot do or needs help with, such that I only have a couple of days per week during which I can work and earn a meagre salary as a flying instructor. I answered that I in such situation I arrange with other carers to help and change my shifts. When Mr Rob Gratton pushed further again on the point of the situation and how it works in practice, I explained that at that time I could not swap shifts easily with others in general, and in particular at that time as there was a medical complication with a cancerous growth, a large lump on the face of my grandfather which was causing particular concern at the time and needed monitoring, if it burst he had to go to hospital immediately. I felt very uncomfortable discussing this private medical situation in this phonecall indeed. Mr Rob Gratton then pressed again, and to my amazement, insensitively suggested that “*if I was a carer, how was I able to perform as a display pilot*”. I was astounded and taken aback by what I felt

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unacceptable, manipulative and frankly abusive behaviour. I love my job as an instructor and a display pilot but also enjoy and feel my duty as carer to be important for my grandfather as I believe in a caring society and community.

I asked again if I could please possibly attend a course at a later date to somewhere more local to me. He said that was not possible and reluctantly said that my very last chance was to complete a course on 16/02/19 in Crewe near Manchester, nearly a 5 hour drive each way. He threatened that if I did not book onto that course promptly then my licence would be suspended with immediate effect. I then gave up trying to ask to attend a course to a place closer to Kent, where I live.

Not only was there implicit but also direct forcing me to attend this course or suffer my flying license being suspended. No other possibilities, flexibility or considerations were mentioned. This I perceived as a direct act of aggressive bullying. I booked the airspace awareness course on the GASCO website in accordance with the instructions given by the CAA.

I paid a £200 booking fee. GASCO received an email confirming my booking and suggested that I book a room at a hotel where if I quoted GASCO I'd get a reduced rate.

**From:** Gratton Rob <Rob.Gratton@caa.co.uk>  
**Sent:** Wednesday, January 16, 2019 1:22:33 PM  
**To:** Alex Garman <alexg@skyfever.com>  
**Cc:** MOR Responses <MOR.Responses@caa.co.uk>  
**Subject:** RE: MOR 24413 Alex Garman.

Alex

I am currently out of office but I spoke with the owner/operator of G-BPCF this morning. He mentioned that, despite the CAA not having heard from you since we instructed you to complete the Airspace Infringement Awareness Course by 14 February 2019 [*note: there was only one such course before 14 February and that was days after 16 January 2019*], you were not content with the decision. I have carried out a second review of the case over the past 2 days by reading the MOR (in this case submitted in the form of a Defence Safety Occurrence Report (DASOR)), your report of the occurrence and the R/T transcript. At this time I must advise you that no new evidence has come to light to affect the Infringement Coordination Group's (ICG) decision. Can you please advise me if you have any additional supporting evidence that has not already been submitted; if you do, please do so as soon as possible as this will need to be presented to the ICG.

I must advise you that a failure to complete the Course by 14 February 2019 will result in your case being reviewed again from a CAP1404 perspective. Should that have to take place, additional Regulatory/Licencing action may be taken which may include Provisional Suspension of your Flight Crew Licence along with any associated ratings and authorisations.

Regards

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**Rob Gratton**

Principal Airspace Regulator  
Airspace, ATM & Aerodromes  
Civil Aviation Authority



Tel: 0207 453 6586

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Please consider the environment. Think before printing this email.

16/01/19

Brendan O'Brien sent an email to Mr Gratton in response to a phone call he received from him that morning. The email requested information relating to the MOR and ATC transcripts. Mr O'Brien was concerned to ascertain what had occurred with his own aircraft on the date of the alleged infringement. Mr O'Brien robustly expressed his concerns about the tone of Mr Gratton's conversation particularly when he questioned Mr O'Brien, in an earlier phone conversation about whether Alex Garman was a suitable person to hold a display authorisation as Mr Rob Gratton had learned in an earlier call with Alex Garman that he was a carer. Mr Rob Gratton expressed to Mr O'Brien that a carer could not be a display pilot. Both Mr O'Brien and I, Alex Garman, find such view of CAA Principal Airspace Regulator Mr Rob Gratton discriminatory and reprehensible.

Here the email from Brendan O'Brien, owner of the aircraft (modified for aerial fireworks displays) – Brendan has been a display pilot entertaining crowds at airshows for 47 years, and has 14,000 hours flying experience on 300+ different types of aircraft, is an instructor/examiner, commercial pilot CPL licenceholder for fixed wing and rotary wing, and and air transport pilots licence ATPL holder.

From: [flyboy@skyfever.com](mailto:flyboy@skyfever.com)  
Sent: Wednesday, January 16, 2019 3:39 PM  
To: [rob.gratton@caa.co.uk](mailto:rob.gratton@caa.co.uk)  
Subject: MOR G-BPCF

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Dear Mr. Gratton,

Thank you for your call this morning. I think it is important to clarify certain points. Firstly, the reason I am involved at all with the situation under discussion is that I was contacted by the CAA MOR team about an alleged incident involving one of my aircraft and for which I take full responsibility.

The fact that it was not being flown by me but by one of my appointed pilots, Alex Garman, is as far as I am concerned, irrelevant. Secondly, all the information I have about the alleged incident is second hand and therefore my continued involvement must be, as before, by proxy.

No fair judgement can be made, by anybody, without hearing, verbatim, the tapes. Transcripts omit the one vital element – the human interaction and its tone! The pilot, Alex Garman, told me that he had been dealt with, by an ATC unit, in an unhelpful and aggressive manner under difficult weather conditions.

That singularly unhelpful input directly contributed to my pilot, knowingly, clipping the Ternhill ATZ by a few hundred meters in order to maintain VFR and visual contact with the ground – he was not haplessly wandering around, as shown by the GPS trace. I believed him.

You also stated to me that there was a trainee controller on duty at the time. My pilot has told me he spoke with only one controller throughout – a female. I would like to know therefore what the reasoning was behind the decision, in this case, to send the pilot on a training/awareness course?

In principle, my pilot has no issue with training courses and the possibility of learning new things and revising others, and nor do I, save for the burden of time and money! However, he does not accept the fault, if any on his part, as his alone and also wants to know the reasoning behind the MOR team's decision – which is his right! As a fellow aviator, I am sure you well understand that being up there is singularly different to being down here in a safe, comfortable control room! Weather can change unpredictably whatever flight planning has been done in advance. I have spent the best part of half a century in the airshow business dealing with weather and indeed all forms of ATC, en route, so I am well aware of what it is like at the coal face. The most difficult part of display flying, by far, is getting to and from the shows! Almost always, I have had nothing but helpful professionalism, with those flights, from ATC operatives whether civil or military. I have no axe to grind – save for fairness and reasonableness. I accepted the pilot's explanation of the events for the following reasons. I have known him for six years and have found him to be of sound

character - truthful, trustworthy and reliable. As for his aviation career – I gave him his first flight in a Tiger Moth and he was so enthused that he decided to learn to fly! He was taught by me! He has been a stalwart part of my air display team initially on the ground and then having obtained a DA, in the air. I gave him his DA! He then went on to be a flying instructor. He has my full support and if you insist on him attending a course, I go too! I hope that the above is some useful background for you.

However, to the main reason for this email! It surprised and disturbed me greatly that you brought up the subject of “character” and DA? Perhaps you will be good enough to explain what exactly you were referring to, in what context and specifically, why you made such a reference? I wonder if you are aware of the “toxic” environment that now exists, within the airshow industry, as a direct result of the tragic accident at Shoreham and the irrational reaction of “the regulator” to those events. A reaction directly resulting from the very questionable inputs of politicians and lawyers and the particular prejudice and bias of individuals employed by the regulator! If you don’t, may I suggest you speak with Chris Kidd. I am, along with my peers, in the process of providing the regulator with evidence of that potentially dangerous, toxic environment and of which they claim to be unaware! *The overall perception of an unfair, unreasonable and heavy handed regulator is not good. There is a very considerable lack of trust and respect, on both sides – unacceptable; it has to change.*

Yours in flying, Brendan O’Brien DAE 063

Mr O'Brien received a return email from Mr Gratton stating cryptically and nonsensically, that he was unable to provide the requested information because of GDPR legislation, whilst Mr Rob Gratton had many phone conversations earlier about the very same topic with both Alex Garman and Mr O'Brien. Also, as can be read in the email of Mr Rob Gratton below, Mr Rob Gratton first writes “... *under legislation relating to MORs and GDPR I am unable to discuss the details of the occurrence with you*” after which Mr Rob Gratton proceeds immediately to do just that, discuss the details of the occurrence in a further five paragraphs. It is also noted that where Mr Gratton writes that Alex Garman as PIC has not contacted the CAA, is incorrect, Alex Garman had contacted the CAA several times in writing by email and by phone but did not receive any replies, was not invited to an interview, was not allowed to put his defence forward.

Mr O'Brien's email was answered as follows by Mr Rob Gratton:

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**From:** Gratton Rob  
**Sent:** Wednesday, January 16, 2019 4:37 PM  
**To:** Flyboy  
**Subject:** RE: MOR G-BPCF

Mr O'Brien

Thank you for your time this morning; please see my comments below in red.

The PIC of the aircraft was Mr Garman, as such he is responsible for the airspace infringement. Any Regulatory/Licensing action will relate to the PIC; as I explained this morning you were contacted to enable the CAA to establish who was PIC. As I explained this morning, under legislation relating to MORs and GDPR I am unable to discuss the details of the occurrence with you.

As I explained this morning I am trying to establish if the R/T tapes have been retained. If they are I will seek, through the MOD, permission to listen to them. I have taken into account both the PIC and the notes on the tape transcript. For information, the tape transcript will have been produced by an independent member of the ATC staff not involved in the occurrence. I can only deal with the PIC in this matter; if it comes to a point where he is invited into the CAA office for a regulatory interview, he will be permitted to be accompanied. As I stated this morning, I am part of an independent organisation and as such I investigate and make decisions based on the facts and evidence presented.

I have reviewed the transcript and DASOR again; all instructions were transmitted by the trainee but at one point the control instructions were being relayed by the trainee from the Instructor/Screen controller. As such, only one voice was heard but the controlling decisions had come from both the trainee and Instructor/Screen; this is not unusual in ATC situations where a controller is under training.

I am unable to discuss this with anyone but the PIC; CAP 1404 outlines the decision making process. <http://publicapps.caa.co.uk/docs/33/CAP%201404%20DEC2018%20E3.pdf>

Your comments are noted, thank you. The Course is only open to pilots referred to by the CAA's Infringement Coordination Group. As such as Decision Maker for Airspace Infringements I will advise the course provider who is eligible to attend. With limited course places, I need to ensure that sufficient places are available for Regulatory/Licensing action as I trust you will understand.

I raised that as you stated that the PIC was not satisfied with the process or decision but he has not contacted the CAA. As you might be aware the fitness of character policy sits alongside any competence or skills and (medical fitness) requirements that must be demonstrated by individuals and post holders in order to be licensed by the CAA. Therefore I consider this policy, CAP 1404 and the Just Culture as part of the decision making process. With regards to his holding a DA that was in relation to the flight being a return from an Air Show and I was establishing the experience level of the pilot (relevant under a Just Culture). I did not question the PIC's character in any way, nor is there any reason to be "surprised and disturbed".

I will not make comment relating to Shoreham. I will, however, pass your comments onto the Office of the General Counsel and Mr Kidd for note. I will confirm that this MOR has been dealt with in a fair, reasonable and Just manner using the correct process (CAP1404). The PIC has contacted me today and as such I will continue my dialogue with him.

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Regards

**Rob Gratton**

Principal Airspace Regulator  
Safety and Airspace Regulation Group  
Civil Aviation Authority  
Tel: +44 (0) 20 7453 6586  
Mobile: +44 (0) 7917 614249

Mr O'Brien later pointed out the nonsense and deceitfulness of such a reply and Mr Gratton replied to that he was not prepared to "*jeopardise his job*". To which Mr O'Brien asked questions about the processes of fairness, reasonableness, decency and a just culture where with the CAA and Mr Rob Gratton as a person.

Alex attended the GASCO Airspace awareness course at the De Vere Cranage Estate, Byley Lane, CREWE, Cheshire CW4 8EW on 16 February 2020. He was unable to stay the night before due to my carer duties so had to set off at 4am to ensure he would arrive in time for the course. A round trip in excess of 400 miles which as a minimum wage starting small aircraft pilot instructor Alex could ill afford.

Alex continues:

18/02/2019

I received an email from Linda Lake saying that the MOR is now considered closed with an attached letter from Mr Gratton. Mr Gratton said that the MOR is now considered closed, however this letter will be kept on "my record" which I have asked for but never have been given to see or read.

05/08/2019

Months later, I received an email from Alex Knott at the CAA, Gatwick, in reference to my Display Authorisation renewal. He said on the form I had ticked the answer "No" to the question "Have you had reason to be contacted in writing about a matter of concern to the CAA or any other aviation regulator?"

He proceeded to state "Our records reveal that you were, indeed, written to on 18th February 2019 by Mr Rob Gratton in regard to an MOR referenced '2018 24413, I must, therefore, draw your attention to the False Representation

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Statement at the beginning of the form which states that ‘It is an offence under the UK Air Navigation Order to make, with intent to deceive, any false representation for the purpose of procuring the grant, issue renewal or variation of any certificate, licence, approval, permission or other document. **This offence is punishable on summary conviction by a fine and on conviction on indictment with an unlimited fine or imprisonment or both**’.

I am of the opinion that in the matter at hand as explained above, there was no “matter of concern to the CAA” as I did things right, displayed good airmanship and had no safe alternative to do anything else than what I did. I find the above an excessively threatening way of dealing with matters, I have not been allowed to put my valid arguments forward for my case at all, my complaint that the trainee controller and the controller-instructor were contrary to what they should be doing, were ordering me to fly into zero visibility conditions repeatedly, was never given answers to my written questions, was not given the transcript that Mr Gratton kept reading parts from, was not given the route to appeal, was not told I should consult a lawyer to help me. The CAA must prosecute the trainee controller and the controller who directed me into zero visibility conditions despite my repeated informing them of the zero visibility conditions, which is entirely contrary to their duty and if I had not exercised good airmanship and if I had not been able to think as clearly as I did, I would have likely been dead in a wreck on the Welsh hillside. I believe I have not done any wrong and have been wrongly and unlawfully convicted by the CAA and wish to see this corrected.

I wish to see the record the CAA keeps on me, to know what rules govern it, for my name to be cleared; my private data to be protected properly and in accordance with GDPR rules and I wish for the benefit of all pilots, that their personal data is protected properly, that due process and basic human rights will be respected and safeguarded in rules and practice of the Civil Aviation Authority and therefore I wish to see their rules changed to incorporate basic Human Rights afforded to us all by law, and EU and UN treaties.

## EHR Complaint Against CAA Case 4 – Pete Kynsey

Pete Kynsey is a 25,000 hour experienced fixed and rotary wing PPL and ATPL holder, Instructor/Examiner/Display Authority Examiner, CAA/EASA Licenced Engineer, is Chief Pilot of the two largest collections of WW2 fighter aircraft in the UK, and Chief Flying Instructor for two training organisations, who regularly flies demanding, historic aircraft such as Spitfires. He has had various exchanges with the CAA which he describes as follows:

I was informed by NATS that they had a radar trace showing me 100 feet inside airspace for a few seconds. The CAA kept pressuring the owner of the aircraft to get me to complete an infringement form, despite me having told NATS that there was no infringement and that I was flying 200 feet below the base of CAS at the time.

The CAA subsequently forced the owner into having the transponder checked at his expense. Four months later I had received no communication from the CAA of any kind, so I wrote to them and asked why not. They then replied and said that there had been no infringement. However their letter included the following paragraph which I object to strongly and which is nonsensical: *"The CAA investigates actual or alleged breaches of regulations and other occurrences that directly or indirectly impact on aviation safety and, will consider whether the person concerned is competent to hold the applicable licence, rating or certificate and to exercise the associated privileges."*

In another occurrence I was asked to call the Air Traffic Controlling Officer at Cambridge after I had landed. He told me that a pilot had reported me doing aerobatics inside the ATZ. He was abusive and said he would send an MOR to the CAA despite me telling him I had GPS logged proof that he was incorrect. I received a request from CAA to complete an MOR myself but declined as no occurrence had taken place. I sent them an email instead giving details of the flight and my GPS trace. I was assured that I would be informed as soon as possible of the result of their inquiry. Eight months later, and despite my written reminders to the CAA, I have received nothing and therefore still do not know if action will be taken against me, or what is or is not kept on file within the CAA or how that will be used against me.

I do not know what is kept on record by the CAA on my person and as flying historic aircraft is my livelihood I am unhappy with this imprecise and uncaring behaviour of the CAA. I wish to see the record the CAA keeps on me, to know

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what rules govern it; for my name to be cleared; my private data to be protected properly and in accordance with GDPR rules and I wish for the benefit of all pilots, that their personal data is protected properly, that due process and basic human rights will be respected and safeguarded in rules and practice of the Civil Aviation Authority and therefore I wish to see their rules changed to incorporate basic Human Rights afforded to us all by law, and EU and UN treaties.

## EHR Complaint Against CAA Case 5 – Chris Heames

Former Royal Air Force Squadron Leader Chris Heames writes as follows:

On 28 August 2016 I was booked to fly a display at Little Gransden airfield in an ex RAF GNAT jet and was asked by a trustee of the Gnat Trust to fly over to Bruntingthorpe (a small airfield in Northern England, not near any “large airport” airspace) post display if I had fuel as they were running the cold war jets on the ground doing high speed taxiing for a Children in Need charity event. I displayed early at Little Gransden thus I had fuel so I flew to Bruntingthorpe and talked to the controller running the airfield.

I flew to the North of the field with smoke on, about a mile away from a small crowd and not below 700 ft above ground level. I had checked Notams (notice to airmen – public notices informing pilots of relevant circumstances on the day) pre-flight and there was nothing notified except that a frequency was manned. At the ground in Bruntingthorpe, Principal Airspace Regulator Rob Gratton was on the ground, in his free time as part of a “fly in” with his own small aircraft, saw me flying a mile away, qualified the remote flyby as an organised flying event, and he caused the removal of my display licences and my display examiner licences with which I function as examiner for display pilots wishing to gain their Display Authorization. On 9 September 2016 I was called by CAA investigator George Duncan whilst I was working at East Midlands airfield, about to launch to Woodvale to display at Southport. I was told on the phone that my Display Authorisation had been suspended. George was not interested to hear my side of things and would not listen to my case at all. I understood much later that the CAAs position was that because the trustee told people on the ground at Bruntingthorpe that I may appear in the distance, but not overhead the airfield or doing any aerobatic manoeuvres, meant that the public expected an aircraft to fly past and this constituted a display. However, this was not a Display within any definition. I then engaged a renowned aviation lawyer who started Article 6 complaints procedure and I proceeded to spend in excess of £6,600 over the following year getting no answers at all, until a call from CAA Mr Rapson, Head of General Aviation that I could apply to have my Display Authorization reinstated.

In another interaction with the CAA involving a trainee pilot sitting next to me accidentally switching a transponder to standby, my licences were suspended and I was interviewed at the CAA. It appears that the suspension of my licence was an error as it was reinstated prior to the hearing. A friend who is a barrister

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spoke on my behalf at the hearing and at the subsequent article 6 appeal; initially my Type Rating Examiner qualification for jet aircraft was suspended for at 2 years but this was reduced to one year later. I spend a lot of my free time giving unpaid instruction in jet fighter aircraft as i am one of very few qualified military flying instructors willing to do this.

My complaint is absence of any procedure of any kind in the CAA ways of operating. I was not allowed to put my defense and circumstances and facts forward and to put things in perspective, where safety was never compromised, not on any occasion, where flights took place in areas remote to any other traffic and away from large airports and airspace. My complaint is further that sentences meted out by the CAA are entirely out of all proportion, evidence is not provided and coercing takes place routinely with the view to pilots incriminating themselves, where the CAA actually does not have any evidence or the case is simply too marginal to prosecute.

I wish to see the record the CAA keeps on me, to know what rules govern it, for my name to be cleared; my private data to be protected properly and in accordance with GDPR rules and I wish for the benefit of all pilots, that their personal data is protected properly, that due process and basic human rights will be respected and safeguarded in rules and practice of the Civil Aviation Authority and therefore I wish to see their rules changed to incorporate basic Human Rights afforded to us all by law, and EU and UN treaties.

## EHR Complaint Against CAA – Annexe I

<https://publications.parliament.uk/pa/ld200203/ldselect/ldconst/999/30611p12.htm>

### Memorandum by the Civil Aviation Authority

#### INTRODUCTION

1. The Civil Aviation Authority (CAA) is responsible for the regulation of civil aviation in the United Kingdom and has specific responsibility for aviation safety, airspace policy, consumer protection and economic regulation.

#### BACKGROUND

*(1) What are the legal bases for regulators; what are the nature of their powers and how do they exercise them; how could their powers be revoked; from where do they obtain their financial and administrative support?*

#### CAA Powers

2. The constitution of the CAA is set out in Section 2 of the Civil Aviation Act 1982 ("the 1982 Act"). The 1982 Act is a consolidating statute which replaced the Civil Aviation Act 1971 which established the CAA on 1 April 1972. The CAA took on a number of aviation[13] functions previously carried out by Central Government and by certain independent Boards including the Air Registration Board and the Airline Transport Licensing Board.

3. The CAA's functions are set out in primary legislation. The main provisions are:

- Section 3 1982 Act—licensing of air transport, licensing the provision of accommodation in aircraft (air travel organisers' licensing), the provision of air navigation services, the operation of aerodromes and the provision of assistance and information together with such safety regulatory functions as are conferred on the CAA by Air Navigations Orders;
- Part IV Airports Act 1986—economic regulation of airports;
- Part I Transport Act 2000—regulation of air traffic services (other than safety).

4. Detailed regulatory provisions are contained in secondary legislation made by the Secretary of State, for example the Air Navigation Order 2000 (safety regulation) and the Civil Aviation (Air Travel Organisers' Licensing) Regulations 1995 (regulation of tour operators selling in the UK). A number of these provisions implement the UK's obligations under European law, for example the Licensing of Air Carriers Regulations 1992 implement Council Regulation (EEC) 2407/92. CAA's airspace policy functions stem from Directions given to it by the Secretary of State under Section 66 of the Transport Act 2000.

### *Exercise of powers*

5. The manner in which the CAA exercises its powers is governed by statute. Section 4 of the 1982 Act sets general objectives for the CAA. These general objectives are disapplied and replaced by specific duties for the economic regulation of airports (Section 39(2) Airports Act 1986) and for the regulation of air traffic service providers (Section 2 Transport Act 2000).

### *Revocation of powers*

6. CAA's powers can only be revoked by primary legislation or in circumstances governed by Section 2(2) of the European Communities Act 1972.

### *Financial and administrative support*

7. Sections 8 to 15 of the 1982 Act contain financial provisions in relation to the CAA. The CAA, after consultation with the Secretary of State, may make schemes for determining the charges that are to be paid to it in respect of the performance of its statutory functions. In addition, the CAA obtains a slice of the UK's share of income from the Eurocontrol charging arrangements for air navigation services in respect of its airspace policy functions. Section 10 gives power to the CAA to borrow money from the Secretary of State or with his consent from the Commissioner of the European Communities or the European Investment Bank. Section 12 empowers the Secretary of State to make grants and loans to the CAA.

8. Schedule 1 of the 1982 Act contains provisions enabling the CAA to employ staff, pay pensions and to negotiate with Trade Union organisations. The CAA provides its own administrative support.

*(2) By whom and how is the continuing need for regulators measured; how is their role changed or ended?*

### *Continuing need for CAA*

9. The United Kingdom is bound by International Treaty with Organisations such as the International Civil Aviation Organisation (ICAO), the Joint Aviation Authorities (JAA) and the EC to meet specific aviation standards and obligations. As the UK's aviation regulator, the CAA fulfils the UK's commitment to meeting the regulatory standards and obligations laid down by those Organisations.

### *Changing role of CAA*

10. The CAA was established in 1972 as both a regulatory and a service provider. Changes to the CAA's regulatory functions would require amendment to or revocation of the appropriate primary or secondary legislation. The CAA's aerodromes in the Highlands and Islands of Scotland were hived down to a

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subsidiary company, Highlands and Islands Airport Ltd, which was transferred to the Secretary of State for Scotland in 1995. The CAA's Strategic Business Units were disposed of to the private sector in 1996. The air traffic services provider, National Air Traffic Services Limited, was the subject of a Public Private Partnership under the Transport Act 2000. Coincident with this, the Directorate of Airspace Policy changed from being a joint civil/military organisation to an integral part of the CAA, with military staff seconded from the MoD.

*(3) Who are the members of regulatory bodies; how are they appointed; are they adequately representative; do Nolan principles operate?*

*CAA Members and their appointment*

11. Section 2 of the 1982 Act as amended by Section 72 of the Airports Act 1986 provides that the CAA shall consist of not less than six nor more than 16 members. Members are appointed by the Secretary of State for Transport. The Secretary of State may appoint one Member to be Chairman and not more than two Members to be Deputy Chairman. Currently the CAA has a Chairman and 10 other Members, five of whom are full time executives and five are part time non-executives. One executive Member is nominated by the Secretary of State to perform certain air navigation functions on behalf of the CAA. One non-executive Member is nominated by the Secretary of State for national security purposes.

12. Apart from the national security nominee who is an MoD serving officer, all Member appointments to the CAA are publicly advertised in accordance with Nolan principles.

*(4) What are regulators set up to achieve; to what extent do regulators achieve their purposes without adverse consequences; how is their effectiveness assessed?*

*Purpose of CAA*

13. The CAA's general objectives are set by the 1982 Act which requires the CAA to perform its functions in the manner it considers best calculated "to secure that British airlines provide services which satisfy all substantial categories of public demand . . ., at the lowest possible charge consistent with a high standard of safety in operating the services and an economic return to efficient operators on the sums invested in providing the services and with securing the sound development of the civil air transport industry in the UK; and to further the reasonable interests of users of air transport services". Objectives specific to the CAA's regulatory functions are set out in section 68(1) of the 1982 Act, Section 39(2) of the Airports Act 1986 and Sections 2, 70 and 87 of the Transport Act 2000.

14. The CAA actively reviews all new regulation to judge the impact on and benefits to the industry. The CAA recognises the balance that needs to be struck between its regulatory objectives and the impact that regulatory changes have on those it regulates.

*Assessment of effectiveness*

15. On a general level, the Secretary of State for Transport, in consultation where appropriate with the Secretary of State for Defence, will agree overall priorities and objectives each year with the CAA and will monitor performance of the CAA in relation to agreed objectives. For specific elements of the CAA's responsibilities, methods of assessment vary. For example, the Safety Regulation Group is subject to regular audit under the ICAO Safety Oversight Programme and the Joint Air Navigation Services Council, established by the Air Navigation Directions, oversees the joint and integrated nature of civil/military air traffic service provision in the UK. The CAA's economic regulation of airports processes were investigated in 2001 by the Better Regulation Task Force and were found to be satisfactory.

*(5) To what extent are regulators both prosecutors and juries on an issue; what rights of appeal are there against decisions made by regulators?*

*Rights of appeal against CAA decisions*

16. In the case of safety regulatory decisions taken for the purposes of the Air Navigation Order, Regulation 6 of the CAA Regulations 1991, as amended, provides that if an official of the CAA proposes to refuse an application for the grant of a licence or certificate, the person concerned has the right to request that the case be reviewed by a Member of the CAA appointed by the Secretary of State. Similarly, if an official of the CAA proposes to revoke, suspend or vary a certificate or licence otherwise than on the application of the holder, the person concerned has the right to request that the case be decided by a Member of the CAA appointed by the Secretary of State. For these purposes a panel of two Members is formed and that panel must act as a quasi judicial tribunal. If the CAA's decision is that a person is not a fit person to hold a personnel licence, the Air Navigation Order provides a right of appeal to the County Court of the Sheriff Court in Scotland.

17. Similar provisions apply to the regulation of tour operators selling in the UK. The Civil Aviation (Air Travel Organisers' Licensing) Regulations provide that any decision to refuse or revoke a licence must be made by a Member of the CAA. If it is decided that a person is not a fit person to hold a licence, there is a right of appeal to the County Court or the Sheriff Court in Scotland.

18. In the case of the CAA's functions relating to Air Transport Licences and Route Licences, Regulation 27 of the CAA Regulations 1991, as amended, provides for a right of appeal to the Secretary of State. In respect of its powers to revoke an Operating Licence, Regulation 19 of The Licensing of Air Carriers Regulations 1992 also allows an appeal to the Secretary of State.

19. In the case of regulation of air traffic service providers under Part I of the Transport Act 2000, Section 14 of that Act makes provision for the CAA to make a reference to the Competition Commission requiring the Commission to investigate and report on whether any matters which are specified in the reference and which relate to the provision of air traffic services by or on behalf of a licence holder, operate against the public interest or may be expected to do

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so. The CAA has a similar power to make a reference to the Competition Commission when exercising its competition functions under Chapter V of Part I of the Transport Act 2000.

20. All decisions of the CAA are subject to judicial review by the high Courts in London and Belfast and the Court of Session in Edinburgh. Since 1999, the CAA has been subject to the jurisdiction of the Parliamentary Commissioner for Administration.

#### ACCOUNTABILITY

*(6) How are regulators held to account by Parliament; what other accountability do regulators have to auditors, Government departments or other public bodies?*

21. While the CAA's functions are conferred by Act of Parliament, it is sponsored by the Department for Transport and the Secretary of State is accountable to Parliament for the CAA's proper discharge of its duties.

22. Section 15(1) of the 1982 Act requires the CAA to keep proper accounts and proper records in relation to the accounts. The CAA (Auditing of Accounts) Order 1984, which modifies Section 15(1) and (2), provides that the Secretary of State shall appoint annually independent auditors to audit the CAA's accounts. The CAA is required to submit its statement of accounts together with a copy of any report of the auditors to the Secretary of State who shall lay them before each House of Parliament.

23. Section 7(3) of the 1982 Act provides that the CAA shall be a tribunal for certain purposes and that its working and constitutions are to be kept under review and reported on by the Council on Tribunals.

24. The Air Travel Insolvency Protection and Advisory Committee (ATIPAC) advises on financial protection arrangements for air travellers and, in its annual report to the Secretary of State for Transport, gives an account of the workings of the Air Travel Organisers' Licence (ATOL) scheme over the previous year.

*(7) How are regulators accountable to those whom they regulate; what is the impact of regulation on the economy; how transparent are their methods of working?*

#### *Accountability to regulatees*

25. Industry pays for regulation and the CAA's activities and costs are subject to constant scrutiny by regulatees. There should be no doubt that the unique method of funding aviation regulation in the UK is a key factor in the CAA's continued drive for efficiency and cost effectiveness.

26. As previously stated, the CAA's duties and responsibilities are largely set out in legislation. The CAA works within the principles of the Better Regulation Guide and a number of fora exist to ensure that regular dialogue takes place

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with industry. Examples include the Airworthiness Requirements Board (ARB), the Operations Advisory Committee (OAC), ATIPAC, the National Air Traffic Management Advisory Committee (NATMAC) and the Safety Regulation Finance Advisory Committee (SRFAC). They all meet on a regular basis and exchange views on new and existing regulatory and financial issues.

*Impact on the economy*

27. The UK airline industry is the leader in Europe and the success of UK aviation has played and continues to play an important role in the UK economy. The South East airport infrastructure contributes significantly to London's position as a world city, bringing both economic and social benefits to London and the UK as a whole. The UK has a mature and responsible aviation industry that is both innovative and in possession of a strong safety culture. The CAA contributes widely to this through its safety oversight of the industry, coherent policy on economic and airspace issues, and protection of the public against insolvency by tour operators. Economic regulation is seen as a second best proxy for competition and provides some of the same benefits, although not to the same degree. Setting a maximum limit on prices for monopoly services reduces the ability for regulated firms to earn excess profits and fixing such maximum prices *ex ante* for a fixed period (eg five years) gives regulated companies an incentive to improve efficiency.

28. The CAA has a duty to recover its costs from those it regulates and this places a financial burden on the aviation industry that is not mirrored in most other countries. However, the very high safety standards that are set and achieved by the CAA in partnership with industry have enabled UK aviation to mature and flourish. Similarly, the public's confidence that advance payments made to tour operators are safe has assisted the development of the tour operation industry.

*Transparency of working*

29. The CAA operates an open and fair regulatory regime and makes every effort to be transparent in all its dealings. The CAA aims to produce material, including technical papers, that is written in a way that can be generally understood by those not necessarily possessing a high degree of technical expertise. Its practice is to publish material widely, making use of the internet whenever possible. Material published includes consultation papers, responses to consultation (where confidentiality is not an issue), policy decisions and reasons for reaching decisions, safety related technical information and guidance material for applicants for licences, certificates etc. The CAA holds seminars, workshops and safety promotion evenings and regular meetings with major stakeholders and representative organisations.

30. The CAA works within a number of charters, including the Airspace Charter and the codes of practice for Safety Regulation and Consumer Protection. It abides by the principles of the Better Regulation Task Force and produces Regulatory Impact Assessments and Environmental Statements as required by the Department for Transport.

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(8) *How are regulators accountable to the public other than through Parliament; what opportunities do the public have to express particular concerns to regulators; how do regulatory bodies relate to their associated consumer watch-dogs?*

31. It is open to both the aviation industry and the public to approach the CAA with their concerns and the CAA will address these where it has the necessary powers to do so. The CAA publishes on the internet guidance on the nature of its regulatory powers and how complaints can be made to it, including details of individual points of contact.

32. The Air Transport Users Council (AUC) is the consumer watchdog for the airline industry. The Council acts as the independent representative of air passengers and complements and assists the CAA in its duties to further the reasonable interests of such passengers. The functions of the AUC are funded by the CAA and the CAA undertakes to respect the AUC's freedom to propose changes in its Term of Reference, determine policies and establish priorities in the performance of its functions within the framework of agreed operational and financial objectives.

(9) *How effective is public consultation by regulators; what opportunities do the public have to contribute; to what extent do the public make use of those opportunities?*

33. For the most part, the aviation industry is the CAA's "public" and consultation on both regulatory and financial issues takes place extensively with individual companies and with representative organisations. The CAA consults widely both on its general regulatory policies and on specific proposals and frequently exceeds the minimum legal requirements to consult. It also advises a large number of interested parties when it issues consultation papers giving information on their subject matter and where they may be located. For major consultations, such as on a periodic price review, the CAA will also issue a press release and provide briefings. Those who respond are generally those with the most immediate interest in the outcome (airports, NATS, airlines and their representative organisations) although other groups do actively participate where issues are narrowly defined. The CAA often conducts a two stage process—a written consultation followed by hearings with industry participants.

34. The CAA also initiates public consultations when considering changes in the legal framework, for example with respect to the terms of air travel organisers' licences or changes in licensing policies. The consultations are promulgated through press notices issued to the general media, and although interest tends to be concentrated in the trade press, there is usually some coverage in the consumer pages of other newspapers.

35. The CAA regularly reviews the effectiveness of its consultation processes and considers them to be sound. They are reviewed internally but do involve stakeholders and may be benchmarked against external sources.

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*(10) To what extent do the needs or concerns of the public guide the work of regulators; are regulators instruments of Government or representatives of the public?*

36. The CAA is a statutory body and has to operate within the relevant legislation. It has been given objectives relating to the interests of those who use airports and air traffic services on the one hand and to the interests of the regulated companies on the other. The CAA has to give the appropriate weight to each of its objectives. However, the CAA has an overriding duty to maintain safety, which is of principal concern to the travelling public.

*(11) How independent are regulators of Government; what factors do or might compromise their independence?*

37. **The CAA's decision making process is independent of Government and Government respects that independence.** The CAA was set up following the Edwards Report into British Air Transport in the 70s and an advantage noted by Edwards was that the CAA Chairman would be able to speak on and for civil aviation with greater freedom than civil servants. The CAA must exercise its functions in accordance with the general objectives and particular duties set out in the statutes which confer those functions. The CAA has agreed a Sponsorship Statement with the Department for Transport, its sponsoring department. The statement sets out frameworks for policy, structure, planning and financial matters, external accountability, monitoring and review matters. The Sponsorship Statement recognises that while the Department for Transport may issue guidance to the CAA on general and specific areas of Government policy, that guidance will take full account of the CAA's statutory duties and must not conflict with these.

38. Section 2(4) of the 1982 Act provides that the CAA is not to be regarded as a servant or agent of the Crown or as enjoying any status, privilege or immunity of the Crown. For administrative purposes the CAA is classified by the Machinery of Government and Standards Group, Cabinet Office as a Public Co-operation. In the national accounts the CAA is classified as a Public Corporation in the public sector.

39. The Secretary of State has power in Section 6 of the 1982 Act to give Directions to the CAA in the interests of national security, international relations and environmental matters. Section 66 of the Transport Act 2000 empowers the Secretary of State to give Directions to the CAA imposing duties or conferring powers on it with regard to air navigation. Section 92 of that Act empowers the Secretary of State to give Directions indicating considerations to which the CAA is to have particular regard in deciding whether an dhow to exercise its functions under Part I of the Transport Act 2000. Section 93 empowers the Secretary of State to give Directions to the CAA and others in any time of actual or imminent hostilities or of severe international tension or of great national emergency.

*Sir Roy McNulty, CBE Chairman, Civil Aviation Authority*

*28 March 2003*

## EHR Complaint Against CAA – Annexe II

CAP 1404, infringement policy of the CAA

Airspace infringements: review and actions process December 2018 CAP 1404  
| 3rd Edition | December 2018 | www.caa.co.uk Alleged Breach of Air Navigation Legislation  
(ABANL)

### Introduction

An airspace infringement is the unauthorised entry of an aircraft into notified airspace. This includes controlled airspace, prohibited or restricted airspace, active danger areas, aerodrome traffic zones, radio mandatory zones or transponder mandatory zones. An airspace infringement has the potential to be a serious safety incident and the number of infringements has not declined despite efforts by the CAA, air navigation service providers (ANSPs) and General Aviation representative bodies. Infringements are usually caused by inadequate pre-flight planning, poor airmanship or insufficient pilot knowledge. The purpose of the CAA's airspace infringement review and actions process is to ensure that reported infringements are reviewed and assessed in a consistent way and appropriate actions are identified to prevent recurrence and to maintain pilot competence in UK airspace.

### Airspace infringement reporting

The CAA receives reports of airspace infringements from a number of sources, but they primarily originate from ANSPs such as the notified controlling authority or air traffic service unit responsible for the airspace that has been infringed. Following an airspace infringement, an ANSP may take two complementary courses of action: Report submission: The ANSP submits a Mandatory Occurrence Report (MOR) to the CAA, detailing the infringement. The ANSP may also submit a separate Alleged Breach of Air Navigation Legislation (ABANL) report to the CAA's Investigations and Enforcement Team. ANSP procedures: An ANSP's safety management system will often include its own safety investigation and follow up procedure to be adopted in the case of an airspace infringement event. This will include requesting the pilot of the infringing aircraft to complete a Post-infringement Questionnaire (Infringement Form) as part of a two-way learning exercise. The information obtained from the questionnaire will be shared with the CAA.

Review process The following pages illustrate the process by which the CAA reviews and assesses reports of airspace infringements and determines appropriate actions. The process may end at different points depending on the information available and responses received, and/or the outcome of remedial measures.

Mandatory Occurrence Report (MOR) Case reviewed • Determination of severity Correspondence • Confirm pilot identity at time of occurrence • Request for completion of Post-infringement \ Questionnaire (Infringement Form) / pilot report (1) Remedial actions (1) • Written warning letter, including notice that further infringement will result in regulatory action Remedial actions (2) • Requirement to complete online tutorial/testing (within 28 days) or • Requirement to attend an Infringement Awareness Course (within 90 days) ) Process diagram No further action Case reviewed • Consider the need for provisional suspension of licence Licence not provisionally suspended

# Airspace infringements: review and actions process



December 2018

## Introduction

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The CAA receives reports of airspace infringements from a number of sources, but they primarily originate from ANSPs such as the notified controlling authority or air traffic service unit responsible for the airspace that has been infringed. Following an airspace infringement, an ANSP may take two complementary courses of action:

**Report submission:** The ANSP submits a Mandatory Occurrence Report (MOR) to the CAA, detailing the infringement. The ANSP may also submit a separate Alleged Breach of Air Navigation Legislation (ABANL) report to the CAA's Investigations and Enforcement Team.

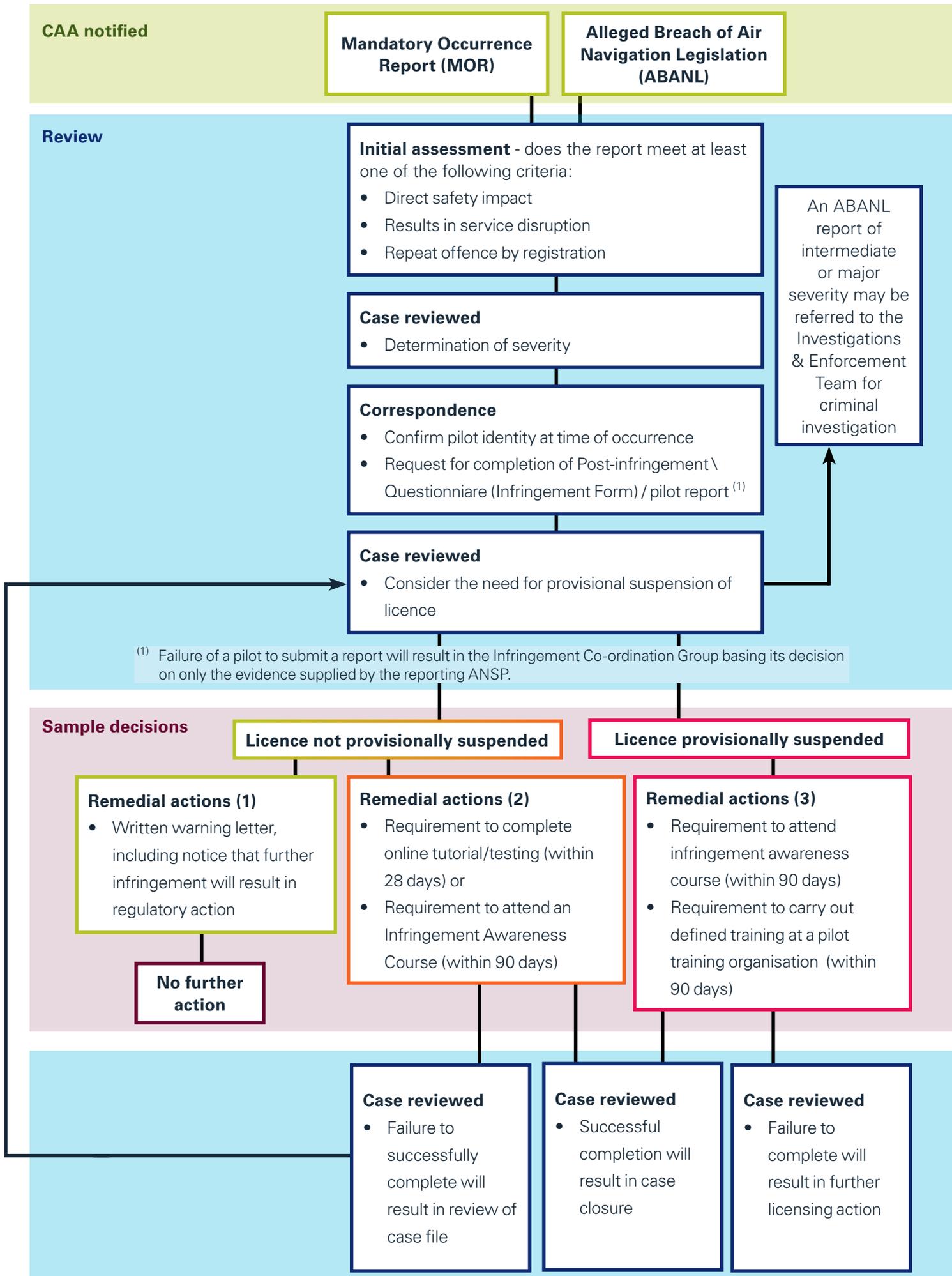
**ANSP procedures:** An ANSP's safety management system will often include its own safety investigation and follow up procedure to be adopted in the case of an airspace infringement event. This will include requesting the pilot of the infringing aircraft to complete a Post-infringement Questionnaire ([Infringement Form](#)) as part of a two-way learning exercise. The information obtained from the questionnaire will be shared with the CAA.

## Review process

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The following pages illustrate the process by which the CAA reviews and assesses reports of airspace infringements and determines appropriate actions. The process may end at different points depending on the information available and responses received, and/or the outcome of remedial measures.

# Process diagram



# Review

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All reports of airspace infringement received by the CAA are initially reviewed and evaluated according to:

- **Safety impact** (e.g. loss of separation, activation of ground/airborne collision avoidance tools, avoiding action turns given by air traffic control to aircraft under their control)
- **Service disruption** (e.g. departing aircraft held on the runway, arriving aircraft vectored from their planned track or delayed in holding patterns) as a safety barrier to prevent a loss of separation.
- **Previous infringement(s)** by the aircraft/pilot (if known)

A reported infringement which has any of the above characteristics is referred to the CAA Infringement Co-ordination Group (ICG).

The ICG is a multi-disciplinary team from across the CAA, comprising staff from the General Aviation Unit, the Investigations and Enforcement Team, Airspace Regulation, Air Traffic Management, Air Traffic Service Investigations, Pilot Licensing Policy, Safety Data and the CAA's Flight Examiners. It also includes representation from the MoD's aviation regulator, the Military Aviation Authority (MAA).

The ICG reviews reports of airspace infringements (using all available material, including information submitted by the airspace controlling authority, information submitted by the pilot and any previous records held by the CAA); confirms the identity of the pilot of the aircraft at the time of the infringement; assesses the severity of these incidents and determines appropriate remedial measures.

## Evaluation considerations

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Was radar separation lost?

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Was there service disruption, e.g. avoiding action issued, aircraft broken off approach, aircraft instructed to enter a hold or aircraft departures stopped on the ground?

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What were the airspace structures and complexity?

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What were the prevailing flight conditions?

---

Was the flight a visual flight rules (VFR) flight?

---

What pre-flight planning did the pilot do?

---

Was the transponder used and was Mode C selected?

---

Did the pilot respond to radio calls?

---

Did the pilot ask for help?

---

What licence and ratings does the pilot hold?

---

What was the pilot's level of experience?

---

Has the pilot infringed airspace before?

---

Does the incident suggest that the pilot's skills are deficient?

---

What is the pilot's attitude towards and understanding of the event?

---

Has the pilot subsequently undertaken any remedial training?

---

Having assessed the severity of the infringement, the ICG decides what, if any, actions are appropriate, as follows:

### Minor infringement

For example, an infringement which does not compromise flight safety or cause service disruption, where the aircraft/pilot has not previously infringed.

- **Usual minimum CAA action:** warning letter or pilot instructed to undertake the online tutorial/test or attend the Airspace Infringements Awareness Course

### Intermediate infringement

For example, an infringement which does not compromise flight safety but the aircraft/pilot has previously infringed; or an infringement which causes service disruption to IFR traffic.

- **Usual minimum CAA action:** pilot instructed to undertake the online tutorial/test or attend the Airspace Infringements Awareness Course

### Major infringement

For example, an infringement that compromises flight safety; the aircraft/pilot has previously infringed.

- **Usual minimum CAA action:** immediate provisional suspension of licence; attend the Airspace Infringements Awareness Course, and/or to attend a pilot training organisation for remedial training, as may be determined by a CAA Flight Examiner, and sign-off

## Provisional suspension of a pilot's licence

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At any point in the process, the ICG may provisionally suspend a pilot's licence if the CAA cannot verify that the pilot meets the requirements to hold a licence or the CAA is not satisfied that the pilot has the skills, knowledge or competence to fly. Normally, pilot licences will be provisionally suspended when a pilot declines to undertake a remedial measure or fails a remedial measure.

The pilot will be informed by telephone and in writing of the CAA's decision to provisionally suspend the licence.

A provisional suspension will be removed usually when the pilot has successfully completed one of the other remedial measures described below; this may not be the case if the pilot is subject to a criminal investigation by the CAA.

# Actions

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## Overview

The ICG decides which action(s) is/are appropriate.

Successful completion of a remedial measure will usually conclude the process, unless the pilot is subject to other enforcement action by the CAA. The remedial measure and outcome will be recorded on the pilot's CAA licence record.

If a pilot fails to successfully complete or declines to participate in any of the measures described below, the ICG will review the case and make a decision on which, if any, further remedial measure or licensing action is appropriate. Licensing actions include provisional suspension, suspension, limitation or revocation of a pilot's licence.

## Remedial measures

### Online tutorial and test

The online tutorial contains knowledge expected of a competent pilot, refreshing and then testing understanding of airmanship. The material has been compiled independently.

Pilots will be provided with log in details. The tutorial can be viewed at [infringements.caa.co.uk](http://infringements.caa.co.uk). The test comprises 20 questions to be completed in 15 minutes. The questions are constructed from information included in the online tutorial and core airspace/aviation knowledge required to obtain a flight crew licence.

### Airspace Infringements Awareness Course

The Airspace Infringements Awareness Course is a one day course run by CAA-approved organisations. It is designed to collaboratively increase awareness of mitigation measures and the impact of infringements. Successful completion of the course entails: provision of required identification to the course provider; timely arrival to and completion of each programmed element; and full participation.

Pilots will be required to cover the cost of their attendance.

### Refresher training at a pilot training organisation

The CAA will prescribe elements of the pilot training syllabus to be covered by the pilot. A minimum of six hours of refresher training must be attended at a pilot training organisation of the pilot's choosing. Training may be flight training, be ground-based or a combination of both.

Completion of training must be documented by the Head of Training or Chief Flying Instructor, with written confirmation of the topics covered and time spent on each topic provided to the CAA. A record of the training should also be retained by the pilot training organisation and may be subject to audit or inspection.

Refresher training at a pilot training organisation is conducted at the pilot's expense.

### Referral for investigation

The ICG may refer an ABANL report of intermediate or major severity to the Investigations and Enforcement Team for a criminal investigation.

## Lessons learnt

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Lessons learnt will be shared with Local Airspace Infringement Teams (LAIT) and the Airspace Infringement Working Group (AIWG). The CAA's Post-Infringement Questionnaire ([Infringement Form](#)) may also be used to inform LAIT and the AIWG of causal and human factors in addition to significant trends.

LAIT are established at major infringement locations to design and implement local measures to reduce airspace infringements. LAIT membership includes representatives from the CAA, the air traffic service unit, airlines, local aerodromes and local flying schools.

The AIWG is a cross-industry group which develops and implements a national strategy to reduce airspace infringements.

The CAA will publish data on the Airspace and Safety Initiative website ([airspacesafety.com](http://airspacesafety.com)) showing the following:

- Online tests taken, passed and failed
- Awareness Courses successfully completed and not completed
- Refresher training completed at a pilot training organisation
- Provisional suspensions of licences
- Other enforcement activity, e.g. prosecutions
- Type of airspace infringed

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Licence provisionally suspended CAA notified Review Sample decisions Remedial actions (3) • Requirement to attend infringement awareness course (within 90 days) • Requirement to carry out defined training at a pilot training organisation (within 90 days) Case reviewed • Successful completion will result in case closure Initial assessment - does the report meet at least one of the following criteria: • Direct safety impact • Results in service disruption • Repeat offence by registration An ABANL report of intermediate or major severity may be referred to the Investigations & Enforcement Team for criminal investigation Case reviewed • Failure to successfully complete will result in review of case file Case reviewed • Failure to complete will result in further licensing action (1) Failure of a pilot to submit a report will result in the Infringement Co-ordination Group basing its decision on only the evidence supplied by the reporting ANSP. CAP 1404 | 3rd Edition | December 2018 | [www.caa.co.uk](http://www.caa.co.uk)

Review All reports of airspace infringement received by the CAA are initially reviewed and evaluated according to:

- Safety impact (e.g. loss of separation, activation of ground/airborne collision avoidance tools, avoiding action turns given by air traffic control to aircraft under their control)
- Service disruption (e.g. departing aircraft held on the runway, arriving aircraft vectored from their planned track or delayed in holding patterns) as a safety barrier to prevent a loss of separation.
- Previous infringement(s) by the aircraft/pilot (if known) A reported infringement which has any of the above characteristics is referred to the CAA Infringement Co-ordination Group (ICG). The ICG is a multi-disciplinary team from across the CAA, comprising staff from the General Aviation Unit, the Investigations and Enforcement Team, Airspace Regulation, Air Traffic Management, Air Traffic Service Investigations, Pilot Licensing Policy, Safety Data and the CAA's Flight Examiners. It also includes representation from the MoD's aviation regulator, the Military Aviation Authority (MAA). The ICG reviews reports of airspace infringements (using all available material, including information submitted by the airspace controlling authority, information submitted by the pilot and any previous records held by the CAA); confirms the identity of the pilot of the aircraft at the time of the infringement; assesses the severity of these incidents and determines appropriate remedial measures.

Evaluation considerations Was radar separation lost? Was there service disruption, e.g. avoiding action issued, aircraft broken off approach, aircraft instructed to enter a hold or aircraft departures stopped on the ground? What were the airspace structures and complexity? What were the prevailing flight conditions? Was the flight a visual flight rules (VFR) flight? What pre-flight planning did the pilot do? Was the transponder used and was Mode C selected? Did the pilot respond to radio calls? Did the pilot ask for help? What licence and ratings does the pilot hold? What was the pilot's level of experience? Has the pilot infringed airspace before? Does the incident suggest that the pilot's skills are deficient? What is the pilot's attitude towards and understanding of the event? Has the pilot subsequently undertaken any remedial training? CAP 1404 | 3rd Edition | December 2018 | [www.caa.co.uk](http://www.caa.co.uk) Having assessed the severity of the infringement, the ICG decides what, if any, actions are appropriate, as follows: Minor infringement For example, an infringement which does not compromise flight safety or cause service disruption, where the aircraft/pilot has not previously infringed.

- Usual minimum CAA action: warning letter or pilot instructed to undertake the online tutorial/ test or attend the Airspace Infringements Awareness Course Intermediate infringement For example, an

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infringement which does not compromise flight safety but the aircraft/pilot has previously infringed;  
or an infringement which causes service disruption to IFR traffic.

- Usual minimum CAA action: pilot instructed to undertake the online tutorial/test or attend the Airspace Infringements Awareness Course Major infringement For example, an infringement that compromises flight safety; the aircraft/pilot has previously infringed.
- Usual minimum CAA action: immediate provisional suspension of licence; attend the Airspace Infringements Awareness Course, and/or to attend a pilot training organisation for remedial training, as may be determined by a CAA Flight Examiner, and sign-off Provisional suspension of a pilot's licence At any point in the process, the ICG may provisionally suspend a pilot's licence if the CAA cannot verify that the pilot meets the requirements to hold a licence or the CAA is not satisfied that the pilot has the skills, knowledge or competence to fly. Normally, pilot licences will be provisionally suspended when a pilot declines to undertake a remedial measure or fails a remedial measure. The pilot will be informed by telephone and in writing of the CAA's decision to provisionally suspend the licence. A provisional suspension will be removed usually when the pilot has successfully completed one of the other remedial measures described below; ***this may not be the case if the pilot is subject to a criminal investigation by the CAA.***

## EHR Complaint Against CAA – Annexe III

Findings and views of an affected pilot of significant qualifications and experience, who put his thoughts on the internet:

<http://www.peter2000.co.uk/aviation/intro/uk-infringements-policy.html>

### **New UK Airspace Infringements Policy**

For as many decades as anyone can remember, if you did a minor CAS (controlled airspace) infringement you got called up by ATC and were told to turn left/right/descend to get out of there. Occassionally you got a telling-off. Or, if not talking to the CAS owner ATC unit at the time, you were asked post-landing to phone them afterwards for a "conversation" but this was invariably polite and the intention was to make it a learning experience.

Serious and "provocative" infringements - those which shut down an airport, disrupt an airshow, badly breach a politically sensitive restricted area, for example - were treated more heavily, with CAA-imposed "retraining" and a new checkride, or a fine, or in rare cases (and especially where the pilot didn't show the correct attitude at the CAA interview) a court prosecution. In the GPS age, these big ones have thankfully been very rare.

That is still how it is done in mainland Europe, and probably the rest of the world. This is reasonable, since nearly all infringements are brief (seconds to minutes), are the result of brief distractions, and do not constitute a hazard to traffic inside CAS. Some countries have very large possible fines - e.g. 50,000 euros in Germany - but they are not used for infringements.

The infringement numbers in the UK are small relative to much of Europe. The current data is published [here](#) and compares well with around 4000 infringements reported annually for just the Prague TMA.

In the UK, however, sometime in 2017/2018, the UK CAA policy on airspace infringements was dramatically tightened up. They appear to be aiming for a zero infringements level and have established a 100% strict reporting system and a 100% strict "pilot processing system". They have also overhauled the reporting of infringements in scenarios which were previously largely disregarded; ATZs (whether ATC staffed or not) are the most fertile new area now. When an ATZ is infringed, the report normally initially comes from somebody in the vicinity; possibly an instructor in an airborne aircraft. Most ATZs don't have a radar and a nearby radar unit is contacted for their radar data so the infringer can be busted.

DAs (danger areas) are also watched carefully nowadays. Basically you have to assume everything printed on the chart is watched, with a zero tolerance.

Most of the larger ATC units have software called CAIT which monitors the radar data and flags up infringers in a different colour. The details of its operation are confidential but pretty obviously it compares the transponder codes with the range which is possible for that airspace. In the UK, each CAS owner issues a different squawk for entry into their CAS. You are almost never cleared to enter CAS without a special code being assigned beforehand. And if the CAS goes all the way to the surface (CTR, CTA, etc) then non-transponding aircraft are obvious.

Around 2017 the CAA started an "online tutorial and exam" which was evidently used for most or all "first time offenders". This was based on an ancient question bank and contained many bogus questions. Some questions were on a specific notation on VFR charts last published some 20 years ago... Also, the expectation which the tutorial created was that the subsequent exam would be on the content of the tutorial (which, obviously, everybody read really carefully) but it was almost wholly unrelated. One discussion is [here](#) showing the main issues. The exam, with just 20 questions and 45 seconds per question, was probably set up by an ex military person, to be maximally stressful, and the CAA-published numbers showed that most did in fact fail it. I did this exam (following a very minor infringement) in 2017 and of course failed it. Those who failed it had to go to a flying school for a "talk" with an instructor. When - after extreme difficulties over some weeks - I managed to contact the man at the CAA who runs this whole new scheme, asking if he would credit the dodgy questions - this option is available on the EASA IR etc exams - he bluntly told me that if I got all the good questions right I would have still got a pass mark!

The above online exam is rarely used now, presumably because it has been discredited by the high failure rate. The CAA never admitted there were bogus questions in it.

Around 2018 the CAA people running this went looking for a tougher route and contracted with an "aviation charity" called [Gasco](#) to run an Airspace Infringement Awareness Course (AIAC). *Gasco have for many years been running rather pompous "safety evenings", notable for the hissing from the audience of the faithfuls when the dreaded word G-P-S was uttered by some infidel 😊* This course is run once a month at various locations around the UK. The Gasco charge for the course is £200 and according to their published accounts they do rather well out of it. The cost to the pilot is usually considerably greater than the £200 because while the locations are widely spaced geographically, there is only a small number of them. The course [terms](#) state that if you arrive late (9:30am start) you are deemed to not have attended and since not attending will directly lead to a license removal and nobody can take a chance on the road traffic, most stay in the hotel where the

course is run, or nearby. The total cost is thus anything up to £500. This course is imposed by the CAA with no appeal or any possibility for the pilot to state his case (other than in the reports submitted earlier; see below). In contrast with its smooth sounding [overview](#), [part1](#) [part2](#), the course has little value to a pilot with any experience (it is largely a rapidly delivered one-way lecture) which is ironic given that most people who end up on it got there because they were flying with Mode S. There are a lot of high-hour pilots, bizjet pilots, and some instructors and examiners. I did Gasco in 2019 - [my course notes](#). [This completely false flyer](#) from Gasco gives you the flavour of their understanding of the issues...

The CAA people who set up this scheme produced a document called [CAP1404](#) which details the process. This is ambiguous in places. For example, it does not state the time period after which an infringement is regarded as "spent" but after several FOIA (Freedom of Information Act) applications this was discovered as [two years](#). Recent evidence confirms that the 2 years is timed from the date of the CAA committee decision i.e. from the date of "conviction".

CAP1404 also states that the first step is a warning letter, the next step is Gasco, and the next step is a license suspension. [This represents a sharp escalation](#). It can be achieved by a pilot infringing in Jan 2020, again in Jan 2022, and again in Jan 2024. These infringements can be the most minor ones possible, and are very hard to avoid if flying VFR OCAS in UK airspace - unless one adopts an extremely conservative approach which often produces routings 1.5 to 2x longer.

The aviation laws which give the CAA the power to suspend licenses are referenced [here](#). There is a legal argument that the above UK legislation contravenes EU laws on the license suspension process (and these laws will be incorporated into UK law on Brexit date, supposedly) but nobody has yet tried this angle. It is also high risk because - see CAP1404 - as soon as court proceedings are on the horizon, the timescales can be extended, and you will already be suspended.

The CAA disregards the 200ft permitted altimeter error. If they see your Mode C return to be 100ft inside CAS, even for seconds, you will be busted for it, and there are known cases. This also should not stand up in a court case but nobody has yet had the courage to try it. The [CAA stats](#) show that gross altimeter errors did lead to people being let off, subject to the error having been validated by a "licensed engineer" and at their own cost.

The current process following an infringement starts with the CAS owner (generally NATS) writing to the pilot and asking him to complete a report, containing his version of what happened:

*The subject of infringements of controlled airspace is a major concern to NATS who view the matter as a significant safety issue. It is NATS current preference to*

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*work with pilots who have been responsible for an infringement of controlled airspace so that the reasons behind the infringement can be identified. We would therefore be grateful if you could please provide some feedback regarding the actions that led to this infringement by completing the infringement questionnaire which can be found online at <https://www.nats.aero/infringements> Information we collect from these forms will be collated and analysed statistically by NATS for the identification of common factors and trends. NATS will also share the form with the UK Civil Aviation Authority under the principles of the MOR scheme as detailed in CAP382.*

Reading the above, most pilots would think this is a data collection process for improving safety. It isn't... you are being asked to submit a report which goes to the CAA. Then the CAA writes to you, pointing to a [web page](#) containing this:

*The purpose of occurrence reporting is to improve aviation safety by ensuring that relevant safety information relating to civil aviation is reported, collected, stored, protected, exchanged, disseminated and analysed. It is not to attribute blame or liability. This delivers a European Just Culture Declaration.*

Again, most pilots would think something similar to the above. So they duly fill in a report which is practically identical to the previous one. In doing so they self incriminate. In a proper criminal system the accused is supposed to be told that anything they say can be used against them. The correct UK wording (used by the police) is:

*“You do not have to say anything. But, it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.”*

And, sure enough, some weeks later you get the judgement:

*The CAA Infringement Coordination Group have reviewed both the MOR and your report and have agreed that the remedial action required in this instance is your attendance at an Airspace Infringement Awareness Course (please see letter attached). The course is run every month by GASCo and I have listed the course dates and venues to assist you choose which is most suitable for you. Booking is to be made at the following web site: <https://gasco.w4x4.com>*

There is no appeal.

This may not sound a harsh sentence (less than £500 usually and 1 or 2 days off work) and almost all pilots just get on with it, grateful it was not any worse. But the real gotcha is that if you do another infringement within 2 years your license is likely to be suspended! This is tough if you fly a lot, with a transponder.

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From some past cases where the pilot went public with the details, it appears that if you write a large amount of highly self critical text in the two reports, you have a much better chance of getting just a warning letter - as a first offender.

Following an infringement which you are aware of but you were not talking to ATC at the time, there is no point in apologising to ATC. They should have already reported it internally and shortly will be passing that (mandatory, via the MOR system) to the CAA. After my 2019 infringement (reported later by NATS to be 1 minute 35 seconds) I phoned the ATC unit to apologise and they said they had no record of any infringement that day. However my call must have led to an internal investigation and sure enough I soon heard from NATS. Lesson learnt! And quite possibly the ATCO who "failed" to spot it got disciplined - for being decent! If you were talking to ATC and they just told you off, it is again best to lie low, on the small chance that the ATCO is going to take the risk of not reporting it and save himself the hassle of writing a report.

For those who want their "day in court", the only way is to ignore the CAA communications and orders. This forces the CAA to prosecute you. This is a high risk strategy, because - unless you have a GPS track proving otherwise, or wish to argue the permitted 200ft altimeter error, or there is some ATC related excuse - you have infringed, after all. Also, per CAP1404, there are then no real timescale constraints on the CAA, and because they will suspend your license immediately upon your decision to not co-operate, you could be grounded for a long time. In one case I know about the pilot waited 6 months for the court hearing, and that was despite spending 5 figures on a top lawyer during his suspension! The CAA has always operated a scheme whereby they tell you that if you lose they will apply for costs which are perhaps 5x greater than if you plead Guilty, and since the numbers are at least 4 digits, most pilots cave in.

A factor in many infringements is the interaction between the pilot and ATC, and how long things can take. The typical scenario is a departure from an airport which is outside CAS and the pilot calls up ATC for a clearance, and while he is waiting, perhaps changing course or orbiting, he infringes. Obviously this is the pilot's fault because he is supposed to orbit, stay low, etc, but this is often impractical especially in a fast aircraft like a turboprop or a jet. In the UK, it is generally impossible to obtain a CAS clearance before departure if the airport is OCAS (there are a few exceptions only). You have to get it on the radio and somehow remain OCAS while doing it. If you need a clearance enroute (to e.g. cross a piece of CAS) then you need a Plan B and be prepared to execute it very sharply, and many infringements happen when ATC is slow in issuing the magic words "cleared to...". I've had many cases where this was issued so late that a Rate 1 turn would cause one to infringe... Accordingly, ATC is never formally implicated.

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Following more FOIA applications, the CAA eventually started publishing the [statistics](#) for this process.

These are revealing. The indications from this and elsewhere are that the procedure which the CAA is using is

- select the few really bad ones (e.g. major airport shutdown for 30 mins) and suspend them pending re-doing [some] PPL exams and a new skills test with a CAA staff examiner; bad attitude cases, or pilots who want a court hearing, get suspended and in due course prosecuted
- select next ~20 (each month) and send them to Gasco
- the rest get warning letters

Due to the finite capacity of the Gasco "course", around 20-25/month, there is the expected seasonal variation in the percentage of pilots which get sent there. In the winter, when GA activity is much lower, the number of infringements is also lower, and they can pack the majority of infringements - particularly CAS infringements - to Gasco. In the summer, it looks like a first time offender gets a warning letter roughly 80% of the time. Unsurprisingly, on the Gasco session I did in June (reflecting offences committed a few months before) most people there got Gasco on their first offence.

As mentioned above, new categories of infringements are being followed up, with ATZs being among the most fertile areas as well as the most controversial. The Barton EGCB airfield has become well known for filing MORs in large numbers - discussion [here](#). Most pilots do contact the tower long before reaching the ATZ but there are scenarios where this doesn't happen (non radio aircraft being the most obvious) or doesn't happen in what is the very latest CAA prescribed form. Enroute this is a problem because with many ATZ tops (2000ft AAL) being really close to the 2500ft AMSL base of much UK Class A, you have little margin for error.

Danger areas (DAs) are also being followed up vigorously, and there's a lot of those around. *Each DA potentially has a different regulation - called a "byelaw" - attached to it. But not all DAs have a byelaw. And not all DAs are an offence to fly through. Furthermore, many DAs created by bye-laws are shown on CAA charts as being far more expansive than required by the bye-laws...*

An additional UK-specific factor is that once you have infringed CAS, and if not talking to the ATC unit that owns the CAS, they add 5000ft/5nm (these values are disputed by some, and some ATC units may be working with 3000ft, but they are the current numbers in CAA/NATS publications, and the actual values for a given airport are in MATS Part 2 which is confidential) to your position and if there is an airliner within this huge artificially-created volume, it is regarded as a Loss of Separation. This results in the ATCO being taken off duty for some hours, to write

reports. This of course dramatically inflates the seriousness of any event. Note that in the UK you are usually not talking to the ATC unit that owns the CAS because most of them don't provide a service to OCAS traffic. If one looks (e.g. on FR24) at the typical altitudes at which airliners are to be found in the "usual places" in the UK, you will find that they are usually several thousand feet above where GA is found - even when infringing - but if you add 5000ft to an infringer this situation changes dramatically because e.g. 2600ft suddenly becomes 7600ft and at 5000-8000ft the (e.g.) Gatwick CTR is full of traffic. So the UK has made a big rod for its own back, but one which delivers lots of losses of separation.

A key aspect of the UK system is that talking to ATC, and even talking to a radar unit which is providing you with a radar service (called Traffic Service, or the rarely used Deconfliction Service, in the UK), does not get you off the hook for an infringement. If you are talking to a radar controller and your altitude has been verified, the 5000ft add-on mentioned above does not need to be applied (I believe it is then just 1000ft) so the chance of an official "loss of separation" is much smaller. But you will still get MORd... It is possible that being in contact (or flying under a listening watch, with the appropriate transponder code) could make the difference between getting a warning letter and getting sent straight to Gasco, and it would make sense, but I have not seen any evidence of it under the new CAA policy. I have been flying in the south east under a listening watch with Gatwick and, despite being an IFR pilot for 15 years and used to flying in rapid-fire radio conditions, I think most GA pilots will not be doing this because the constant radio talk is distracting. It is almost totally nonstop so you cannot talk to passengers.

There is a strong ex Royal Air Force, particularly ex RAF ATC, element in the CAA and Gasco personnel involved in this new scheme. The modern RAF has in the meantime moved to a Just Culture process - described [here](#) - which is a world apart from what the CAA is now running and which CAP1404 claims to be following. It is astonishing how CAP1404 can use the words Just Culture at all, for a process which is wholly centred on punishing pilots, with no effort put into education.

The CAA has confirmed that an infringement is a criminal offence. There has been a recent proposal (from the new Minister for Transport, Grant Shapps) to de-criminalise infringements which would be a welcome move if it also changes the CAA process described here.

In a controversial policy, the CAA department running this new scheme has been putting pressure on social media mods/admins to avoid discussing this topic. Nowadays, only EuroGA is running it, [here](#), in what has become by far the longest thread we've had. I am one of the admins and - along with others I know - have received very direct "invitations" for a talk at Gatwick. All those I know who received these, except one who runs a UK forum, have refused to go. It's a bit like

Vlad the Impaler asking you to drop in for a cup of tea 😊 And with two past infringements (both very minor) there is no doubt they will go after me to the maximum extent possible if I do it again within the two years. The NATS, CAA and Gasco staff are prominent on the UK flying forums and are readily recognisable, primarily from a high-handed lecturing style on regulatory matters coupled with an unusual lack of interest in anything connected with actually flying aeroplanes. Similarly, with access to the CAA pilot database, it must be reasonably assumed that they are readily able to identify most of the forum participants... It is hard to write more than a few lines on a forum without revealing something about where you are based, what you fly, etc.

All this makes flying around the UK, particularly the southern parts, pretty risky to one's license, and requires a very careful watch kept on the GPS - not ideal when you are also looking out for traffic. Accordingly, I have almost stopped flying in the UK, apart from simple local flights. Flying under any 2500ft base CAS, or (with rare exceptions) under 3500ft base CAS, is over. Any A-to-B flights which I now do are entirely on autopilot, fully programmed with the route, and with the entire flight at a single altitude. If I can get a CAS transit that's fine for a shortcut but the autopilot is set up to fly the whole route without that. I have also stopped sightseeing flights with passengers; these are by far the biggest candidates for momentary infringements. Similarly I no longer do the mentoring I used to do. Long trips e.g. to Scotland I would do only under IFR (which needs the full IR; the UK IMC Rating is no good for this because most airspace is Class A). The main attraction now is flying abroad which I have [always done](#) and which is like a breath of fresh air. My total hours are at least 1/3 down.

On all flights in UK airspace except local ones I record the audio and keep the mp3 files for at least a year. The GPS track is also recorded anyway on the tablet on which I run the GPS moving map. This is important since if there is a dispute regarding what was said, the pilot gets no access to the ATC tapes. Only the CAA can get them... unless you opt for the high risk court route. I advise anyone flying in the UK to get an mp3 sound recorder and have it plugged into the aircraft intercom. I use [this circuit](#). It is dead easy to do and these recorders come up on Amazon for very little. I use a TASCAM DR-05 which is good for flying movie audio but is an overkill for this purpose. An even simpler way is a recorder with a small mike which is tucked under the headset. Listening to some pilot-ATC radio exchanges in the UK, where a pilot made a specific and unusual request for a confirmation of something, suggests quite a lot of pilots are recording stuff for their own protection. I must admit that if I was flying at say 1800ft under the 2000ft CAS base around Solent (who have MORd some amazingly marginal infringements) I would ask ATC to confirm my transponder return, just for the recording. Note that recording ATC is probably illegal in the UK so you never read this here 😊 Actually there is an interesting [legal argument](#) around the "illegality" which probably explains why there are no known actions under the Act.

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No doubt ATC - those actually working, rather than those at the top - don't like this very much either. UK ATCOs are really professional and nearly all of them are really decent people who support GA. Privately, they have stated on various occasions that they hate writing the MOR reports. It has also been reported that NATS have made it a disciplinary offence for an ATCO to not report an infringement; this is denied by some on UK social media, but the regulation supporting this does exist within ATC. They are now noticeably much more proactive on warning pilots flying in the vicinity of CAS, although I have not noticed any improvement in the likelihood of getting a transit.

Pilot reports indicate that the CAA often does not let you know if they have decided to take no action. They just leave you hanging... after maybe a year you can probably assume they dropped it. This is outrageous and arrogant.

I predict a gradual rise in pilots flying with transponders turned off (which is not legal) or removing them / leaving them defective / leaving the altitude encoder defective (which is legal). This of course represents a big reduction in safety all around.

What happens to foreign pilots is not known. Reports from known infringers who live abroad indicate that the MOR is filed. Based on my own knowledge of a case from many years ago, the CAA is highly likely to write to the CAA of the pilot's home country and ask them to take action against the pilot. ICAO framework supports this procedure. What the other CAA will do depends on what they think of the UK CAA's evidence... In a reversed version of this, I know the UK CAA has in the past, many years ago, summarily dismissed a similar action from the French DGAC (where the circumstances were clearly a despicable conduct by both the DGAC and the ATC involved) so anything can happen. An FOIA application would reveal the general policy, which is as the aforementioned. They would not discuss individual cases.

What happens to UK based N-reg pilots - a huge community which includes most of UK's high-hour going-places pilots - is of particular interest to many. There are two posts [here](#) and [here](#) which are from a known senior CAA (and formerly NATS) official and which suggest the CAA could get the FAA to summarily remove your FAA certificates (licenses/ratings). I have tried to check this out via the legal department of AOPA USA (of which I am a member) but they were not interested in looking into it. Additionally, ICAO allows each Contracting State to prevent its nationals (effectively, passport holders) exercising the privileges of foreign licenses, in its airspace; this attack appears to be rarely invoked. From the foregoing links and actual experience (I am N-reg too) it appears that their preferred route is to treat the pilot as if he was a UK resident G-reg i.e. simply get him to accept Gasco etc. This may involve contacting the FAA asking for their permission to deal with the pilot locally; I have no idea if the CAA actually does

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that. And I have not seen any procedures in suspension cases. If any data ever comes out on a UK based N-reg pilot who got suspended, it will be interesting to see what exactly the CAA did. I hope I am not the one to make that report Any corrections are appreciated:

[Contact Details](#)

**This page last edited 4th February 2020**

## EHR Complaint Against CAA – Annexe IV

**From:** Jaap Rademaker <[rademaker01@yahoo.com](mailto:rademaker01@yahoo.com)>  
**To:** [rob.gratton@caa.co.uk](mailto:rob.gratton@caa.co.uk) <[rob.gratton@caa.co.uk](mailto:rob.gratton@caa.co.uk)>; MOR Responses  
<[mor.responses@caa.co.uk](mailto:mor.responses@caa.co.uk)>**Cc:** Hillier Stephen  
<[stephen.hillier@caa.co.uk](mailto:stephen.hillier@caa.co.uk)>; [deirdre.hutton@caa.co.uk](mailto:deirdre.hutton@caa.co.uk) <[deirdre.hutton@caa.co.uk](mailto:deirdre.hutton@caa.co.uk)>

**Sent:** Wednesday, 30 September 2020, 21:19:57 BST

**Subject:** CAA investigation and prosecution - some practical guidance on Human Rights safeguards

Dear Mr Gratton and colleagues of the CAA Infringements teams,

I fully support your work in preventing infringements, which is of great importance to safety in the air. It has become clear to me having now investigated over the last two months, a significant number of past cases brought to me, that there is a hiatus in your teams in the understanding and application of proper legal process of how to investigate cases. I understand from your legal team that they are underresourced and unable to cope well. I therefore thought it would be helpful for me to give you here, practical insight tailored to your job, into how you can navigate the vast seas of the law well without years of studying law, so that Human Rights of pilots suspected of infringements are protected (and not "infringed by you" to use that term in a legal context), and so that when you investigate and prosecute these offenders that is done well, such that decisions your department makes, are not invalidated afterwards on technicalities and compensation for wrongful prosecution becomes due, for the reason you have not followed due process and provided for prescribed safeguards, making your prosecutions null and void.

These safeguards are called Human Rights, they are the inalienable, sacred pillars for our society where freedom and the Rule of Law are present and protected and where we are free from random tyranny; they were first mentioned in England in the Magna Carta of 1354 thus: *"No man of what state or condition he be, shall be put out of his lands or tenements nor taken, nor disinherited, nor put to death, without he be brought to answer by **due process of law.**"*

Article 6 and following of the European Convention on Human Rights, which was incorporated exactly and word for word into British law through the Human Rights Act 1998 applies as the measures of CAP 1404, forced attendance of airspace awareness courses, and suspension or revocation of flying licenses are punitive - meaning that regardless of domestic UK legal qualification, the matter is a criminal law matter, meaning that safeguards must apply.

In practical terms:

- you must whether starting communication with a suspected infringer, whether in writing or verbally, state at the beginning that the suspect has the right to remain silent, and that the suspect is presumed innocent until proven guilty, and that the suspect should seek qualified legal counsel; if this is not done, this procedural violation leads to inadmissibility

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- I strongly recommend you communicate in writing only; and if speaking with someone, this must always be recorded;
- you must state immediately at the beginning what you are charging the suspect with;
- you must immediately provide clear and unequivocal evidence of the infringement committed.
- you must allow the suspect sufficient time to digest this, and prepare his defense - the current 12 days the CAA gives, is insufficient, the standard is 8 weeks at minimum with extensions available, and excluding the time that is needed to with absolute certainty have reached the suspect (I suggest using the same procedures as in criminal law - this process usually takes 6-12 weeks).
- you may not suspend or revoke a licence with immediate effect with a mere phonecall, unless in the most extreme cases, and even then, with safeguards of two independent experts who have reviewed unequivocal evidence, have brought this to the judge presiding a normal trial (see below) and have his agreement;
- you are not at liberty to communicate with anyone except the suspect in question; and you must ensure all personal data is dealt with compliant with GDPR legislation in force;
- you must *not* in any way coerce suspects to incriminate themselves or others - if this is done, or if the right to remain silent is not communicated, all after that is null and void, invalid, so ensure you do this otherwise all your work is to no avail or effect and can be disregarded, and it gives due cause for compensation payment as well
- you must when evidence or supporting statements, whether weather reports, or equipment analysis showing for instance overreading transponders or underreading altimeters are brought forward, take these into account and discuss them in a verdict (which you call decision letter)
- you must leave the decision making process to an independent judge or judges or tribunal, for reasons of separation of powers of rule making, enforcing the rules and judging by the rules (the Descartes principal of Trias Politica) - they cannot consist of investigators but must be independent (*the system as it is now of one and the same unit or even person being investigator, policeman, prosecutor, judge, jury and executioner, all-in-one is not legal and is not best practice*) - in this vein, investigators should submit their results to prosecutors, to decide whether the evidence is sufficient, and the gravity is such that prosecution should follow.
- these judges must carefully weigh the interests of the CAA and safety in the air, and weigh the interest of the pilot, and weigh any relevant circumstances such as inclement weather - as a flying license can be the sole source of income for a pilot/instructor/commercial pilot, be aware that in our society restricting someone's freedom - whether by putting that person in jail, or by depriving that person of his income for say, the six months of his suspension - is an extremely grave matter, and the highest standards of evidence must apply - only if there is evidence beyond any shadow of a doubt, can there be a conviction where a punitive measure of awareness course, or suspension. Any decision must be proportionate. Be mindful that in

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legal terms, due process is more important than crime control - it is better three murderers go free, than having one innocent person be jailed.

- the severity of the alleged infringement is also important: an infringement of an amateur pilot flying through Heathrow for half an hour must be treated differently than a 100 foot incursion in a remote gliding airfield in Wales with zero traffic.

- there must be a right to appeal to an independent higher court.

Last but not least, on a macro societal level, creating a good working atmosphere by displaying reasonableness must be shown, to ensure willingness to comply by the majority of pilots, by way of forging a good reputation based on equitable, reasonable and well-grounded and documented decisions.

This practical guide is meant to help - it is not exhaustive, only the most important points are given, it is no more than very basic first aid, your legal department needs to do a lot of work to make things compliant. Your investigators really need the same training as Police Officers or Crown Prosecution Officers, for dealing with criminal offences. You must add a leaflet to your letters containing the following, which is the Inland Revenue leaflet that is provided to people once a penalty or punitive measure is considered, it is very useful for you: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/863340/Compliance\\_checks\\_-\\_The\\_Human\\_Rights\\_Act\\_and\\_penalties\\_-\\_CC-FS9.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/863340/Compliance_checks_-_The_Human_Rights_Act_and_penalties_-_CC-FS9.pdf)

Finally, having amongst my five degrees a masters in Human Rights Law as well as being qualified to lecture at Universities, I am happy to help and offer herewith to give a lecture to your teams; we could video that and through youtube, allow all pilots access to that too.

For educational purposes, here below I will include the transcript of your actual call with the pilot in formation with me following a suspected infringement in June this year (which he and I proved with evidence we submitted, to in actual fact not be an infringement), rereading that earlier today, and in the light of the above, it is a useful exercise to realize how *not* to do things and to indicate to you in an understandable way how the law translates into your daily practice, where violations arise and what exactly is wrong - inserted, in **bold** - such also in light of the fact that the interviews with dozens of pilots affected similarly with phonecalls from you that I have researched carefully over the last two months, follow the same pattern each time:

*RG: ..... So I am looking for the pilot in command of [aircraft type 1 and callsign] that flew out of Sleaf, to the South East in Formation with a an [aircraft type 2, no callsign] on the 26th of June 2020. **right to remain silent "caution" not enunciated by RG; it may harm your defence if you do not remain silent not mentioned by RG; possible punitive measures not mentioned by RG if caution not given, all is inadmissable, null and void and acquittal of suspect is automatic.***

X: OK, I was flying the [aircraft type 1], how can I help.

*RG: Ok, right, so we have got a Mandatory occurrence report that you were involved in an airspace infringement and we need to carry out an investigation, mmmm, can I take some*

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*details so we can write to you in order that we can hem advise you what has been reported and we can get a report from you. **evidence of infringement not brought forward by RG***

X: You can write to me. And you can let me know what the alleged infringement is but what I can tell you is that I stayed safe and legal at all times and I complied with all instructions ...

RG: *[butting in] it is alleged that you flew through the RAF Shawbury Traffic Zone without permission.*

X: OK, well, I stayed well clear of the Shawbury ATZ at all times, upon arrival and departure as confirmed visually and by gps so this ...

RG: *[butting in] what gps where you using*

X: I was using a mobile GPS

RG: *Ok, so Ok, can I take your name first of all please?*

X: [gives name and email]

RG: *and what sort of license do you have please*

X: I have a commercial license

RG: *Ok and what is the issuing state*

X: [EU country]

RG: *A commercial, a CPL issued by [EU country]..... OK thats fine. Were you using something like SkyDemon or Rocket Route or Runway HD*

X: I don't think I will be answering any questions like this at this stage

RG: *Why not because at the end of the day this is not a criminal investigation and if you choose not to, then we can carry out what is called a CAP 1404, we carry out licensing action based on the MOR alone, so it's much....* **Incorrect, due to the punitive nature of the measures in CAP 1404 (suspending or revoking flying licences) this is a criminal matter in context of article 6 and following Human Rights Act 1998 and safeguards such as right to remain silent, presumption of innocence, self-incrimination not permitted**

X: No, sorry sir, I don't like you threatening me at all with licensing action and I would like to see you actually be in a position do anything against a license that you haven't issued. You can send me your report and I will deal with it. I have made my statement that I stayed clear and safe and legal outside the ATZ at all times.

RG: *Ok, Ok, I will advise my colleagues then that you are refusing to to send a report to us as as I have asked politely. In accordance with the just culture. **illegal - intimidation and coercion and pressuring suspect to self-incriminate***

X: Thank you sir, this conversation is terminated, you have not asked it politely, you have threatened with taking away my license so, you...

RG: *[butting in] can I have your phone number please*

X: gives phone number

RG: *just to reiterate this is a just caution CAP 1404, I have your email address [ ] We will send the, a letter to you with a link to the form we want, we would like you to, you have a responsibility under EU law to submit an MOR anyway of the alleged*

**infringement. badgering the suspect; borderline in the sense that suspect has in fact no obligation to submit anything; CAA as prosecutors need to bring forward all evidence and evidence must be of a high standard, unequivocal and conclusive**

X: Well when you send me some information, why don't you start with sending me the latest calibration and certification documentation of the Shawbury Radar. And once I have seen

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that, then I will respond to your letter.

*RG: That's a military piece of equipment so you'll have to make your request with the ministry of defence incorrect - CAA must provide all evidence and of a high standard see above*

X: Well you're relying on that equipment so..

*RG: I will also pass this on to the military because they have a requirement when they submit a report to investigate as well so you would like the radar calibration, data*

X: Calibration and certification data yes

*RG: so documentation yeah, I will see what I can do and I will also ask for radar hem radar trace be done mhm as well OK. violation of due process and best practice: admission that evidence of radar trace is not in possession of CAA investigator and not verified and analyzed*

X: Why not.

*RG: I'm being, I'm being open and honest here, I think you are being, you're not wanting to work with me. All I am trying to do is to reduce airspace infringements in the UK and I have an alleged report and I have to review that in accordance with our requirement as the independent safety regulator ehm and..... illegal - further attempts to coerce to self incrimination*

X: That's all good and well. That's all good and well. You can review. There was no airspace infringement. That's Crystal clear.

*RG: OK. Can you tell me the name of the pilot in command of the other aircraft that you were in formation with please. illegal - violation of GDPR and coercing suspect to incriminate others*

X: I am not answering any further questions. I will wait for your letter.

*RG: Ok, thats, thats ok, thank you very much for your assistance. And your ehm.. We will write to you ehm in the coming days and I will also copy in your details to the ministry of defence and ask them to provide that information to us in order that we can as the review goes on of this alleged occurrence we can put it all together in a case file so we can explain to you the details, OK.*

X: That's fine, thank you.

*RG: Yeah, ok, nothing needs to be said at this stage, thank you very much.*

X: Thank you, bye bye RG: Bye

What this also shows is - as per the below internal CAA documentation which we were given, you did not have sufficient evidence other than someone seeing something (without any measuring equipment), there were no radar traces even as you yourself admitted in the phone conversation above, and are liable to compensate the cost of frivolous or wrongful prosecution. You must not frivolously or without grounds infringe on people's time and freedom - do you see what you have cost in time ? Can you think of suggestions to prevent the mistakes occurring again in future ? This is a useful and necessary learning moment.

I trust this helps you and your teams, the pilot community and the CAA and is a good start to overhauling the legal side of the work of the CAA. Knowing the rules and legislation you are subject to, is crucial to do your job and prevent you infringing.

Yours sincerely

Drs J. Rademaker LL.M MSc

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EHR Complaint Against CAA – Annexe V

Pilot Magazine, November 2020 article



Even before TAG Farnborough was granted controlled airspace to protect its private bizjet ops, the South-East had become a nightmare for GA navigation

# INFRINGEMENT INJUSTICE

As complaints mount from pilots who feel they have unjustly been accused of infringing controlled airspace, we ask if the CAA is acting fairly – or even lawfully...



**A catalogue of errors**

So, you think you know your altitude and your transponder will be giving reliable data? Read on! Pete Kynsey lists the precision errors that can so easily lead to an apparent infringement

**1. Transponder error** Transponders are tested only every year at most. The CAA requirement is plus or minus 125 feet. Checks (not true calibration, note-Ed.) are done on the ground and do not therefore take into account errors generated in flight when the transponder is connected to the aircraft's static system. Some manufacturer's continued airworthiness requirements do not require any repetitive checks.

**2. The aircraft's static system** This is never checked in the air for private aircraft so is an unquantifiable error. Commercial traffic operating in RVSM (reduced vertical separation) airspace are required to have extremely low static errors. However, evidence collected by the European Regional Monitoring Agency reveals that in some cases the error increased from fifty to 150 feet within twelve months, whereas it was previously thought to be constant. The error is likely to be far higher in non-RVSM aircraft.

The transponder may not even be connected to the same static source as the altimeter. Some take their pressure from behind the panel, others from their own static source. Wherever it originates, the accuracy of the static pressure provided to the transponder at varying airspeeds and attitudes, including yaw, is never measured in GA aircraft. The transponder of an aircraft I recently flew passed the ground check, but was 340 feet in error in the air.

**3. Altimeter error** ICAO sets an international standard for Altimetry System Error (ASE) of 245 feet (ICAO document 9574). That means that the altimeter reading when set to 1013hPa can be up to 245 feet from the aircraft's actual pressure altitude and still be acceptable. This error will be made up of altimeter error and static pressure error. The pilot is required to fly by the altimeter, not the transponder which may be sending out an entirely different figure.

**4. No allowance for any the errors stated above is made by the Controlled Airspace Infringement Tool** For it to convert the Flight Level it receives from your transponder into an altitude so that it can detect infringements where the base is defined as an altitude, CAIT must have a QNH set into it. If you are flying beneath CAS you are obliged to use an 'appropriate QNH', for example that of a nearby airfield. There is no guarantee that this is the same as the one CAIT is using, generating another error.

In a worst case scenario these errors can add up to 500 feet. Errors of half that are therefore likely to be common.

Triggered by one specific complaint from a pilot who had been contacted by a CAA official in connection with an alleged airspace infringement, this investigation has widened following conversation with a growing number of complainants, including respected professional pilots and at least one air traffic controller. These individuals have provided compelling evidence of serious problems with the way NATS and the CAA classify and gather evidence of airspace infringements, and raise fundamental questions about the

way the aviation authority deals with those it accuses of offending.

Before we go any further, though, let's be clear about one thing: none of us would seek to defend the kind of pilot who, thanks to ill-preparedness and poor airmanship, causes disruption and hazard to Commercial Air Traffic through blundering into controlled airspace. Quite the opposite; we deprecate such incompetence. However, catching such miscreants and giving them some further training is one thing, but falsely accusing and harassing innocent pilots is another. →

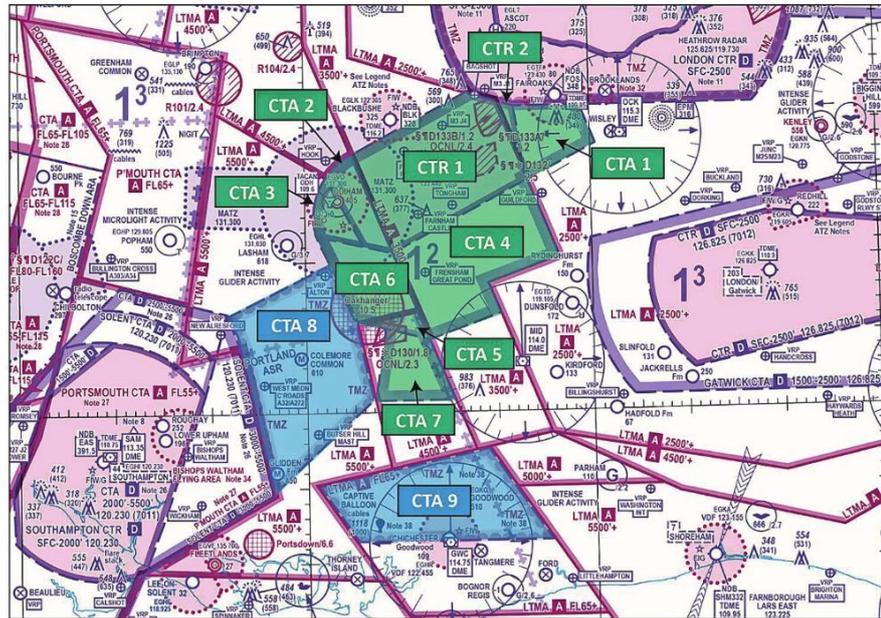


**CAIT bait**

While we have heard of third parties reporting infringements on the basis of ground observation (which can be highly subjective) or even casual monitoring of one of the flight tracking apps (where the data presented may be subject to all manner of errors), most airspace ‘busts’ are highlighted automatically by CAIT, the controlled airspace infringement tool used by NATS. CAIT sounds the alarm when it spots a primary radar contact that has entered a control zone laterally or picks up a transponder return that indicates an aircraft is infringing, based either on horizontal position or altitude apparent from Mode C or S. (It should be noted that CAIT has no transponder tolerance so, as we will see, the word ‘apparent’ is used advisedly.)

Once CAIT’s unblinking eye perceives an aircraft without established contact or clearance to be entering controlled airspace, controllers are obliged to create a vast ‘safety bubble’ five miles horizontally and 3,000 feet vertically from the offending machine. (Here the system almost appears to have been designed to maximise the disruption caused by even a minor infringement – and vectoring commercial aircraft out of that bubble cannot be without its own hazard, one would have thought.)

Generation of a Mandatory Occurrence Report is also automatic. If the offending



ABOVE: how did we come to this? Airspace designed by ATCOs to protect not Commercial Air Transport, but private business interests, approved and policed by the CAA

aircraft has penetrated controlled airspace deeply, that MOR is entirely appropriate, as we’d all agree. However, a number of light aircraft pilots claim that they’ve had an MOR raised against them when they felt certain they’d not infringed, particularly in respect to altitude keeping. How could this be?

Former airline, and highly-regarded display pilot, flying instructor, examiner and licensed engineer Pete Kynsey provides an answer; it is very likely to be a result of precision errors in the instruments and systems fitted to the typical light aircraft.

As far as pressure altitude is concerned, not only is your altimeter likely to be telling fibs but your transponder is probably committing perjury – and CAIT might not even be calculating altitude on the same QNH!

As Kynsey concludes from his ‘catalogue of errors’ above (p.37) the difference between the altitude at which you believe you are flying and CAIT’s perception could be as much as 500ft. “The CAA is in denial of most of these errors,” he tells *Pilot*. “If you are accused of infringing its only concession is to allow you to have your transponder checked – at

**The display pilot’s story**

I received a CAA Mandatory Occurrence Report (MOR) notification letter via the owner of the aircraft I had been flying. The MOR arose from an alleged airspace infringement during the return flight from an airshow at which I had been displaying.

On the day the weather had rapidly deteriorated, so I elected to divert to nearby Sleep airfield. I spoke to RAF Shawbury Approach to announce my inflight weather diversion and was surprised when the ATCO

denied me access through the ATZ, despite there only being one aircraft in the circuit. I was given clearance to enter the MATZ but given instructions to turn north immediately, where the tops of the hills were hidden behind low cloud and drizzle – definitely not VMC! I told the controller that conditions were not VMC but in spite of that she became irate and continued to give me unsafe instructions to turn north immediately into non-VMC conditions. Fortunately,

I used common sense, judgement, and airmanship to avoid this potentially lethal instruction and elected to track round the edge of the ATZ as much as VFR conditions allowed.\*

I did consider filing an MOR myself about the incident but it was very difficult to find the relevant procedure on the CAA website. (Perhaps someone in the know should submit an MOR about the difficulty of a GA pilot filing an MOR!)

When I responded to the infringement MOR, I expected to receive the CAA’s sincere apologies and an explanation as to how this controller was able to behave in such a dangerous manner. Instead, I received an email saying the Infringement Group had reviewed my case and that I was to go on an airspace awareness course within a few weeks, at my own expense, at any one of a number of locations that were all several hours away from my home.



your expense—and if it is proven to be inaccurate, that will be taken into account. This test is done on the ground, sometimes six months after the reported infringement. All the other errors are conveniently ignored.

“NATS should allow for these errors so that CAIT only declares an infringement when one has definitely taken place. Any apparent infringement of less than, say, 400 feet should be ignored as likely to be due to measuring errors.”

### The human factor

As spelled out by the CAA, examples of when an air traffic control officer may be required to file an MOR include, but are not limited to: infringement of controlled airspace; low flying; and failure to comply with ATC instructions. On the face of it, a sensible component in what is intended to be a ‘just culture’.

Indeed, as our experience suggests, if you’re wearing a listening squawk and listening out, or the controller can see your registration from Mode S, they can (and usually do) just usher you out and that’s an end to it. Sometimes you might even get a call because you look like you’re heading for trouble.

There are, however anecdotal claims that ATCOs have been urged to file a MOR where they would previously have made a judgment that an incident was so minor that there’d been no endangerment to ‘an aircraft, its occupants or any other person’ (the trigger defined in European Regulation).

Controllers are highly professional lot and we’ve noted previously in *Pilot* their willingness to accommodate GA as far as their (until recently) very heavy workload allows. However, they are also human and so, once in a while, can bring subjectivity to what should be an objective process and file MOR precipitously (see ‘The display pilot’s story’, below).

### Opaque investigation and kangaroo court

However good or bad the evidence (and we’ve shown that coming from CAIT—or an ATCO having a bad hair day—that it might be deeply flawed) once a Mandatory Occurrence Report has been generated, an investigation is set in motion.

The CAA’s first step, rather like police establishing who was at the wheel when a speeding vehicle triggered the camera, is writing to the aircraft owner, seeking information on who was at the controls.

Step two is ‘informal’ phone contact with the pilot—and this is where CAA practise diverges from police procedure, as no caution

is given and this is the point that an individual may unwittingly incriminate themselves.

If the suspect—and this is the correct term—is reluctant to provide information it appears that the official concerned (all the complainants contacted by *Pilot* name the same person) can be quick to threaten them with ‘licensing action’—punitive licence suspension—which has led to one group of individuals pursuing legal action against the authority on the basis that this is unlawful, contravening the European Convention on Human Rights as implemented in the UK through the Human Rights Act 1998.

As our display pilot, Alex Garman reports, the ‘court’ that decides whether punishment, in the form of further enforced education, should be meted out sits in secret, the ‘defendant’ is not allowed any representation and the evidence is not revealed.

As the CAA makes the rules, polices and investigates them, and acts as prosecutor, judge and jury it is hard to escape the conclusion that the whole process is an utter travesty of justice. →

The ‘court’ that decides whether punishment should be meted out... sits in secret, the ‘defendant’ is not allowed any representation

Initially I thought there had been some mistake and contacted the CAA for clarification. A CAA staff member confirmed that the decision was correct and that I would indeed be required to go on a course – incredible!

I requested a copy of the MOR report, relevant transcripts, details on when the Infringement Group met, who was in the group and asked why I had not been invited to attend the meeting in order to give my explanation of events.

All my requests were refused. When I questioned this further, the same CAA staff member phoned me, again refused to answer my requests, and said if I didn’t attend the course then my licence would be suspended, along with all my associated ratings. Utterly unacceptable, threatening and abusive behaviour, I would say.

As a flying instructor with several students, I had no choice but to accept this and went on the 400-mile round trip to my ‘local airspace awareness course’.

Overall, I found my experience with the CAA very disheartening. I felt I was not taken seriously and, with no direct discussions allowed between myself and the Infringement Group, I was never given a fair chance to question the MOR, or indeed know if my good name and character were being brought into question (which certainly appeared to be the inference). The overall attitude of the regulatory authority seems to be we are the CAA, we refuse to engage

with you and if you don’t accept that, then we shall revoke your licence. – **Alex Garman**

*\*Just to be clear; MATZs (military air traffic zones) are not part of the UK civil airspace structure. Requesting a MATZ penetration is good, polite practise, but not a legal requirement. The ATCO at Shawbury had every right to protect the ATZ but no authority to give instructions to Alex when he was flying in the surrounding MATZ.*



### Time to speak out

Because of the sword of Damocles that is the threat of licence suspension, many of those who have spoken to *Pilot* about disputed infringement actions have asked for their names to be withheld. Indeed, a CAA source warned that there was a potential legal action pending against one of the magazine's respondents because he 'has made serious and totally unfounded allegations against a CAA member of staff which we feel amount to defamation'—make of that what you will.

The trouble is that the way the authority and its allegedly defamed official is, as one pilot puts it, "treating alleged infringers like serial killers" (without the prospect even those monsters have of a fair trial) is undermining the whole safety system that the CAA's claimed 'just culture' should represent.

"This an issue for the aviation community at large as opposed to it being just a concern for me," observes Alex Garman. "the CAA has [actually] created a fear culture, where trust and respect is rapidly being lost between the regulator and the people they are supposed to serve. [It has generated] a toxic and unsafe

atmosphere in the aviation community."

One unintended consequence is that more and more private pilots are muttering about turning off their transponders—a move that we could not possibly condone. There's an obvious safety bonus in everybody knowing where everyone else is, which makes it all the more extraordinary that NATS and the CAA have made detecting and dealing with alleged infringers such a witch hunt that pilots fly in fear of being falsely accused and are even are tempted to do such a thing.

Many would argue that the CAA's culture is very far from 'just', that the way it deals with alleged infringers is palpably *unjust* and it is time for the authority to mend its ways or be brought to account. On the evidence we have uncovered over the last few months—equipment errors making it all too easy to appear to infringe without having done so, minor infringements potentially causing excessive disruption to commercial traffic, no distinction being made between minor infringements where no one was put in danger and serious ones where they were, no challenge to specious



ILLUSTRATION: CAA

MORs being allowed, evidence being withheld by the authority, pilot interviews being conducted under the threat of licence suspension and no appeal against the decision to force an individual to undergo further training at their own expense—*Pilot* can only agree.

ABOVE: the CAA's idealised vision of airspace structure perhaps inadvertently portrays the way GA is being squashed under an ever-lower ceiling

### Avoiding that unwelcome call

- First and foremost, do not infringe controlled airspace! You do have an up to date chart, don't you? Better still, plan and record your flight on one of the fine and accurate GPS navigation apps available – it'll both keep you out of trouble and provide evidence of innocence if you are falsely accused. (Note, however that while evidence from a nav app may be allowed regarding lateral infringements, it is apparently is not admissible in relation to vertical navigation errors.)
- Have a plan, even if going on a familiar local flight, and don't forget; the iPad and similar equipment can fail or lose a satellite signal.
- Whenever possible obtain

- at least a Basic Service from a LARS unit, or if that is not possible listen out and display the adjacent airfield's listening squawk.
- Ensure you are flying on the correct QNH pressure setting (this is especially important when flying in the south-east as CAIT uses the London QNH). Using QFE airfields close to, or under CAS is fraught with danger when either carrying out an overhead join or when climbing out.
- Take every possible measure to minimise, or at least identify your aircraft's altimeter and transponder errors. Don't be afraid to ask a radar controller to verify your altitude readout to compare your altimeter against

that displayed on the radar.

- The CAA encourages you to fly at least 2nm laterally and 200 feet vertically from the base, or top of CAS. Consider wider margins of error: some experienced instructors now suggest that for the reasons spelled out above by Pete Kynsey you leave where possible five hundred feet between altimeter altitude and the base of controlled airspace. (NB This may be possible where base of CAS is high, 4,500 feet for example, but is unsafe lower down. Over much of the south-east of England, and elsewhere in the country, bases vary from 1,500 to 2,500 feet. Once the pilot has added up terrain height, obstacles and complies with the congested area rules

the minimum safe height is frequently above 2,000 feet.)

- Listen out for, and follow ATC directions directly – especially those to keep you clear of controlled airspace.
- If you are later accused of busting controlled airspace do not automatically assume you are guilty.
- Ask to see the evidence upon which the CAA is acting.
- Be aware that any information you give the CAA may be used against you. You have the right to remain silent and not incriminate yourself. It is for the authority to prove that you are guilty – until then, the law says you are innocent!



# Pilot

## Editorial

Write to Pilot, Archant Specialist, Evolution House, 2-6 Easthampstead Road, Wokingham, RG40 2EG

Editor Philip Whiteman

Tel 01189 742527

Email [philip.whiteman@archant.co.uk](mailto:philip.whiteman@archant.co.uk)

Assistant Editor Eugenio Facci

Tel 01189 742526

Email [Eugenio.Facci@archant.co.uk](mailto:Eugenio.Facci@archant.co.uk)

Designer Stewart Muller

Email [stewart.muller@archant.co.uk](mailto:stewart.muller@archant.co.uk)

Contributing Editors James Allan, Nick Bloom, Bob Grimstead & Peter R March

News & Flight Test Editor Dave Unwin

Regular contributors Alan Brown,

Paul Fiddian, Colin Goodwin, Pat Malone,

Stephen Slater, Charlie Huke, & Keith Wilson

## Advertising

Advertising Manager Amy Stokes

Tel 01242 216057

Email [amy.stokes@archant.co.uk](mailto:amy.stokes@archant.co.uk)

Key Account Manager Tom Blacker

Tel 01242 264762

Email [tom.blacker@archant.co.uk](mailto:tom.blacker@archant.co.uk)

## Production

Proof Desk Tel 01603 772090

Email [proofs@archant.co.uk](mailto:proofs@archant.co.uk)

Reprographic Technician Neil Puttnam

Executive Director, Magazines Peter Timperley

## Subscriptions & back issues

Write to: Pilot, Tower House, Sovereign Park, Lathkill Street, Market Harborough, Leics LE16 9EF

Email [archant@subscription.co.uk](mailto:archant@subscription.co.uk)

Tel +44 1858 438840

## Want to sell Pilot in your club?

Contact Kim Berney Tel 020 7429 4043

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# We are still in the bad old days

Long ago, we used to think, in our naivety, that the UK's national authorities, police forces and judicial system were pretty much beyond reproach. Since then, the true scale of collusion, incompetence and injustice within those bodies and throughout that system have been revealed, and steps have been taken pretty much across the board to remedy the situation.

Today citizens are less likely to be falsely accused and are interviewed under caution, the evidence is reviewed by an independent prosecution service, in England and Wales complaints against the police are investigated by the Independent Office of Police Conduct (IOPC), you are entitled to representation in court and judicial decisions can be appealed.

This is true unless those citizens are pilots, and we are talking about the combined regulator, administrator, police force, prosecution service and court that is the UK Civil Aviation Authority. As we revealed in last month's investigation of 'Infringement Injustice', a large number of private and professional pilots believe they have suffered just that. The volume of emails and phone calls we have received in the weeks since it was published are confirmation that the handful of determined individuals who first challenged the CAA and reported their experience to *Pilot* represent not a tiny minority but the tip of the proverbial iceberg.

We mentioned threats of licence suspension, but are now hearing more disturbing reports from pilots who have been punished with just this, and made to undergo further flight training where asking them to undergo a check-flight might have been a more reasonable approach. The essential presumption of innocence seems to have been excised from the CAA's notion of just process. It also seems that in contravention of the data retention rules applied to the police, the CAA is keeping files that include allegations of misconduct that could be highly prejudicial in the way an individual pilot is treated. And, of course, with the CAA there is no equivalent to an IOPC...

Beyond the issue of the way it handles alleged and actual infringements there is a much wider question about the CAA's



competence in its fundamental role as a regulator. For years *Pilot* has been receiving complaints that a diminishing number of the authority's officials actually know or understand their specialist subject. The story of an inspector demanding that parts of a Miles aircraft project be re-skinned with thicker plywood springs to mind (anybody familiar with Miles's all-wood designs would know minor dips and bulges were characteristic of the aeroplanes as they emerged from the factory). These issues have not gone away – in fact, they seem to be building up. Do have a close read of Tim Cooper's 'Gotcha!' piece (p.38). That CAA officials could show so little understanding of light aircraft technology is worrying: that they might be entirely ignorant of past approvals granted by the Authority is absolutely jaw-dropping.

In the days of Grant Shapps' Red Tape Challenge and Andrew Haines being the boss, the CAA really did seem to be putting its house in order. Sadly, the old authoritarian culture seems to have taken hold again, if it ever was rooted out. This cannot be allowed to continue in the 21st century. Around the world, technology (look at the splendid Velis Electro, p.46) and, dare we say it, human rights considerations are making great strides. It's time the CAA caught up with modern thinking and put its house in order.

**Philip Whiteman, Editor**

## EHR Complaint Against CAA – Annexe VI

# Independent online survey on the CAA launched

**PUBLISHED:** Pilot Magazine 11:21 04 September 2020

**Once the UK has withdrawn completely from the European Union Aviation Safety Agency (EASA) on 1 January 2021, the Civil Aviation Authority (CAA) will need to fulfil all regulatory functions for the aviation sector**

The UK Government has been clear that as the UK exits the EU, its aim is to ensure continued transport connectivity in support of economic and social ties.

It is also clear that the responsibility for aircraft and technology certification and maintenance will fall solely onto the shoulders of the CAA.

In response, an independent online survey has been launched by new pressure group Sky Lovers, with the express aim of obtaining views from everyone in aviation, ‘from drone operators to senior airline captains’.

This survey will provide ‘stakeholders’ with an opportunity to influence some of the legislation and governance surrounding the operation of the CAA. ‘Now is the time for everyone to have their say,’ urges Sky Lovers.

The last review of the Civil Aviation Act 1982 by Sir Joseph Pilling was challenged by the House of Commons Transport Select Committee in 2012.

The evidence given by several MPs questioned accountability, transparency and the efficiency at the CAA. **‘It also raised a crucial point,’ claims Sky Lovers ‘that the organisation is not subject to any audits by the National Audit Office, in contrast to similar organisations’.**

Those interested in taking part in the survey are invited to visit the web page: <https://surveyhero.com/c/caacomplaints>

Equalities and Human Rights Commission Complaint  
against  
the Civil Aviation Authority

Thank you for agreeing to participate in this survey. The information we collect will be anonymous as per GDPR governance and policy.

The aviation sector is not having the best of time some may say even a free fall, but GA in the UK has been declining for decades. We believe a large part of this decline is a result of the actions challenges with governance surrounding General Aviation.

We were expecting things to change after the formation of the General Aviation Unit back in 2014. However early indications from a pilot of this survey suggest that this sector is undergoing further challenges. If we review the current state of the industry as a measure, the facts are that between 2014-2020 there are fewer airfields, pilots, engineers in the UK, in contrast to the governing body for General Aviation budget and staffing level increased.

This survey is part of our campaign to raise awareness among the GA community, our objective is to be regulated by a regulator whereby the successes are measured by the successes of the sector.

CAA-Complaints Ltd Research Team

## EHR Complaint Against CAA – Annexe VII

<https://sky-lovers.uk/caa-cases/>

### CAA Cases

Here are a number of cases that CAA Complaints Ltd filed that that have not been acknowledged by the CAA so please watch and reflect on whether you think the CAA is fit for purpose?

#### **CASE 1: G-BMJA**

This case highlights the incompetence of the CAA with regards to regulating maintenance organisations. A CAA approved maintenance facility was severely inadequate, the CAA was repeatedly notified, and did nothing, even when the plane flew after repairs, was very dangerous to fly, and independent engineers consulted immediately grounded the aircraft.

#### **CASE 2: MOR Reporting Failure**



Occurrence reporting in the UK and the rest of Europe is governed by European Regulation 376/2014. It requires the reporting, analysis and follow up of occurrences in civil aviation and delivers a European Just Culture Declaration. The CAA have a responsibility to listen to its stakeholders when an MOR is raised. There are many cases where the CAA did not listen and has left lives in danger through non action.

#### **CASE 3: CORPORATE BULLYING**

We were acting on behalf of a major aircraft maintenance organisation which led the way in the GA industry and grew to being one of the largest GA maintenance businesses in the UK. Sadly the business has now closed and there has been cases of bullying this organisation into submission to CAA senseless bureaucracy.

#### **CASE 4: APPROVAL PROCESS LACKS CLARITY**

A small aircraft maintenance organisation had been operating an aircraft maintenance service for the last 5 years. Recently their approval was questioned and when further investigated it found that the CAA was negligent in the process leaving many other maintenance organisations operating without approval. Case is ongoing. However, the organisation has invoiced the CAA for the extra work that resulted in this negligence. They have yet to pay and this case is still open.

## EHR Complaint Against CAA – Annexe VIII - CVs

### **CURRICULUM VITAE SQN LDR CHRISTOPHER VICTOR JOHN HEAMES**

- 1969 Gained glider pilot solo qualification with the Air Cadet Organisation. Three solo launches in T31 glider.
- 1970 Joined the RAF from school initially as an Engineering Officer and subsequently as an Air Traffic Controller.
- 1972-1979 Air Traffic Controller at RAF Wattisham, RAF Akrotiri and RAF Brawdy. At Wattisham gained FAI Silver C qualification and became an Assistant Category British Gliding Association Gliding Instructor.
- 1979-81 RAF Pilot training on JP3, JP5 and Hawk both in the advanced training and Tactical Weapons role. Gained FAI Gold C gliding award.
- 1982 Operational Conversion Unit Lightning and AEF pilot on DH Chipmunk. Gained FAI three Diamond Award. Upgraded to BGA full category instructor.
- 1983 Operational Conversion Unit F4 Phantom won Air Combat and best pilot trophies. Posted to 19 Fighter Sqn RAF Wildenrath FRG. Became executive committee member of RAF Germany gliding Association with special responsibility for accident investigation and prevention. Conducted 25 accident investigations in the next 3 years. Appointed Regional Examiner by BGA.
- 1987 Operational Conversion Unit Tornado GR1. Posted to RAF Bruggen FRG. Appointed CAA examiner for motor gliders. Additionally given FIC approval to teach new motor glider instructors.
- 1994 Posted to RAF Cottesmore as an instructor pilot on the Tornado. Appointed Senior Regional Examiner (SRE) by BGA.
- 1995 Inducted into the BGA Accident Investigation team upon its inception. Underwent accident investigation training and field training with AAIB. Have conducted 12 serious and fatal accident investigations to present. Invited to instruct at the North Weald formation School under Andy Gent and Steve Noujaim
- 1996 Appointed SRE Motor Gliders by BGA. Started flying at airshows with the Aerostars, seven aircraft Yak 50/52 team.
- 1998 Underwent Instructor Training at the RAF Central Flying School. Posted to No1 FTS RAF Linton-on Ouse.
- 1999 Formed and led Team Condor 2 aircraft glider display team. Continued to present.
- 2000 Became A2 Category instructor on the Shorts Tucano at 1FTS.
- 2001 Operational Conversion Unit Tornado F3 at RAF Coningsby. Posted to No 5 Sqn.
- 2002 Posted to 11 Sqn RAF Leeming.

Equalities and Human Rights Commission Complaint  
against  
the Civil Aviation Authority

- 2002 Posted to Central Flying School RAF Cranwell as a Navigation Instructor. Flight Commander QPNI Flight.
- 2003 Appointed Senior Accident Investigator of BGA.
- 2005 Posted to RAF Central Gliding School as Chief Instructor.
- 2006-2011 Asked to join Gnat team at North Weald as Chief Pilot and instructor. Flew in many display practices and in solo, pairs and three ship displays.
- 2008-2011 Recognised by the Air League for contribution to flight safety. Formed and led Team Viper 4/5 aircraft jet team with Strikemaster and subsequently Hawker Hunter.

Flying Experience about 12500 hours:

6000 Fast Jet

1500 Turbo Prop

3000 Gliders and Motor Gliders

2000 General Aviation

Military Qualifications: Operational pilot on F4, Tornado GR1 and F3. Instrument Rating Examiner, A2 QFI, A2 QGI, B1 QPNI, air to air refuelling instructor, Air Combat instructor.

Civilian Qualifications: BGA Senior Regional Examiner, Senior Accident Investigator and Full Category Gliding Instructor. CAA FIE with FIC approval. Member of consultative panel to advise AAIB on gliding specific matters. DAE (A B N G). Display Authorization on all groups as well as Display Authorization Examiner



## PROFILE

Flt Lt Antony Parkinson MBE, known as Parky, joined the RAF at the age of 18. He became the first pilot to gain 1000 hours flying the newest generation fighter jet, the £150M Eurofighter Typhoon which was entered into service in 2004. He flew and instructed on other types of fastjets and was a member of the Red Arrows RAF display team, and accumulated 7700 flying hours to date.

Parky has been flying with the Battle of Britain Memorial Flight since 2007 and was awarded an MBE in recognition for his work on the Typhoon and the Battle of Britain Memorial Flight.

Born Hastings, East Sussex, 5 February 1965



## EDUCATION

**Hastings Grammar School** 1976-83  
**RAF Flying Scholarship** 1982 and gained Private Pilots License aged 17  
**Royal Air Force Initial Officer Training** 1983-84  
**Royal Air Force Pilot Training** 1984-86

## QUALIFICATIONS

**ATPL Airline Transport Pilots Licence** 2001  
**Instrument Rating Examiner (IRE)** on Tornado F3 and Typhoon Pilots  
**Standards Pilot (STANEVAL)** flying Annual Check Rides on Typhoon Pilots  
**B1 Qualified Pilot Instructor (QPI)** on Tornado F3  
**A2 Qualified Pilot Instructor (QPI)** on Typhoon and Chipmunk

7200 hours flying in RAF; 34 years service in RAF; 17 years of display flying in RAF; total Flying : 7700 hours

## WORK EXPERIENCE

**RAF Squadron Pilot**  
Phantom F4 / 1987-91  
Tornado F3 / 1991-94 and 1998-00 (Display Pilot 1999 and 2000)  
F16 / 1995-97 (based in the Netherlands)  
Typhoon / 2004-12

**Red Arrows Display Pilot**  
Hawk T1a / 2001-2004

**Battle of Britain Memorial Flight Display Pilot**  
Spitfire and Hurricane / 2007-17

**Aerolegends Spitfire Pilot**  
Approximately 500 hours and 1000 flights

## FURTHER DETAIL

First pilot in the world to gain 1000 hours of flying Eurofighter Typhoon  
11th RAF Pilot to fly Typhoon

Created and ran the first Typhoon Qualified Pilot Instructor course  
RAF Central Flying School (CFS) Agent for Typhoon  
UK and RAF representative for Flight Crew Checklist for Typhoon

Chief Spitfire Pilot for Aero Legends flying SSAC (2 seat) and formation

MBE awarded in November 2011 for work on Typhoon and RAF Display Flying

Appeared on BBC series 'Ultimate Pilots' in 2015 leading Spitfire / Typhoon Synchro 75 Display; BBC 'Battle of Britain' in 2010; 'Diamond in the Sky' Red Arrows documentary 2004

Twice winner of the Royal International Air Tattoo 'Steedman Display Sword' in 2000 and 2015.

Flown in 10+ Queen Birthday Flypast / Royal Wedding over Buckingham Palace in Red Arrows / Typhoon / Hurricane/ Spitfire.