

--- BEGINS ---

FOR IMMEDIATE RELEASE – 7<sup>th</sup> April 2016

## **LAA COMMENTS ON 'FLAWED' DFT CONSULTATION ON INCREASED FINES FOR INFRINGEMENT OF RULES OF THE AIR**

The LAA has responded to the Consultation drafted by DfT, which seeks views on increasing the maximum fine level applied to persons contravening the Standardised European Rules of the Air. We believe that the new punitive proposals are fundamentally flawed and would create a cover up culture, jeopardising rather than enhancing aviation safety.

“After a full review with our technical and airspace team, we conclude that we fundamentally disagree with the proposals” says LAA CEO Steve Slater. The focus of current airspace policy is to reduce the risk of the infringement of controlled airspace by encouragement, education and when necessary, retraining, in a culture of self-admission of problems. These punitive proposals are fundamentally flawed and will potentially create a cover up culture, jeopardising rather than enhancing aviation safety.

“Given all the work being undertaken by groups such as FASVIG, NATS and the broader air transport and General Aviation community to address this issue and improve GA aircraft conspicuity, the LAA believes that this is not the right time to be introducing new, draconian penalising legislation”.

The LAA is also extremely concerned at an apparent interpretation of the SERA concept of designated airspace for the purposes of radio communication (SERA.5005 Visual Flight Rules).

An unintended consequence of this measure could remove the ability for non-radio flight, severely impinging on leisure aviation including many paragliding, hang gliding, microlight and vintage aircraft which currently safely operate in Class G airspace without the need for radio communications. While the proposals in the Consultation are intended only to apply within controlled airspace, we seek clarification from DfT, the Civil Aviation Authority and NATS that they do not intend to impose this interpretation on Class G airspace without a full review and consultation.

Those drafting the Consultation appear to exhibit a worrying lack of awareness of how GA VFR flying (the vast majority of UK airspace traffic) operates. A suggestion that pilots monitor the International Distress frequency appears to ignore the frequency's primary purpose, for distress and emergency use. It also indicates an equally worrying lack of awareness that a significant proportion of GA aircraft with a radio can only operate on one frequency at a time. If they were required to monitor the emergency frequency they would not be able to communicate on any other frequency

We recommend that individual members should also respond to the consultation in their own right.

Consultation responses should be made to:

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020 7944 2870  
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The full DfT consultation document can be downloaded [here](#).

The consultation period began on 17 March 2016 and will run until **22 April 2016**.

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## LAA RESPONSES

The responses below answer the specific questions in the Consultation (in italics). These can if required form the basis of individual LAA member responses.

**Q1.** *Policy Option 1: Do nothing – this means not changing the law and contraventions of the relevant provisions of SERA continuing to be subject to a maximum Level 4 (£2,500) fine. Is this your preferred policy option? Please explain your answer.*

As proposed, the Policy options seem to go against the well-established policies for improving aviation safety; by encouragement, education and training and seeking confidential admissions of problems and mistakes by aircrew and others involved in aviation operations. It would undermine feedback systems such as CHIRP and the CAA's own excellent Clued Up initiative. It also runs contrary to the century-old principals of accident investigation which seeks to establish causes of accidents or incidents rather than apportion blame and seek retribution through financial penalty as is the apparent focus of this Policy.

Rather than increasing fines, we believe the current initiatives should be allowed to be developed and their effectiveness more fully analysed, work which is already in progress. The focus should be on license suspension and pilot re-training requirements for those that continue to offend.

While some initiatives are in progress, much more work needs to be undertaken by DfT and CAA Airspace Policy, in conjunction with NATS, the commercial air transport industry and General Aviation community on the allocation, use and designation of airspace, including the relative size of controlled airspace around any airport in relation to the level of activity and aircraft performance. (See also comments in answer to questions 7 and 8)

**Q2.** *Policy option 2: This means amending the Air Navigation Order to allow for the maximum fine for the relevant provisions of SERA to be increased from Level 4 (£2,500) to Level 5 (previously £5,000, now unlimited). The implementation of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 in March 2015 will then allow for all Level 5 fines subsequently to be made unlimited in England and Wales. Is this your preferred policy option? Please explain your answer.*

This is not our preferred policy option. Please see response to Question 1 above.

**Q3.** *How would you expect the increased fine to impact your business/organisation?*

While we advocate that our members always try to fly and plan their flying with due regard to controlled airspace including pre planning, NOTAM review, use of electronic conspicuity and airspace warning devices, and practicing good airmanship though use of conspicuity codes and communication with ATC facilities, when available and they are willing to engage; with over 7,800 LAA members flying a fleet of over 2,600 aircraft, it is clearly not always going to be the case. However almost every case of infringement or miscommunication, while regrettable, is a case of oversight or error, rather than the kind of deliberate action which might merit punitive, unlimited fines.

Many of our Members have already expressed concerned that a punitive culture has developed in certain areas of airspace management and many, for whom private aviation is a leisure activity, are simply choosing not to fly at all. The messages created by increased and unlimited fines will sadly, mean that many more will move away from sport aviation in this country, diminishing the sector and reducing the viability of the GA industry as a whole, which currently is valued at DfT estimates at around £ 3 billion per year to the UK economy.

**Q4.** *Do you think the use of a Level 5 fine (unlimited but limited to £5,000 in Scotland) would be proportionate in some circumstances? What would those circumstances be?*

No. See previous answers.

**Q5.** *Do you think a fine exceeding £2,500 would be proportionate in some circumstances? What would those circumstances be?*

No. We do not think a fiscal deterrent is the best course. People do not, on the evidence of reports of airspace infringements and other incidents, deliberately seek to transgress controlled airspace and related regulations.

The fines will therefore not reduce transgressions or improve flight safety. The most effective means of achieving these aims is a commitment to improving training, planning, understanding and awareness for all involved in the system.

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**Q6.** Do you think the increased fine will serve as a disincentive to offenders?

No, for the reasons stated in answer to question 6. While there are cases of poor training, inattention and poor airmanship, pilots do generally understand rules and regulations, and do not deliberately set out to break the law.

**Q7.** In your view, are there any other measures DFT could employ to discourage pilots and/or aircraft operators from contravening the relevant provisions of SERA? For example, would requiring pilots to monitor 121.5 MHz Guard frequency assist?

The suggestion of a requirement to monitor the International Distress frequency indicates a worrying lack of awareness of its primary purpose, for distress and emergency use. It also indicates a lack of awareness among those preparing the Consultation of how GA VFR flying (the vast majority of UK airspace traffic) operates.

The overwhelming majority of GA aircraft with a radio can only operate on one frequency. If they were required to monitor the emergency frequency they would not be able to communicate on any other frequency. Moreover a large proportion of airspace users have no radio and a large proportion of those have no power source to operate a radio.

For those aircraft which are equipped to operate with Controlled Airspace, the existing, well established Conspicuity Transponder Codes and related monitoring frequencies, and appropriate use of the very valuable 135.475 unicom frequency outside controlled air space and at airfields where no radio facilities exist, all enhance flight safety. These with FASVIG and related initiatives, and improved training, all have a much greater effect than monitoring a single, emergency only frequency.

It would be more effective to control infringement levels and associated flight safety concerns by a fuller review of the allocation, use and designation of airspace, including the relative size of controlled airspace around any airport in relation to the level of activity and aircraft performance. There is currently a notable lack of uniformity in size and design of UK controlled airspace, where the amount of airspace designated often seems to have no relationship to the level of activity at a given airport.

The Gatwick zone is of similar size to that for Heathrow an airport handling almost twice the ATMs. It is felt by many that the size of Control Zones is governed by performance criteria established many decades ago when modern transport aircraft have infinitely superior performance even in the event of engine failure in terms of climb gradient etc. In addition, the use of steeper approaches and CDA could reduce the amount of lower level controlled airspace to be designated in future, thus offering GA safe and non-conflicting routings and airspace access.

In addition, there appears to be a total lack of recognition by airspace planners of the importance of easily recognised ground features as an aid to VFR navigation. When the TMZ was created south of Stansted, it merely followed an existing CTA boundary, stretching over sections of both the M25 and the A10 dual carriageway, two of the major geographical features for VFR traffic routing north of London. The same TMZ boundary also has the marked VRPs at Ware and Epping positioned inside the zone!

More recently, proposals to adjust approach and departure routes around Gatwick airport again totally failed to note the presence of the prime landmark, the M25 motorway. If eastbound traffic follows the rules of the air by tracking just to the south of the motorway, infringement of the proposed controlled airspace would occur.

The same applies to the south and east of Gatwick with the clearly defined visual landmarks provided by the A229 and A264 trunk roads being ignored. A small adjustment of the airspace boundaries in all these cases will not affect the traffic routings for controlled traffic into Gatwick, yet will allow safer VFR navigation and reduce the risks of controlled airspace infringement.

It makes no sense to impose boundaries and requirements that directly generate a risk of infringement as well as adding to the workload of VFR pilots.

**Q8.** Are you aware of any other barriers that may prevent/discourage pilots from maintaining continuous two-way communications with Air Traffic Control?

There appears to be an incorrect assumption that flight safety and prevention of air space incursion is all about radio communication. While many GA aircraft are radio equipped (and facing the significant cost of radio upgrade to 0.833 MHz compatibility), and many are fitted with transponders with a minimum Modes C, increasingly Mode S, capability, this equipment requires a significant investment of thousands of pounds in aircraft, many of which have a value of less than a new average family car.

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It is unsurprising therefore that a significant proportion of the sport aviation fleet operates outside controlled airspace, often without transponders and frequently non-radio. Many aircraft such as paragliders, gliders, some microlights and vintage aircraft simply lack the electrical systems or battery capacity to make the carriage of such systems viable.

These aircraft make up a significant proportion of low-altitude GA movements outside controlled airspace, and sport aviation would be significantly eroded were SERA.5005 Visual Flight Rules requirements applied to flights outside controlled airspace. While the proposals in the Consultation are intended only to apply within controlled airspace, we seek clarification from DfT, the Civil Aviation Authority and NATS that they do not intend to impose future rules on Class G airspace without a full review and consultation.

When in radio contact with Air Traffic Services, most services from UK ATC / ANSP units are good, helpful and professional, but there are elements within the ATCO community who seem dismissive of GA activity and do not offer all the help that they may be able to. Seeking VFR transit of some smaller UK, less intensively used airport controlled airspace, a GA pilot even though giving all the proper and professional calls and using correct procedures, frequently receives a response "stay clear of controlled airspace" with no reason why.

At one time ATCO cadets received PPL training to help them understand a live cockpit environment. That does not now happen. Although there are schemes to encourage ATCOs to fly with GA pilots when possible, just as GA pilots are encouraged to visit their local ATC facilities, much more should and could be made of this to encourage such mutual interaction and improve understanding.

It should be noted too that greater post-PPL radio training for pilots should also be encouraged as the general level of RT performance by GA pilots on LARS or other frequencies can be poor and not conform to CAP 413 requirements, leading to loss of connectivity and frequency congestion for other GA aircraft approaching controlled airspace. More refresher training on use of radio, standard terminology for requests of ATC providers and an overall focus on improving GA RT technique, would pay greater dividends than the threat of punitive financial penalties.

ENDS

The Light Aircraft Association – Making Dreams Fly.

--- ENDS ---

--- NOTES FOR EDITORS ---

#### About the Light Aircraft Association

With a history extending over 60 years, the UK Light Aircraft Association promotes safe and economical operation of sports and recreational aircraft. Representing the aviation interests of over 8,000 recreational pilots, amateur-builders and enthusiast members, the LAA oversees the operation of more than 2,500 light aircraft and the build of another 1,700, whilst providing sector-leading consultation and advocacy in aviation-related regulatory matters both in UK and Europe.

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