

Finance and Corporate Services
Information Management

14 December 2011
FOIA reference: F0001261

Dear XXXX

I am writing in respect of your recent application of 21 November 2011, for the release of information held by the Civil Aviation Authority (CAA).

Your request:

“The UK AIP at ENR1.1.4 para 1.7.1 states that the CAA Directorate of Airspace Policy have issued a directive determining that fixed wing single engine operations in controlled airspace west of LCY NDB do not conform to Rule 5(d), and as such NATS are ordered to withhold any single engine NSF approval in this area (but Standard Flight approvals to the same aircraft are often allowed).

- 1) Please can you supply a copy of this CAA DAP directive.*
- 2) Please can you supply any minutes of meetings that led to the directive's formulation.*
- 3) Please can you supply any data used to support the decision to issue the directive, such as assumed glide ratios, suitability of various landing areas in the zone, difference in movements on the River Thames either side of the LCY NDB etc.*
- 4) Please can you explain why, given all the statutory tools the CAA has at its disposal to restrict or prohibit flight operations in any area, it was deemed appropriate to issue a bilateral directive to NATS rather than a public legal order in this particular case.*
- 5) Please can you inform me of any other such directives with regard to Rule 5(d) applicable elsewhere in the country, or if there aren't any please explain why this is an exception given that in other equally congested areas the legal responsibility with regard to complying with Rule 5(d) always rests with the aircraft commander given its performance, altitude and meteorological conditions.*
- 6) Explain why the CAA would regard the same fixed wing single engine aircraft on a Standard Flight Approval in the same zone any more compliant with Rule 5(d), as such an aircraft faces no such flight restriction, prohibition or directive.*
- 7) An annual summary of any Enforcement Actions (over say the last 10yrs or any suitable period of your choice) that the CAA has taken, with regard only to Rule 5(d), against single engine fixed wing aircraft commanders operating in this area in question described at UKAIPENR1.1.4p1.7.1, regardless of whether on a Standard or Non -Standard Flight Approval”.*

Our response:

Civil Aviation Authority

Aviation House GW Gatwick Airport South Crawley West Sussex England RH6 0YR www.caa.co.uk
Telephone 01293 768512 rick.chatfield@caa.co.uk

In assessing your request in line with the provisions of the Freedom of Information Act 2000, we are pleased to be able to provide the information below.

1. This Directive was re-issued on 17 April 2009. A copy can be found attached (see attachment 1).
2. Low altitude operations for fixed wing aircraft, including Non-Standard Flights (NSF) were considered by the London Control Zone Review Group although no reference to the subject has been found in the Minutes of the formal meetings that took place. However, the issue was discussed at a meeting on 26 January 2005. These minutes are attached (see attachment 2). We have also attached Email trails concerning this subject (see attachments 3, 4, 5 & 6).

We have redacted the names of staff that are not in senior, public facing roles, or where their seniority could not be determined from the enclosed information in accordance with the Data Protection Act 1998 and Section 40 of the FOIA. A copy of this exemption can be found enclosed.

3. The report of the London Control Zone (CTR) Group can be accessed via the CAA website (http://www.caa.co.uk/docs/1346/London_CTR_Review_Group_Report.pdf).

For convenience, the following paragraphs refer:

- 2.12.4 Additionally, there was a strong opinion that some formal airspace restriction to prevent the operation of single-engine fixed wing aircraft over extensive built up areas might now be required. It was the opinion of the Group that the application and interpretation of the Rule 5 "alight clear" rules were being misused.

2.15.2 Fixed wing flights over the Lea Valley

- 2.15.2.1 The CAA was minded to extend the current ban on single-engine fixed-wing NSFs in the London CTR and London/City CTR (that had been put in place for 3 months from January 2005) until further notice and for the following reasons:

- a) There had been no objection from operators of the NSFs and the evidence shows that a significant proportion of the extant NSFs were for rotary rather than fixed-wing types.
- b) The way to resolve the problem for the long term might be to amend the dimensions of the Restricted Area R160 and to establish a prohibition of single-engine fixed wing aircraft.

- 2.15.2.2 The CAA intended to review specifically the operation of single-engine fixed wing aircraft along the Lea Valley as it was considered inappropriate in respect of the Rule 5 alight clear requirements. There may be a significant impact on GA operations as the Lea Valley was a recognised transit route for the London/City CTR at low level and there was a clear requirement to remove the ambiguity between Rule 5 requirements on Pilots and the issuing of ATC clearances based on traffic integration. There may be a consequent need to designate a Helicopter Route via the Lea Valley.

4. The directive was issued following an incident where a single engine aircraft operating under an NSF conducted a forced landing at London City Airport. The parameters under which the flight was operating meant, in the CAA's opinion, that the pilot could not comply with Rule 5(d) of the Rules of the Air Regulations. Legal responsibility for

compliance with Rule 5(d) lies with the aircraft commander; therefore, the air traffic service provider (NATS) did not have the remit to deny NSF permission. Given the specific nature of the activities of the NSF flights concerned, i.e. banner-towing at low level, the CAA considered that they could not comply with Rule 5d and instructed NATS, as the controlling authority, to withhold NSF approvals in order to prevent a reoccurrence.

5. No other directives are in force. The CAA considers that, given the complex, busy air traffic environment within the London/London City Control Zones and the extensive congested area beneath, single engine aircraft are not capable of complying with Rule 5(d) whilst undertaking tasks requiring an NSF because of the typical flight profiles involved.
6. ENR1.1.4 para 1.7.1 refers to the specific case of requests for NSF clearances. The profiles of such flights typically involve loitering over the congested area of Greater London. A single engine aircraft wishing to transit the Control Zone may still request a clearance, but the pilot is still bound by Rule 5(d)
7. The CAA can confirm that we have not had any Enforcement cases involving Rule 5(d) in the last 10 years. We do not therefore, have any information relating to this part of your request.

If you are not satisfied with how we have dealt with your request in the first instance you should approach the CAA in writing at:-

Mark Stevens
External Response Manager
Civil Aviation Authority
Aviation House
Gatwick Airport South
West Sussex
RH6 0YR

mark.stevens@caa.co.uk

The CAA has a formal internal review process for dealing with appeals or complaints in connection with Freedom of Information requests. The key steps in this process are set in the attachment.

Should you remain dissatisfied with the outcome you have a right under Section 50 of the Freedom of Information Act to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office
FOI/EIR Complaints Resolution
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
www.ico.gov.uk/complaints.aspx

Should you wish to make further Freedom of Information requests, please use the e-form at <http://www.caa.co.uk/foi>.

Yours sincerely

Rick Chatfield
FoIA & EIR Case Manager

CAA INTERNAL REVIEW & COMPLAINTS PROCEDURE

- The original case to which the appeal or complaint relates is identified and the case file is made available;
- The appeal or complaint is allocated to an Appeal Manager, the appeal is acknowledged and the details of the Appeal Manager are provided to the applicant;
- The Appeal Manager reviews the case to understand the nature of the appeal or complaint, reviews the actions and decisions taken in connection with the original case and takes account of any new information that may have been received. This will typically require contact with those persons involved in the original case and consultation with the CAA Legal Department;
- The Appeal Manager concludes the review and, after consultation with those involved with the case, and with the CAA Legal Department, agrees on the course of action to be taken;
- The Appeal Manager prepares the necessary response and collates any information to be provided to the applicant;
- The response and any necessary information is sent to the applicant, together with information about further rights of appeal to the Information Commissioners Office, including full contact details.

Freedom of Information Act: Section 40

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if-

- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied.

(3) The first condition is-

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene-

- (i) any of the data protection principles, or
- (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and

(b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject's right of access to personal data).

The duty to confirm or deny-

(a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and

(b) does not arise in relation to other information if or to the extent that either-

- (i) the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or

- (ii) by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject's right to be informed whether personal data being processed).

In determining for the purposes of this section whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 1998 shall be disregarded.

In this section-


"the data protection principles" means the principles set out in Part I of Schedule 1 to the Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;

"data subject" has the same meaning as in section 1(1) of that Act;

"personal data" has the same meaning as in section 1(1) of that Act.

Directorate of Airspace Policy

DAP/ADAP1/PR/SingleEngineBannerTowing


Manager Swanwick, ATC Procedures & Systems
LTCC
Sopwith Way
Swanwick
Southampton
SO31 7AY

17 April 2009

CAA POLICY ON SINGLE-ENGINE BANNER-TOWING BY FIXED-WING AIRCRAFT IN THE LONDON AND LONDON (CITY) CTRs

The purpose of this letter is to confirm the Civil Aviation Authority's position in regard to operations by single-engine, fixed-wing aircraft wishing to operate banner-towing flights within the lateral and vertical confines of the London and London (City) Control Zones (CTRs).

Notwithstanding that compliance with Rule 5 of the Rules of the Air Regulations (2007), is normally the prerogative of the Captain of the aircraft, NATS are not to accept Non-Standard Flight (NSF) notifications from aircraft commanders who intend to conduct banner-towing in single-engine, fixed-wing aircraft within the confines of the 2 CTRs specified above.

This is primarily because the Authority does not consider it possible for the flight to be conducted safely, in particular with respect to Art. 66 of the Air Navigation Order and the requirement to be able to release the banner in emergency without endangering persons or property on the ground.

This letter remains extant until you are notified otherwise by the Directorate of Airspace Policy. The content of the letter will be reviewed 12 months from the date of signature and you will be notified that the policy review has been completed and if any changes are necessary.

PHIL ROBERTS
ADAP1

DRAFT

NOTES OF A MEETING HELD TO DISCUSS SINGLE-ENGINE FIXED-WING FLIGHTS OVER CENTRAL LONDON - CAA HOUSE (26 JAN 05)

In attendance:

[REDACTED]

Phil Roberts (DAP - ADAP1)

Purpose of the Meeting

The meeting had been called to investigate possible options for changing the current rules for overflight of Central London by single-engined fixed-wing aircraft that are unable to comply with the Rules of the Air. Confusion currently exists over the respective responsibilities of the pilot and controller under these situations and this has led to flights being approved that subsequently were unable to comply with the Rules of the Air.

Principles

It was agreed that it was not the role of the controller to act as 'policeman' of the rules under such circumstances.

Ideally, a clear set of rules would help prevent the controller being forced to issue a clearance for something that might lead the pilot to fly outside the privileges of his Licence.

Ultimately the responsibility for complying with the Rules of the Air and the privileges of a Licence rested with the pilot.

From the CAA perspective, the area contained within the lateral dimensions of the London Heathrow and London City CTRs, between the London City NDB and the London VOR, was considered to be a 'congested area' for the purposes of the ANO definition. This included the Lea Valley area and, in the view of the GAD representative, neither the Thames nor any of the London Parks could be considered as an acceptable forced landing site that complied with the Rules of the Air.

Options

Having regard for these principles, a number of options were considered to address the situation pertaining to NSF activity and to general GA flights:

- 1. **Do Nothing.** As this does not satisfy the principles listed above it is not a viable option and has therefore been discounted.

DRAFT

2. Briefing Option. Consider a MATS Pt 2 entry for each airfield where this type of situation might occur. This to be coupled with pilot briefing material and an AIP Entry explaining the situations that pertain. This could be considered to be the easy option.

3. Legislate. This is considered to be the 'sledgehammer to crack a nut' route and is not favoured. Amendments would be required to the ANO and the AIP and the legality if such an option would need to be tested.

Potential changes to the Helicopter Specified Area were under consideration as a result of the London CTR Review work. This might provide an opportunity for further rationalization of the arrangements.

Actions Arising

1. It was agreed that action was required to resolve the issue:

a. [REDACTED] to review the extant NSF lists and identify what should be removed.

b. [REDACTED] to consult with Legal to see if an AIP entry was appropriate.

c. [REDACTED] (NATS Heathrow) to provide some background to the current arrangements.

Phil Roberts

P ROBERTS
ADAP 1

2 Feb 05

From: [redacted]
Sent: 10 February 2005 08:18
To: Roberts Phil
Subject: FW: Non standard flight - single engined
Phil

Further info from Heathrow.

Regds

-----Original Message-----

From: [redacted]
Sent: 07 February 2005 16:42
To: [redacted]
Subject: Non standard flight - single engined

Hi [redacted]

I had a look through some of the old NSFs and all of these ones are for single engined aircraft, both fixed and rotary winged. The majority of the rotary winged ones are on or very near either designated heli routes of over the Thames. I couldn't find many fixed wings as the helicopter appears to be far more popular these days. That might be to do with the fact that we could always get helicopters into places where a fixed wing could not go by using the routes.

Rgds

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This is an encrypted mail from nats.co.uk

From: [REDACTED]
Sent: 22 December 2004 12:35
To: Roberts Phil
Cc: [REDACTED]
Subject: RE: Non-standard flights in the London / London City CTR's

I don't know. I have tried to call [REDACTED] (NATS, Swanwick [REDACTED]
[REDACTED]) who I think is the NSF man these days - no reply.

-----Original Message-----

From: Roberts Phil
Sent: 22 December 2004 12:31
To: [REDACTED]
Subject: FW: Non-standard flights in the London / London City CTR's

Gentlemen,

Do we know if this is the case?

Phil

-----Original Message-----

From: [REDACTED]
Sent: 22 December 2004 12:05
To: Roberts Phil
Cc: [REDACTED]
Subject: RE: Non-standard flights in the London / London City CTR's

Phil

My recollection is that there is an established policy that NSF numbers will not be issued in respect of any application for a single-engine aircraft in the London CTR if the proposed flight is anywhere to the east of a north-south line through Heathrow. (I have always taken this to equate to OS Easting (5)07.)

This used to be the domain of ATC OPS 3. I wonder if the existence of this policy has been overlooked.

Regards

[REDACTED]
Deputy Head of Policy
General Aviation Department

-----Original Message-----

From: [REDACTED]
Sent: 22 December 2004 11:43
To: Roberts Phil; [REDACTED]
Subject: FW: Non-standard flights in the London / London City CTR's

Phil,

I have passed this to [REDACTED] for reply. However, your proposal is what we in GAD thought to be the policy for the past 5 years!

[REDACTED]

-----Original Message-----

From: Roberts Phil
Sent: 22 December 2004 11:20
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Non-standard flights in the London / London City CTR's

[REDACTED]

We spoke. I am minded to say that between north/south lines running through LHR and LCY, NATS should temporarily suspend NSF's related to single-engined fixed wing aircraft within the lateral and vertical confines of the 2 respective CTRs (ie it can not take place below 2500' - higher in the TMA might be legal in ANO terms but unlikely in traffic terms).

Phil

-----Original Message-----

From: [REDACTED]
Sent: 22 December 2004 11:06
To: Roberts Phil
Subject: FW: Non-standard flights in the London?london CTR's

-----Original Message-----

From: [REDACTED]
Sent: 22 December 2004 10:47
To: [REDACTED]
Cc: [REDACTED]
Subject: Non-standard flights in the London?london CTR's

[REDACTED]

Following on from our discussions yesterday, I have reviewed our "Non-standard flight" folder and found a dozen or so such flights approved (on traffic grounds) that refer to flights within the London City and London CTR's, over the congested areas in single engined fixed wing aircraft.



Would it be a prudent move to temporarily suspend these flights/NSF's pending the outcome of discussions over the next few days?

This is a tough one to call, but from recent events may it seem sensible to do this to prevent further problems of this type before the review is completed.?

Controllers believe a Non-standard flight approval to be just that - an approval - and that any associated exemptions/permissions have been applied

for and granted to the operator. The NSF form states that the flight is not absolved from ANO requirements, and that the operator must apply for these independently. NATS does not have sight of such exemptions etc, so can only assume that it has been complied with at the time at which the tactical request is made to the controller.

Many thanks,


Air Traffic Operations Officer,
Room 17,
London Terminal Control Centre,
Porters Way, West Drayton
Tel : 
Fax : 01895 423968

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From: [REDACTED]
Sent: 06 December 2004 10:20
To: [REDACTED]
Cc: [REDACTED]; Roberts Phil
Subject: RE: a REAL corker!

We spoke at some length on this one recently.

It is my understanding that it is not the ATC clearance which is "illegal" (which, by MATS Pt 1 and ICAO PANS-ATM, takes account only of known traffic conditions) but rather that acceptance of it by some pilots under some circumstances may lead them to be in breach of some elements of Rule 5. The "alight clear" element of the Rule is, I believe, for the pilot to determine. Regardless of whether a Local Planning Authority designates an area as "built up" (and I am not sure that they do formally designate), it is feasible that within that area there may be parts which are not congested. (But maybe less so than there used to be.)

But, I still believe it is for the pilot to determine whether he can comply with this element of Rule 5 (and other pertinent legislation) whilst complying with the ATC clearance and to request an alternative clearance if necessary.

I think the bit of Rule 5 that is in greater contention in respect of the "routine" ATC clearance is the other constraint of "... shall not flybelow....a height of 1500ft above the highest fixed object within 600 metres of the aircraft..." Thus if you are specifying "not above 1500ft [amsl]" in the ATC clearance then the aircraft will inherently be less than 1500ft above any object which is within 600 meters of the aircraft's track. That would be overtly in breach, regardless of the "alight clear in the event of" argument. The alight clear constraint might require a clearance above 1500ft amsl; the 1500ft constraint does require a clearance above 1500ft amsl.

On another aspect of your e-mail, "...a "simple" prohibition of clearances to single engined aircraft...", I believe that is not a decision for ATC or NATS to make - it would be for the CAA itself to consider and it is not simple. It would certainly be a contentious issue, probably even beyond the remit of the current review of the London and London/City Control Zone Low Level Operations. It would set precedents which we may not want to set in other "built up" areas of the UK and particularly in respect of the Manchester CTR Low Level Route where it passes Warrington. If Rule 5 in itself has been considered "adequate" for so many years, what has changed.

The proverbial "flat stone".

Regards
[REDACTED]

-----Original Message-----

From: [REDACTED]
Sent: 06 December 2004 08:44
To: [REDACTED]; Roberts Phil
Subject: FW: a REAL corker!

Gentlemen,

FYI

██████████
-----Original Message-----

From: ██████████
Sent: 01 December 2004 13:49
To: ██████████
Cc: ██████████
Subject: RE: a REAL corker!

██████████
I'm another ██████████ currently Head of GA Operations at SRG at Gatwick.

My understanding/remembrance is that the Lea Valley has been considered a "congested area" for maybe 10 years.

Turning to Rule 5(1)(a), although the Rule says 1,500 feet as the minimum height - soon to be 1,000 feet - it also says, "such a height that would enable the aircraft to alight clear of the (congested) area....." etc. Quite clearly no single engine light aircraft can fly in the LCY Zone and comply with the latter requirement as the area is clearly congested all around. This would apply even were the Lea Valley not considered congested.

In my view single engine aircraft should not even attempt to route through the LCY Zone and if it is requested controllers should confirm that the

pilot believes he can, "glide clear". This then clearly confirms where the responsibility lies.

██████████
-----Original Message-----

From: ██████████
Sent: 01 December 2004 11:32
To: ██████████
Cc: ██████████
Subject: RE: a REAL corker!

██████████
In short I have not been involved - my "legal" sphere does not encompass this area. I have, however, copied this to some of my colleagues who might have an interest. In any event, if ██████████ is pursuing this matter with NATS Legal, I expect the CAA will eventually be formally approached.

regards,

██████████
-----Original Message-----

From: ██████████
Sent: 01 December 2004 11:04
To: ██████████
Subject: FW: a REAL corker!

[REDACTED]

>

> I've forwarded this mail to you for comment. As you can see, a specific
> incident has highlighted a possible problem with clearances issued by TC
> Thames over London.

>

> Have you been involved with this case, and if so do you know where the CAA
> are going with it?

>

> Many thanks,

>

[REDACTED]

>

> -----Original Message-----

> From: [REDACTED]
> Sent: 01 December 2004 10:15
> To: [REDACTED]
> Cc: [REDACTED]
> Subject: a REAL corker!

>

[REDACTED]

>

> [REDACTED] has just phoned to flag up a significant point relating to
> Thames, VFR clearances and the built up area of London.

>

> Quite a few months ago, a light aircraft, with a serious fuel shortage was
> instructed to divert to LCY. He ran out of fuel on short final, but made
> the runway. No problems for ATC there. This pilot is a serial
> transgressor, so the CAA wanted to prosecute. Therein lay the problem....

>

> On the aircraft's outbound leg, he was issued with a VFR clearance, up the
> Lea Valley. It appears that this clearance may have been illegal. It
> seems that since the built up area of London is such, and the Lea Valley
> contained therein is also built up, the CAA do not believe that the pilot
> (and all the others that use this route up to 50 times a day!!!) can
> comply with Rule 5 - to be able to alight clear. Apparently it is up to
> local council to deem land "built up", and the Lea Valley is deemed as
> such.

>

> The CAA are wary of prosecuting the pilot as the controller/NATS may be
> implicated in this breach of legislation.

>

> We are at an "intermediate" stage at present, with no firm answers, but it
> appears that the CAA's line on this may be that Rule 5 cannot be complied
> with in this area. I have already found other instances of the CAA's
> disbelief of Rule 5 compliance in this area.

>

> My concern is simple. If we, by implication (notwithstanding that it is a
> pilots ultimate responsibility to accept said clearance) are
> issuing/abetting in breaches of legislation, then we need to act quickly
> before an incident causes us further problems.

>

> The resolution to this problem is a simple prohibition of clearances to
> single engined aircraft in the LCY zone. The political ramifications of

> this are immense.
>
> [REDACTED] is pursuing this with NATS legal advisors. Can you contact him
> regarding this and see if any further action is required. As I mentioned,
> we issue these clearances all day long - sometimes with ATC imposed
> restrictions of "Not above 1500ft"! At the very least, we need to get some
> paperwork out to stop controllers issuing altitude restrictions that are
> not commensurate with the available vertical airspace (2400ft).
>
> [REDACTED]
>
> [REDACTED]
> Air Traffic Operations Officer,
> [REDACTED]
> London Terminal Control Centre,
> Porters Way, West Drayton
> Tel : [REDACTED]
> Fax : [REDACTED]
>

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From: [REDACTED]
Sent: 23 December 2004 12:03
To: [REDACTED]
Cc: Roberts Phil
Subject: RE: a REAL corker! (Non-standard flights in the London / London City CTR's)

[REDACTED]

Grateful if you would let us know where this has got to.

Thanks

[REDACTED]

-----Original Message-----
From: [REDACTED]
Sent: 02 December 2004 09:55
To: [REDACTED]
Subject: RE: a REAL corker!

[REDACTED]

Since the start of this E-mail chain was a request for advice from within NATS, grateful if you would pass it to the appropriate person in ATSSD to provide an appropriate response (including the copy addressees).

Regards

[REDACTED]
Deputy Head of Policy
General Aviation Department

-----Original Message-----
From: [REDACTED]
Sent: 02 December 2004 09:37
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: a REAL corker!

[REDACTED]

Essentially your view is correct. ATC issue clearances on the basis of the existing traffic situation. MATS Part 1, Section 1, Chapter 4, Page 1 para 1.3 (Clearances) states:

'Clearances do not constitute authority to violate any regulation established by the DfT, CAA or other appropriate authority for promoting safety of flight operation or for any other purpose. Controllers should not issue clearances which imply permission to breach regulations. This is especially relevant in respect of low flying rules'.

We do not ask the qualifications of pilots and so assume that if they request something they are capable and qualified to do so. The last sentence comes from a situation where a pilot requested a beat-up of a licensed airfield, which was clearly going to be in breach of the low flying rules, and ATC permitted it. When it comes to gliding range and fuel endurance then such decisions rest with the pilot.

However, it would appear in the Lea Valley situation that a friendly query by ATC, such as "Just confirm that you can comply with the glide clear requirements" could set everyone's mind at rest. That would be a decision for ATSSD rather than for me to make.

Cheers

██████████

-----Original Message-----

From: ██████████
Sent: 01 December 2004 16:32
To: ██████████
Cc: ██████████
Subject: RE: a REAL corker!

██████████

I think the view you have expressed is contrary to the line that has always been taken by the CAA. The last thing a pilot needs to be doing is justifying either his qualifications or the performance capabilities of his aircraft with ATC - it is his legal responsibility to comply with the Rules and decline the clearance if he cannot comply.

I have copied this to ██████████ for his view.

██████████

-----Original Message-----

From: ██████████
Sent: 01 December 2004 13:49
To: ██████████
Cc: ██████████
Subject: RE: a REAL corker!

██████████,

I'm another ██████████ currently Head of GA Operations at SRG at Gatwick.

My understanding/remembrance is that the Lea Valley has been considered a "congested area" for maybe 10 years.

Turning to Rule 5(1)(a), although the Rule says 1,500 feet as the minimum height - soon to be 1,000 feet - it also says, "such a height that would enable the aircraft to alight clear of the (congested) area....." etc. Quite clearly no single engine light aircraft can fly in the LCY Zone and comply with the latter requirement as the area is clearly congested all

around. This would apply even were the Lea Valley not considered congested.

In my view single engine aircraft should not even attempt to route through the LCY Zone and if it is requested controllers should confirm that the

pilot believes he can, "glide clear". This then clearly confirms where the responsibility lies.

██████████

-----Original Message-----

From: ██████████
Sent: 01 December 2004 11:32
To: ██████████
Cc: ██████████
Subject: RE: a REAL corker!

██████████,

In short I have not been involved - my "legal" sphere does not encompass this area. I have, however, copied this to some of my colleagues who might have an interest. In any event, if ██████████ is pursuing this matter with NATS Legal, I expect the CAA will eventually be formally approached.

regards,

██████████

-----Original Message-----

From: ECKETT ██████████
Sent: 01 December 2004 11:04
To: ██████████
Subject: FW: a REAL corker!

> ██████████,

>

> I've forwarded this mail to you for comment. As you can see, a specific
> incident has highlighted a possible problem with clearances issued by
TC

> Thames over London.

>

> Have you been involved with this case, and if so do you know where the
CAA

> are going with it?

>

> Many thanks,

>

> ██████████

>

> -----Original Message-----

> From: ██████████
> Sent: 01 December 2004 10:15

> To: [REDACTED]
> Cc: [REDACTED]
> Subject: a REAL corker!
>
> [REDACTED],
>
> [REDACTED] has just phoned to flag up a significant point relating to
> Thames, VFR clearances and the built up area of London.
>
> Quite a few months ago, a light aircraft, with a serious fuel shortage
was
> instructed to divert to LCY. He ran out of fuel on short final, but
made
> the runway. No problems for ATC there. This pilot is a serial
> transgressor, so the CAA wanted to prosecute. Therein lay the
problem....
>
> On the aircraft's outbound leg, he was issued with a VFR clearance, up
the
> Lea Valley. It appears that this clearance may have been illegal. It
> seems that since the built up area of London is such, and the Lea
Valley
> contained therein is also built up, the CAA do not believe that the
pilot
> (and all the others that use this route up to 50 times a day!!!) can
> comply with Rule 5 - to be able to alight clear. Apparently it is up
to
> local council to deem land "built up", and the Lea Valley is deemed as
> such.
>
> The CAA are wary of prosecuting the pilot as the controller/NATS may be
> implicated in this breach of legislation.
>
> We are at an "intermediate" stage at present, with no firm answers, but
it
> appears that the CAA's line on this may be that Rule 5 cannot be
complied
> with in this area. I have already found other instances of the CAA's
> disbelief of Rule 5 compliance in this area.
>
> My concern is simple. If we, by implication (notwithstanding that it is
a
> pilots ultimate responsibility to accept said clearance) are
> issuing/abetting in breaches of legislation, then we need to act
quickly
> before an incident causes us further problems.
>
> The resolution to this problem is a simple prohibition of clearances to
> single engined aircraft in the LCY zone. The political ramifications of
> this are immense.
>
> [REDACTED] is pursuing this with NATS legal advisors. Can you contact him
> regarding this and see if any further action is required. As I
mentioned,
> we issue these clearances all day long - sometimes with ATC imposed
> restrictions of "Not above 1500ft"! At the very least, we need to get
some

> paperwork out to stop controllers issuing altitude restrictions that
are
> not commensurate with the available vertical airspace (2400ft).
>
> [REDACTED]
>
> [REDACTED]
> Air Traffic Operations Officer,
> [REDACTED],
> London Terminal Control Centre,
> Porters Way, West Drayton
> Tel : [REDACTED]
> Fax : [REDACTED]
>

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