



Australian Government

Civil Aviation Safety Authority

LEGAL AFFAIRS, REGULATORY POLICY
AND INTERNATIONAL STRATEGY

File Ref:

22 June 2017

The Registrar
Coroners Court of Victoria
65 Kavanagh Street
SOUTHBANK VIC 3006

Dear Registrar,

Inquest into the Deaths of Reginald Thaggard and Jordan Pang
COR References: COR 2013/5897 & 5898
Response to Coroner's Recommendations

We refer to the six recommendations made by Coroner Jamieson in her written findings concluding these inquests, which were handed down on 17 February 2017. We apologise at the outset for the delay in responding.

Recommendations 2 and 3 were specifically addressed to the attention of the Civil Aviation Safety Authority (**CASA**) and made in the following terms:

2. AND I further recommend, as foreshadowed during the Inquest, that the Civil Aviation Safety Authority expand its desktop audit of the Australian Sports Rotorcraft Association Inc.'s student records to also encompass oversight of its instructors.

3. With the aim of preventing like deaths, I recommend that the Civil Aviation Safety Authority produce an advice guide, which clarifies the circumstances in which instructors can obtain payment for 'trial introductory flights', and provide this guide to the Australian Sports Rotorcraft Association Inc. to distribute amongst its instructors.

CASA accepts the sound basis and reasoning for the making of these two recommendations and is committed to their implementation.

In relation to recommendation 2, arrangements are being made to commence a desktop audit exercise in the new financial year (2017-18) in conjunction with the Australian Sport Rotorcraft Association (**ASRA**) to revise the oversight of ASRA Instructors and their respective training schools with particular scrutiny of the level of oversight by the Chief Flying Instructor (**CFI**). In conjunction with this auditing exercise, CASA also proposes to conduct a sample based audit of CFI training records and compare those against the previous auditing conducted upon CFIs.

CASA will also liaise with the ASRA to determine what steps have been taken by it in respect of recommendation 1 made by the Coroner, namely, to implement a more robust audit system for newly appointed instructors and more frequent formal oversight.

In relation to recommendation 3, CASA is in the process of developing a guide for instructors in relation to 'trial introductory flights'. Consideration is being given to preparing this guide for the benefit of all Recreational Aviation Administering Organisations (**RAAOs**), not just ASRA.

Since the Coronial hearing held on 6 June 2016, CASA also informed RAAOs by way of an email safety update on 12 August 2016, about concerns relating to the incorrect characterisation of trial introductory flights and the meaning of informed participation in sport aviation activities. The relevant text of the update is set out below:

...

Commercial Operations Versus Instructional Flight

Following a Coroner's findings from a fatal accident in 2013 involving a recreational aircraft. The Coroner recommended that CASA provide guidance material for Self-Administering Organisations regarding the conduct of Trial Instructional Flights (TIF) for sport aviation operations.

The intent of this guidance is to further clarify what may or may not be interpreted as an instructional flight by sport aviation participants as afforded by the 95 series CAOs.

The Civil Aviation Order (CAO) 95 series exemptions contain specific requirements for different aircraft types. However, the two general conditions that apply to the use of sport aircraft are that they must not be used for any other purpose than:

- Private operations; or
- Flying training to enable a person to obtain a pilot certificate;

There are slight variations in the wording, as well as the provision for certain approvals to be issued by a self-administering organisation and/or CASA, but the CAOs are specific about the flying training component. Consequently, there should be no doubt as to the intended purpose of an instructional flight.

Similar to instructional flights, trial instructional flights should be undertaken for the sole purpose of giving a person an introduction to flying in a manner and with the aim that that person will progress towards obtaining a pilot certificate. A trial instructional flight should never be marketed, sold or undertaken for the purposes of sightseeing local points of interest, conducting joy flights or conducting adventure flights. Additionally, the selection of the area to undertake instructional flights (including TIFs) should not be selected solely for the purpose of facilitating sightseeing of a particular area or local attraction nor changed from the usual training area to facilitate flying over an area of interest to the participant undertaking the instructional flight.

The selection of the training area (if not already prescribed in a state source document i.e. ERSA, VTC etc.) should always provide the best possible training and safety outcome for all participants.

Please review the relevance of this guidance to your organisation and distribute accordingly.

Informed Participation in Sport Aviation

Following an ATSB accident investigation from 2014, CASA will be updating its sports aviation web content regarding informed participation in sport aviation so that participants are aware of what informed participation is, the increased level of risk that sport aviation carries and CASA's role in managing safety in sport aviation.

Given the length of the content, I have attached a word document with the proposed web content.

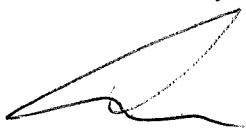
Please review the material and consider if your organisation needs to review the communications provided to participants considering undertaking an activity offered by your organisation.

Please also find **attached** to this letter the word document referred to above in relation to informed participation in sport aviation.

In relation to recommendation 5 made to the Minister for Infrastructure and Training concerning funding of RAAO's, CASA understands that the Minister has responded to that recommendation directly.

If you should require further information please do not hesitate to contact me directly.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Anthony Carter', with a stylized flourish at the end.

Anthony Carter
Principal Lawyer
Litigation and Enforcement
Legal Affairs, Regulatory Policy and International Strategy

Phone: (02) 6217 1151
Facsimile: (02) 6217 1607
anthony.carter@casa.gov.au

Sport aviation flight safety explained

The safety risks of sport aviation are very different to the risks of flying in large passenger jet aircraft or smaller commuter aircraft.

Many of the aircraft involved in sport aviation do not meet the design standards that are applicable to large jet aircraft or small commuter aircraft.

Additionally the maintenance standards required for many sport aviation aircraft may not be as high as the standards required for these other operations.

Many activities in sport aviation, such as making a parachute descent, hang gliding, paragliding, adventure flights, and recreational flights are not operated under the same operational or airworthiness standards applicable to large jet aircraft or small commuter aircraft used in regular public transport, therefore there is an assumed reduced level of safety that you need to be aware of.

These factors mean that participating in sport aviation carries a higher level of risk than flying as a passenger in commercial air transport operations and you need to inform yourself of the risk before participating in that activity.

What is Informed Participation?

Informed participation in sport aviation relies on the premise that before you accept, conduct or pay to conduct an activity that you have taken steps to inform yourself of the potential consequences of accepting to participate in your chosen sport aviation activity.

This may include asking questions of the service provider you wish to use, researching their website, checking with the self – administering organisation that administers the activity, conducting due diligence to inform yourself on the risks of the activity on the internet or in other literature such as the CASA or ATSB publications, or contacting other sport aviation participants to discuss the operation.

However you inform yourself of the risks, it is important that you consider the consequences of the intended activity, which may include death or permanent disability as worst case scenarios and how this would impact on your future or the potential effect on your immediate and extended family.

Before exercising your right to freely choose the level of risk you are comfortable with accepting in relation to sport aviation, it is imperative that you have reasonably considered and accepted the level of risk of that operation.

Do people have to understand and accept the risks?

Yes. Before you undertake a sport aviation activity as an informed participant you may be:

- required to read and sign a document acknowledging you have been told and understand the risk involved in that particular activity; or
- given a verbal brief or presentation of the risks for that particular activity.

Additionally, depending on the type of aircraft, it may carry a warning placard stating that CASA and the self-administering organisation do not guarantee the airworthiness of that aircraft and all pilots operate these aircraft at their own risk, meaning that you need to accept the risks of flying in, or jumping from, the aircraft as an informed participant and be aware of the potential consequences for you and your extended family.

Why doesn't CASA take a more active role in managing safety in this area of aviation?

Ninety six per cent of Australians fly on commercial aircraft operated by our airlines or charter companies.

Naturally, this is where CASA concentrates the majority of its time and resources.

CASA's primary responsibility is to carry out safety checks and audits on airlines and other passenger carrying operations to make sure standards are acceptable and risks are being properly managed.

CASA has a policy on industry priorities and the carriage of people in aircraft (CEO-PN001-2004: CASA's Industry Sector Priorities and Classification of Civil Aviation Activities - Please note: As of 15 June 2009, this policy notice has been suspended pending further review and reconsideration) which sets out how it approaches its functions under the *Civil Aviation Act* on behalf of the Australian public.

Non-passenger carrying operations are not ignored by CASA, but fewer resources are allocated to these activities. Lower priority sectors include private operations, sport aviation and freight only flights.

CASA oversees the self-administering organisations that administer sport aviation functions for and on behalf of CASA. These organisations oversight the daily operations of these activities and provide safety and educational material to their members and to the general public. For further information on these organisations please refer to the self-administration page of the CASA website.

This means that participants wishing to take part in sport and recreational aviation activities are expected to understand the risks involved and to accept those risks, this is called informed participation and is the cornerstone of all sport and recreational aviation operations within Australia.