



**TERMS OF REFERENCE
FOR THE
AVIATION COMMUNITY ADVISORY GROUP
(ACAG)**

27 November 2013

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1. INTRODUCTION

1.1 Purpose of this Document

This document describes the role and functions of the Aviation Community Advisory Group ('ACAG') and outlines the scope for the ACAG's activities.

1.2 Background

ACAG was established in 2005 in response to the Scholtens Report of 2002 which addressed the efficiency and effectiveness of the rule making process. A specific recommendation from that report was that the *'aviation community establish an aviation community advisory group (ACAG) or forum to meet regularly with CAA in accordance with the [rule making] process.'*

Accordingly, ACAG was originally created by the CAA as a forum to facilitate and promote the participation of industry representatives in the rule development process. Further detail on the history of ACAG can be found in Annex 1

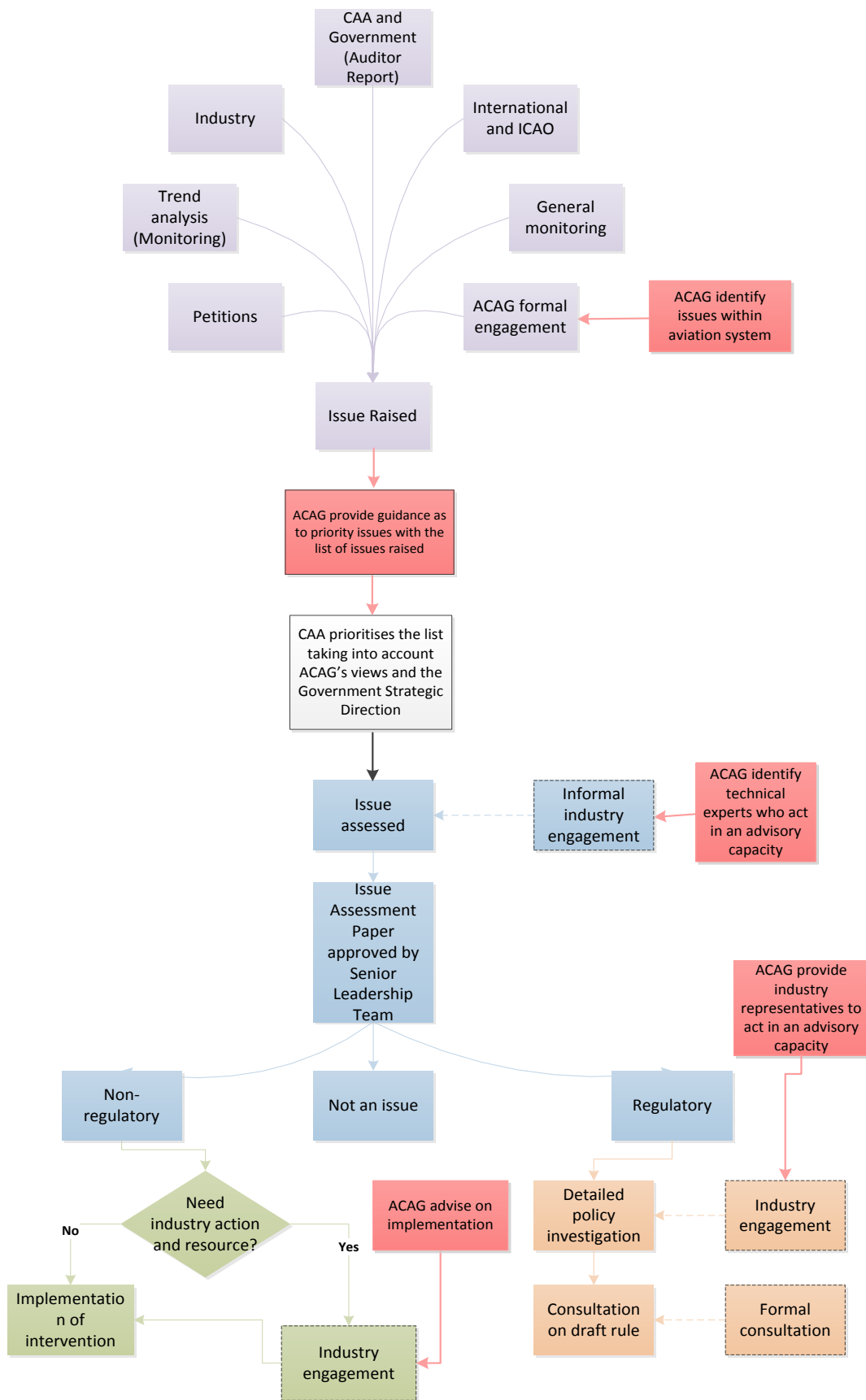
The Ministry of Transport's Regulatory Reform policy has shifted the emphasis of rulemaking and now requires detailed policy development prior to progressing Rule changes. The CAA has therefore moved to a policy-driven, risk based approach to dealing with problems arising within the aviation system. This involves a greater focus on the front end of the process including issue identification, problem definition and assessment of the full range of intervention options, from non-regulatory approaches to regulatory approaches.

The process for policy development and any resulting interventions is summarized in Diagram 1 and includes the following stages:

- 1) Issue identification from a full range of sources
- 2) Prioritising issues for assessment
- 3) Issue assessment
 - Issue validation and risk analysis:
 - Intervention options identification and analysis:
 - Recommendation on most appropriate option
- 4) Decision on intervention approach
- 5) Detailed policy development and implementation
 - If a non-regulatory approach is preferred – implementation programme developed
 - If a regulatory approach is preferred – the detailed policy investigation and formal consultation on the draft rule will be undertaken in accordance with the Ministry of Transport rule development handbook

As a result, the role of ACAG was reviewed in December 2012 to align better with this shift in focus.

The Civil Aviation Authority Policy Development Process



2. ACAG ROLE AND FUNCTIONS

2.1 Role of ACAG

ACAG is a representative industry body which has been formed to provide advice to the CAA, and to receive regular feedback from CAA and the aviation community on issues affecting aviation safety and the aviation operating environment.

2.2 Functions of ACAG

The functions of the ACAG include, but are not limited to, the following:

1. Identify Issues to be Addressed

ACAG's primary function is to identify issues within the aviation system that may require consideration, analysis, and action by the CAA where appropriate. Identification of the issues will include a clear explanation of the problem.

2. Provide Advice as to Issue Priorities

Review the full issue assessment list compiled by the CAA monthly, and provide a representative industry view of the prioritisation of the issues concerned, with reasons for the priority.

3. Provide Technical Expertise during Issue Assessment Process

Identify relevant industry representatives who can be called on by the lead policy advisor to provide technical expertise to add value to the issue assessment process.

4. Provide Advice on Implementation of Non-Regulatory Interventions

Provide advice on the implementation of non-regulatory solutions which require industry action and/or resource.

5. Provide Advice on Regulatory (Rules) Interventions

If requested to do so, identify suitable experts from the aviation community to participate in project working groups that provide technical advice and feedback during the Ministry of Transport's Rules Development process.

3. ACAG MEMBERSHIP & COMPOSITION

3.1 General

The ACAG membership will be broadly representative of the aviation community as possible to ensure that the CAA has access to the appropriate advice.

3.2 ACAG Membership Requirements

The following requirements relate to membership and participation in ACAG;

- wide membership - membership should reflect, as far as practicable, a broad representation of the New Zealand aviation community.
- stable membership - membership with continuity assured by a slow and orderly turnover of members.
- appropriate participation - ACAG members are to participate in a way that is consistent with the Terms of Reference and the advisory and monitoring role of ACAG.
- appropriate representation - ACAG members are expected to facilitate the development and sharing of aviation community views with the CAA in the rule development process, rather than represent the particular interests of their organisation or sector.
- appropriate knowledge - ACAG members are expected to have an understanding of the policy and rule development process and the ACAG role within it.
- appropriate experience – ACAG members are expected to have knowledge and experience of the aviation industry in New Zealand.
- active membership – ACAG members are expected to make reasonable endeavours to attend ACAG meetings and to participate in ACAG business.

3.3 Guiding Principles

The ACAG members are responsible for reporting back to the aviation community issues and business items discussed by ACAG. As an advisory body, the ACAG facilitates the development of aviation community views on issues. This role requires that ACAG members and the CAA conduct their business at all times in a way which promotes respect, mutual trust and partnership.

The principles under which the CAA operates in this area can be summarised, as follows:

1. The obligations, roles and responsibilities of ACAG members and participants are clear, consistent and appropriate.
2. The process exchanging information is open, transparent, structured and disciplined with the objective of reaching a common understanding and consensus where possible provided the public interest is not compromised.

These guiding principles are intended to summarise the framework whereby all parties are able to participate effectively in the process.

3.4 Composition of ACAG

The ACAG comprises of one member nominated by each of the following nine (9) permanent member organisations as follows:

- Air New Zealand

- Airways Corporation of New Zealand
- Aviation Industry Association
- New Zealand Air Line Pilots Association
- New Zealand Aviation Federation
- Flying New Zealand
- Aviation Engineering representative
- NZ Airports Association
- Aircraft Owners and Pilots Association

In addition to the above three (3) elected members may be appointed to ACAG in accordance with the process detailed in section 4 below.

The following organisations will be invited to attend the ACAG meetings in an observational role:

- Ministry of Transport
- New Zealand Trade and Enterprise
- Callaghan Institute Tourism Industry Association

The membership is intended to provide a comprehensive representative group that has the capability to advise the CAA on its policy and rulemaking process in all areas. From time to time, an issue, policy or rule making project may arise where there is a need to include representative from a specific industry group not fully represented by the ACAG membership. This will be arranged by ACAG and/or the CAA at the time.

3.5 Chairperson of ACAG

The twelve members of ACAG shall choose one of its members to be the Chairperson, and one other member to be the Deputy Chairperson.

4. ACAG NOMINATION & ELECTION

4.1 Notification of elections

It is desirable that all interested persons who wish to participate in the ACAG have the opportunity to do so. Hence the nomination and election processes for ACAG need to be given wide publicity to stimulate interest in these processes and the role of ACAG.

To assist in the promotion of the ACAG elections, CAA publicity will include:

- Information posted to the CAA web site (www.caa.govt.nz)
- *Vector* articles and features
- Mailouts using CAA email lists where users have subscribed to receive general updates on CAA matters

The CAA publishes and maintains these Terms of Reference for ACAG on the CAA web site. This Terms of Reference document is intended to provide

prospective and current ACAG members a clear outline of the role and functions of ACAG and the expectations placed on members.

4.2 Nomination of ACAG Members

The nine permanent member organisations shall nominate a primary member to ACAG and an alternate who shall deputise for the primary member.

Nominations for the three elected ACAG positions shall be invited from the aviation community.

The procedures for the nomination and election of ACAG members, in accordance with this Terms of Reference, are set out in a separate document developed and maintained by ACAG.

4.3 Election of ACAG Members

An election is held for each of the elected positions following nominations from the aviation community. An election would not be held only in the situation where fewer nominations are received for those positions than the number of positions available. In that case, and the case where the number of nominations equals the number of positions available, the nominees become the elected members.

At any time when one of the elected positions becomes vacant, for reasons of retirement or departure of any elected member, a nomination and election will be held for that position. In every instance, each of the three elected positions will be filled by members who have been nominated and elected to that position.

Successful candidates will be advised in writing of their election to ACAG. A current list of ACAG members will be maintained and published on the CAA webpage and from time to time in the *Vector*.

4.4 Term of Office & Re-election of Members

The term of office for the three members elected at the ACAG Forum shall be three (3) years.

5. ACAG OPERATION

5.1 ACAG Working Arrangements

ACAG will organise itself to ensure that it can provide a flexible, ongoing and timely response to the CAA's requests for support in the issue assessment and policy development process. This will include communication via email and phone calls, and through working groups on specific issues if these would add value to the policy work. These working groups may include persons other than ACAG members, if specific expertise is required.

The CAA and ACAG will normally meet three times a year. During the meetings, ACAG will:

- Hear progress reports provided by the CAA on the status of the issue list and assessments and detailed policy and rule development
- Provide feedback to the CAA on common themes and major issues for industry arising from the policy development process
- Review the efficacy of ACAG engagement in the process

The CAA will provide reasonable notice of all ACAG meetings. The CAA will distribute documents directly to all ACAG members so that members have sufficient time to prepare for those meetings. The CAA chairs the joint meetings with ACAG. ACAG may conduct meetings at other times under the direction of their Chairperson.

5.2 ACAG support

To assist with ongoing and timely action, the CAA will provide ACAG with regular progress updates and key documents via an internet-based information clearinghouse, email and phone calls. This includes:

- Providing ACAG with an updated issue assessment list monthly
- Providing regular feedback on progress with issue assessments, policy and rules development.
- Organisation and minutes for ACAG meetings
- Coordination of experts and working groups on specific issue assessments if required

5.3 Meeting Records & Reports

The CAA provides the documentation, including agendas and supporting papers, required for the meetings that it undertakes with the ACAG, no later than five (5) working days in advance of the date of that meeting.

The CAA provides a summary record of each meeting, in the form of a draft copy, to the ACAG members no later than ten (10) working days after the meeting.

The ACAG provides their feedback to the CAA on the draft record, via the ACAG Chairperson, with the objective that within ten (10) working days of being sent the draft copy, the response to the record of the joint ACAG and CAA meeting will be agreed before being posted on the CAA web site. It is intended that the record will be posted to the website no later than one calendar month after each meeting is held.

5.4 Participation Costs

The CAA will reimburse, on a maximum of three occasions per year, the travel expenses incurred by ACAG members in attending meetings at the CAA in Wellington. Travel arrangements should be booked in accordance with the CAA travel policy.

5.5 Document Control

This document is controlled by the CAA and may be amended from time to time by agreement with the ACAG. This document is published on the CAA web site under “Rules & more” at www.caa.govt.nz.

6.0 Review

6.1 Terms of Reference Review

This Terms of Reference shall be reviewed at least every three years to ensure that the membership continues to adequately reflect the composition of the aviation community, and the roles and functions of ACAG remain relevant..

Annex 1: History of the Aviation Community Advisory Group

2002: Scholtens Report

In 2002, the Director of Civil Aviation appointed Wellington barrister, Mary Scholtens QC, to carry out a review of the participation of interested persons in the development of ordinary civil aviation rules. The Scholtens Report* was completed in December 2002.

The reasons for undertaking the review included, but were not limited to, the overall concerns regarding the efficiency and effectiveness of the rule-making process; the recommendations contained in the 2001 Ministerial Review relating to rule making; the obligations on, and requirements of, the various stake-holders in the rule-making process; and concerns held by the CAA and some sections of the aviation community as to the roles, representation and influence of the CAA/Industry Rules Advisory Group (CIRAG).

In her report, Mary Scholtens concluded that the original purpose of CIRAG remained valid and important but there were “four essential deficiencies or problems” that needed to be addressed, as part of the establishment of the new ACAG, and are summarised as follows;

1. CIRAG and/or the TSGs jurisdiction was too broad, taking over processes that were the responsibility of the CAA.
2. CIRAG was too small and unrepresentative, lacking the confidence of the wider aviation community.

* *“Review of Participation of Interested Persons in the Development of Ordinary Civil Aviation Rules” Mary T Scholtens QC, Wellington December 2002*

3. The CAA could not exercise sufficient control over the process and the focus on agreement resulted in a number of difficulties.
4. The dual role of some TSGs being both technical and representative were sometimes seen as unrepresentative when fulfilling a representative function, and got bogged down in detail causing unwarranted delays and unrealistic expectations of the process outcome.

Mary Scholtens made seventeen recommendations in her report. Recommendation 2 states, that the -

“aviation community to establish an aviation community advisory group (ACAG) or forum to meet regularly with CAA in accordance with this process.”

These Terms of Reference are in response to Recommendation 2.

The seventeen recommendations arising from the Scholtens Report provide the basis for the Rules Review Implementation Project.

2005: ACAG formation and original function

The CAA commenced the Rules Review Implementation Project in November 2003 to manage the implementation of the Scholtens Report recommendations. At an early stage the definition and establishment of the ACAG was recognised by the CAA and the aviation community as a fundamental component of the proposed new rule development process.

This original Terms of Reference was developed by the CAA project team jointly with the aviation community Reference Group formed from the original group of submitters to the CAA on the RRI project.

On 31 August 2005, the Terms of Reference for the original ACAG were formalised. The Aviation Community Advisory Group (ACAG) would have a monitoring and advisory role throughout the rule development process. The ACAG monitors progress of issues through the Issue Assessment Phase and the progress of rules projects. The ACAG also provides advice to the CAA on the operation of the rules process as a whole.

The ACAG would also facilitate the development of the aviation community views on issues and provides advice and information to the CAA on those issues. At the time, the ACAG was one of three groups that participate with the CAA in the rule development process. The ACAG identifies persons suitable for inclusion in the other two groups, Issue Assessment Groups (IAGs) and Project Working Groups (PWGs), refer section 4.0.

The ACAG also provided a high level forum for the exchange of aviation community views on rules issues with the CAA, enabling the CAA to obtain timely inputs into the rule development process.

2013: Changes to ACAG focus

By 2012, the Ministry of Transport's Regulatory Reform policy shifted the emphasis of rulemaking. More detailed policy development prior to progressing Rule changes was now required. CAA moved to a policy-driven, risk based approach to dealing with problems arising within the aviation system. This necessitated a greater focus on the front end of the process including issue identification, problem definition and assessment of the full range of intervention options, from non-regulatory approaches to regulatory approaches.

The need for aviation industry expertise and input was still required, but needed to reflect this change in approach. As a result, the role of ACAG was reviewed in June 2013 to better align its functions with the new policy driven approach. This Terms of Reference reflects this change in focus.