



DRAFT UK Airspace Design Support Fund: Rules and Eligibility Criteria

Introduction

1. The UK Airspace Design Service (“UKADS”) joint consultation published by DfT and the CAA (“co-sponsors”) in Autumn 2024¹ proposed a new Airspace Design Charge (“Charge”) which would be established through NATS (En Route) plc’s (“NERL”) air traffic services licence² and implemented using the same charging specification provisions in the Transport Act 2000 as those used to specify the UK, Oceanic and London Approach Air Traffic Services charges. Subject to the relevant policy decisions being made and the licence modification procedure, it was proposed that the new Charge would establish funding mechanisms for:
 - a. NERL’s costs to provide the UKADS; and
 - b. a UK Airspace Design Support Fund (“Support Fund”) to provide support for certain costs associated with airspace change more widely where the UKADS is not being provided and to cover the costs of administering the Fund.
2. The Support Fund aims to provide support for eligible airspace change sponsors progressing airspace change proposals at airports where NERL is not progressing an airspace change proposal as the UKADS provider, and to reflect the proposal that mainly commercial airlines would pay the Charge.
3. Subject to the licence modification procedure and any support fund being established following a subsidy principles assessment, and subject (without limitation) to paragraphs 6-9 below, the Proposed Support Fund Rules set out how the Support Fund will function, including:
 - a. who may apply to the Support Fund and for what costs;
 - b. the requirements relating to the Support Fund processes, including the requirement to set up the application process, assess applications, and pay out funding.

¹ [CAP3029: Airspace modernisation: consultation on a UK Airspace Design Service | UK Civil Aviation Authority](#)

² [NATS En Route Licence: NATS \(En Route\) Licence | UK Civil Aviation Authority](#)

4. The CAA's Initial Proposals³ proposed the following modifications to NERL's licence to implement the above:
 - a. the requirement on NERL to administer the Support Fund in accordance with any relevant written guidance issued for the purpose from time to time;
 - b. the introduction of the Charge for the Support Fund and to cover NERL's costs of administering the Support Fund.
5. We have since considered that DfT should determine the final eligibility criteria, the CAA should decide whether the applications meet those eligibility criteria and NERL will be asked to distribute the funds. The Proposed Support Fund Rules therefore propose that the CAA takes on the role of decision-maker for the Support Fund, which will then direct NERL to distribute the grant funding to the relevant sponsor.
6. Subject to paragraphs 7-9 below, the Proposed Support Fund Rules constitute the draft written guidance proposed for processes relating to the Support Fund. The DfT has decided to publish the Proposed Support Fund Rules to provide visibility to airspace change sponsors on how the Support Fund is likely to operate when established and enable eligible sponsors to start collating information relevant to a Support Fund application. The Proposed Support Fund Rules will remain in draft and amendments may be made until any Support Fund is fully established and the provisions set out below are in force.
7. The modifications to NERL's licence are subject to the licence modification procedure set out in section 11A of the Transport Act 2000. As such, the provisions in the Proposed Support Fund Rules below do not take effect unless and until:
 - a. NERL's licence is modified to introduce the underlying charge control and to require NERL to comply with the final version of the Proposed Support Fund Rules; and
 - b. the Charge is specified under the Transport Act 2000,

(the "Proposal").
8. The proposed scheme rules and eligibility criteria, as contained in the Proposed Support Fund Rules below, may be further amended by the DfT and/or the CAA

³ [CAP3121: Economic Regulation of NERL: Initial Proposals for modifying the Licence to support the implementation of a UK Airspace Design Service | UK Civil Aviation Authority](#)

prior to any Commencement Date. The CAA and DfT are in the process of conducting a subsidy principles assessment of the proposed Support Fund in order to ensure the final scheme complies with the Subsidy Control Act 2022 (the “Act”). If the assessment concludes that the subsidy scheme in respect of the Support Fund, as proposed in this document, does not comply with the subsidy control principles in Schedule 1 to the Act and the relevant Energy and Environmental Principles in Schedule 2 to the Act (together “the Principles”), then the CAA and DfT will withdraw this draft guidance in order to revisit and/or amend the proposed scheme rules and eligibility criteria to ensure the subsidy scheme in respect of the Support Fund and the Support Fund is only launched once the CAA and DfT have each concluded it complies with the Principles. When the CAA’s and DfT’s assessments are complete and provided they each conclude the subsidy scheme in respect of the Support Fund complies with the Principles, the CAA and DfT will publish a notice on the transparency database as to the subsidy scheme. If the outcome of the licence modification consultation means that changes to the scheme may be required, the CAA and DfT may conduct a further assessment of any revision to the proposed subsidy scheme against the Principles to ensure the proposed subsidy scheme in respect of the Support Fund is compliant with the Act, and a new notice on the transparency database may be required. If that further assessment against the Principles concludes that the Principles are not complied with, then the CAA and DfT will look to either make further amendments to the proposed scheme rules and criteria (this document) to ensure that the Principles are complied with, or if this is not possible, may withdraw the Support Fund.

9. If the Proposal (or similar) is not implemented, there shall be no obligation on the CAA, DfT or any authority or party to pay to any sponsor of an airspace change proposal falling within the scope of this draft guidance, any funding in respect of any costs planned or incurred which may have met the proposed eligibility criteria set out in the Proposed Support Fund Rules below. This means that unless and until the licence modification procedure is completed (and the Charge is specified under the Transport Act 2000), potential Applicants (as defined below) are proceeding at risk.

Proposed Support Fund Rules

10. Those distributing the Support Fund monies and those making decisions on funding are required to comply with the provisions of this document when exercising their functions in relation to the Support Fund. The provisions set out the minimum obligations with which those administering and/or making

decisions in relation to the Support Fund are required to comply and implement to provide transparent, proportionate and efficient processes and decisions. The Fund Decision Maker may decide to incorporate further provisions/steps to achieve these objectives.

11. The following defined terms are used in these Support Fund Rules, although the Fund Decision Maker may use different terms in its processes:

“Absolute Cap of £1 million” means the maximum total amount of funding which an Applicant may receive from the Support Fund, irrespective of the number of Funding Claims submitted;

“Actual Costs” means the actual costs of work carried out for which the Applicant is seeking funding after completion of the Statement of Work (in whole or in part as the context requires);

“Applicant” means a sponsor of an airspace change proposal which satisfies (or potentially satisfies, as the context requires) the requirements of paragraph 15b of the Eligibility Criteria;

“Claimed Costs” means the estimated costs of the Funded Activities for which the Applicant is applying for funding from the Support Fund (in whole or in part as the context requires);

“Commencement Date” means the date when both elements of the Proposal have come into effect;

“Completion Report” means the report which the Applicant should prepare and send to the Fund Decision Maker on completion of the Funded Activities, as set out in paragraph 19c;

“Co-sponsors” means the DfT and the CAA as co-sponsors of airspace modernisation;

“Eligibility Criteria” means the criteria set out in paragraph 15;

“Fund Decision Maker” means the CAA or DfT or both;

“Fund Distributor” means NATS (En Route) plc;

“Funded Activities” means the work, the estimated costs of which the Applicant is applying for funding from the Support Fund;

“Funding Claim” means the application made by an Applicant for Claimed Costs from the Support Fund;

“Grant Funding” means the amount of funding from the Support Fund awarded by the Fund Decision Maker in its decision (in whole or in part as the context requires);

“Grant Funding Agreement” means the agreement which the Fund Decision Maker and the Applicant should enter into following any “in principle” decision by the Fund Decision Maker that provisionally determines the eligible criteria are met in relation to the Applicant, the Relevant ACP and the Eligible Costs and which contains, as a minimum, the requirements set out in the section titled “Grant Funding Agreement”;

“Launch Date” means the date of publication of this draft document;

“Pre-Commencement Date Costs” means any Eligible Costs incurred by an Applicant between the Launch Date and the Commencement Date;

“Relevant ACP” means the airspace change proposal in relation to which the Applicant is claiming funding and which satisfies (or potentially satisfies, as the context requires) the requirements of paragraph 15a of the Eligibility Criteria.

“Statement of Work” means a breakdown of work carried out by the applicant including a breakdown of the Claimed Costs, Funded Activities, an indicative cost plan and schedule.

12. Save in relation to Pre-Commencement Date Costs, the Fund Decision Maker will put in place appropriate processes for assessing Funding Claims and directing the Fund Distributor to disburse funds from the Support Fund, which should include, as a minimum, the following steps as further detailed in the sections below:

- a. Application;
- b. Grant funding agreement;
- c. Assessment and Decision; and
- d. Funds disbursement.

13. In relation to any Pre-Commencement Date Costs, the Fund Decision Maker will:

- a. publish the process to be followed;
- b. ensure that the process from application to directing disbursement of funds contains equivalent safeguards to those detailed in the sections below although it need not contain all the steps set out in paragraph 12 above given work and costs may have already been incurred;
- c. ensure that the Assessment and Decision in relation to any Actual Costs and Grant Funding comply with the requirements set out below.

14. In relation to the Support Fund:

- a. the Fund Decision Maker will keep accurate and timely records of all applications, particularly Claimed Costs, Actual Costs and Grant Funding, broken down in sufficient detail that the Fund Decision Maker can build and refine cost benchmarks against which to assess Funding Claims;
- b. the Fund Decision Maker will provide sufficient information on the use of the Support Fund to the DfT/CAA Joint Airspace Modernisation Programme Board (or any successor body carrying out a similar function), as requested
- c. the Fund Distributor must keep accurate records for the Support Fund funds, and these must be transparent in accordance with applicable UK accounting standards and laws.

Eligibility criteria

15. The Eligibility Criteria which must be fulfilled are:

- a. in respect of the relevant airspace change proposal (“Relevant ACP”):
 - i. the airspace change proposal is not being progressed by NERL as the UKADS provider; and
 - ii. another airspace change proposal at the same airport is not being progressed by NERL as the UKADS provider; and
 - iii. the airspace change proposal has passed CAP 1616 airspace change process⁴ Gateway 2 (or equivalent pre-consultation stage in any subsequent airspace change process)

and

- b. in respect of the Applicant:
 - i. it is a sponsor of a permanent airspace change proposal at an airport; and,
 - ii. in the year in which it submits its Funding Claim, more than 450,000 passenger movements took place at the airport in the year but one preceding that year (according to UK airport data published by the CAA);

or

- iii. it is a sponsor of a permanent airspace change proposal at an airport; and

⁴ [CAP1616: Airspace Change Process | UK Civil Aviation Authority](#)

- iv. in the year in which it submits its Funding Claim, fewer than 450,000 passenger movements took place at the airport in the year but one preceding that year (according to UK airport data published by the CAA); and
- v. following the sponsor's application to the DfT, and the DfT's subsequent consultation with the CAA, the DfT has confirmed that the sponsor is an eligible Applicant on an exceptional basis.

Eligible costs

16. All the following requirements must be satisfied for any costs, whether considered as a whole or on a more granular level, to be considered "Eligible Costs" up to the Absolute Cap of £1million and must not contain any costs falling within paragraph 17:
- a. costs relating to any task carried out after the Launch Date and required by the CAP 1616 airspace change process (including contractor costs and employment costs) relating to the Relevant ACP following completion of the current CAP 1616 airspace change process Gateway 2 (or equivalent pre-consultation stage in any subsequent airspace change process), including, but not limited to, safety assessment, options appraisal, airspace design, consultation costs (save for the costs of the consultation-related activities set out in paragraph 17 below) and noise modelling and analysis; and
 - b. costs which have been incurred by the Applicant after the Launch Date; and
 - c. costs which are identifiable and verifiable and meet applicable UK accounting standards and laws, and must be reasonable, justified and comply with the principle of sound management in particular regarding economy and efficiency.
17. The following costs do not fall within the scope of Eligible Costs:
- a. costs incurred up to and including completion of the current CAP 1616 airspace change process Gateway 2 (or equivalent pre-consultation stage in any subsequent airspace change process) unless required to enable the activities of the UKADS (and agreed by NERL as the UKADS provider and the co-sponsors in advance), or as a result of a specific change to an airspace change proposal or cluster requested by the co-sponsors. In this event, the costs would be met assuming the other criteria and requirements in this document are satisfied;

- b. costs which are demonstrably inefficient and/or wasteful;
- c. costs of business-as-usual engagement with local communities and other stakeholders that are not related to the Relevant ACP;
- d. costs of hiring premises for CAP 1616 airspace change process consultation activity;
- e. costs of producing physical/electronic display boards for CAP 1616 airspace change process consultation activity;
- f. noise mitigation costs (such as noise insulation schemes);
- g. costs of third parties affected by airspace change;
- h. legal costs associated with any airspace change proposal (such as those related to a challenge to the airspace change proposal);
- i. costs related to:
 - i. temporary airspace change proposals;
 - ii. airspace change proposal trials;
 - iii. planned and permanent redistribution (“PPR”) of air traffic through changes in air traffic control operational procedure;
 - iv. routine airspace change proposals that airports would expect to do in the normal course of their activities, such as RNAV (area navigation) substitution.
- j. training and implementation of airspace changes.

Application Process

18. The Fund Decision Maker must put in place an application process, which should include, as a minimum, the following steps:
 - a. before commencing the Funded Activities, the Applicant should submit to the Fund Decision Maker a Funding Claim containing the following information:
 - i. evidence that the Eligibility Criteria are satisfied;
 - ii. evidence that the Funded Activities and Claimed Costs fall within the definition of Eligible Costs;
 - iii. a detailed Statement of Work (“SOW”);
 - iv. the proposed delivery timeline for the relevant stage(s) of the Relevant ACP as required under the CAP 1616 airspace change process and agreed with the CAA;
 - b. the Fund Decision Maker will make a non-binding “in principle” decision on whether the Applicant and the Relevant ACP satisfy the Eligibility Criteria and whether the Claimed Costs are Eligible Costs;
 - c. if the Fund Decision Maker’s non-binding “in principle” decision is that the relevant criteria are provisionally satisfied in relation to all or some of

the Claimed Costs and so provisionally approves “in principle” the Funding Claim (in whole or in part), the Fund Decision Maker and the Applicant should enter into a Grant Funding Agreement in relation to the relevant Claimed Costs which contains, as a minimum, the requirements set out below. There shall be no obligation on the Fund Decision Maker to award or pay any funding in respect of Claimed Costs based only on the “in principle” decision.

Grant Funding Agreement

19. The Fund Decision Maker should ensure that each Grant Funding Agreement contains, as a minimum, the following requirements:

On the Applicant:

- a. the Applicant must obtain value for money when carrying out the Funded Activities. In the event that external procurement processes for goods or services are required to be undertaken by the Applicant (and relate to the Funded Activities), the Applicant is required to undertake such processes in a fair, open, and non-discriminatory manner;
- b. the Applicant must inform the Fund Decision Maker, as soon as practicable, if the whole or any part of the Actual Costs are or are likely to be significantly different (+/-5%) from the Claimed Costs (in whole or part);
- c. upon completion of the SoW, the Applicant must prepare and send a final report to the Fund Decision Maker (“Completion Report”). The Completion Report should include:
 - i. evidence of the Actual Costs;
 - ii. justification for any differences between the Actual Costs and the Claimed Costs;
 - iii. evidence that the SoW has been completed efficiently, including a consolidated high-level summary of all SoW achievements, deliverables (outputs) and costs, and details on the processes used by the Applicant set out in paragraph 18a;
 - iv. evidence that the criteria for Eligible Costs are satisfied;
- d. the Applicant must provide the Fund Decision Maker with any other information the Fund Decision Maker reasonably requires to determine whether the Applicant, Relevant ACP, and Actual Costs (in whole or part) satisfy the requirements of the Eligibility Criteria and Eligible Costs;
- e. the Applicant must repay the Grant Funding if the Relevant ACP is not submitted to the CAA for a decision in accordance with the CAP1616

airspace change process within 5 years of the Fund Decision Maker confirming receipt of a complete (in its reasonable opinion) Completion Report, unless progress through the CAP 1616 airspace change process is delayed for reasons beyond the reasonable control of the Applicant and such delay is provided for in the delivery timeline for the relevant stage(s) of the Relevant ACP as required under the CAP 1616 airspace change process and agreed with the CAA;

- f. if any Grant Funding is awarded by the Fund Decision Maker, the Applicant must enter into a written agreement with the Fund Distributor before it can receive the Grant Funding (see further paragraph 22 below);

On the Fund Decision Maker:

- g. within a reasonable time after the Fund Decision Maker confirming receipt of a complete (in its reasonable opinion) Completion Report, the Fund Decision Maker should issue its decision (see further below) as to the amount of the Grant Funding (if any);
- h. while the Applicant should be entirely responsible for any significant increase (more than 5%) between the Claimed Costs (in whole or part) and the Actual Costs (in whole or part), the Fund Decision Maker may approve funding for any difference up to 15% increase between the Claimed Costs and the Actual Costs (although no greater difference) provided:
 - i. the Applicant has informed the Fund Decision Maker in writing in advance of the Applicant incurring the relevant costs and has provided the relevant evidence in the Completion Report in accordance with paragraph 19(c);
 - ii. the reason for the difference is that the SoW has been adversely impacted which may result in non-delivery or there has been a mutually agreed change of scope for the SoW between the Fund Decision Maker and the Applicant; and
 - iii. the total amount of funding given to the Applicant from the Support Fund would not exceed the Absolute Cap of £1million;
- i. the Fund Decision Maker is under no obligation to award all or a proportion of funding in respect of Claimed Costs;
- j. the Fund Decision Maker may seek reimbursement of any paid Grant Funding or may terminate the Grant Funding Agreement, as appropriate, in any of the following circumstances:

- i. the Applicant has failed to comply with any of its obligations under the Grant Funding Agreement, which is material in the reasonable opinion of the Fund Decision Maker;
- ii. delivery of the Funded Activities has not started 6 months after the parties enter into the Grant Funding Agreement and the Applicant fails to provide a satisfactory explanation for the delay, or fails to agree a new date on which the Funded Activities shall start;
- iii. the Actual Costs do not fall within the scope of Eligible Costs;
- iv. the Applicant fails to declare any funding or financial support from other sources which duplicates any Grant Funding received from the Support Fund or which results in the total funding received by an Applicant from the Support Fund exceeding the Absolute Cap of £1 million; or
- v. the Applicant provides the Fund Decision Maker with any misleading, incomplete or inaccurate information in relation to the matters set out in this document, including in its Funding Claim or in any subsequent supporting correspondence, and which the Fund Decision Maker reasonably considers to be significant;
- k. the Fund Decision Maker may seek reimbursement of any paid Grant Funding or may terminate the Grant Funding Agreement, as appropriate, in any of the following circumstances:
 - i. the Applicant fails, in the Fund Decision Maker's reasonable opinion and with the agreement of DfT, to make satisfactory progress with the Funded Activities and in particular, with meeting the agreed outputs set out in the SoW of Grant Funding Agreement;
 - ii. the Applicant has, in the Fund Decision Maker's reasonable opinion and with the agreement of DfT, delivered the Funded Activities in a negligent manner (including but not limited to failing to prevent or report actual or anticipated fraud or corruption).

Assessment

20. In each case, the Fund Decision Maker will not award any Grant Funding nor direct the Fund Distributor to disburse any funds from the Support Fund unless it is satisfied of the following:

- a. the Applicant and the Relevant ACP fulfil the Eligibility Criteria;
- b. the Grant Funding, when considered as a whole or in relation to each element, satisfies the Eligible Costs requirements;
- c. there are sufficient safeguards in place to facilitate the full reimbursement of the Grant Funding in the circumstances set out in the sections above;
- d. the Grant Funding does not exceed the following limitations:
 - i. Gateway 1st attempt: 100% of the Actual Costs
 - ii. Gateway 2nd attempt: 100% of the Actual Costs
 - iii. Gateway 3rd attempt: 50% of the Actual Costs
 - iv. Gateway 4th and further attempts: 0% of the Actual Costs
- e. the total amount of funding awarded to the Applicant from the Support Fund would not exceed the Absolute Cap of £1 million;
- f. with the agreement of DfT, the Applicant has demonstrated continuing commitment to completing the Relevant ACP to which the Grant Funding would relate as demonstrated through its proposed delivery timeline for the relevant stage(s) of the Relevant ACP as required under the CAP 1616 airspace change process and agreed with the CAA.

Decision

- 21. The Fund Decision Maker's decision awarding or not awarding Grant Funding should normally contain the following:
 - a. whether it is satisfied that the Eligibility Criteria and the Eligible Costs requirements are satisfied, and the reasons for any determination;
 - b. the amount of Grant Funding awarded and how it has been calculated;
 - c. an explanation for any difference between the Grant Funding awarded and the Actual Costs claimed and incurred.

- 22. The Fund Distributor must not disburse any funds from the Support Fund unless and until (i) it has been directed to do so by the Fund Decision Maker; and (ii) it has entered into a written agreement with the Applicant, which contains any requirements specified by the Fund Decision Maker and sufficient safeguards to facilitate the full reimbursement of the Grant Funding in the circumstances set out in the sections above.