

Aviation Safety Regulation Review

Submission regarding CASA intimidation and its waste of public funds

Richard Green 30.12.13

This submission addresses the structure, effectiveness and processes of CASA

To many in the world of Australian General Aviation the perception of CASA has become almost synonymous with that of a fascist dictatorship. This is a mindset that has gradually developed over the last 15 years and has become much more entrenched during the tenure of the organisation's current chief executive - John McCormick. Even beyond General Aviation, CASA now commands little respect in the aviation community.

CASA has the widely held reputation of being a body that has little genuine concern for aviation safety, but is merely a regulator concerned only with the minutiae of a huge array of rules that grow almost daily in their complexity. It has a reputation for not taking any interest in real safety related issues but for going after the 'little guy' on trivial regulatory issues.

CASA also has the reputation for victimisation of individuals that any particular CASA officer takes a dislike to. In this situation otherwise fair-minded officers will rush to support their colleague's unwarranted actions irrespective of the rights or wrongs of the situation.

In general CASA's behaviour in this regard remains hidden. Individuals and organisations are afraid to speak out because of the retribution that they know will flow from CASA. Usually this behaviour is only reported when CASA is successful in ruining a career or an aviation business so the affected individuals have no more to lose by speaking out.

I have personal (and anecdotal) experience of this behaviour from CASA and because I do not depend upon aviation for my livelihood I have no qualms about speaking out. I am 73; I have owned and operated a helicopter for 26 years. I use the machine for private operations only. It provides transport for my wife and I to visit remote wilderness areas for the purpose of photography. My photographs have been on display in regional public galleries throughout Australia for the last 3 years. The motivation behind this is to engender a greater public awareness of the beauty and fragility of our natural environment, in the hope that this will encourage the desire to protect it.

This activity means that I am not normally flying from one major city airport to another. Most of my flying is in the far outback where landing sites are small spaces between cliffs, rocks, trees and bushes.

I have had positive experiences with CASA - inspectors of the old school, whose interest really was in safety. Unfortunately most of these inspectors have now either retired or have left CASA.

My current helicopter was a new marque, and one of the first of a new generation with digital electronic engine and flight controls. When I purchased it in the late 1990s it was an early unit off the production line in Germany. In fact when I imported it into Australia, it was the first in the country and remained the only of its type here for over 5 years. This brought various problems. For example there was no engineering experience in Australia to control the maintenance and system upgrades to this complex glass cockpit, twin-turbine aircraft. Also, other than the manufacturer's foreign demonstration pilot, I was the only pilot in Australia who was endorsed to fly the machine.

I am a scientist and engineer by training, so I personally attended the manufacturers' engineering maintenance courses (for the airframe, electrical and avionics in Germany, and for the engines in Australia). Along with CASA licenced maintenance engineers, I was personally actively involved in all the upgrades and required maintenance of the aircraft. After some years CASA inspectors (of the old school) saw fit to give me a wide range of Maintenance Authorities that permitted me to conduct this work and to certify for it myself - even though I am not a CASA licenced engineer.

I had visited the helicopter manufacturer's factory in Germany on many occasions, and I had befriended and flown with the Chief Flying Instructor of Eurocopter Deutschland (ECD). Based upon my training and experience (and after a rigorous flight test) I was given endorsement authority to train other pilots to fly the machine - again by a CASA inspector of the old school.

My more recent experiences with CASA are not so positive. In 2005 an individual (who carried with him a somewhat questionable reputation) was put in charge of Airworthiness at the CASA office responsible for oversight of my operations (I have my own maintenance hangar at home). This individual made it quite clear to me that he did not like the Maintenance Authorities that had been added to my qualifications, and he would like to see them removed. In 2006 he saw his opportunity to do this and he jumped on it.

In 2006 I had a minor blade strike on a tree branch in a wilderness area in Cape York. In order to get the helicopter out of that location I made a repair to the rotor blades. CASA's concern was not the fact that I had the blade strike, but what happened afterwards. My wife and I were stranded in the Cape York wilderness. Drawing on my training and an experienced-based evaluation, I made the sensible decision to effect a temporary repair that would permit a safe 2 hour flight to Cairns. After arrival in Cairns, I telephoned the engineering facility at ECD in Germany. I explained what had happened and described the temporary repair. I requested advice as to whether it would be safe to continue the flight to Sydney.

After consideration by the engineers in the blade repair facility at ECD, I was advised that, subject to checks, which they specified, the manufacturer regarded the helicopter safe to continue the flight. I thus continued on to Sydney, where I removed the blades and sent them to ECD for full repair. In writing the manufacturer subsequently said "Mr Green is known to us as a technically skilled operator/pilot with competence in terms of helicopter, rotor and composite technology, ECD has a high regard in his person".

At the time my only alternative would have been to set off an ELT and hope that it would bring in a rescue helicopter from Cairns or Townsville. This would (at great cost to the taxpayer) have rescued us, but would have left a \$6 million helicopter stuck out in the wilderness where it would have been extremely difficult and expensive to recover, as well as being exposed to the risk of destruction by bush fires.

When I reported this incident to *CASA*, it was used by this Airworthiness inspector to form the basis of an action against me, with the objective of stripping me of my authorities. It appears that he felt that his knowledge of rotor blade construction and repair was better than that of the manufacturer. He deemed the flight to have been dangerous and illegal. *CASA* then dramatically embellished the incident by listing a whole slew of alleged technical breaches of the Regulations that flowed on from this primary incident. I was required to show cause why my pilot licence and engineering approvals should not be revoked.

In the course of the Show Cause Conference that ensued, I reminded my accusers that, in an earlier written statement, I had noted that they did not know me and they knew nothing about my attitudes to safety. I had suggested that advice should be sought from two *CASA* inspectors who had worked with me for many years, and should have a much more informed view as to whether I was a fit and proper person to be a pilot and conduct maintenance on my own helicopter.

I asked whether the advice of these inspectors had been sought; the response was positive. This surprised and disappointed me. So I subsequently contacted these *CASA* inspectors and was advised by both that they knew nothing about the Show Cause action and they had not been contacted for their views.

I escalated the matter to Greg Vaughan, the then Head of the General Aviation Division in *CASA*. After investigation, rather than remove my authorities, Mr Vaughan dramatically increased them by issuing me with a special one-off maintenance Instrument authorising me to conduct and certify for maintenance on my helicopter in all the engineering areas - airframe, engines, electrical, instruments and radio.

I reported this whole matter to the *CASA* Industry Complaints Commissioner (ICC). After conducting his investigation, the ICC's report recommended that the Director of Aviation Safety should consider issuing an apology to me. An apology never came. Instead, the newly appointed Director (John McCormick) set up an 'Ethics Committee', which it appears was there to rubber stamp *CASA*'s unethical behaviour. The committee, without any knowledge of the facts of my case, decided that the ICC did not have the expertise to do his job properly and reversed his conclusion.

By this time both Vaughan and the ICC had resigned from *CASA*. They both advised me that their reason was that they disapproved of the direction in which *CASA* was being taken by McCormick. Vaughan had been aware of the identities of various inspectors who were known for their improper misuse of power - this included the one who had instigated the action against me. Vaughan had been in the process of attempting to remove these individuals from *CASA*. After his departure it appears that McCormick increased the authority of these particular individuals.

Vaughan's maintenance Instrument, which permitted me to legally conduct maintenance on my own helicopter required renewal after 2 years. When I applied to have it renewed, *CASA* initially prevaricated for several months and then eventually wrote to me refusing to renew it. Again the same *CASA* inspector was instrumental in this action.

I took the matter to the Administrative Appeals Tribunal (AAT). Dramatic distortions of the truth were presented by *CASA* to the AAT in order to attempt to justify its claim that I did not have sufficient training or experience to warrant the Instrument. However, after several days of in-depth investigation, the AAT decided to set aside *CASA*'s decision, and *CASA* was instructed to reissue me with a maintenance Instrument.

I wrote (several times) to McCormick querying how such inappropriate actions by his staff could be justified. By this time I had estimated that over \$500,000 of taxpayers' funds had been squandered by CASA in its attempt to disenfranchise me. In addition costs to me were in the region of \$100,000. All I got from him was mealy-mouthed justification of the behavior of his officers.

I wrote to all the Members of the CASA Board advising them of apparent misdirection of the organization by McCormick. The only response I received was to be told that such complaints should be directed to the Director of Aviation Safety (McCormick) or to the Minister.

I wrote to the Minister, Anthony Albanese, but got no reply - not even an acknowledgement of my correspondence.

I arranged for questions to be asked of McCormick in the Senate Estimates Committee. His responses to questions were uninformative, incorrect or misleading.

Needless to say I am not very popular with CASA, and CASA is again attempting to disenfranchise me. It has recently prepared a lengthy document, which lists a whole litany of alleged regulatory breaches and dangerous activities on my part - this of course includes all the various matters that were dealt with by Vaughan some 7 years ago. In fact the lack of substance in this documentation is matched only by its size.

Again the same CASA inspector has been involved in bringing together a series of grossly exaggerated claimed breaches of regulations and untruthful allegations against me. On the basis of these allegations, CASA has unilaterally used Regulation 269(1) of the Civil Aviation Regulations to suspend my pilot licence for 6 months.

So as I write this document, my helicopter sits out in the hangar effectively grounded for 6 months. I have installed a dehumidifier to try to minimise the damage that is likely to be done to its complex and sensitive avionics systems through lack of use. It is hard to see how deliberately risking damage to the aircraft can add to the safety of air navigation.

Also, apart from the weakness of its case, I am advised that it is illegal for CASA to use of Regulation 269(1) in order to inflict punishment in this way.

I suspect that CASA's real motivation in this action is to reverse the decision made by the AAT regarding my maintenance Instrument. Again (I believe driven by the same inspector) CASA is now arguing that the maintenance Instrument cannot be renewed because of CASA's unproven allegations.

I have taken this matter to the AAT, but the Hearing is not scheduled until mid 2014. I will thus not be able to disprove CASA's allegations until after the 6 month licence suspension is passed.

CASA's relentless hounding of me is typical of many such reports of its endemic and institutional witch-hunting. In my case alone well over a thousand man-hours must have been expended in attempting to clip the wings of one private pilot, who flies his own private helicopter only about 100 hours a year and almost exclusively in remote wilderness areas of Australia. Even if CASA's allegations were correct (which they are not) this would hardly be the most effective way to expend the assets of an organisation whose objective is to maximise the safety of air navigation.

As mentioned at the beginning of this submission, there have been many reports similar to mine of CASA's misuse of its power. Most of the victims, unlike me, are dependent upon their aviation activities for their livelihoods. They therefore are intimidated into not speaking up. I have personal experience of this through my attempts to get expert witness statements to support me in my own defence. The individuals support my position, however, are not prepared to go into writing for fear of subsequent CASA retribution.

It is my firm opinion that major changes need to be made to CASA. It must be made accountable for its actions. Its focus must be changed to promoting a safety ethos within the industry, rather than merely being a short-sighted policeman only interested in chasing after regulatory infringements. It is not until these changes are apparent that the body will gain the respect that it should have within the industry.

In order for this to come about, I believe all the senior management in CASA need to be replaced and the CASA board disbanded. I believe it is critical and urgent that the chief executive needs to be replaced by an individual who can command the respect of the industry. And the Board should be reconstituted with a group of individuals who have real in-depth experience of all the major areas of the aviation industry.

A new ethos within the body driven by a strong but fair minded CEO should weed out those inspectors who have been misusing their power in order to satisfy their own personal whims.

These changes need to go hand in hand with the scrapping of Australia's ridiculously convoluted aviation legislation. It should be replaced by legislation modelled upon a system that already works perfectly well - either from New Zealand or from the United States. Further the basic role of CASA needs to be changed to promote the aviation industry in Australia as well as ensuring its safety. CASA's current charter, just to ensure aviation safety, is being achieved by grounding aircraft and closing down aviation businesses.