

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE *FOR* ECONOMIC DEVELOPMENT**

**REMOVAL OF THE DIRECTOR OF CIVIL AVIATION**

**Proposition in pursuance of Rule 18 submitted by the President of the Committee *for* Economic Development**

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Removal of the Director of Civil Aviation' dated 23<sup>rd</sup> November 2020 they are of the opinion:-

1. To agree that the Director of Civil Aviation should be removed from office in accordance with section 1(7) of the Law.

The above Proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**COMMITTEE *FOR* ECONOMIC DEVELOPMENT**

**REMOVAL OF THE DIRECTOR OF CIVIL AVIATION**

The Presiding Officer  
States of Guernsey  
Royal Court House  
St Peter Port

23<sup>rd</sup> November 2020

**1. Executive Summary**

- 1.1. This policy letter recommends the removal of the Director of Civil Aviation from office in accordance with section 1(7) of the Aviation (Bailiwick of Guernsey) Law, 2008 ("the Law").

**2. Background**

- 2.1. The present Director of Civil Aviation, Mr Dominic Lazarus, was appointed by the States of Deliberation as such on 26<sup>th</sup> September 2018, on the recommendation of the Committee *for* Economic Development, having been appointed as Acting Director of Civil Aviation by the Committee on 9<sup>th</sup> July 2018.
- 2.2. Unfortunately, following Mr Lazarus' appointment, concerns started to be raised in a number of quarters about his competence and conduct. The Committee provided additional support for Mr Lazarus in response to these concerns, but this additional support did not resolve matters; concerns continued to arise. The growing concerns culminated in a report being put to the Committee *for* Economic Development on 14<sup>th</sup> August 2020, as a consequence of which the Committee suspended Mr Lazarus from office in accordance with section 1(8) of the Law and asked that an investigation be conducted into his competence and conduct.
- 2.3. That investigation was concluded on 29<sup>th</sup> September 2020, shortly before the election. The investigation report summary is attached as an appendix to this policy letter.

- 2.4. The previous members of the Committee *for* Economic Development gave Mr Lazarus an opportunity to respond to the findings of the investigation report. The Committee has now considered that response, together with the investigation report and has had regard to the provisions of the Law. As a consequence, and with regret, the Committee has exceptionally resolved to bring this policy letter before the States as it unanimously considers that, on the evidence before it, Mr Lazarus has misbehaved in office and has behaved in a way that is grossly incompetent, as detailed in the appendix to this policy letter.
- 2.5. The Committee therefore requests that the States of Deliberation removes the Director of Civil Aviation from office in accordance with section 1(7) of the Law.

### **3. Proposals**

- 3.1 The States are asked to decide whether they are of the opinion to agree that the Director of Civil Aviation should be removed from office in accordance with section 1(7) of the Law.

### **4. Compliance with Rule 4**

- 4.1 In accordance with Rule 4(1) of the Rules of Procedure, of the States of Deliberation and their Committees, the propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 4.2 In accordance with Rule 4(4) of the Rules of Procedure, it is confirmed that the propositions above have the unanimous support of the Committee.
- 4.3 In accordance with Rule 4(5), the Proposition relates to the duty of the Committee to recommend to the States where it considers that the Director of Civil Aviation ought to be removed from office, as set out in paragraph 1(7) of the Aviation (Bailiwick of Guernsey) Law, 2008.

Yours faithfully

N R Inder  
President

S J Falla  
Vice-President

A Kazantseva-Miller  
N G Moakes  
S P J Vermeulen

# Investigation report

Subject	<b>Investigation into the conduct and performance of the Guernsey Director of Civil Aviation</b>
Name of person / persons under investigation	<b>Dominic Lazarus</b>
Date(s) of incident	<b>November 2019 – July 2020</b>
Date(s) of investigation	<b>21 August – 21 September 2020</b>
Investigating officer	[REDACTED]
HR support	[REDACTED] HR advisor
Date of report	<b>17-25 September 2020</b>
Version	<b>1.4 (as submitted, see caveat)</b>
Author	[REDACTED]

## *Caveat*

1. *This report is submitted in its current form at the request of [REDACTED] and to comply with a specific deadline of 24 September 2020 and minor amendments provided on 25 September 2020.*
2. *Some evidence was collected after the interview with Mr Lazarus, and he has been unavailable to attend a second interview where this evidence would have been put to him.*
3. *Further investigation is recommended as part of this report.*

## Common abbreviations

DCA Director of Civil Aviation

[REDACTED]

DL Dominic Lazarus

## Contents

1. Introduction .....	3
1.1. Circumstances leading to investigation .....	3
1.2. Terms of reference.....	3
2. Process of the investigation .....	4
2.1. Documentary evidence collected .....	4
2.2. Witnesses .....	4
2.3. Person under investigation .....	4
2.4. Evidence unable to collect .....	5
2.5. Reference documents considered .....	5
2.6. Legislation and statutory guidance .....	5
3. Nature of the allegations .....	5
4. Summary of the evidence .....	6
4.1. A1 Failings as a regulator .....	6
4.2. A2 Due regard to the regulators' code .....	7
4.3. A3 Commercial awareness.....	8
4.4. A4 Communication.....	8
4.5. A5 Effective and efficient service.....	8
4.6. A6 Intellectual property rights .....	9
4.7. A7 Conflicts of interest and loyalty .....	9
4.8. A8 Contact with others during suspension .....	9
5. Consideration of the evidence.....	9
5.1. Witness evidence .....	9
5.2. Documentary evidence .....	9
5.3. Matters put to person under investigation .....	10
5.4. Facts which have been established.....	10
5.5. Facts which have not been established .....	10
5.6. Defence .....	10
5.7. Mitigating factors.....	11
6. Findings .....	11
7. Conclusions .....	11
8. Recommendations .....	11
9. Annex .....	13

# 1. Introduction

## 1.1. Circumstances leading to investigation

- Dominic Lazarus (DL) was appointed by the States of Guernsey to the role of Director of Civil Aviation (DCA) under the Aviation (Bailiwick of Guernsey) Law, 2008 in July 2018.
- The DCA is the regulator for civil aviation in Guernsey. They regulate aerodromes, aircrafts and operators, air traffic control, and the validation of pilot and aircraft maintenance engineer licences. The role is split between 3 broad technical areas:
  - a. Airworthiness of aircrafts
  - b. Flight operations
  - c. Aviation security
- The DCA has extensive powers to ensure the safety of aircrafts, investigate incidents and to issue documents under the 2008 Law.
- On 14 August 2020 and following complaints from external aviation industry businesses about the performance of the DCA's function, the Committee for Economic Development suspended the DCA pending investigation under Section 1(8) of the Law.

## 1.2. Terms of reference

The internal investigation should seek to:

- *Establish exactly what has happened to lead to complaints being submitted and whether there are any further complaints that the Committee may not yet be aware of;*
- *Establish whether the DCA has acted in a way that could be considered 'misbehaviour' or 'gross incompetence,' in line with the Aviation (Bailiwick of Guernsey) Law 2008; and*
- *Establish whether the DCA has acted in a way that could be considered Misconduct, Gross Misconduct or Gross Incompetence under the States of Guernsey Disciplinary Procedure (and Guidelines for Managers when dealing with a Disciplinary case); Code of Conduct and/or Capability Procedure.*

And:

- *Set out any mitigating circumstances or other relevant issues (if any);*
- *Establish whether there are other instances of issues in the way in which the DCA has discharged his statutory functions or wider performance issues, and, if so,*
- *Whether there is a continuing risk of further instances or issues, and, if so, what steps, if any, may be reasonably taken to mitigate this risk.*

As Investigating Officer please conclude whether, on the balance of probability, there is evidence of the concerns subject of the investigation (and any other concerns you may identify in the course of your investigation). In doing so please consider:

- the Aviation (Bailiwick of Guernsey) Law, 2008, and
- the Established Staff policies and directives of potential relevance, which are likely to include:

- Disciplinary Procedure
- Guidelines for Managers when dealing with a Disciplinary case
- Conduct Directive;
- Capability Procedure;
- Civil Service Code of Conduct.

## 2. Process of the investigation

### 2.1. Documentary evidence collected

#### **Complaints (emails and letters):**

C1 - 05/12/2019 from [REDACTED]  
 C2 - 09/12/2019 from [REDACTED]  
 C3 - 17/12/2019 from [REDACTED]  
 C4 - 15/01/2020 from [REDACTED]  
 C5 - 28/01/2020 from [REDACTED]  
 C6 - 24/06/2020 from [REDACTED]  
 C7 - 29/06/2020 from [REDACTED]

#### **Other documents (reports and records):**

D1 – [REDACTED]  
 D2 – [REDACTED]  
 D3 – [REDACTED]  
 D4 – [REDACTED]  
 D5 – [REDACTED]

### 2.2. Witnesses

The following witnesses were interviewed:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

### 2.3. Person under investigation

DL attended an investigation interview, he was accompanied by [REDACTED]  
 Prospect Union Representative.

## 2.4. Evidence unable to collect

We were unable to speak directly with the complainants and their complaints were taken as submitted, and due weight attached to their evidential value.

## 2.5. Reference documents considered

HM Government (2014) Regulators' Code

States of Guernsey Civil Service Code of Conduct Directive

States of Guernsey Disciplinary Procedure 2018 and managers' guide.

States of Guernsey Capability Procedure v4 2019

States of Guernsey Competency Framework (level 6: SO8-SO12)

Guernsey Code of conduct directive and Civil Service Code.

Director of Civil Aviation's job description

## 2.6. Legislation and statutory guidance

The Aviation (Bailiwick of Guernsey) Law, 2008

The Air Navigation (Bailiwick of Guernsey) Law, 2012

GAR 43 - Guernsey Aviation Requirements, Part 43 – General maintenance requirements

GAR 66 - Guernsey Aviation Requirements, Part 66 – Aircraft maintenance personnel licensing

GAR 119- Guernsey Aviation Requirements, Part 119 – Air Operator Certification

GAR 145 - Guernsey Aviation Requirements, Part 145 – Aircraft maintenance organisation approval

## 3. Nature of the allegations

Through the interviews, the investigation was able to identify eight key allegations:

A1 The DCA (DL) allegedly failed to discharge his statutory duties to the standard expected of a statutory regulator by failing to seek advice of a technical or legal nature before making regulatory decisions, or failing to take into account such advice when provided, leading to reputational, financial and litigation risks;

A2 The DCA (DL) failed to regulate in accordance with the Regulators' Code, provisions 1, 2, 5 and 6:

*1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow*

*2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views*

*5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply*



*6. Regulators should ensure that their approach to their regulatory activities is transparent*

- A3 The DCA (DL) failed to demonstrate a commercial mindset in his management of the relationship with customers [REDACTED];
- A4 The DCA (DL) failed to communicate effectively with regulated entities, officers of the Committee for Economic Development and Officers appointed to support his Office.
- A5 The DCA (DL) failed to provide an effective and efficient service, by failing to lead and manage his service and resources appropriately to deliver a prompt service to regulated organisations;
- A6 The DCA (DL) failed to take into account intellectual property rights associated with the development of Guernsey Aviation Requirements (GARs) and provided the documents to the Jersey registry.
- A7 The DCA (DL) failed to manage the conflicts of interest and conflicts of loyalty between the Guernsey and Jersey parts of his dual role as DCA for Guernsey and Jersey.
- A8 The DCA (DL) failed to comply with the requirements of his suspension, i.e. that he should not “make contact with any States of Guernsey work colleagues or wider professional or commercial contacts connected with the States of Guernsey or the services that it provides and to which the DCA would expect to engage with professionally.” by contacting the UK Department for Transport on 17 and 18 August 2020.

## 4. Summary of the evidence

### 4.1. A1 Failings as a regulator

1. The evidence points to DL failing to understand some basic principles of his role as a regulator, to seek and follow advice from technical experts and legal counsel. This is particularly apparent in the evidence of the [REDACTED] complaint, associated emails and the settlement reached through the DCA / States of Guernsey’s lawyers with [REDACTED].
2. There is evidence that the DL failed to understand his legal powers and acted in a potentially unlawful manner, which was the subject of the settled claim.
3. DL also failed to apply the principles of exercising regulatory functions (proportionality in applying the law and securing compliance, consistency of approach, targeting of enforcement action, transparency about the use of powers, and accountability for the regulator’s actions)<sup>1</sup> during the enforcement of Section 111(2) of the Air Navigation (Bailiwick of Guernsey) Law, 2012 [Revocation,

<sup>1</sup> The statutory principles of good regulation can be viewed in Part 2 (21) on page 14: [http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga\\_20060051\\_en.pdf](http://www.legislation.gov.uk/ukpga/2006/51/pdfs/ukpga_20060051_en.pdf).

suspension and variation of certificates, licences and other documents] in relation to [REDACTED]

*The Director of Civil Aviation may, on sufficient ground being shown to his satisfaction after due inquiry, revoke, suspend or vary any such licence, certificate, approval, authorisation, permission or exemption or other document.*

4. There is evidence that DL did not make due inquiry to provide sufficient grounds to suspend [REDACTED] before contacting [REDACTED] to [REDACTED] of the suspension.
5. In addition, DL's contention that a [REDACTED] authorisation bearing his electronic signature was valid, despite DL's allegation that he had not authorised the document or the use of his electronic signature casts doubt over the credibility of DL's account.
6. There is no evidence that DL has learnt from the [REDACTED] case and that would not act in a similar manner again.

#### 4.2. A2 Due regard to the regulators' code

7. There is documentary evidence from the dealings with [REDACTED] that DL failed to have due regard to the Regulators' Code, by failing to act in a way that [Regulators' Code 1.2]
  - *minimises negative economic impacts of their regulatory activities;*
  - *minimises the costs of compliance for those they regulate;*
  - *improves confidence in compliance for those they regulate, by providing greater certainty; and*
  - *encourages and promotes compliance.*
8. There is documentary evidence in dealing with [REDACTED], DL failed to have regard to the following:
 

[Regulators' Code 2.2] *In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.*
9. In his dealings with [REDACTED] and other customers, there is evidence that DL failed to meet the expectations of the following parts of the code:
 

[Regulators' Code 5.4] *Regulators should seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.*

[Regulators' Code 6.1] *Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.*

[Regulators' Code 6.2] *Regulators' published service standards should include clear information on:*

- a) *how they communicate with those they regulate and how they can be contacted;*
- b) *their approach to providing information, guidance and advice;*
- c) *their approach to checks on compliance, including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect;*
- d) *their enforcement policy, explaining how they respond to non-compliance;*
- e) *their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges; and*
- f) *how to comment or complain about the service provided and routes to appeal.*

#### 4.3. A3 Commercial awareness

- 10. Evidence from the complaints and email interactions provided show a lack of commercial awareness and the impact that regulatory functions have to customers, including [REDACTED] and the ultimate customers.
- 11. The DCA role description, under *Main duties and responsibilities*, includes:
  - 10. *In all respects, ensure that the aircraft registries operates in such a way as to avoid reputational or financial damage to Guernsey, Jersey and the United Kingdom.*
- 12. Under *Key competencies – accountability*:
  - Ensure that commercial considerations and risks are fully considered in policy and implementation decision making, formation and delivery.*
- 13. The witness evidence does not support that the responsibility was fulfilled, nor that the competency was demonstrated.

#### 4.4. A4 Communication

- 14. There is evidence that communication between DL and [REDACTED] was poor and that DL did not want to be contacted directly by customers but should be channelled through [REDACTED].
- 15. There is also evidence that DL failed to respond to complaints from customers (eg. [REDACTED]).
- 16. There is also evidence that regulatory decisions were poorly explained and communicated (eg. Packages rejected as “not being good enough” without any clear explanation of what remedial action would make the packages acceptable to the DCA).

#### 4.5. A5 Effective and efficient service

- 17. There is evidence that the service performance is poor, with a large number of complaints related to the speed of the service and the ability of the Office of the DCA to perform its regulatory oversight role.

18. There is also evidence that, despite issues identified with the service, DL refused to delegate some powers to enable a more efficient performance of the service.

#### 4.6. A6 Intellectual property rights

19. There is evidence and it is accepted by DL that he did not establish any copyright or intellectual property rights before providing the GARs to the Government of Jersey.
20. DL argued that the GARs contain a copyright mark © Published by the Director of Civil Aviation, Guernsey. DL's contention was that the documents belonged to his Office and that he was allowed to share them.
21. When legal advice was provided, DL took action and the documents were taken down from the Jersey site within 2 to 3 days, with an intervening weekend.

#### 4.7. A7 Conflicts of interest and loyalty

22. There is evidence that DL has found it difficult to separate the Guernsey and Jersey parts of the DCA role. This is particularly acute in the issue surrounding the sharing of the GARs with Jersey.

#### 4.8. A8 Contact with others during suspension

23. Emails provided by DL to [REDACTED] show that following his suspension, DL exchanged emails with a contact at the UK Department for Transport.

## 5. Consideration of the evidence

### 5.1. Witness evidence

	A1	A2	A3	A4	A5	A6	A7	A8
[REDACTED]								
[REDACTED]								
[REDACTED]								
[REDACTED]								
[REDACTED]								

### 5.2. Documentary evidence

	A1	A2	A3	A4	A5	A6	A7	A8
C1								
C2								
C3								
C4								
C5								
C6								
C7								

	A1	A2	A3	A4	A5	A6	A7	A8
D1								
D2								
D3								
D4								
D5								

For 5.1 to 5.3 the colour coding is taken as:

	Clear and unambiguous evidence
	Supporting evidence, but uncertainty about detail or timing
	Weak or circumstantial evidence
	Contrary evidence
	No direct knowledge / no evidence

### 5.3. Matters put to person under investigation

	A1	A2	A3	A4	A5	A6	A7	A8
DL								

A8 has not been put formally to DL, who has not had the opportunity to respond or provide any mitigation.

	Clear and unambiguous admission
	Partial admission (uncertainty with wording, time or location)
	Partial denial or defence
	Outright denial

In Interview, DL provided timing evidence of his dealing with the cases to which external complaints related to. He denied that the turnaround of the application for Certificates of Airworthiness were excessive or delayed. DL stated that all applications concerned were dealt with within 4 working days, which DL saw as an appropriate timescale.

### 5.4. Facts which have been established

A1 – A8 are supported by evidence collected during the course of the investigation.

### 5.5. Facts which have not been established

None.

### 5.6. Defence

DL emphasised that the main purpose of his Office was to ensure aviation safety, and that commercial pressures were for to manage. DL blamed the delays on inability to

provide the required documentation to the correct standard for assessment. DL was also of the view [REDACTED] regularly blamed him for delays when paperwork had not actually reached him. DL was of the view that he provided an appropriate level of service with a 4-working day turnaround for packages submitted [REDACTED].

### 5.7. Mitigating factors

DL stated that his service was under-resourced and that the Committee for Economic Development had not provided funding to operate this regulatory function to a good standard.

## 6. Findings

On the balance of probabilities, the investigation has therefore established there is evidence of the following:

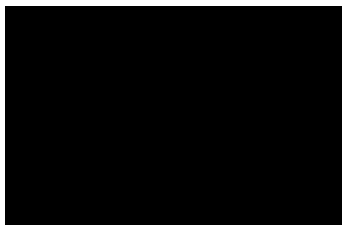
- F1 DL has failed to demonstrate his ability to work as a regulator and apply the law in a fair and evidence-based manner, and to seek or follow advice about technical or legal aspects of his role.
- F2 DL has failed to demonstrate he meets the skills and competencies required for some aspects of his role, in particular airworthiness and aviation security.
- F3 DL has failed to lead and manage the Office of the DCA to meet the required levels of service and customers' expectations.
- F4 DL's actions have undermined the standing of the Office of the DCA and exposed the States of Guernsey of increased risks of litigation and damage to its reputation.

## 7. Conclusions

The investigating officer has identified evidence, which shows, on the balance of probabilities, that there is a combination of repeated poor performance, failure to learn from previous mistakes and lack of competence as a regulator on the DCA (DL)'s part. On that basis, the Committee may consider that all those aspects taken together meet the threshold in Section 1(7) of the Aviation (Bailiwick of Guernsey) Law 2008 for "misbehaviour or gross incompetence".

## 8. Recommendations

- R1 It is recommended that the allegations in relation to the suspension of [REDACTED] [REDACTED] are investigated further, with regards to the use of the DCA's signature on documents and whether powers were used correctly in that case.
- R2 A further review of the structure, staffing, resources, governance and oversight of the Office of the DCA should be conducted.



25 September 2020 (minor amendments)