

STRUT LIABILITY – NEW REQUIREMENTS - May 2010.

To all strut coordinators and LAA event organisers

As has been publicised in the LA magazine, website and in emails to the Struts, the LAA has been reviewing its liability, insurance and risk exposure. In addition to the more obvious engineering based liabilities, this wide reaching review has explored the potential exposure of our officers and agents to litigation and this includes the Struts. It is essential that the LAA takes steps and just as importantly, is seen to be taking steps, to mitigate risk wherever it manifests. Ignorance is not a defence.

The headline clarifications:

- **LAA HQ must be informed of all events, with accompanying primary information and Risk Assessment. This is to ensure legal protection of the organisers and insurance for the event itself**
- **All pilot and aircraft paperwork to be checked when LAA passenger flying takes place (Young Aviator YA / scouts, etc)**
- **4 seat aircraft are covered for YA / scout flying**
- **No change to pilot currency requirements for YA and Scout passenger flying – 100 hours P1 for YA, 250 hours P1 for Scout flying***
- **There is a Very Serious Incident (VSI) process operated by HQ to support struts and organisers in the event of an incident or accident attracting significant media attention**
- **These requirements may change – always check LAA website for latest information**

*** There are other key pilot currency criterion besides the headline examples – see below. The board will be considering flying requirements for YA at its next board meeting**

Background:

The litigation hungry culture within which we operate, mixed with the emotive approach of the media to aviation safety, means we must be particularly attentive to our operations and ensure all reasonable steps are taken. In fact, one can see this happening across the world of adventure sports and even quite mundane activities.

The LAA pays a considerable sum for insurance each year and we work closely with our broker and underwriters to ensure we have the appropriate coverage and mitigate risks wherever possible. Any litigation poses risk to the Association, but we have identified a significant potential issue with the convergence of emerging law, future litigation, the no win - no fee culture and our range of activity. This affects all of us and as an Association, we have a duty of care to our staff, officers, members and visitors.

What does this mean for the Struts?

Up till now, the Struts have operated as 'semi-autonomous organisations affiliated to the LAA...' (Rule 9c). There is also a considerable variance in the governance and operation of the Struts. However, Struts are part of the LAA, their officers and volunteers are working on behalf of the LAA, therefore their actions are the responsibility of the LAA. Moreover, we want to ensure you, as strut organisers and participants are adequately protected by insurance and that appropriate processes are in place to adequately protect the public.

Young Aviators is a crucial consideration. The fallout from an accident involving youngsters would be far reaching and would undoubtedly test our governance structures of accountability and risk mitigation. It is essential we 'up our game' significantly to protect everyone involved. Whilst insurance covers some of the financial consequences, it doesn't protect from the legal ramifications.

In the YA scheme, an offer of flight is made by the Strut on behalf of the LAA. The arrangement is therefore between the youngster (guardian / parent) and the LAA, regardless of the status surrounding the aircraft and pilot.

For those Struts fully engaged and operating transparently within the LAA system, we will be able to offer support, insurance, protection and participation within the (developing) LAA Safety Management System. The SMS will be continually updated, such that all areas of LAA activity will be scrutinised for safety and legal compliance, their processes being monitored and updated to ensure best practice and coverage by insurance. It will provide the backup and support the Struts need to continue with their normal day-to-day activities with minimal interference, knowing that they are protected in the event of incident.

The LAA website will hold the latest requirements and that should be referred to in the first instance. The HQ staff is available during office hours and the CEO is often available outside office hours.

Pilot Qualifications remain unchanged

From the Young Aviators manual available online at www.laa.uk.com:

To be eligible to conduct Young Aviators flights a pilot must be assessed as SAFE and COMPETENT by the organisers, have currency in line with CAA regulations including 100 hours flying total and 25 hours on type. To fly ATC Cadets/Scouts they MUST have the following experience and currency:

Total time: 250 hours

Total P1 time: 150 hours

Hours on Type: 20 hours

In the previous 3 months 10 hours or 15 landings

In the previous month 3 landings

We cannot ignore our legal compliance issues, but we can assist the Struts to operate legally and safely with minimal extra hassle. The LAA is here to help. In exchange, we expect an open and transparent operation, with named, accountable Strut officers. The NC should be able to provide a significant coordination and communication role in supporting the Struts, plus by pooling Strut resources via HQ, we can help each other to improve our practices. Such things as making each other's Risk Assessments online for viewing will be hugely helpful. Providing feedback and improvements via the SMS will also be beneficial.

For those Struts not wanting to be fully part of the LAA, or feel the adherence to the latest legal and compliance requirements a step too far, we understand and sympathise, but the LAA cannot offer insurance, nor the use of the LAA name or brand. They will have to arrange their own insurance and separate governance. We anticipate these separate organisations could be 'affiliated' to the LAA in much the same way as some organisations such as MKAS currently enjoy. Separate, but linked by objectives. This provides a marketing link and possibly mutual support for specific initiatives, but not legally part of the LAA, not LAA's responsibility and not covered by its insurance.

It is almost certain we will have to update our Rules to clarify these changes and this is being investigated.

The next board meeting of 18th June will further review the liability issues, including pilot currency requirements.

So what are the more immediate changes?

Very little – except submitting information to the LAA and checking pilot's paperwork before carrying LAA passengers.

Events:

- As stated, Struts must notify HQ of any flying event, name the organiser responsible, name the safety officer, the date, location, event title, key information, etc.
- A risk assessment will need to be done and lodged with LAA (one of the key reasons to lodge with the LAA is for LAA HQ to be in a position to support the Strut in proving to a court that a risk assessment was performed before the event, that key personnel were appointed, and appropriate care taken)

A Strut organiser will feel it very comforting to know that LAA is right there alongside him or her during a crisis and that these simple steps were taken. The organising and safety officer(s) will have access to the LAA Very Serious Incident (VSI) process to provide support and resources following an incident attracting significant media attention.

- Even Strut meetings (those in the local pub or clubroom) should be covered by a simple risk assessment. An annual return with risk assessment, noting who is responsible, should be sufficient. The safety officer is then responsible for checking the venue is actually safe before each meeting. A quick job, easily done, but thereafter affording protection to the organisers and LAA.
- Fly-ins will each require their own risk assessment, plus some simple extra checks like making sure every flying visitor knows the joining procedures, making sure that the public are safe, or making sure that the airfield owner remains responsible for the public's welfare. These should of course, already be done for such events. **Refer to the strut safety guidelines at:**

www.lightaircraftassociation.co.uk/struts/safetyguidelines.pdf
www.lightaircraftassociation.co.uk/struts/yamanual.pdf

None of the above should be unexpected and will be normal practice for most Struts.

We have increased the LAA insurance to cover four seat aircraft operation, but we are insisting that Struts follow the LAA processes before confirming they have the insurance cover.

In addition to the Fly-in requirements of naming key organisation personnel, submitting key data to HQ, risk assessment, etc, there are some specific extra requirements:

- All aircraft documents must be checked. **We are responsible, so we must check. We do not take the pilot's word for it.**
- No aerobatics. This is an air experience flight for youngsters.
- No unnecessary risks to be taken; if the weather is minimal, no flying. There is no excuse for taking any risk with a member of the public under our care.
- Full compliance with the ANO at all times is crucial to ensuring the pilot's own insurance is honoured.
- If in doubt there is no doubt - don't fly.

We are looking at the Barring and Vetting (B&V) procedures and requirements. Helpfully, the Scouts have determined that the actual act of flying doesn't present a risk to the youngsters with regards to B&V. However, we are seeking clarification on the ground based requirements outside of Scouts' events. We certainly need a policy to cover Strut activities in the normal sense and particularly where 'vulnerable' persons are involved. Expect more on this aspect.

What you need to do now.

We recommend you or your Strut representative attends the next NC meeting on 3rd July 2010 and receives the full briefing and the background information that underpins these conclusions. The new requirements come into force immediately, so it is important that Struts notify HQ at the earliest opportunity that they will, or will not be complying and arrange their own insurance.

Please check the website for latest information.