



PRINCIPLE

(DEL.08) Managing airworthiness-related external delegates and authorised persons

September 2024



Acknowledgement of Country

The Civil Aviation Safety Authority (CASA) respectfully acknowledges the Traditional Custodians of the lands on which our offices are located and the places to which we travel for work. We also acknowledge the Traditional Custodians' continuing connection to land, water and community. We pay our respects to Elders, past and present.

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Terminology

Acronyms and abbreviations

Table 1. List of acronyms and abbreviations

Acronym/abbreviation	Description
AAT	Administrative Appeals Tribunal
AC	advisory circular
AD	airworthiness directive
AEB	Airworthiness and Engineering Branch
AFM	aircraft flight manual
CAAP	civil aviation advisory publication
CAO	Civil Aviation Order
CAR	<i>Civil Aviation Regulations 1988</i>
CASA	Civil Aviation Safety Authority
CASR	<i>Civil Aviation Safety Regulations 1998</i>
CofA	certificate of airworthiness
CMR	certification maintenance requirements
CPCP	corrosion prevention and control program
CRM	CASA risk management
CST	Capability Support Team
EAP	Enterprise Aviation Processing (system)
ECC	Entry Control Coordination
EDTO	extended diversion time operations
EICMS	Enforcement and Investigations Case Management System
EDAP	external delegate/authorised persons
ICA	instructions for continued airworthiness
ICC	Industry Complaints Commissioner
IOA	instrument of appointment
IOD	instrument of delegation
MSG	Maintenance Steering Group

Acronym/abbreviation	Description
MRB	Maintenance Review Board
NAA	national airworthiness authority
RBU	responsible business unit
RNP	required navigation performance
ROS	Risk Oversight Section
RVSM	reduced vertical separation minima
RSO	regulatory services officer
SOM	system of maintenance
STO	surveillance technical officer
TC	type certificate
TCDS	type certificate technical data sheets

Definitions

Table 2. List of definitions

Term	Definition
acquittal	Decision by CASA accepting that the remedial and corrective actions taken by the external delegate or authorised person (EDAP) have satisfactorily addressed the breach.
action plan	A plan developed by the responsible business units (RBUs) to address the identified gaps and needs. The action plan outlines what resources are required, who is responsible for each aspect of the plan and the timeline for implementation.
applicant	A person who applies to CASA for: <ul style="list-style-type: none"> a. a delegation under CASR 11.260 (1A), or b. an appointment as an authorised person under CASR 201.001.
authorised persons	A person, or the persons included in a class of persons, who has been appointed by CASA under regulation 201.001 to be an authorised person in relation to one or more of the following: <ul style="list-style-type: none"> a. CASR b. a particular provision of CASR c. CAR d. a particular provision of CAR.' An authorised person's appointment is subject to the conditions stated in an instrument of appointment (IOA).
AviationWorx	CASA's online learning and interactive management system for eLearning and seminars.

Term	Definition
bi-annual review	A formal evaluation of the management of CASA's EDAP, conducted by the RBUs twice a year. It provides an opportunity to perform an analysis of the external delegate/authorised persons' (EDAP) lifecycle, conduct a needs and risk assessment, quality assurance review and report on findings.
Capability Support Team (CST)	The CASA team responsible for the centralised support and coordination (governance) of specific activities related to CASA's management of the EDAP lifecycle.
CASA delegate	A CASA officer who has been delegated a power of CASA under: <ol style="list-style-type: none"> section 94(1) or 94(2) of the CAA Act; or CASR 11.260(1).
external delegate	An external person or legal entity that holds an IOD to exercise CASA's powers. Also see definition at Section 2.2.2 in Principle (ORG.004) Capability support for CASA's external delegates and authorised persons.
External delegate and authorised person (EDAP) module	The mandatory training module that covers the roles and responsibilities, obligations and legislative requirements of an external delegate or authorised person. The EDAP module must be completed by an EDAP prior to exercising any CASA powers under a new delegation or appointment and must be repeated for any renewal of a delegation or appointment.
individuals and legal entities	An individual (sole trader), a corporate entity, a government body or incorporated association (recognised as a legal entity).
instrument holder	A person, or the persons included in a class of persons, that holds either an IOA or an IOD.
misconduct	When an EDAP deliberately contravenes the regulations or exercises their powers and with reckless disregard for safety.
needs assessment	An analysis conducted by the RBUs that identifies and evaluates the specific requirements, gaps or challenges and ensures the needs of each RBU reflect the current state of EDAP and resources.
quality assurance review	An internal quality assurance check conducted by the CST into the RBU's compliance with the requirements under Section 6.3.5 in this principle document.
responsible business units (RBUs)	CASA business units that are responsible for their respective EDAP approval and management activities under the EDAP management framework.
risk assessment	Provides the identification, evaluation and prioritisation of potential risks in order to make informed decisions on how to manage or mitigate them. Conducted by the RBU (and supported by the ROS) as part of its bi-annual review of its EDAP approval and management activities under the EDAP management framework.

Revision history

Amendments/revisions for this principle are recorded below in order of the most recent first.

Table 3. Revision history table

Version No.	Date	Parts / Sections	Details
1.0	September 2024	All	First issue

1. Using this document

1.1 General

This principle document expands on the underlying concepts and principles in [Protocol \(DEL.08\) Managing airworthiness-related delegates and authorised persons](#) and provides guidance on the CASA functions, processes, activities and systems to be applied when considering an authorisation for airworthiness-related external delegates or authorised persons (EDAP).

This document provides a level of detail that would enable a:

- common understanding of the associated principles and elements
- consistent and standardised approach to all actions undertaken.

1.2 An explanation of terms

Must

When this document states a requirement as a 'must', the term will reference a mandatory compliance with that requirement. The requirement may only be departed from in circumstances where the departure is:

- in relation to a legislative requirement, where the legislation provides an exemption, or the legislation in question is varied to allow for the departure; and
- in all other circumstances, after seeking advice or consultation with a relevant supervisor or CASA stakeholder, determined to be reasonable and justified.

Should

The use of the term 'should' reflects a requirement that CASA considers is best practice and should be satisfied to grant an appointment. Other terms that denote compliance as being discretionary include 'should' and 'have regard to'. For example, some legislative provisions do not express criteria to be met for the issue of an appointment. In such a case, it is open to CASA to identify what requirements should be met. Any actions taken under this principle that departs from a mandatory or discretionary requirement should be recorded in writing.

May

The term 'may' will signify something that is permitted but not required through legislation or deemed important for approval. The term is used to provide options, alternate methods or examples.

1.3 Amendments

This principle document is owned and maintained by the section manager, continuing airworthiness information. While it is formally reviewed every 3 years, interim updates may be required through continuous improvement activities. The responsibility for the:

- operational processes in this principle document associated with airworthiness-related EDAP resides with the manager airworthiness and engineering branch (AEB) and the section manager, continuing airworthiness information.
- support and coordination (governance) processes in this principle document resides with the national manager, transformation and manager transformation delivery and capability support.

1.4 Supporting worksheets and annexes

This specific EDAP assessment and appointment requirements for each of the airworthiness-related delegations and authorisations listed in Section 3 in this principle are documented in a set of supporting annexes. Each annex is supported by a corresponding worksheet that uses the same numbering reference structure as the equivalent section in the annex—that is, a section in an annex aligns with the reference

section of the corresponding worksheet. The numbering is sequential to facilitate the cross-referencing between the worksheet and the annex.

Note: The principle document incorporates information from several sources, as well as technical expertise from CASA officers. This assistance aims to facilitate the assessment process by elaborating on regulatory issues and expanding on practices that must, should and may be positively identified to be considered compliant with current legislation.

2. Introduction

2.1 Overview

CASA appoints individuals and legal entities¹ who are not CASA officers to exercise CASA's airworthiness-related powers or powers specified in the legislation. These individuals and legal entities are appointed by way of an instrument of delegation (IOD) or an instrument of appointment (IOA) and are then referred to as external (or industry) delegates and authorised persons (EDAP), respectively. This principle and supporting annexes:

- describe the integrated elements and activities associated with the assessment, appointment, oversight and ongoing management of CASA's airworthiness-related EDAP
- list the airworthiness-related powers and functions CASA grants to individuals and legal entities as EDAP
- define the authority and ongoing responsibilities of EDAP in exercising CASA's airworthiness-related powers or powers specified in the legislation
- apply to the following CASA responsible business units (RBUs):
 - Regulatory Services (RS) 1 and 2
 - Surveillance Branch
 - Airworthiness and Engineering Branch (AEB).

2.2 Appointing and managing EDAP

2.2.1 Regulatory basis

Under Annex 8 to the Convention on International Civil Aviation (the Chicago Convention), Airworthiness of Aircraft, 'airworthy' (airworthiness) is:

'The status of an aircraft, engine, propeller or part when it conforms to its approved design and is in a condition for safe operation.'

Airworthiness defines the condition of an aircraft and its suitability for flight, in that it has been designed with engineering rigor, constructed, maintained and is expected to be operated to approved standards and limitations, by competent and approved individuals, who are acting as members of an approved organisation and whose work is both certified as correct and accepted on behalf of CASA.

When appointing individuals and legal entities as EDAP to perform airworthiness-related activities for aircraft, CASA may do so subject to conditions and appointment criteria. These requirements impose limitations on the manner in which the EDAP may exercise the particular power or function being given to them. The conditions are imposed under subregulation 201.001(2), regulation 11.260 and Parts 21 and 91 of the *Civil Aviation Safety Regulations 1998 (CASR)* and Subdivision 1 of Division 2 of Part 4A and Division 3 of Part 4 of the *Civil Aviation Regulations 1988 (CAR)*.

2.2.2 Key principles

When individuals and legal entities apply to CASA for appointment to exercise CASA's airworthiness-related powers and they are appointed as an EDAP, they are subject to regulations, CASA standards and ongoing supervision and review. There are subsequently key principles that need to be understood and considered by the RBUs when appointing and managing airworthiness-related EDAP.

¹ 'Individuals and legal entities' (i.e. 'natural persons' (human beings including operating as sole traders) or other legal entities (corporation, government body or incorporated association') apply to CASA for appointment to exercise CASA's powers or powers specified in the legislation. On appointment, they are then referred to as an 'external delegate' or 'authorised person' (EDAP).

2.2.2.1 Appointments

CASA may appoint individuals and legal entities who are not CASA officers to exercise CASA's airworthiness-related powers or powers specified in the legislation, who satisfy the specific competencies required and meet the relevant appointment criteria. Once the conditions for the appointment of an EDAP have been satisfied, and there remains an operational requirement for appointing that EDAP within that RBU (needs analysis, resources to manage etc.), the RBU must:

- ensure that systems are in place to monitor and evaluate the quality of decision-making, and identify particular cases where corrective action may be required
- ensure that adequate information related to the specific airworthiness-related powers is available to the EDAP (e.g. relevant CASA ACs)
- identify any appropriate conditions or limitations to be included in the instrument
- oversight the exercise of the specific airworthiness-related powers and provide specific CASA officer contact details to the EDAP to assist with any queries etc.
- ensure the EDAP has appropriate written procedures to ensure they can exercise the specific airworthiness-related powers properly and lawfully.

CASA is solely responsible for determining that there:

- is sufficient need to justify the appointment of an EDAP
- are adequate CASA resources available to manage them.

Note: If either of these conditions cannot be met, or for any other reason that CASA prescribes, the appointment will not be made.

When an EDAP is appointed:

- CASA must be satisfied the person is competent and has the commensurate knowledge, skills, experience and attitude
- the powers are expressly given by specific reference to a regulation, and by omission, powers not expressly given are outside the scope of the EDAP's empowerment
- it is critical that an EDAP is intimately familiar with the scope, limits and conditions stated on the specific IOA.

Note:

It is an applicant's responsibility to apply for CASA appointment only if they:

- have an operational requirement for the approval
- can demonstrate compliance with all the relevant regulatory requirements and appointment criteria.

2.2.2.2 Exercising powers

When exercising CASA's airworthiness-related powers or powers specified in the legislation, all EDAP:

- must be familiar with and have ready access to all appropriate CASA publications and documents and should not exercise any power until the necessary access has been obtained
- must uphold their obligations and most importantly
 - act within the law
 - operate within jurisdiction
 - provide procedural fairness
 - exercise power reasonably

- form reasonable opinions
- be accountable for decisions
- be transparent in process.
- are responsible in the same way as CASA officers are
- have a duty to perform their regulatory functions with reasonable care and diligence
- must ensure they are entitled to do so under the terms of the delegation and authorisation
- must ensure they make any decision in a manner that will stand up to administrative or judicial review.

Note: There may be serious legal ramifications if an airworthiness-related EDAP involves themselves in a decision or process that is outside the scope of their instrument. EDAP are only empowered to exercise the powers that have been expressly conferred on them and they exercise the powers conferred on them in their own name. They do not act on behalf of CASA or as an agent of CASA.

Anyone, to whom CASA powers have been delegated cannot sub-delegate those powers any further.

2.2.2.3 Oversight

The RBUs are responsible for monitoring EDAP activities to ensure they are performing their functions in accordance with the conditions of their appointment and in accordance with relevant regulations, policies and procedures. Oversight constitutes the RBU's supervision and review of EDAP and comparison of their performance to stated expectations (in accordance with the [National Surveillance Selection Process \(NSSP\) Manual](#) and [CASA Surveillance Manual](#)).

2.2.2.4 Renewal

EDAP are responsible for submitting an application to CASA for the renewal (re-issue) of their airworthiness-related instrument. Renewal of an EDAP is assessed by the RBUs on a case by case basis and is subject to meeting relevant requirements. Approval of a renewal may be subject to the RBU's needs assessment.

The processes associated with a renewal (e.g. application, assessment etc.) are mostly the same processes as for an initial application. The key difference between a renewal application and an initial application is that the applicant's history of exercising powers under their instrument (i.e. their surveillance activity) must be considered when assessing the renewal application.

Note: CASA does not guarantee or provide any assurance to an EDAP that is applying for a renewal of their instrument, that they will be granted any further approvals.

2.2.2.5 Variations

CASA may vary an authorised person's instrument at any stage and for any reason subject to any relevant information or guidelines. For example, surveillance may indicate that the scope of an instrument is not substantiated by the EDAP's documentation and currency of capabilities.

EDAP may also apply to CASA to request approval for variations to some elements of their existing instrument.

2.2.2.6 Cancellation/revocation

The RBUs may cancel (revoke) an external delegation or authorisation if it determines that the appointment is no longer valid or needed in accordance with specific circumstances. EDAP who have delegations or authorisations revoked based on misconduct will, in general, not be re-appointed. This process is managed and actioned through the CASA coordinated enforcement process (as per the processes documented in the [CASA Enforcement Manual](#)).

EDAP may also apply to CASA to cancel their existing instrument.

2.2.3 External delegate/authorised persons' management framework

The External delegate/authorised persons' (EDAP) management framework provides all responsible business units (RBUs) with the requirements for the management and oversight of activities related to all of CASA's EDAP. These activities are implemented through a sequence of consistent process stages, in what the framework describes as the EDAP lifecycle.

For the RBUs managing airworthiness-related EDAP, the stages of the EDAP lifecycle include the standard set of (RBU) lower-level operational activities (at Figure 1) that the EDAP move through, from the time of application, assessment and granting of an authorisation (entry) until such time as the EDAP ceases to hold such delegations and authorisations and exits the lifecycle (exit).

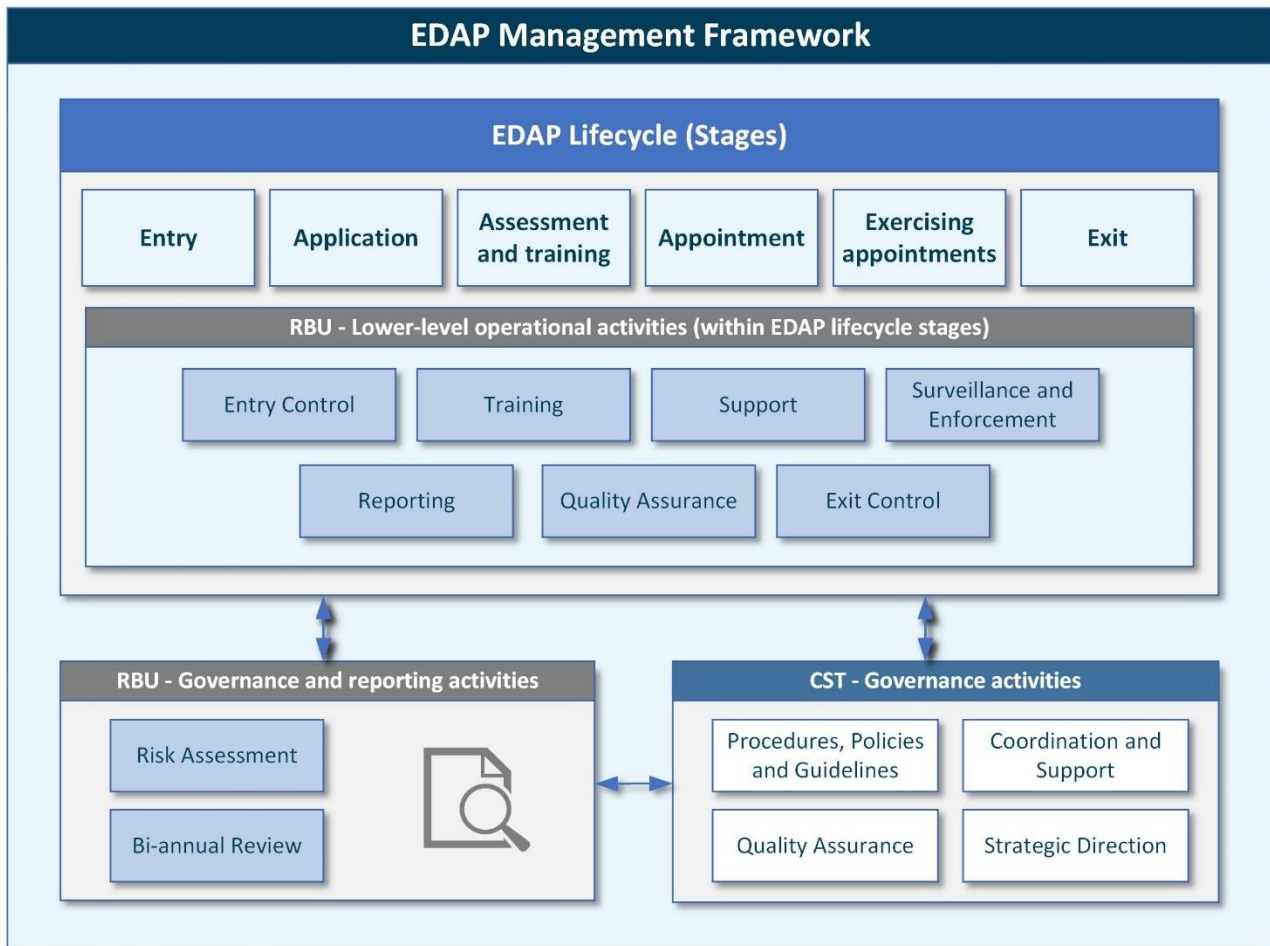


Figure 1. Lifecycle stages and activities in the EDAP Management Framework

For information on the EDAP management framework and CASA officer responsibilities, refer to [Principle \(ORG.004\) Capability support for CASA's external delegates and authorised persons](#).

2.2.4 Responsible business unit activities

Through each of the EDAP lifecycle stages, the RBUs perform:

- lower-level operational:
 - assessment and appointment activities (at Table 3) such as entry control, related to the submission and assessment of an initial application and appointment of airworthiness-related EDAP
 - management and oversight activities (at Table 4) such as surveillance and enforcement, related to the management and oversight of airworthiness-related EDAP.

For example, through the entry stage of the EDAP lifecycle, the RBUs conduct entry control activities related to an individual or legal entity being considered by CASA for the purpose of exercising CASA's airworthiness-related powers. These activities primarily include managing the initial application, reviewing the criteria for appointment, assessing the suitability of applicants and granting an airworthiness-related authorisation or delegation.

- other activities (at Table 5) such as risk assessments, which are not directly associated with the EDAP lifecycle but are required to support the lifecycle-associated governance and reporting activities.

For example, to support the EDAP lifecycle-associated governance and reporting activities, the RBUs conduct bowtie risk assessments to manage operational-level risks associated with the various functions and activities for their airworthiness-related EDAP.

2.2.4.1 Assessment and appointment activities

The following RBU activities in the EDAP lifecycle (at Table 3) that are associated with the assessment and appointment of CASA's airworthiness-related EDAP are described in this principle document and supporting annexes.

Table 4. The RBU operational assessment and appointment activities

Activity	Description
Entry Control	Activities related to CASA considering an individual or legal entity for the purpose of exercising CASA's powers, including the initial application, criteria for appointment, assessment process and granting or refusing an appointment as an EDAP.
Training	Activities related to competency requirements and the pre-application training undertaken by the applicant in support of CASA's determination to issue or not issue the instrument being sought.

2.2.4.2 Management and oversight activities

The RBU operational activities in the EDAP lifecycle (at Table 4) that are associated with the ongoing oversight and management of CASA's airworthiness-related EDAP are described in this principle document and supporting annexes.

Table 5. The RBU operational management and oversight activities

Activity	Description
Training	Activities related to competency requirements and recurrent (renewal) training undertaken by EDAP in support and continuation of CASA's determination to re-issue or not re-issue the instrument being sought.
Surveillance and Enforcement	Activities related to oversight and surveillance of EDAP, including enforcement and monitoring and measuring performance to ensure legislative obligations are being met.
Reporting	Activities for ensuring that data is collected on EDAP and then transformed by the Capability Support Team (CST) into actionable insights to facilitate accountability, improvement and communication.
Quality Assurance	Activities (managed through the CST bi-annual review process) for ensuring that obligations are met in relation to CASA's Quality Assurance (QA) system and standards (e.g. record keeping).

Activity	Description
Entry Control	Activities related to the initiation/renewal of an EDAP's appointment.
Exit Control	Activities related to the cessation of an EDAP's appointment—whether by choice, circumstance, or CASA's direction to do so.

2.2.4.3 Governance and reporting activities

The other RBU activities such as risk assessments, which are not directly associated with the EDAP lifecycle but are required to support the lifecycle-associated governance and reporting activities, are listed at Table 5.

Table 6. The RBU activities that support EDAP lifecycle governance and reporting activities

Activity	Description
Risk Assessment	The RBUs own and manage operational-level risks associated with the various operational functions and activities for EDAP. The RBUs undertake risk assessments to manage these risks.
Bi-annual review	The RBUs are required to conduct a bi-annual review, which is a formal evaluation of the RBU's management of the EDAP conducted every 6 months. The review provides an opportunity to perform an analysis of the EDAP lifecycle, conduct a needs and risk assessment and report on findings.

2.2.5 Capability Support Team activities

The Capability Support Team (CST) in the Air Navigation, Transformation and Risk (ANTR) Division provides the centralised support and coordination (governance) function for the RBUs as the RBUs authorise and manage EDAP through the stages of the EDAP lifecycle. The CST's governance function aims to complement established RBU operations and enables the RBUs to focus on their operational activities such as entry control, surveillance and enforcement.

A description of the CST's specific roles and responsibilities and the guidance and support they provide to the RBUs is detailed in:

- [Protocol \(ORG.004\) Capability support and guidelines for managing and overseeing CASA's external delegates and authorised persons](#)
- [Principle \(ORG.004\) Capability support for CASA's external delegates and authorised persons.](#)

2.3 Further advice and support

2.3.1 Capability Support Team

Contact the CST for further advice and support or to submit an enquiry or continuous improvement related to the EDAP management framework, lifecycle and supporting elements. Key subject areas include:

- CST guidelines, policies and procedures
- the EDAP consolidated register and reporting
- quality assurance, risk management and record keeping
- the bi-annual review process
- the CASA External delegate and authorised person (EDAP) module.

To submit an enquiry or continuous improvement to the CST, use the [Submit an Enquiry to the Capability Support Team](#) link on the [Air Navigation, Transformation and Risk Division](#) page in Horace

2.3.2 Airworthiness and Engineering Branch

To obtain further assistance with any of the operational processes and information detailed in this principle document associated with airworthiness-related EDAP, contact the manager airworthiness and engineering branch (AEB) or the section manager, continuing airworthiness information.

Note: The RBUs remain the primary contact for all matters relating to their airworthiness-related EDAP.

3. Airworthiness-related delegations and authorisations

3.1 Instruments of appointment – Summary table

An individual may apply to CASA for appointment to exercise CASA's airworthiness-related powers as an authorised person for the purpose of any of the following provisions of CASR listed at Table 6. An authorised person may perform the following airworthiness-related activities for aircraft.

Note: This principle document details the management of the following authorisations. Details of the specific purpose, scope and appointment criteria for each of the provisions listed at Table 6 are described in the supporting annexes (A to O) also listed at Section 4 of [Protocol \(DEL.08\) Managing airworthiness-related external delegates and authorised persons](#).

Table 7. Authorised persons - Provisions of CASR and CAR that may be included on an IOA

Reference	Title	Annex
CAR 29A	Conduct a welding examination	A
CAR 42M and R	Approve or change a system of maintenance	B
CAR 42R	Approve changes to a system of maintenance	C
CAR 42ZC(7)	Approve a person to carry out maintenance on class A aircraft	D
CASR 21.176 for CASR 21.183	Issue a standard certificate of airworthiness (CofA)	E
CASR 21.176 for CASR 21.185	Issue a special certificate of airworthiness (special CofA) for restricted category aircraft	F
CASR 21.176 for CASR 21.186	Issue a special CofA for light sport aircraft	G
CASR 21.195A for CASR 21.191(a)	Issue an experimental certificate for research and development	H
CASR 21.195A for CASR 21.191(c) or 21.191(f)	Issue an experimental certificate for training and market survey	I
CASR 21.195A for CASR 21.191(d) or 21.191(e)	Issue an experimental certificate for exhibition and air racing	J
CASR 21.195A for CASR 21.191(g) or 21.191(h)	Issue an experimental certificate for amateur or kit built aircraft	K
CASR 21.195A for CASR 21.191(j) and CASR 21.191(k)	Issue an experimental certificate for light sport aircraft	L
CASR 21.200	Issue a special flight permit	M

Reference	Title	Annex
CASR 21.324	Issue an export airworthiness approval (export CofA or authorised release certificate)	N
CASR 91.875(2)(f)	CASR 91.875(2)(f)/CASR 91.875(2)(e)(ii) - Authorise flight of an experimental aircraft over a populous area or other than by day and under the VFR.	O

3.2 Instruments of delegation – Summary table

An individual may apply to CASA for appointment to exercise CASA's airworthiness-related powers as an external delegate for the purpose of any of the following provisions of CASR and CAR listed at Table 7. An external delegate may perform the following airworthiness-related activities for aircraft.

Note: This principle document details the management of the following delegations. Details of the specific purpose, scope and appointment criteria for each of the provisions listed at Table 7 are described in the supporting annexes (W and X) also listed in Section 4 of [Protocol \(DEL.08\) Managing airworthiness-related external delegates and authorised persons](#).

Table 8. External delegates - Provisions of CASR and CAR that may be included on an IOD

Reference	Title	Annex
CAR 42ZC(6)	Authorise a person to carry out inspections using non-destructive testing methods.	W
CASR 91.Y CASR 91.935(4) CASR 91.940(4) CASR 91.945(3)	Minimum equipment list (MEL).	X

4. CASA roles and responsibilities

4.1 Overview

This section includes details of the specific roles and responsibilities of each RBU and other supporting CASA staff performing activities through the EDAP lifecycle related to the appointment and ongoing oversight and management of EDAP.

Note: Where RBUs are referred to in this document, Section 4 shall be referred to for the specific responsibilities associated with each RBU and other associated responsible persons and branches.

4.2 Airworthiness and Engineering Branch

The Airworthiness and Engineering Branch (AEB) RBU is responsible for:

- identifying and implementing airworthiness-specific policies, procedures and guidelines for the assessment, appointment and ongoing management of EDAP, if needed
- managing airworthiness-related training (CASA staff and EDAP)
- providing airworthiness policy and regulatory advice to the Regulatory Services (RS) Branch
- maintaining Australia's airworthiness obligations under the Chicago Convention and other international agreements.

4.3 Regulatory Services Branch

The Regulatory Services (RS) Branch, RS1 and RS2 RBUs are responsible for:

- managing entry control of airworthiness-related EDAP
- managing and overseeing the RBU's airworthiness-related lower-level operational activities conducted by applicants for appointment as EDAP as they participate in the EDAP lifecycle
- ensuring these airworthiness-specific operational activities are conducted in accordance with:
 - the regulations, CASA policies, and any guidelines that have been set by the CST
 - any airworthiness-specific policies, guidelines, and procedures.
- meeting CASA service delivery expectations for the assessment, appointment and ongoing management of airworthiness-related EDAP.
- activities for ensuring that data is collected on EDAP
- maintaining Australia's airworthiness obligations under the Chicago Convention and other international agreements.

4.4 Surveillance Branch

The Surveillance Branch RBU is responsible for:

- managing oversight of airworthiness-related EDAP.
- enforcement and monitoring and measuring performance to ensure legislative obligations are being met
- performing analysis of airworthiness-related EDAP and the EDAP lifecycle as part of the bi-annual review process
- maintaining Australia's airworthiness obligations under the Chicago Convention and other international agreements.

4.5 Regulatory services officer

The regulatory services officer (RSO) is responsible for:

- creating new Enterprise Aviation Processing (EAP) system cases and recording (entry control) applications for EDAP in the Records Management System (RMS)
- managing the administration of the application process in accordance with Regulatory Services (Regservices) processes.
- assigning applications to the relevant manager to allocate to an airworthiness inspector (AWI)
- sending acknowledgement notifications and requests to applicants regarding their application
- sending notifications of application rejections to applicants and recording rejection details (in RMS, EAP and the Regulatory Fee Estimator)
- sending application (fee) cost estimates to applicants, recording payments and recovering costs
- assigning EAP cases to the AWI to review and assess applications and supporting documentation
- sending notifications to applicants to issue the instrument
- notifying the surveillance technical officer (STO) and finalising entry control
- issuing cancellation letters and notices of proposed action to EDAP.

4.6 Entry control airworthiness inspector

For each of the IOA or IOD processing tasks, a designated entry control AWI is responsible for:

- making the recommendation to the EDAP
- meeting CASA service delivery expectations
- ensuring that cost recovery regulations are complied with for each task
- providing application (fee) cost estimates to the RSO
- assessing applications (experience, surveillance activity and documentation)
- conducting application interviews
- finalising assessments and approving and recommending issue of IOD or IOA.

4.7 Surveillance airworthiness inspector

The surveillance airworthiness inspector (AWI) is responsible for:

- preparing documentation in RMS and Power BI for National Surveillance Selection Process (NSSP) surveillance events
- preparing for and conducting surveillance events
- recording findings of surveillance events and drafting surveillance reports
- assessing responses from EDAP to surveillance findings and acquitting findings
- reviewing and formatting surveillance reports and findings for approval by the surveillance manager
- issuing surveillance reports and findings to EDAP (Sky Sentinel and RMS data)
- recording EDAP responses to surveillance reports and findings (Sky Sentinel and RMS)
- issuing and recording acquittals to EDAP (Sky Sentinel and RMS).
- preparing cancellation recommendations, letters and notices from EDAP.

4.8 Surveillance manager

The surveillance manager is responsible for approving surveillance reports and findings (Sky Sentinel and RMS).

4.9 Training Branch

The Training Branch is responsible for:

- providing relevant technical training for applicants and EDAP
- recording and processing course enrolments for applicant's in CLASS and AviationWorx for the relevant (mandatory) technical training and the EDAP module
- processing of mentoring experience journals for applicants.

4.10 Legal, International and Regulatory Affairs Division

The Legal, International and Regulatory Affairs (LIRA) Division is responsible for:

- advising on enforcement action
- providing drafting assistance and approval of templates for instruments of approval/delegation
- providing advice related to an EDAP's performance of their duties, specifically compliance with legislative frameworks other than technical CASRs framework
- receiving cancellation notifications
- managing and updating the legal content for the EDAP module
- providing legal advice to the RBUs for CASA-initiated exit control.

4.11 Capability Support Team

The Capability Support Team (CST) is responsible for:

- overseeing records and performing regular data integrity checks to ensure completion of the CASA EDAP module by EDAP
- initiating the RBU's completion of the bi-annual review process
- conducting the quality assurance review as part of the bi-annual review process and approving and assigning any identified corrective actions
- facilitating, documenting and reporting on risk assessments completed by the RBU.

4.12 Risk Oversight Section

The Risk Oversight Section (ROS) is responsible for:

- providing risk management advice and support to the RBUs in relation to the management of EDAP
- assisting the RBUs with bowtie risk assessments for the bi-annual review
- developing mechanisms to ensure CASA assesses and manages risks related to EDAP appropriately.

5. Entry control - Criteria for appointment

5.1 Overview

This section includes the entry control appointment criteria related to the RBU's consideration of an individual or legal entity's initial application for appointment as an airworthiness-related EDAP.

5.2 Appointment criteria - Summary table

When appointing EDAP, the RS must ensure that an applicant meets the required:

- **minimum appointment criteria** that apply before any airworthiness-related provisions of CASR and CAR are approved, and the instruments issued.
- **specific appointment criteria** that also apply before particular airworthiness-related provisions of CASR and CAR are approved, and the instruments issued.

For details of the:

- minimum appointment criteria, refer to Section 5.2.1 in this principle document
- specific appointment criteria, refer to the relevant annexes (A to X) to this principle document (listed in Section 3 in this principle document and at Section 4 of [Protocol \(DEL.08\) Managing airworthiness-related external delegates and authorised persons](#)).

5.2.1 Minimum appointment criteria for any airworthiness-related provisions

The appointment criteria (minimum conditions) at Table 8 contribute to determining an applicant's eligibility for appointment as an EDAP to exercise any airworthiness-related provisions of CASR and CAR and are described further in this principle document at the relevant sections listed.

Table 9. Summary of minimum appointment criteria to exercise any airworthiness-related provisions

Criteria	Description	Section
Eligibility	Applicants will be deemed eligible to apply to be an EDAP if the reasons listed in Section 5.3.1 are not applicable.	5.3.1
Character – Fit and proper person	Applicants must be regarded as a 'fit and proper person' to have the responsibilities and to exercise and perform the functions and duties of an EDAP.	5.3.2
CASA interaction	Any previous working relationship between the applicant and CASA must have been positive.	5.3.3
CASA EDAP module	Applicants must undertake the CASA external delegate and authorised person (EDAP) module before appointment and on renewal (every 2 years).	5.3.4

Criteria	Description	Section
Undertaking to preserve and safeguard official information	Applicants must accurately complete Form 1141 - Instrument of delegation/appointment holder's undertaking to preserve and safeguard official information to confirm their undertaking to preserve and safeguard official information.	5.3.5
Statement of proposed utilisation	All applicants must submit a statement of proposed utilisation, indicating their plans for activity as a CASA airworthiness-related EDAP.	5.3.6
Acceptance and payment of cost estimate	All applicants must: <ul style="list-style-type: none"> accept the cost estimate (fee) for their application forward the prescribed payment to CASA. 	5.3.7

5.3 Minimum appointment criteria – Details

This section details the standard (minimum) set of appointment criteria (listed at Section 5.2.1) that apply to all applicants before they are considered for appointment as an EDAP to exercise any airworthiness-related provisions of CASR and CAR.

5.3.1 Eligibility

Individuals and legal entities will be considered 'ineligible' for any of the following reasons. Persons who:

- are current CASA employees
- have had previous termination of an external delegation or authorisation due to enforcement activity.
- have convictions and indictable offences - having, within the past 10 years:
 - been convicted of any offence of any local, state or federal law relating to drugs or alcohol
 - been convicted of any indictable offence
 - been imprisoned, been on probation, or is on parole because of an indictable offence conviction
 - is currently under investigation or has charges pending for an indictable offence
- have been discharged from the Australian Defence Force for disciplinary reasons
- have a documented history of violations or adverse attitude towards compliance with CASA regulations and other related safety
- in the past 10 years have been subject to any regulatory action by CASA or any other aviation authority that has resulted in a fine, conviction, variation, suspension or cancellation of a civil aviation authorisation, licence or certificate.

Note: Revocation is not always the reason for being ineligible—Revocation can be at CASA's discretion for administrative purposes, due to no fault of the individual.

5.3.2 Character – Fit and proper person

CASA is frequently required to consider whether an applicant for appointment as an EDAP is a 'fit and proper person' for the purpose of that application or whether the holder an EDAP is a fit and proper person to continue to hold it. References to the 'fitness' of a person as an EDAP is used in a number of regulations as a factor which the RBUs should take into consideration in assessing whether an applicant should be issued or should retain their instrument.

At all times, the applicant must be a 'fit and proper person' for the purpose of the appointment and must therefore:

- have a high degree of integrity

2. demonstrate a cooperative mindset
3. show aptitude in exercising sound judgement
4. be engaged in the aviation industry
5. have established a track record of trustworthiness and professionalism
6. be capable of maintaining the highest degree of objectivity while performing external delegate functions.

Further information and guidance on the meaning and application of the term 'fit and proper person' and the statutory context for defining some of these personal requirements for applicants, is available at Appendix C in the CASA [Enforcement Manual](#) (CASA-03-0190). Refer to the Enforcement Manual for the CASA criteria for making decisions to cancel or not approve applications based on 'fit and proper' reasons.

5.3.3 CASA interaction

If there has been any previous working relationship between an applicant and CASA, and there were any documented violations of CASA work standards, the history should be investigated. The previous history can be taken into account when assessing character and the suitability to be appointed as an EDAP. Any previous working relationship between the applicant and CASA must have been positive.

5.3.4 External delegate and authorised person (EDAP) module

The CASA EDAP module for external delegates and authorised persons (EDAP) has been developed by the CST and is a mandatory requirement for all EDAP. The module is designed to provide all applicants with an overview of the legal and general requirements that are relevant to EDAP.

As at the time of application and assessment, (initial and renewal) applicants must have completed the CASA EDAP module and satisfied any relevant recurrency requirements that are applicable to the training.

Note: When granting an appointment to the applicant, you must check to ensure all applicants have completed the CASA EDAP module. The applicants must complete this training only after their application interview is satisfactory (i.e. before the RBU drafts their recommendation to issue the instrument to the applicant).

5.3.5 Undertaking to preserve and safeguard official information

The applicant must indicate that they have read the Instrument of Delegation/Appointment holders Undertaking to Preserve and Safeguard Official Information sheet, attached to [Form 1141 - Instrument of delegation/appointment holder's undertaking to preserve and safeguard official information](#) (CASA-04-0085).

5.3.6 Statement of proposed utilisation

It is the applicant's responsibility to apply for CASA appointment only if they have a requirement for the appointment. All applicants must therefore submit a statement of proposed utilisation, indicating their plans and scope for activity as an EDAP.

CASA will determine the need for additional EDAP within the geographic area, or the organisation (if applicable). A number of considerations may affect the need for additional appointments, such as the level of activity needing the service, number of existing EDAP and CASA's capacity to oversight and manage the activities. These determinations are made during the assessment process.

5.3.7 Acceptance and payment of cost estimate

CASA collects fees for the regulatory services it provides and needs to recover the costs of providing services to process an application. The legal authority for CASA's cost recovery arrangements for regulatory services is provided by sections 98(3)(u) and (v) of the *Civil Aviation Act 1988* which authorise the *Civil*

Aviation (Fees) Regulations 1995 (the Fee Regulations), which prescribe fees for CASA's regulatory services. The current Fee Regulations are a mixture of fixed fees and hourly rates.

The cost estimate is calculated using an hourly rate charge for the initial and final number of hours allocated for processing an application. The hourly rate is based on a set schedule of rates based on how complex a service is and what CASA experience is required.

After receiving a cost estimate for their application from CASA, the applicant must pay the estimated amount within 30 days for CASA to progress their application. If a payment is not made within 30 days, the applicant's EAP case is closed, and the applicant will need to re-apply should they wish to do so. If the applicant is a current CASA account holder, the RSO requests a purchase order to initiate the payment.

For more information on acceptance and payment of the cost estimate and cost recovery, refer to Section 6.2.4 in this principle document, CASA's [Cost Recovery Instructions](#) and the [Fees and charges](#) page on the CASA website.

6. Administration guidelines

6.1 Overview

This section describes the:

- RBU's administration guidelines that support the processing of applications for an appointment as an airworthiness-related EDAP
- CST's requirements for RBUs to conduct the bi-annual review process twice a year to evaluate the RBU's management of airworthiness-related EDAP.

6.2 Application administration and processing

6.2.1 Receiving an application

All applications for appointment as an EDAP are received, assigned, tracked and processed by a pool of regulatory services officers (RSO) in the Entry Control and Coordination (ECC) team from the Regulatory Oversight Division (ROD). Although RSO's are not part of the RBU's organisation structure, they contribute to the RBU's function with critical business support activities for processing applications for their airworthiness-related EDAP through the EDAP lifecycle.

Note: Although initial contact can be received through a variety of communication channels, the ECC team provides a single point of contact to receipt, check, prioritise and triage EDAP-related applications and enquiries to the RBUs.

6.2.2 Regulatory services task workflow

To ensure consistency, all CASA supporting personnel involved in the application process follow standard administrative processes through the EAP CASE system. When an initial application is received, the RSO creates an EAP Case in EAP, which also contains a task number. The EAP Case will need to be created under a dedicated EAP certificate number before being allocated to the RBU.

The **RSO**:

- sends an acknowledgement email to the applicant with a request for any additional required information (if their application is incomplete) as processing will not continue if incomplete
- sends cost estimates to applicants and processes cost recovery and payment
- assigns new EAP cases to the RBU for review
- sends the signed instrument to the EDAP
- records the relevant entries in the EAP system and finalises entry control.

Note: For detailed EAP procedures, refer to the [EAP OAS Case Management – Regulatory Oversight Division \(ROD\) Handbook](#).

6.2.3 Record keeping

The RBU's record keeping philosophy and standards are aligned with CASA's information management requirements documented in CASA's [Information Management Manual](#).

All relevant communications (supporting documents and emails) through the application process

(regservices task workflow) are to be stored in the CASA Records Management System (RMS). [How we manage information and records](#) in Horace outlines this process. All subsequent documents and emails are filed and referenced using the task number in the subject line.

All communications between CASA personnel and industry are stored in RMS, whether a regservices task or a general enquiry. If contact with industry was verbal, an email summarising the discussion should be forwarded to the contact person's email address and recorded in RMS.

Any phone calls made by any CASA officer to the applicant or other parties pertinent to the application may also be logged as a file note in the EAP Case. The following details may be recorded:

- nature of call
- to whom the call was made or received
- actions resulting from the call
- staff member who handled the call
- time and date of call.

6.2.4 Cost recovery

Note: Formal assessment of the submitted application documentation will commence only after the completion of the required cost recovery actions per the relevant regulations.

Unless approved by the relevant financial delegate, CASA requires all regservices tasks to be cost recovered. The initial and final number of hours allocated to an RBU for a regservices task will be detailed in the file notes section in EAP for the relevant task and recorded in the [Regulatory Fee Estimator](#). These hours are calculated by an AWI.

The AWI provides the cost estimate to the RSO for further processing as required. This includes supporting the cost recovery aspects of assessment processing. CASA Accounts Receivable and ECC staff working for the RBU are responsible for ensuring that payment of the cost estimate (fee) is received from the applicant for the requested regulatory service.

The RSO sends the cost estimate to the applicant and processes payment as per the EAP OAS Case Management – Regulatory Oversight Division (ROD) Handbook and the Cost Recovery Instructions. When payment (or a purchase order) is received, the RSO assigns the case to the AWI.

For more information, refer to CASA's [Cost Recovery Instructions](#) and the [Fees and charges](#) page on the CASA website.

6.3 The bi-annual review process

The bi-annual review provides the RBUs and CST with an opportunity to perform an analysis of the management of airworthiness-related EDAP and the EDAP lifecycle, by:

- conducting a:
 - needs assessment
 - risk assessment
 - quality assurance review.
- creating an action plan.

Note: The RBUs (with the assistance of the CST) are required to conduct a bi-annual review.

Following this process every 6 months provides an opportunity to:

- identify, document and evaluate specific requirements, risks, gaps and challenges
- monitor activities to support quality assurance, risk-based decision-making, continuous improvement, and an evidence-based approach
- ensure the needs of the RBU reflect the current state of EDAP and resources
- prioritise actions by their potential impacts, urgency, and available resources
- report on all findings to provide transparency.

The process for the bi-annual review is detailed in Work Instruction (ORG.004) Bi-annual review for the Capability Support Team. This includes the steps for conducting a needs assessment, risk assessment and quality assurance review.

6.3.1 Initiating a bi-annual review

The bi-annual review is triggered by the CST and conducted by the RBUs every 6 months (in April and October) in alignment with CST's reporting obligations and as recommended by the monitor and review process in the [CASA Risk Management Manual](#).

The CST coordinator sends a notification email to the RBU with:

- a request for the RBU to undertake their needs and risk assessment
- a due date for the RBU's delivery of the final assessment results and action plan (aligned with the bi-annual review cycle) to the CST
- actions for the RBU to perform if they cannot meet the due dates (this may include providing an alternate date).

6.3.2 Conducting a needs assessment

As part of the bi-annual review, the RBU must conduct a needs assessment to identify and evaluate the specific requirements, gaps or challenges and ensure the RBU's needs reflect the current state of airworthiness-related EDAP and resources.

The findings of the needs assessment are prioritised by their potential impact, urgency, and available resources and included in an action plan with the results of the risk assessment.

The analysis includes:

- [gap analysis](#) to assess the differences or 'gaps' between the EDAP's current state and the desired future state (goals and benchmarks).
- [needs identification](#) using the outcome of the gap analysis to identify and define the specific requirements, desires, or deficiencies. Once the needs are identified, they can be prioritised and addressed through appropriate strategies or solutions.
- [needs prioritisation](#) by ranking the identified needs based on their importance, urgency, or impact. By prioritising needs, the focus will be addressing the most critical issues first and make efficient use of available resources.

The action plan should outline what resources are required, who is responsible for each aspect of the plan and the timeline for implementation.

6.3.3 Conducting a risk assessment

Risk assessments provide the identification, evaluation and prioritisation of potential risks or hazards to make informed decisions on how to manage or mitigate them.

Risk assessments provide the identification, evaluation and prioritisation of potential risks or hazards to make informed decisions on how to manage or mitigate them. The RBU owns and manages operational level risks associated with the various operational functions and activities for their airworthiness-related EDAP.

Note: For more information on conducting a risk assessment, refer to the [Risk Management Policy \(CRM\) Policy](#) and the [Risk Management \(CRM\) Manual](#).

To manage these risks, the RBU undertakes risk assessments:

- with support and guidance from the [Risk Oversight Section](#) (ROS)
- in accordance with:
 - CASA's risk management framework
 - the CST's risk management process guidelines detailed in Principle (ORG.004) Guidelines for managing and overseeing external delegates and authorised persons.

The CST facilitates, documents, and reports on risk assessments conducted by the RBU. CST responsibilities include scheduling and communication and ensuring a streamlined and effective risk assessment process.

The CST coordinator:

- coordinates a bowtie risk assessment with the RBUs and ROS
- sends a notification email to the RBU (when ready) requesting the RBU commence their bowtie assessment.

6.3.4 Creating an action plan

The RBU creates an action plan to capture any identified gaps, risks and needs and the planned approach required to address, implement and manage. The plan ensures the RBU's specific needs reflect the current state of airworthiness-related EDAP and resources.

The RBU creates a new action plan based on the results of the needs assessment and risk assessment. The action plan should:

- identify and evaluate the specific requirements, gaps or challenges (needs)
- prioritise findings by their potential impact, urgency, and available resources
- outline the steps, controls, resources, responsibility and timeline required to address identified risks and needs and implement the plan.

Once the action plan has been implemented, the RBU should:

- **monitor progress** – continuously track and assess the progress of the plan
- **evaluate results** – evaluate the effectiveness of the plan in meeting the identified needs
- **adjust and improve** – make necessary adjustments and improvements based on the evaluation
- **communicate** – keep stakeholders informed about progress and outcomes
- **document** – maintain records and documentation throughout the process.

6.3.5 Conducting a quality assurance review

Quality assurance reviews (checks) enable the CST to assess the RBU's compliance with CASA's record management standards and procedures and ensure that any deviations or issues are identified and addressed. The CST coordinator coordinates, plans and schedules the quality assurance review in line with the bi-annual reviews.

The CST coordinator conducts the quality assurance review to ensure the RBU's:

- compliance with CASA's:
 - Information Management Manual
 - records management standards, policies, procedures and regulatory requirements
- information and records align with CST requirements for undertaking its responsibilities
- documentation is current and aligns with the bi-annual review cycle
- progress in delivering records management strategies outlined in the organisation's plans.

The CST coordinator also ensures any exceptions, such as security breaches or lost documents, are documented.

The RBU should ensure they are prepared:

- for the review and have the necessary documentation and checklists
- to provide access to their relevant records and documentation.

The CST coordinator records the results of the review in the CST EDAP consolidated register, including:

- any non-compliance, identified issues and exceptions
- feedback and recommendations for improvement (corrective actions) to the RBU
- the specific plan and steps required to address and achieve compliance.

Note: The CST manager is responsible for approving and assigning any identified corrective actions to responsible parties. Follow-up quality assurance reviews are then conducted to verify the implementation of the corrective actions and track improvements.

6.4 EDAP reporting

The RBUs, in conjunction with the CST, collect, review and consolidate current details of appointed EDAP who hold airworthiness-related authorisations and delegations. Current details of EDAP are:

- captured and amended by the RBU using the RBU submission spreadsheet
- transferred by the CST to a manual register spreadsheet
- generated by the CST into the Power BI – Delegate report and the EDAP consolidated register.

The RBU:

- reviews, validates and updates the RBU submission spreadsheet
- reviews and validates the details of EDAP in the final EDAP consolidated register.

Note: Each version of the RBU submission spreadsheet completed by the RBU is not changed by the CST before it is archived. This provides a continuous audit trail of the RBU's EDAP details, and the amendments captured during each review.

Following this CST process:

- reduces repetition of data entry and minimises the amount of time and effort required to collate details of airworthiness-related EDAP
- enables efficient, central maintenance of details of EDAP collected from the RBU
- improves the CST's reporting and monitoring functions to inform decisions regarding EDAP.

For more details, refer to [Work Instruction \(ORG.004\) Updating the external delegates and authorised persons' consolidated register](#).

Note: From time-to-time, the CST may also request certain information from the RBU to satisfy any reporting or information requests that have been made (such as by CASA's executive).

7. Responsibilities of all external delegates and authorised persons

7.1 Overview

This section describes the responsibilities and obligations of airworthiness-related EDAP when exercising their powers, including:

- mandatory responsibilities
- any conditions and limitations
- general responsibilities
- ongoing requirements
- managing conflicts and questions.

7.2 Mandatory responsibilities

7.2.1 Understanding the application process

The application process for an applicant's appointment as an EDAP requires the:

- applicant to complete and submit an application (request) through the CASA application process, along with any relevant supporting evidence (i.e. appointment criteria).
- applicant to:
 - complete the relevant training requirements (e.g. the EDAP module) prior to the application process and appointment
 - be subject to an assessment by the CASA AWI
- AWI to consider any CASA delegations and/or authorisations previously held by the applicant (if any), including the activities undertaken by the EDAP in exercising any such powers.

7.2.2 Exercising CASA powers

Critically, there are 3 key conditions that EDAP must observe once they are appointed:

EDAP:

- are **responsible** in the same way as CASA officers are when exercising powers
- have a **duty** to perform their regulatory functions with reasonable care and diligence
- must **ensure** that the functions they perform are in accordance with the law.

Note: EDAP are responsible to ensure that any actions they take are undertaken strictly in accordance with the terms of the instrument and do not exceed the legislative power delegated to them or conferred upon them. For more information, refer to Appendix A3 and A8 in this principle document and the [CASA Enforcement Manual](#) for information on external delegations and authorisations and exercise of powers.

7.2.3 Conditions and limitations

When appointing an EDAP, CASA may do so subject to conditions. These conditions impose limitations on the manner in which the EDAP may exercise the particular power or function being given to them. The conditions are imposed under subregulation 7(2) of CAR or subregulations 11.260(3) for external delegates and 201.001(2) of CASR for authorised persons.

7.3 Ongoing requirements

In addition to maintaining the minimum qualifications outlined in this principle document, all EDAP must continue to meet the following requirements:

- Attend required training
- Attend required meetings
- Other requirements as deemed necessary by the RBUs.

7.4 Liability for the conduct of an EDAP

While an EDAP is individually liable for its acts and omissions, CASA has undertaken to indemnify EDAPs for claims arising out of its allegedly negligent conduct. However, this obligation does not extend to conduct that is wilful, deliberate, reckless, or grossly negligent.

For more information, refer to regulation 11.055 of CASR, the [CASA Enforcement Manual](#) and [CAAP Admin-01 - Indemnity arrangements for delegates, authorised persons and flight examiner rating holders](#).

8. Conflicts and questions

8.1 Seeking a remedy

A person who believes they have been adversely affected by an unfair decision of CASA may seek recourse under the applicable provisions of Commonwealth legislation, such as:

- *Administrative Appeals Tribunal Act 1975*
- *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act) or *Judiciary Act 1903* section 39B.

Other avenues for remedy are:

- review of decisions by the Commonwealth Ombudsman
- review of decisions by CASA's Industry Complaints Commissioner
- request for information under the Freedom of Information
- reliance on anti-discrimination legislation
- a civil action for damages resulting from unlawful or improper decision making.

8.2 Remedies under Commonwealth Acts

8.2.1 Merits Review under the Administrative Appeals Tribunal Act 1975

In most circumstances, a delegate's action may be reviewed by the *Administrative Appeals Tribunal* (AAT) under the *Administrative Appeals Tribunal Act 1975*. This is a review of the decision on the merits of the case, or 'merits review', and the AAT decides what is the correct or preferable decision in the circumstances.

The AAT's jurisdiction in relation to decisions of CASA is set out in CAR 297A(31), and CASR 201.004 as well as section 31 of the *Civil Aviation Act 1988*.

8.2.2 Judicial Review in the Federal Court

A person affected by a particular decision may seek a 'judicial review' (a review by the Federal Court) of that decision. A person may institute proceedings in the Federal Court for a review of the legality of a delegate's decision under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act) or *Judiciary Act 1903* section 39B. A person may also appeal to the Federal Court on a question of law from a decision made by the AAT.

The court looks at the legality of the decision which it is called upon to review, and most often the process for making the decision, without considering whether the decision was the correct or preferable decision in the circumstances. All decisions made, or claimed to be made, by a delegate under the Civil Aviation Act 1988, CAR (1988) and CASR (1998) and under the Civil Aviation Orders (CAO) are subject to judicial review. In judicial review there is no consideration of the merits of the case, only whether the decision was lawfully made.

8.2.3 Review by the Commonwealth Ombudsman

Under the *Ombudsman Act 1976*, the Commonwealth Ombudsman functions as a watchdog over administrative decision making, by investigating complaints and making recommendations to the agency whose actions are being investigated. The Ombudsman has wide-ranging powers to obtain information.

The types of administrative actions that may be investigated include the making of a decision, the making of a recommendation, the formulation of a proposal, and the failure or refusal to do any of these things.

The Ombudsman has no power to set aside an administrative decision, or to substitute their own decision. They must determine if there has been any defect in the administrative action and to report that fact, along with recommendations to the appropriate agency (CASA).

The Ombudsman may consider that an administrative decision was defective for a number of reasons including that it:

- appears to be contrary to law
- was unreasonable, unjust, oppressive or improperly discriminatory
- was in accordance with a rule of law, a provision of an enactment or a practice, but the rule, provision or practice may be unreasonable, unjust, oppressive or improperly discriminatory
- was based either wholly or partly on a mistake of law or of fact
- was otherwise, in all the circumstances, wrong.

If, after reporting to CASA any instance of defective administration, no appropriate action is taken, the Ombudsman may bring the matter to the attention of the responsible Minister and the Parliament.

8.2.4 Industry Complaints Commissioner (ICC)

The primary role of the ICC is to provide members of the industry, the wider aviation community and the public with a way to make a complaint about the behaviour of CASA personnel and industry delegates, and to ensure that legitimate complaints are objectively considered, effectively addressed and fairly resolved in a timely fashion.

The ICC operates independently of CASA's technical and operational line management, under the guidance and, where necessary, the direction of CASA's Ethics and Conduct Committee.

The ICC's functions complement but do not replace or supersede those of the Commonwealth Ombudsman, the Administrative Appeals Tribunal or the Federal Court.

The ICC has no power to set aside decisions or to issue orders to persons administering legislation but can express an opinion about whether or not any decision under consideration has been arrived at properly. In general, the ICC does not investigate decisions which are amenable to AAT or Federal Court review.

8.2.5 Discrimination

If a delegate takes into account such things as a person's race or gender when making a decision, he or she may expose the action to judicial review under the ADJR Act, where such matters are 'irrelevant considerations'. In addition, the delegate who makes such a decision may have breached relevant provisions of the Commonwealth's racial discrimination or sex discrimination legislation. These provisions must be borne in mind when a delegate exercises any powers under the *Civil Aviation Act 1988* and the *Civil Aviation Regulations 1988*.

The *Racial Discrimination Act (1975)* outlaws racial discrimination. The act aims to ensure that everyone enjoys human rights and fundamental freedoms regardless of race, colour, descent, place of origin, ethnic origin or, in some cases, immigrant status.

The *Racial Hatred Act (1995)* extends the coverage of the Racial Discrimination Act to allow people to complain to the Australian Human Rights Commission about offensive, insulting, humiliating or intimidating behaviour based on race, colour, or national or ethnic origin.

The *Sex Discrimination Act (1984)* makes it unlawful to discriminate against a person because of their sex, marital status, pregnancy or potential to become pregnant; or to dismiss a person from their job because of their family responsibilities; or to sexually harass a person.

The *Disability Discrimination Act 1992*, which prohibits a person from treating another less favourably because of that person's disability.

8.2.6 Civil liability - Actions against CASA or delegates

A person may be so dissatisfied with actions of CASA that they may decide to sue CASA for negligence or for breach of a legally recognised right. This is not the place to discuss the law relating to negligence or the circumstances under which CASA (and in some cases a delegate) may be found liable for damages as a result of a failure to observe the rules and principles of administrative law. However, it is important to keep in mind that where it can be shown that, in the process of exercising the decision making powers under legislation, a delegate has acted negligently, CASA may be held liable to pay the costs associated with any harm or injury a person may have suffered as a direct and proximate result of that action or, as the case may be, a failure to act.

8.2.7 Protection of delegates

Delegates may be personally liable for their actions as delegates. They can be sued in a civil court or in a criminal court. CASA will indemnify delegates against any liability or loss arising from the exercise of powers or the performance of functions carried out on behalf of CASA, where those powers or functions are within the scope of the delegation. CASA will not indemnify delegates against liabilities or losses arising from the exercise of powers or the performance of functions which are outside the scope of the delegation, or which are exercised or performed with reckless disregard. Delegates will need to advise CASA of legal claims for damages against the delegate, which may require CASA to make a claim against CASA's insurance.

Appendix A – Instrument (IOA/IOD) procedures manual - Administrative material

A.1 Overview

This appendix describes the overall requirements for any airworthiness IOA/IOD procedures manual.

Note: Specific procedure manual requirements for individual airworthiness-related provisions (permissions) are included in the corresponding annex that applies to that provision.

A.2 Format

While CASA does not prescribe a specific format for a procedures manual, the following criteria must be met. The manual must:

- have:
 - a logical sequence
 - page numbers
 - the revision status of each page detailed
- include a:
 - contents page
 - list of definitions and abbreviations
 - list of effective pages.

A.3 General responsibilities

The procedures manual must describe the responsibilities of the EDAP to ensure that they:

- act in a manner that positively reflects CASA at all times. An EDAP is responsible in the same way as CASA officers are when exercising powers.
- conduct only those activities within the scope of the instrument, knowing there may be serious ramifications if an EDAP involves themselves in a decision or process that is outside the scope of their instrument
- follow all requirements found in the regulations and guidance related to the functions they perform
- maintain technical skills and knowledge specific to the delegation/authorisation held
- ensure the functions performed are in accordance with the law
- exhibit a high degree of integrity, responsibility and professionalism. EDAP have a duty to perform their regulatory functions with reasonable care and diligence.

A.4 Amendment procedures

The procedures manual must describe the procedure that must be followed to amend the manual, specifically including:

- definition of major and minor amendment
- amendment policy (including change consultation processes)
- amendment procedures
- changes must be accepted by CASA (in writing) prior to incorporation
- amendment feedback process

- amendment records (including identification of changes).

A.5 Applicability

The procedures manual must include an applicability section which details:

- identity of instrument holder and IOA/IOD number
- addresses and contact details
- statement that procedures must reflect CASA procedures and policies
- procedure to monitor CASA procedures for changes for incorporation
- statement confirming the instrument holders commitment to the procedures
- authority and independence of the EDAP
- provision for a copy of the instrument to be included
- manual holders.

A.6 Instrument renewal

The procedures manual must include procedures detailing instrument renewal, including:

- triggers to alert of instrument expiry
- process of renewing instrument.

A.7 Governance

The procedures manual must ensure that before commencing work, the EDAP confirms that their instrument:

- is current, and
- allows them to legally perform the function for each application.

A.8 Exercising powers

All EDAP must be familiar with and have ready access to all appropriate CASA publications and documentation and should not exercise any power until the necessary access has been obtained. A procedures manual for an EDAP should include reference to the following obligations when exercising their powers, which include:

- act within the law
- operate within jurisdiction
- provide procedural fairness
- exercise power reasonably
- form reasonable opinions
- be accountable for decisions
- be transparent in process.

Hence, when exercising conferred powers, the procedures manual will also ensure EDAP consider the following points to make a lawful and transparent decision:

- Do I have the legal power to make the decision I'm asked to make?
- What are the limits of my powers?
- What are the applicable statutory criteria?
- Are there any applicable CASA guidelines/policies?
- What are the relevant written conditions and directions?

- What are the relevant considerations when making this decision?
- I will independently exercise my delegation(s) with discretion and without interference
- Safety will be my primary consideration
- I will document my reasons for all decisions
- I will seek advice and/or peer review if I have any doubts with my decision-making.

Further information on delegations and exercise of powers by delegates is available in the [CASA Enforcement Manual](#).

A.9 Reporting

The procedures manual must ensure that the EDAP will use CASA's Delegate Management Notification System (DMNS) to report all tasks.

For more information, refer to the [Delegate management notification system](#) page on the CASA website.

A.10 Access to data

If the tasks undertaken by the EDAP require data to ensure compliance, the procedures manual must describe how the EDAP obtains and maintains access to:

- manufacturers data
- CASA regulatory data
- country of manufacture regulatory data
- aircraft records
- aircraft registration
- flight manual

The procedures manual must also contain:

- steps to establish revision status of 2nd/3rd party supplied data
- process to manage any subscription services stated.

A.11 Record keeping

The procedures manual must describe:

- which records will be retained
- the retention period of these records
- how these records (including electronic) are secured.

A.12 Audit system

The procedures manual must describe how audits are managed, including audit:

- policy
- structure
- requirements (check sheets)
- reporting procedures

- finding assessment and resulting action.

A.13 Administrative forms

For all forms used as part of the approval process, the procedures manual must include:

- details of each form used
- check sheets to be used during assessment
- description on the use of each form
- copy of each form to be used included (if not a CASA form).

A.14 Contract/agreement between aircraft owner, CofR holder or operator (as applicable)

For any contracts entered into between the EDAP and other industry participants, the procedures manual must include:

- procedures to establish a contract with the certificate of registration (CofR) holder or operator as applicable
- circumstances when a contract/agreement should be amended
- definition of the signatories
- inter-relationship with operators MCM – what takes precedent (as applicable)
- contract/agreement to detail:
 - period of contract expressed
 - provision of technical data
 - provision of technical expertise
 - access to the aircraft
 - access to the aircraft's records
 - access to facilities
 - access to operators key personnel
 - access to company procedures
 - provision of support staff
 - services to be provided by delegate/authorised person
 - identity of procedures and forms to be used
 - compilation/participation in MEL review board (as required).