

# Fitness of Character Policy Framework

Policy Statement 04 | Effective: 1 November 2022

## A Background

The Maldives Civil Aviation Authority has decided to publish this policy framework relating to the 'fitness of character' of individuals and postholders whom it licences or approves in accordance with applicable legislation. It is linked to the Maldives' State Enforcement Policy which is aimed at "promoting compliance with aviation safety regulations and requirements through enforcement functions in an equitable manner". While enforcement decisions will be conducted "within a framework of Just Culture", that framework recognises the need to distinguish between premeditated violations and unintentional errors or deviations.

The State Enforcement Policy makes clear that information derived from safety data collection and processing systems established under an approved SMS, and information reported to the CAA as a mandatory or voluntary report will not be used as the basis for punitive enforcement action; nor will the CAA take punitive enforcement actions in a case where safety deviations are being resolved to the satisfaction of the CAA in the context of an approved SMS. However, these principles will not be applied if CAA suspects that there is a deliberate effort to conceal non-compliance with regulations or standards; in the case of recurrent violations; or in the case of dereliction of duty amounting to gross negligence, wilful violations or destructive acts. Firm action will be taken against those who consistently or deliberately contravene the safety rules and procedures.

Such violations and their associated behaviours are likely to call into question the fitness of character of a licence or approval holder; and likewise (though the context and circumstances may differ) the fitness of applicants for such licences or approvals. This fitness of character sits alongside requirements for competence, skills and medical fitness that must be demonstrated by applicants for, and holders of licences and approvals. But competency in the legislation is a combination of the skills, knowledge, attitudes and behaviours required to perform a task to the prescribed standard.

However, legislation does not always specify how an individual or post holder will be expected to satisfy the CAA about their fitness of character. Certain cases will clearly fall within the negative behaviours described in the State Enforcement Policy; some may be associated with Level I audit findings that raise questions about individual behaviour or character; others (possibly flowing from such findings) may provide grounds for revocation or suspension as set out in the legislation; yet others may be more general behavioural characteristic that cause concern about an individual's suitability to hold licences or approvals. Common instances set out in the regulations, such as dishonesty, malpractice or falsification of documents, may engage most if not all these categories. But generally, the CAA has discretion as to how fitness of character is assessed. This discretion must be exercised fairly, transparently and proportionately in each instance.

The purpose of this policy framework is to prevent or reduce the safety impacts of such behaviours or activities continuing. Attitudes and behaviours which increase safety risks should always be considered within this framework.

## **B Scope**

This policy framework may be applicable to any approval, licence or certification issued by the CAA. It is provided to assist the decision-making process and should not be relied upon as a substitute for the exercise of judgement on a case-by-case basis. Further, this guidance is not designed to replace any laws, regulations or State safety and enforcement policies. Its use may lead to one or more enforcement measures such as refusal of a licence, provisional suspension, revocation, suspension, variation, a fine or prosecution.

## **B Policy Statements**

### **POLICY FRAMEWORK**

1. The CAA will wish to be satisfied that that all individuals and post holders who it licences, approves or certificates demonstrate the following behaviours:
  - a. Trustworthiness – the ability to be relied on as being honest and truthful;
  - b. Propensity to obey rules and regulations - demonstrably being consistent in applying the rules and regulations in spirit and letter.
2. When considering these behaviours, the CAA will consider the overriding need to:
  - a. Protect the general public;
  - b. Maintain public confidence in the individual and post holder privileges that CAA licences; and
  - c. Maintain public confidence in CAA's own decision-making process.
3. Specific information that may call into question fitness of character includes, but is not limited to, the following:
  - a. Criminal convictions, administrative fines or other civil sanctions. Anyone convicted of an aviation related offence or dishonesty offence is unlikely to be regarded as having the required fitness of character. Convictions for unrelated offences may be relevant when considering propensity to obey the rules, and potential impacts on safety.
  - b. Falsification of records.
  - c. Providing false information.
  - d. Previous licensing or enforcement action has been undertaken.
  - e. Dishonest behaviour.

### **DECISIONS ON FITNESS**

4. In dealing with a fitness of character decision, the CAA will clearly and consistently review individual behaviours using the information available. In reaching a decision, CAA will consider all potential outcomes ranging from taking no action to revocation, a fine or prosecution. Taking no action is as critical a decision as taking formal action. The CAA will record and be able to explain the reasons for taking, or not taking action, as the case may be.
5. It will also explain any right of review to which a person is entitled in respect of a decision to take action.



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