

Executive Summary

Direct Investigation Report

Civil Aviation Department's Regulation of Paragliding Activities

Introduction

In recent years, paragliding has become more popular in Hong Kong, but related accidents happened from time to time, resulting in injury or even death of the paraglider pilots involved. Some landing mishaps had also caused damage to properties on the ground.

2. The Civil Aviation Department (“CAD”), as the overseer of civil aviation safety in Hong Kong, has a duty to regulate local paragliding activities and enforce paragliding-related legislation so as to ensure aviation and public safety. Against this background, this Office has launched this direct investigation to examine CAD’s regulation of paragliding activities. Our observations and comments are as follows.

Our Findings

(I) CAD should Conscientiously Enforce Legislation Relating to Local Paragliding Activities

3. At present, there is no specific legislation for regulating paragliding activities in Hong Kong. CAD regulates the air services provided by paragliders for reward and the reckless or negligent operation of paragliders through the provisions in the Air Transport (Licensing of Air Services) Regulations and the Air Navigation (Hong Kong) Order 1995 respectively that are applicable to small aircraft (including paragliders). Though paragliding has many years of history in Hong Kong, we found that CAD only conducted a review on the regulation of local paragliding activities in as late as 2018, and completed the establishment of a permit application mechanism for local paragliding air service providers in October 2019. Prior to 2018, CAD had not proactively reviewed and modified its regulatory efforts with respect to local paragliding activities. Nor had it enforced paragliding-related legislation conscientiously.

4. We are of the opinion that the lack of proper regulation and monitoring would dampen the effectiveness of the permit system. After establishing the permit system, CAD should implement concrete measures to monitor the air services provided by permit holders and take proactive enforcement actions against the paragliding services provided without a permit, so that the safety of paragliding air service users can be protected.

5. On the other hand, at present, those who engage in paragliding activities in Hong Kong are not required to register with any Government authority or organisation, or make any pre-flight planning or post-flight record. As a result, under general circumstances, CAD can in no way confirm the identities of the pilots engaging in paragliding activities, let alone taking follow-up or enforcement action against those pilots who are suspected to have breached the law. We opine that CAD can consider requiring persons who engage in paragliding activities in Hong Kong to register in advance with the Department or become a member of a local paragliding organisation approved by the Government. A real-name registration scheme can raise the chance of successfully identifying paraglider pilots by CAD or other related departments, and the registration records can become a central register of local paraglider pilots, with which the Government can explore how aviation safety of local paragliding activities could be enhanced. Furthermore, CAD can consider requiring paraglider pilots to register their paragliding equipment, and display the registration numbers conspicuously on their flight equipment or personal gear. On this matter, CAD should take reference from the experience of governments in other places in collaborating with paragliding organisations and proactively discuss with the local paragliding organisations and various stakeholders with a view to formulating a registration scheme for paraglider pilots and/or paragliding equipment that suits the local situation, as well as an authorisation regime for local paragliding organisations. CAD should also examine how to confer powers on suitable local paragliding organisations to facilitate the management and development of paragliding activities in a more systematic manner.

(II) CAD should Step up Investigations of Alleged Illegal Behaviours

6. At present, investigation of serious paragliding-related accidents or incidents are conducted by the Air Accident Investigation Authority (“AAIA”). For other accidents or incidents involving paragliders, CAD would ask the Hong Kong Paragliding Association (“HKPA”), a major local paragliding organisation, to conduct the investigation. The Department would, on the other hand, refer cases allegedly involving violations of relevant laws to the Hong Kong Police Force (“HKPF”) for

follow-up. However, the purpose of investigations by AAIA and HKPA is to identify the cause(s) of the accidents or incidents in a non-judgemental manner in order to prevent recurrence, rather than hold the paraglider pilots in breach of the law accountable and liable. We consider that CAD, as the overseer of civil aviation safety and enforcement department of paragliding-related legislation in Hong Kong, has the duty to take up a more active role in enforcement and investigation.

7. In fact, HKPA is merely a non-governmental organisation. Its investigations are neither authorised by the law or the Government, nor conducted with the objective of finding out whether the paraglider pilots concerned have broken any law relevant to paragliding activities. As such, the investigations hardly carry any deterrent effect against behaviours in breach of the relevant laws. In this light, we consider that CAD should officially authorise or appoint HKPA (or other organisations it deems appropriate) to conduct investigations into paragliding accidents or incidents, so that the organisation itself and members of the public would know that the investigations by the organisation concerned may entail law enforcement by government authorities. In addition, CAD should provide specific guidelines to HKPA (or other organisations authorised or appointed by the Department) that state, among others, the objectives of investigations and the issues to be investigated, such that the investigations can uncover substantive and pertinent information for CAD and HKPF to decide further investigation and enforcement actions as appropriate.

8. On the other hand, we understand that the prosecution procedures relevant to paragliding-related legislation must be undertaken by the Police. However, since CAD is the department that is responsible for enforcing the relevant laws and possesses professional knowledge about civil aviation safety, we believe that enforcement would be more effective if CAD plays a more active role in investigation and strengthens its cooperation with HKPF. We recommend that before referring a case to HKPF, CAD should collate and analyse case information from its professional perspective, and provide HKPF with comprehensive guidelines and general information about the operation of paragliders. Regular communication on case analysis, follow-up action and enforcement should also be reinforced.

9. In the long run, CAD should consider allocating more resources to step up enforcement and regulation under the permit system by, say, deploying staff to conduct site inspections and permit-checking at hotspots of paragliding air services.

(III) CAD should Step up Publicity and Public Education on Permit System for Provision of Air Services by Paraglider

10. CAD granted the first ever permit under the permit system only in late 2020. It can be expected that neither the paragliding sector nor members of the public would know much about the system. In this light, we consider it imperative that CAD steps up publicity on the permit system to enhance public awareness about it; reminds the paragliding sector that a permit obtained under the system is pre-requisite for providing paragliding services; and raises public alertness to choosing only CAD-approved paragliding air services and to reporting promptly to the authority about any suspected cases of providing paragliding air services for reward without a permit.

(IV) CAD should Consider Extending Validity Period of Permits

11. Permits for providing air services for reward by a paraglider are valid for no longer than six months. In processing new applications and renewal applications for the permit, CAD would meticulously examine the details of the “flight operation procedures” and documentary proofs submitted by applicants, as well as assess the actual operations of the paragliding activities during demonstration flights. We consider that while assessments on a six-month cycle can help monitor the performance of permit holders, they would also bring considerable administrative cost to the permit holders and even to CAD itself.

12. To encourage more local paraglider pilots interested in providing paragliding air services to apply for a permit, we recommend that CAD, upon reviewing the performance of permit holders, consider granting renewed permits with a validity period longer than six months. This has the benefits of reducing the administrative cost of service providers in permit application and permit renewal, as well as boosting CAD’s administrative efficiency.

Recommendations

13. In view of the above, The Ombudsman made eight recommendations for improvement to CAD:

- (1) explore legislative or administrative measures to require all persons engaged in local paragliding activities to register in real-name in

advance, and discuss with the local paragliding organisations and stakeholders with a view to formulating a real-name registration scheme that suits the local situation;

- (2) explore legislative or administrative measures to require paraglider pilots to register the paragliding equipment they use and to display the registration number at prominent places of their flight equipment or personal gear;
- (3) consider setting up an authorisation regime for local paragliding organisations and, through legislation or administrative measures, authorise appropriate local paragliding organisations to administer and develop paragliding activities in a more systematic manner, including devising safety standards, establishing a qualification framework and drawing up accident investigation procedures;
- (4) consider officially authorising or appointing HKPA (or other organisations CAD deems appropriate) to conduct investigations into paragliding accidents and incidents, and furnishing it with specific guidelines which cover the aims of investigations and the issues to be investigated, such that the investigations can uncover substantive and pertinent information for CAD and HKPF to decide further investigation and enforcement action as appropriate;
- (5) collate and analyse case information from the professional perspective of civil aviation safety for HKPF's reference before referring complaint cases on allegedly illegal paragliding activities or services to the latter for follow-up (e.g. providing the salient points of the Safety Guidance on Paragliding Activities and the relevant civil aviation legislation, information on the general operation of the paragliding service providers, and pointing out the behaviour suspected to be in breach the law, etc.);
- (6) in the long run, consider allocating more resources in order to strengthen enforcement and regulation under the permit system by, say, deploying staff to conduct site inspections and permit-checking at hotspots of paragliding air services;

- (7) step up publicity on the permit system to enhance public awareness about it, remind the paragliding sector that a permit obtained under the system is pre-requisite for providing paragliding services, and raise public alertness to choosing only CAD-approved paragliding air services; and
- (8) consider granting renewed permits with a validity period longer than six months to reduce the administrative cost of permit holders, so as to encourage paragliding air service providers to apply for a permit.

Office of The Ombudsman
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