

MEMORANDUM OF UNDERSTANDING IN RESPECT OF AVIATION SECURITY

BETWEEN:

THE SECRETARY OF STATE FOR TRANSPORT

AND

THE CIVIL AVIATION AUTHORITY

1. INTRODUCTION

This Memorandum of Understanding (“MoU”) in respect of aviation security sets out the broad division of responsibilities between the Secretary of State for Transport (the “SoS”) and the Civil Aviation Authority (the “CAA”) (together “the Participants”) in respect of the regulation of aviation security, following the transfer to the CAA of certain aviation security functions with effect from 1 April 2014. It should be read in conjunction with the overarching SoS/CAA Framework Document that sets out the broader relationship between the SoS and the CAA, the latest version of which was sent to the CAA on the 9 January 2014. A detailed delineation of the respective aviation security roles of each of the Participants is set out in the Statement of Responsibilities (“SoR”), a copy of which is attached as an Annex to this MoU.

2. AIM

The aim of this MoU is to ensure the continued effective discharge of the UK’s aviation security regulatory regime (including aviation security requirements set out in Regulation (EC) 300/2008¹ (and its implementing Acts) and in directions given by the Secretary of State under Part 2 of the Aviation Security Act 1982 (the “ASA 82”)) by describing the respective roles of the Participants in relation to aviation security.

3. PRINCIPLES

The underlying principles of this MoU are:

- The SoS will remain the UK’s “Appropriate Authority” responsible for the coordination and monitoring of the implementation of security standards for the purposes of Article 9 of Regulation (EC) 300/2008. As such the SoS will continue to be accountable to Parliament and within Government for aviation security matters, and responsible for discharging the UK’s Appropriate Authority obligations to the

¹ Regulation (EC) 300/2008 of the European Parliament and of the Council of 11 March 2008 on common basic standards in the field of aviation security (“Regulation (EC) 300/2008”).

International Civil Aviation Organisation (ICAO) and to the European Union;

- The SoS will remain responsible for aviation security policy (including threat assessment and international relations) and for the making of aviation security directions under Part 2 of the ASA 82;
- The CAA will provide expert aviation security related advice and assistance to the SoS and other persons as required;
- The CAA will be responsible for appointing “authorised persons”² to carry out inspections and/or audits and enforcement of industry compliance with EU and UK aviation security requirements;
- The CAA and SoS will collaborate closely and exchange information (subject to security levels) to ensure effective joint working.

This MOU is intended to be consistent with, and further the legal functions of, each Participant and the Participants recognise that the terms of this MOU should be construed subject to, and consistently with, those functions.

4. GENERAL RESPONSIBILITIES

(a) The SoS

The SoS’ main responsibilities are:

- overall UK policy and strategy on aviation security,
- ensuring the development and implementation of the UK’s National Aviation Security Programme (NASP)³,
- ensuring the development and implementation of the UK’s National Aviation Security Quality Control Programme (NASQCP)⁴,
- the intelligence-based assessments of threat and risk to aviation which underpin the NASP and NASQCP,
- representing the UK in international fora, deciding, promoting and defending the UK position in international negotiations and being responsible as the Appropriate Authority for the discharge of the UK’s international aviation security obligations,
- relations with foreign States, including the provision of assistance,
- engagement with other Government Departments and agencies having an interest in aviation security matters,
- the formulation of UK legislation on aviation security matters, including making directions under Part 2 of the ASA 82,

² Both the SoS and the CAA will have the power to appoint authorised persons but it is envisaged that, in practice, it will usually be the CAA that exercises this power.

³ This programme defines responsibilities for the implementation of the common basic standards for safeguarding civil aviation against acts of unlawful interference, as set out in Regulation (EC) No. 300/2008, and its implementing Acts. The UK NASP comprises EU Regulations, the UK’s Single Consolidated Direction and answers to aviation security related questions frequently asked by industry.

⁴ The NASQCP, in accordance with article 11 of Regulation (EC) No. 300/2008 enables the UK to check the quality of its civil aviation security in order to monitor compliance with Regulation (EC) No. 300/2008 (and its implementing Acts) and with its NASP.

- commissioning and playing an active part in research relating to aviation security,
- incident management – the overall management of significant aviation security incidents⁵.

(b) The CAA

The CAA's main responsibilities are;

- keeping under review all aviation security directions made by the SoS under Part 2 of the ASA 1982 for the time being in force and, where appropriate, the making of recommendations to the SoS about amendments to those directions, or the drafting of new directions,
- appointing authorised persons to, in accordance with the NASQCP, inspect, audit and test industry's compliance, and where necessary carry out appropriate enforcement action; and serve as the industry's point of contact for these activities,
- providing expert aviation security advice and assistance to the SoS,
- providing expert aviation security advice and assistance to the aviation industry, as required,
- making arrangements for the carrying out of national security vetting of those individuals who carry on, or wish to carry on an activity that, by virtue of an aviation security direction, can only be carried out by a person who has been subject to national security vetting,
- support the SoS in the management of significant aviation security incidents.

5. GOVERNANCE

Governance: forums

- A senior representative of the CAA's Aviation Security Directorate will attend each meeting of the **Department for Transport (DfT), Transport Security Board**. The Board will, amongst other things, monitor and review the following:
 - CAA Key Performance Indicators (KPIs) and performance against the CAA's aviation security targets,
 - CAA/DfT management of the main aviation security risks,
 - The status of industry compliance,
 - The current operation of arrangements under this MoU and the SoR.

⁵ Incidents which may have an impact on aviation security or where immediate security advice, or a decision on a variation from normal security practice to meet the immediate circumstances, may be needed.

- The DfT Transport Security Board will also consider issues escalated to it by the Aviation Security Management Board (see below), and as part of this will review and approve the draft NASQCP.
- The Director of Aviation Security, CAA and the Head of DfT's Aviation Security Division will jointly chair an **Aviation Security Management Board ("ASMB")**, to meet monthly or at such frequency as agreed by the ASMB. Its agenda will include, as appropriate:
 - A review of:
 - the CAA's progress against its aviation security targets,
 - industry's compliance performance (*where the ASMB meeting immediately precedes a meeting of the Transport Security Board*),
 - each Participant's current risk register,
 - current policy/regulation/compliance monitoring activities and issues,
 - the Security Management Systems ("SeMS") work-stream,
 - research priorities and projects,
 - the draft CAA Aviation Security Business Plan for the following year,
 - activities funded or planned to be funded under section 16 of the Civil Aviation Act 1982 (the "CAA 82").
 - Review and ensure the continuing currency and coherence of the NASP.
 - Preparation and agreement of a new draft NASQCP, or amendments to the existing one, for submission to the Transport Security Board for its approval,
 - Any issues around implementation and/or interpretation of this MoU and/or SoR.
- In its engagement with SeMS issues, the ASMB will serve as the Management Board for the SeMS work-stream. As and when useful, the ASMB may hold separate meetings in that specific capacity, focussed solely on SeMS.
- **Representatives of the DfT Aviation Security Division and the CAA Aviation Security Directorate** will meet on a regular basis, normally monthly, to consider amongst other things:
 - Current and emerging risks and issues,
 - Policy and regulatory development,
 - Any operational and practical issues related to the SoR,
 - Any remits or action points identified by the ASMB.
- **CAA Directorate Managers and/or deputies will, as appropriate, attend weekly security co-ordination meetings at DfT**, as well as formal engagement meetings with industry.

Governance: formal reporting

- The CAA will produce an **annual report** to DfT in respect of the aviation security activities which it carries out, which should include:
 - details of regulatory changes and their impacts (including summaries of (i) directions and changes to directions given by the SoS, and (ii) the associated Impact Assessments),
 - a review of CAA performance (including via KPIs) against its aviation security targets,
 - a review of the NASQCP against Regulation EU No. 18/2010⁶ requirements,
 - activities funded or planned to be funded under section 16 of the CAA 82, and
 - a review of industry compliance with regulation, with any significant trends identified.
- The CAA will also prepare a draft **UK Annual Security Compliance Report** on the template provided by the Commission, and submit the draft to DfT for approval by the end of February each year.

6. COMMUNICATIONS AND PUBLIC STATEMENTS

DfT and CAA will establish and maintain close collaboration with regard to public pronouncements on aviation security matters.

DfT will be responsible for supporting Ministers in responding to all Parliamentary Questions and Ministerial correspondence relating to aviation or cross-modal security issues, requesting advice as necessary from the CAA.

Replies to Non-Ministerial correspondence will be given by either DfT or CAA in accordance with the division of responsibilities set out in the SoR. Each Participant will provide advice to the other, as requested, to assist in the preparation of such responses.

In the event of an incident, DfT and CAA will co-operate in establishing arrangements for handling media interest, ensuring consistency in their public messaging. In keeping with the principles established in this MOU, DfT will lead in responding to media enquiries, via the DfT Press Office (co-ordinating messages with CAA), and lead on policy related communications with industry (e.g. the reasons for any new measures).

The CAA will lead on regulation/compliance-related communications with industry (e.g. assessment of impacts, advice and guidance, details of new measures).

⁶ Commission Regulation (EU) No 18/2010 of 8 January 2010 amending Regulation (EC) No 300/2008 of the European Parliament and of the Council as far as specifications for national quality control programmes in the field of civil aviation security are concerned.

7. COST RECOVERY

As a general principle, the CAA will recover the costs it incurs in carrying out its aviation security functions through its charges on industry. However, in certain circumstances, some of these costs may, by prior arrangement, be met by DfT on an agreed basis. Examples of such circumstances are set out in the SoR⁷ attached as an Annex to this MoU.

8. OTHER MATTERS

Covert testing

The CAA will be responsible for identifying, organising and conducting covert tests of entities subject to aviation security regulation. The CAA may call for volunteers from DfT and DfT agencies to carry out covert tests within the UK. DfT and its agencies will release volunteer members of their staff for covert tests, subject to work commitments. The CAA will pay the travel and subsistence expenses of such staff at the DfT or agency rate(s) prevailing at the time; DfT and DfT Agencies will bear the cost of staff time.

Threat and other Sensitive Information

DfT will provide appropriate access to threat and other sensitive information to named individuals in the CAA who hold appropriate levels of security clearance.

Research and Development

DfT will provide opportunities for the CAA to comment on, and advance proposals in respect of, DfT's aviation security research and development programme.

Information Management

DfT will provide the CAA with reasonable access to its archive records, whether stored electronically or in hard copy.

National Security Vetting Appeals

DfT will provide expert input to the CAA's appeals advisory panel.

9. INFORMATION DISCLOSURE

The Participants acknowledge that they may each be subject to information disclosure regimes and/or other obligations to disclose information from time to time. Where this occurs, the Participants will assist and co-operate with one

⁷ See the Statement of Responsibilities section entitled "Cost Recovery".

another to enable each other to comply with the relevant information disclosure requirements.

10. REVIEW

This MoU and the arrangements jointly decided under it and recorded in the SoR will be kept under review by the Participants.

11. ENTRY INTO EFFECT, AMENDMENT AND TERMINATION

This MoU will come into effect on 1st April 2014.

This MoU may be amended at any time, in writing, by mutual consent of the Participants.

This MoU may be terminated at any time with the mutual consent of the Participants or by either Participant by giving one month's written notice to the other Participant of their intention to terminate.

The Participants acknowledge that this MOU merely constitutes a statement of the mutual intentions of the Participants without any intention to effect legal relations between them. Further, that its terms are entirely voluntary and do not create any binding commitments or obligations on either of them or in favour of any third parties.

Signed by authority of the Secretary of
State:

Patricia Hayes,
Director General, Civil Aviation,
Department for Transport

Date

Signed by

Andrew Haines
Chief Executive
Civil Aviation Authority

For and on behalf of the Civil Aviation Authority

Date

ANNEX

STATEMENT OF RESPONSIBILITIES

BETWEEN:

THE DEPARTMENT FOR TRANSPORT

AND

THE CIVIL AVIATION AUTHORITY

In respect of certain aviation security functions.

Index.....	Page
1. Introduction and legislative background.....	5
2. General Responsibilities.....	6
2.1 The Secretary of State	6
2.2 The CAA.....	7
3. Processes (Regulation).....	8
3.1 Intelligence and Incident Reports	8
a) Urgent Intelligence and Incident Reports.....	8
b) Non-Urgent Intelligence and Incident Reports.	9
3.2 Assist DfT Shape EU Legislation	10
3.3 Communicate EU Legislation	11
3.4 Administer requests from airports to derogate from EU Common Basic Standards in accordance with Chapter 2 of the Single Consolidated Direction (SCD)	12
3.5 Administer Category 1 and 8 Variation Requests.....	13
3.6 Administer Category 10 Permissions	14
3.7 Implementing new, or making changes to, existing domestic regulation and clarifications.....	15
3.8 Information Notices	18
3.9 Alleviation from More Stringent Measures and Clarifications	19
3.10 Update Training Syllabus	20
3.11 Updating the Single Consolidated Direction.	21
3.12 Disseminate Updated National Aviation Security Programme.....	22
3.13 Administer Designation as Air Cargo or Mail Carrier operating into the Union from Third Country Airport (ACC3).....	23
3.14 Aviation security vetting.....	24
3.15 Administer Certificates of Disregard	25

3.16	Regulation Clarification, Advice and Presentations	25
3.17	Approve Aviation Industry Security Training Courses	27
3.18	Specifying Content of Industry Run Aviation Security Training Courses.....	29
3.19	Training of Aviation Security Instructors	29
3.20	Approval of the Recognition of Firearms and Explosives (RFX) Instructor Training Courses and Instructors	31
3.21	National X-ray Competency Test (NXCT)	34
3.22	Manage EU Appropriate Authority Inspections.....	36
3.23	Annual Submission to Regulatory Policy Committee (RPC).....	37
4.	Processes (Policy).....	39
4.1	Representing the UK at ICAO Aviation Security Panel	39
4.2	Representing UK at ICAO Working Groups and Sub Groups	40
4.3	Co-ordination of responses to ICAO State Letters	41
4.4	Dealing with Foreign State's Request for Additional Measures	41
4.5	Managing Bilateral Relations with Other States	42
4.6	Leading an ICAO Security Audit.....	43
4.7	Engagement with other International fora.....	44
4.8	Co-ordinating Inward Visit Requests	44
4.9	Oversight of Third Country Transport Security Audits and Information Exchange Visit Programme to UK Airports.....	45
5.	Processes (Compliance).....	47
5.1	Perform Observations and Provide Feedback.....	47
5.2	Issue an Enforcement Notice	47
5.3	Objections to Enforcement Notices	48
5.4	Issue a direction to a particular entity/event/etc. (informally known as a "special direction").....	49
5.5	Issue a Detention Direction	49

5.6	Objections to a Detention Direction.....	50
5.7	Prepare and host EU Inspections of Airports	51
5.8	Approval of Regulated Agents and Regulated Suppliers of In-Flight Supplies	52
5.9	Approval of Known Consignors	54
5.10	Compliance Reporting.....	57
6.	COST RECOVERY	58
6.1	International Meetings	58
6.2	ACC3 Designations.....	58
6.3	Managing EU Appropriate Authority Inspections.....	58
6.4	Annual submission to the Regulatory Policy Committee [subject to confirmation of arrangements].....	58
6.5	Passenger satisfaction survey – aviation security questions.....	59
7.	Correspondence	60
8.	Aviation Security Prosecutions.....	61
9.	Judicial Reviews.....	62
10.	Emergency response and on call duty	63

1. Introduction and legislative background

- 1.1 The Civil Aviation Act 2012 (the “CAA 2012”) amends Part 2 of the Aviation Security Act 1982 (the “ASA 1982”) by conferring certain aviation security functions on the Civil Aviation Authority (CAA). The provisions of the CAA 2012 relating to the aviation security transfer scheme came into force on 11 March 2014, the remaining aviation security provisions of the CAA 2012 are due to come into force on 1 April 2014, at which time the Department for Transport’s (DfT) aviation security Regulation and Compliance teams will transfer to the CAA.
- 1.2 Both before and after the transfer, the Regulation team will continue to develop detailed regulatory requirements and guidance to support UK aviation security policy, while the Compliance team will undertake the monitoring and enforcement of industry’s compliance with EU and UK aviation security requirements. The Secretary of State will remain responsible for aviation security policy and some specific areas including threat assessment, international relations and for making aviation security directions under Part 2 of the ASA 1982 (“aviation security directions”).
- 1.3 Set out below is a summary of the post-transfer split of responsibilities between the Secretary of State and the CAA. That is followed by a more detailed breakdown of the division of responsibilities as applied to those aviation security processes involving interaction between the Regulation/Compliance teams (which will transfer to CAA) and the Policy/Research, Analysis and Development (RAD)/Threats Office teams (which will remain within DfT).

2. General Responsibilities

- 2.1 **The Secretary of State** will remain the UK's Appropriate Authority responsible for aviation security matters under international law (the Convention on International Civil Aviation (the "Chicago Convention")), Regulation (EC) 300/2008 and as designated under regulation 2 of the Aviation Security Regulations 2010 (SI 2010/902). The Secretary of State will continue to be accountable to Parliament and within Government, for aviation security matters and responsible for discharging the UK's Appropriate Authority obligations to ICAO and to the European Union.

The Secretary of State (in practice the DfT), will remain responsible for:

- overall policy and strategy on aviation security;
- ensuring the development and implementation of the National Aviation Security Programme (NASP);
- ensuring the development and implementation of the National Quality Control Programme (NQCP);
- intelligence-based assessment of threat and risk to aviation which underpin the NASP and NASQCP;
- representing the UK in international fora, deciding, promoting and defending the UK position in international negotiations and being responsible as the Appropriate Authority for the discharge of the UK's international aviation security obligations;
- relations with foreign states, including the provision of assistance;
- engagement with other Government Departments and agencies having an interest in aviation security matters;
- the formulation of UK legislation on aviation security matters, including making directions under Part 2 of the ASA 1982;
- commissioning and playing an active part in research which addresses among other things, the consequences of terrorist attacks, vulnerabilities in civil aviation and the assessment of new technology and processes,

- Incident management – the overall management of significant aviation security incidents¹.

2.2 The **CAA** will have certain aviation security functions, including:

- Regulation - the CAA will review aviation security directions that are currently in force and make recommendations to the Secretary of State about those directions and about the giving of further directions. Under this function the CAA will, for example, prepare draft directions for the Secretary of State to consider and prepare guidance on directions (*new section 14A of the ASA 1982, as inserted by section 78(2) of the CAA 2012*).
- Inspection and enforcement - the CAA will appoint authorised persons (i.e. inspectors) to carry out inspections and, if necessary, enforcement (*section 24A(1) of the ASA 1982, as amended by section 78(5) of the CAA 2012*).
- Advice and assistance to the Secretary of State - the CAA will provide advice and assistance to the Secretary of State, as the Secretary of State requires, in connection with matters relevant to the purposes of Part 2 of the ASA 1982 (which is, essentially, the protection of civil aviation against acts of violence). This will include, for example, assisting with the delivery of, and changes to, the UK's NASP and NQCP and providing expert advice and assistance to support the Secretary of State in international negotiations (e.g. ICAO and EU) (*new section 21H of the ASA 1982, as inserted by section 80 of the CAA 2012*).
- Advice and assistance to other persons - the CAA will provide advice and assistance to those persons listed in subsection (3) of new section 21I of the ASA 1982 (for example, managers of UK aerodromes and operators of aircraft registered or operating in the UK) as the CAA considers appropriate having regard to the purposes to which Part 2 of the ASA 1982 applies (*new section 21I of the ASA 1982 as inserted by section 80 of the CAA 2012*).
- Vetting - the CAA will make arrangements for carrying out the national security vetting of individuals who carry on, or wish to carry on, an activity that by virtue of an aviation security direction, can only be carried out by a person who has been subject to national security vetting (*new section 16A of the ASA 1982 as inserted by section 78(3) of the CAA 2012*).

¹ Incidents which may have an impact on aviation security or where immediate security advice, or a decision on a variation from normal security practice to meet the immediate circumstances, may be needed. Such incidents range from demonstrations, diplomatic conferences through to actual terrorist incidents.

3. Processes (Regulation)

3.1 Intelligence and Incident Reports

Appropriately security cleared CAA officials on a role specific, need-to-know basis, will be required to read threat intelligence and analysis provided to the DfT primarily from the Joint Terrorism Analysis Centre (JTAC). They will be included in the notification procedures used by DfT's Threats, Risks and Intelligence Branch. This allows staff to keep up to date with an appropriate level of intelligence and incident reporting thus maintaining motivation and contextual knowledge. Reading reports also, when appropriate, triggers consideration of changes to current security requirements via risk assessments.

a) Urgent Intelligence and Incident Reports

Key principles

DfT responsibilities

- On a 24/7 basis, to provide JTAC (and other intelligence agencies as appropriate) with transport information relevant to their threat analysis and commission reports and assessments from them as required;
- Receive and store classified information according to HMG rules;
- Notify CAA staff with security clearance appropriate to the material in question, of the existence of relevant urgent intelligence and incident reports and ensure they have access to the classified material received;
- Update the Risk Audit Matrix, commissioning appropriate regulatory and compliance material from the CAA;
- Facilitate requests by the CAA for additional specific intelligence and incident information to support its work.

CAA responsibilities

- On a 24/7 basis, attend DfT offices to review urgent intelligence and incident reports;
- Receive and store classified information according to HMG rules;
- Contribute to the DfT's Risk Audit Matrix;
- Provide advice to DfT on impact of intelligence and propose/suggest courses of action;

- Request any additional, specific, intelligence and incident information required to support its work, through DfT.

b) Non-Urgent Intelligence and Incident Reports.

Key principles

DfT responsibilities

- Provide JTAC (and other intelligence agencies as appropriate) with transport information relevant to their threat analysis and commission reports and assessments from them as required;
- Receive and store classified information according to HMG rules;
- Notify CAA staff with security clearance appropriate to the material in question, of the existence of relevant intelligence and incident reports and ensure they have access to the classified material received;
- Update the Risk Audit Matrix commissioning appropriate regulatory and compliance material from the CAA;
- Accommodate, where possible, ad hoc requests from members of CAA Aviation Security Division (ASD) to access appropriate level of Threats/Intelligence information (including the provision of DfT building access passes for the CAA's ASD Director, the Heads of the Compliance, Regulation and Strategy and Planning teams and their respective branch heads);
- Facilitate requests by the CAA for additional specific intelligence and incident information to support its work.

CAA responsibilities

- The CAA's ASD Director and the Heads of the CAA's ASD Compliance, Regulation and Strategy and Planning teams or their substitutes (with DV security clearance) to attend weekly Transport Security Senior Managers meetings, acquaint themselves with the latest threat information provided by the Threats Office and disseminate such information as appropriate, reflecting appropriate security clearances, within CAA ASD teams;
- Attend DfT offices to review non-urgent intelligence and incident reports;
- Receive and store classified information in accordance with HMG rules;
- Contribute to the DfT's Risk Audit Matrix;

- Provide advice to DfT on the impact of intelligence and propose/suggest courses of action;
- Request any additional, specific, intelligence or incident information required to support its work, through DfT.

3.2 Assist DfT Shape EU Legislation

The CAA will work closely with DfT to ensure appropriate contributions to EU threat and risk assessment work, a shared understanding of proposed changes to EU Regulation and the potential impact on UK air carriers, and shape the negotiating position to be taken at EU meetings. Also discussion (including with Compliance colleagues) of potential changes the CAA would like to see in EU Regulations arising from UK experience.

Key principles

DfT responsibilities

- Principal UK point of contact with the EU for aviation security matters, including threat and risk assessment;
- Advise Ministers on new proposals and obtain any necessary Ministerial clearance of negotiating position or EU regulatory proposals;
- Inform the UK Parliamentary Scrutiny Committees of relevant EU legislative proposals and other important EU documents and obtain scrutiny clearance where necessary;
- Establish, in advance of each EU Regulatory Committee and Stakeholders' Advisors Group on Aviation Security (SAGAS) meeting, a pre-meet of appropriate stakeholders, including the CAA, to agree UK position on agenda items;
- Consider CAA proposals for potential changes to existing EU legislation in view of UK experience of implementation;
- Lead UK delegation to EU Regulatory Committee and SAGAS meetings, seeking support as necessary from the CAA (attendance subject to agreement on a case by case basis);
- UK lead at EU Working Groups on aviation security matters (but see following bullet);
- In appropriate cases, request CAA support at EU Working Groups on aviation security matters, either as UK lead (where permitted) or as delegation's regulatory or compliance expert;

- Consider and liaise with the EU regarding trials for new equipment or procedures, submitting correspondence to the Commission including assessments and progress reports.

CAA responsibilities

- Propose to DfT potential changes to existing EU legislation in light of UK experience of implementation;
- Provide advice to DfT on EU Regulatory proposals, liaising as necessary with subject matter experts from within CAA, DfT and/or industry;
- Provide expert support to DfT at meetings of EU Working Groups on aviation security matters, when requested (subject to agreement on a case by case basis);
- If requested by DfT, lead UK delegation at appropriate meetings of EU Working Groups on aviation security matters (where permitted), following agreed UK negotiating brief (subject to agreement on a case by case basis);
- Where requested, assist DfT with preparation of correspondence to the Commission regarding trials for new equipment or procedures including assessments and progress reports.

3.3 Communicate EU Legislation

A process for ensuring UK industry and the CAA's Compliance team receive formal notification of changes in EU legislation (including classified parts of Regulations that are not available on the EU website) so that processes can be adjusted accordingly. Notification is normally on a case-by-case basis (currently using Surefax) but may also be via new versions of the Single Consolidated Direction (SCD) (dependent on timings).

Key principles

DfT responsibilities

- Email a copy of new or amended EU legislation to the CAA's ASD Regulation team;
- For RESTRICTED legislation, email a scanned hard copy to the CAA's ASD Regulation team;
- In the case of EU (CONFIDENTIAL), notify CAA's ASD Regulation team of receipt and make available to view hard copy in DfT offices;

- Brief DfT staff (as appropriate), on changes to EU aviation security legislation;
- Maintain an electronic repository of extant EU legislation.

CAA responsibilities

- Ensure that CAA ASD staff are briefed as appropriate;
- Distribute copies of EU legislation (including RESTRICTED) to industry stakeholders by SUREFAX or equivalent system;
- Consider need to update existing training syllabi. [For process, see section 3.10 - "Update Training Syllabus"].

3.4 Administer requests from airports to derogate from EU Common Basic Standards in accordance with Chapter 2 of the Single Consolidated Direction (SCD)

The process for airports to apply for their airport, or a demarcated area of their airport, to be permitted to derogate from the common basic standards and adopt alternative security measures that provide an adequate level of protection on the basis of a local risk assessment at that airport or demarcated area of that airport where traffic is limited to one or more of the categories set out in Chapter 2 of the SCD.

Key principles

DfT responsibilities

- Agree with CAA the criteria to be applied in respect of applications for derogations;
- Consider CAA recommendations in respect of individual airport requests that derogation should apply where traffic is limited to one or more of the categories set out in Chapter 2 of the SCD;
- Where appropriate, sign letter permitting the request and forward to CAA for issue to applicant;
- Where not appropriate, inform CAA of decision not to grant derogation, together with reason(s);
- Maintain a log of requests received, together with outcomes, and if requested provide annual report to Ministers on derogations made.

CAA responsibilities

- Agree with DfT the criteria to be applied in respect of applications for derogations;
- Point of contact for airport requests;
- Carry out local risk assessment of application and proposed alternative security measures;
- Submit recommendation to DfT and draft permission letter for signature by the Secretary of State (in practice a DfT official with the appropriate designated authority);
- Notify applicant of DfT decision with, in appropriate cases, the signed letter from DfT.

3.5 Administer Category 1 and 8 Variation Requests

The process for airports that request a variation of the categories of traffic set out in Commission Regulation (EU) 1254/2009 ("Regulation 1254") that the UK has not adopted in full, namely categories 1 and 8. The UK application of Regulation 1254 is set out in Chapter 2 of the SCD, so any variation to the UK's application of categories 1 or 8 would require a direction under Part 2 of the ASA 1982.

Key principles

DfT responsibilities

- Agree with CAA the criteria to be applied in considering category 1 and 8 variation requests;
- Consider CAA recommendations in respect of individual airport requests to vary categories 1 and 8 as set out in Chapter 2 of the SCD;
- Notify CAA of decision, and in the case of a refusal, the reason;
- Where appropriate, carry out second and third lawyer checks of draft aviation security variation direction;
- Sign aviation security variation direction and forward to CAA;
- Notify Ministers, other Government Departments, the EU, ICAO and/or other States, as necessary, of the aviation security variation direction;
- Maintain a log of variation requests received, together with outcomes, and if requested, provide annual report to Ministers on directions made

to vary the application of categories 1 and 8 as set out in Chapter 2 of the SCD.

CAA responsibilities

- Agree with DfT the criteria to be applied in considering category 1 and 8 variation requests;
- Point of contact for airport requests to vary categories 1 and 8 as set out in Chapter 2 of the SCD.
- Carry out local risk assessment of application and proposed alternative security measures;
- Submit recommendation to DfT and prepare the first draft of an aviation security variation direction for Secretary of State's signature (in practice a DfT official with the appropriate designated authority);
- Following DfT's third lawyer check of draft direction, review the final text against instructions to ensure that it achieves the intended outcome;
- Notify applicant of decision whether to grant variation with, in appropriate cases, the signed variation direction.

3.6 Administer Category 10 Permissions

Consideration of applications for flights which fall under category 10 for which under Chapter 2 of the SCD the UK requires specific approval on a case-by-case basis to determine whether aircraft which are either chartered for company business or fractionally owned aircraft used for company business, are permitted to use airports or demarcated areas of airports that are derogated from the common basic standards. The purpose is to ensure that where such flights are operating, that the airline operators are subject to appropriate conditions.

Key principles

DfT responsibilities

- Agree with CAA the criteria to be applied in considering category 10 permission applications;
- Consider CAA recommendations in respect of category 10 permission application.
- Where appropriate, sign category 10 permission letter and return to CAA for issue to applicant;