

CAA/HSE/HSENI Memorandum of Understanding guidance

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Contents

Contents	1
Forward.....	3
Purpose of this document.....	3
Guidance in this document	3
Application to Health and Safety Executive Northern Ireland and Northern Ireland Legislation.....	3
Chapter 1	4
CAA and HSE safety duties and interface arrangements	4
Scope	4
Derivation of legal powers	5
Outline enforcement powers.....	6
Potential enforcement actions	7
Interface arrangements	8
Potential points of interface between CAA and HSE	9
Chapter 2	16
Aerodromes	16
Scope	16
Legislation	16
Interface arrangements	18
Unlicensed aerodromes	18
Inspection and accident investigation	21
Chapter 3	22
Offshore operations	22
Scope	22
Legislation	22
Interface	23
Accident and incident investigation.....	25
Exchange of information.....	25
Research.....	26
Chapter 4	27
Third party risks	27
Scope	27
Interface	29

Chapter 5	30
Air traffic services.....	30
Scope	30
Legislation	30
Interface arrangements	33
Inspection and incident investigation	33
Accident investigation	34
Relationship with AAIB.....	34
Chapter 6	37
Flying for personal transportation, recreational flying and parachuting	37
Scope	37
Legislation	37
The interface	39
Chapter 7	44
Dangerous goods in transit at aerodromes.....	44
Scope	44
Legislation	45
Liaison between HSE and CAA	49
Examples where information could be shared	49
Policy development	50
Chapter 8	51
Aircraft maintenance	51
Scope	51
Legislation	51
Interface arrangements	53
Accident investigation	56

Forward

Purpose of this document

This document provides guidance to Civil Aviation Authority (CAA), Health and Safety Executive (HSE) and Health and Safety Executive Northern Ireland (HSENI) colleagues to support the strategic goals of the CAA/HSE/HSENI Memorandum of Understanding. It provides details on areas of potential enforcement overlap. The guidance will also be of interest to other stakeholders in the aviation industry that may be subject to safety regulation by the CAA, HSE and HSENI.

Guidance in this document

The information contained in this document is guidance and is not to be viewed as providing the definitive structure of health and safety enforcement responsibilities for the CAA, HSE and HSENI. Where there is any doubt colleagues should discuss the issues with the other relevant enforcement body.

Application to Health and Safety Executive Northern Ireland and Northern Ireland Legislation

The principles set out in this document apply to both Great Britain and Northern Ireland. However, to avoid complex referencing throughout this document the specific legislation applying to Northern Ireland is not referenced in this guidance. Those operating in Northern Ireland should ensure they are aware of the equivalent Northern Ireland health and safety legislation made under the Health and Safety at Work (Northern Ireland) Order 1978 when reviewing this guidance. References to HSE should be considered as including HSENI.

Chapter 1

CAA and HSE safety duties and interface arrangements

Scope

1.1 This chapter sets out the overarching functional interfaces between HSE and CAA business areas, providing legislative background, interface arrangements and examples of potential areas of interface. Additional chapters provide greater detail on specific areas of potential enforcement overlap.

1.2 HSE health and safety function

- By agreement HSE is responsible for regulating the occupational health and safety of all work activities on and around an aircraft on the ground, except the activities of crew members whilst they are on board the aircraft.
- The HSE retains enforcement responsibilities for health and safety employee and employer consultation legislation.

1.3 CAA aviation safety function

- These functions include the safety of air navigation and aircraft including airworthiness, the control of air traffic, the certification of operators of aircraft and the licensing of air crew members and aerodromes.

1.4 CAA occupational health and safety function

- By agreement the CAA is responsible for regulating the occupational health and safety of crew members whilst they are on board an aircraft. For the purposes of occupational health and safety reporting and regulatory consideration, the CAA will monitor events occurring in aircraft while operating outside the UK.

1.5 CAA aviation health function

- The CAA is responsible for providing advice and assistance to the Secretary of State for the safeguarding of the health of all persons whilst they are on board UK Registered aircraft.
- The CAA Aviation Health Unit is the focal point for promoting this advice and guidance to Government and other interested parties for health issues that may affect crew members and passengers.

Derivation of legal powers

1.6 HSE health and safety function

- The Health and Safety at Work etc. Act 1974 (HSWA) places general duties on employers to look after the health, safety and welfare of their employees. They also have duties to protect the health and safety of other persons who may be affected by the work activity. It places similar duties on the self-employed. It also places duties on employees to look after their own and others' health and safety.
- Regulations made under the HSWA generally make more explicit what employers are required to do to manage health and safety.
- Both the HSWA and regulations made under the Act covering particular hazards or sectors of work require that risks arising from the work activities are controlled, so far as is reasonably practicable.

1.7 CAA aviation safety function

- Safety regulatory functions of the Civil Aviation Authority derive from the Civil Aviation Act 1982 and from its designation as the United Kingdom competent authority for the purposes of European aviation safety regulations.
- The detailed powers and obligations for aviation safety functions are set out in Air Navigation Order 2016 (ANO) made pursuant to Section 60 of the Civil Aviation Act 1982 and in Regulations (such as the Rules of the Air Regulations, Air Navigation (General)

Regulations and Air Navigation (Dangerous Goods) Regulations made pursuant to powers contained in the ANO.

- Additionally Regulation 216/2008 establishes the European Aviation Safety Agency and enables detailed implementing rules to be made. The implementing rules deal with initial aircraft certification, continuing airworthiness, aircrew licensing, aerodrome certification and aircraft operations. For each of these, the CAA is designated as the UK competent authority.

1.8 CAA occupational health and safety function

- The CAA's occupational health and safety regulation functions are set out in the Civil Aviation (Working Time) Regulations 2004 (as amended).
- These regulations require that the health and safety of crew members be adequately protected while they are at work for UK registered operators.

1.9 CAA aviation health function

- Section 3(c) of the Civil Aviation Act 1982, as amended by the Civil Aviation Act 2006, charges the CAA with a general duty to provide advice and assistance to the Secretary of State and others for the safeguarding of the health of all persons whilst they are on board UK Registered aircraft.

Outline enforcement powers

1.10 HSE health and safety function

- The HSWA gives powers to HSE inspectors to enforce these duties, and other duties under the Act and its relevant statutory provisions. In relation to aircraft, HSE is the enforcing authority for work activities at factories making and repairing aircraft, fuel depots, and most work activities at airports. Local authority enforcement officers

enforce health and safety legislation in, among other places, shops, offices, restaurants and some warehouses at airports.

- HSE inspectors also enforce regulations made under Part III of the Food and Environmental Protection Act 1985, which control the use of pesticides, including their application from the air.

1.11 CAA aviation safety function

- To maintain aircraft and flight safety the CAA has powers to provisionally suspend or vary any certificate, licence approval, permission, exemption, authorisation that it has issued pending inquiry or consideration.
- The CAA may, on sufficient ground being shown, permanently revoke, suspend or vary any of the above. It may not take licence action for punitive reasons.
- CAA Authorised persons have the right of access to aerodromes in order to inspect the aerodrome or any aircraft on the aerodrome or to detain any aircraft to maintain safety.

1.12 CAA occupational health and safety function

- To ensure the health and safety of Crew members the CAA has powers to investigate and monitor health and safety activities.
- These powers include the ability to issue improvement or prohibition notices to secure compliance.

1.13 CAA aviation health function

- There are no enforcement powers in relation to the Aviation health function.

Potential enforcement actions

- 1.14 Both the CAA and HSE will seek to secure compliance through advice and guidance, but where necessary will use formal enforcement powers, as set out in the table below.

1.15 HSE health and safety function

- HSE inspectors may use formal enforcement mechanisms, including improvement notices, prohibition notices, or ultimately prosecution.

1.16 CAA aviation safety function

- If any provision of the ANO or any Regulations made there under, or any provision of a European Union aviation safety regulation listed in the ANO, is contravened, it is a criminal offence. The CAA will investigate and prosecute such offences as appropriate.

1.17 CAA occupational health and safety function

- If any of the relevant requirements of the Civil Aviation (Working Time) Regulations 2004 are contravened, a criminal offence is committed. The CAA will investigate and prosecute such offences as appropriate.

1.18 CAA aviation health function

- None.

Interface arrangements

1.19 The CAA and HSE will maintain an open dialogue between the inspectorates and liaise and consult on any issues arising on a day to day basis. Contact points are provided in the contact schedule to the MoU.

1.20 Additionally a joint Co-Ordination Group will meet whenever the need arises and normally at least every 12 months. This meeting may include other regulatory bodies such as Local Authorities.

- 1.21 The Terms of Reference for the Join Co-Ordination Group are to keep under review the working of the Memorandum of Understanding, and in particular:
- to consider and, where appropriate, agree to recommendations for interface agreements, put forward at working level, for inclusion as a chapter in this guidance;
 - to resolve any problems referred to the Group arising from the practical application of statutory provisions and responsibilities;
 - to consider operational implications of policy decisions and discuss other matters of common interest;
 - to make recommendations to the signatories for changes to the Memorandum as necessary; and
 - to recognise, and take due account of, the activities of the CAA Aviation Health Unit and interface with the Department for Transport as required.
- 1.22 Membership of the Group will comprise the Policy Lead Aerodromes CAA, HSE Transport Lead, HSENI Transport Lead, and other representatives of these bodies organisations as appropriate. Standing membership will also include the CAA Lead on Civil Aviation (Working Time) Regulations and the Head of the CAA Aviation Health Unit. In the event of the Group's inability to resolve particular issues that may bear on policy matters, the CAA/CAA will refer to the CAA Executive Committee, HSE and HSENI to their Boards for determination of action required.

Potential points of interface between CAA and HSE

- 1.23 To assist inspectors and other stakeholders the table 1 below sets out the possible points of interface between the CAA and HSE. Where appropriate additional in depth guidance is provided in the subsequent chapters in this guidance.

Table 1: Examples that illustrate the agreed division of CAA and HSE responsibilities in respect of aircraft

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Design of aircraft and aircraft systems	Where appropriate approval of aircraft designs, including assessment against relevant national and international aircraft design standards.	No input.	Responding to issues where the occupational health and safety of crew members may adversely impacted by aircraft design.	Raise concerns with CAA CAA on aircraft design that may affect occupational health and safety.
Maintenance activity and modification of aircraft	Maintenance or modifications are undertaken to appropriate standards by competent personnel (see Chapter 8 <i>Aircraft maintenance to the CAA/HSE MOU</i>).	No input.	For crew members while on board, that the maintenance or modification to the aircraft (not affecting its airworthiness) are adequate to ensure their occupational health and safety.	To ensure maintenance and modification activities are undertaken in a manner that any risks arising to health and safety of those undertaking the activity or otherwise affected are controlled, so far as is reasonably practicable.
Aircraft dismantling and scrapping	Spare parts are in serviceable condition for their use and are traceable.	No input.	No input.	Risks to occupational health and safety from dismantling/scrapping activities are being adequately controlled.

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Aircraft baggage and cargo	Aircraft baggage and cargo areas meet and are operated in accordance with the appropriate standards to maintain aircraft flight safety.	No input.	Occupational health and safety risks to crew members on board aircraft are adequately controlled.	Risks to occupational health and safety from baggage and cargo handling activities whilst the aircraft is on the ground are adequately controlled.
Equipment on board aircraft (e.g. galley equipment)	Equipment is adequate to meet the appropriate aircraft design standards in order to maintain airworthiness and training is adequate to use such equipment.	No input.	The use of equipment on board aircraft is adequately controlled to prevent occupational health and safety risks to crew members.	While on the ground the occupational health and safety risks from activities associated with the storage, installation and maintenance of aircraft equipment are being adequately controlled.
Pushback	Safety of the aircraft during pushback.	No input.	Health and safety of crew members during pushback.	Health and safety of ground personnel during pushback.

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Electrical safety of aircraft	Where appropriate ensure the design, installation and maintenance of the aircraft electrical systems meet the relevant standards to assure the safety of the aircraft.	No input.	Electrical systems on aircraft are suitably controlled to assure the health and safety of crew members using them while on board the aircraft.	While on the ground activities related to work on electrical systems on board aircraft is carried out in an appropriate manner to ensure the occupational health and safety of non-crew members.
External aircraft noise	Assessment and certification against appropriate standards of external noise levels generated by aircraft.	No input.	No input.	Effects on health and safety of external noise on ground workers and crew members during external pre-flight checks.
Internal aircraft noise	Ensure that the level of internal noise does not interfere with safety related communication of information on the aircraft.	Advice to Government on the implications of internal noise of aircraft for safeguarding crew and passenger health.	Effects of internal aircraft noise on occupational health and safety of crew members on board aircraft.	Under the Control of Noise at Work Regulations 2005 the HSE will have responsibility for any arrangements for exemption from full and proper use of hearing protection.

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Vibration within aircraft	Where appropriate approval of aircraft designs, including assessment against relevant national and international aircraft design standards to ensure vibration is not detrimental to the aircraft or operation.	Advice to Government and others on the implications of vibration aircraft for safeguarding crew and passenger health.	Effects of vibration on occupational health and safety of crew members on board aircraft are adequately controlled.	Under the Control of Vibration at Work Regulations 2005 the HSE will have responsibility for issue of any exemption certificates for air transport in respect of whole-body vibration.
Competence of crew	Crew are competent to ensure continued safety of the aircraft and its passengers.	Advice to Government and others on the provision of health awareness guidance to crew as required.	Crew members have received adequate information, instruction and training to ensure their occupational health and safety whilst on board the aircraft.	Crew have received adequate information, instruction and training to ensure their health and safety whilst outside the aircraft.

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Crew training activities	Effective training is carried out to maintain competence consistent with safe operation.	Advice to Government and others where appropriate on training to ensure the health of crew and passengers.	Effective training is carried out by crew members to manage occupational health and safety on board the aircraft.	Risks to health and safety during ground-based training are adequately controlled.
Manual handling on board aircraft	Interested only if injury to member of cabin crew through manual handling prevents them from performing their safety functions.	Advice to Government and others where appropriate on manual handling activities to ensure the health of crew.	Manual handling risks to crew members are being adequately controlled.	Manual handling risks to non-crew members are being adequately controlled.
Exposure to hazardous substances within the aircraft	Effect of substances on ability of crewmembers to operate the aircraft. Safe flight and landing.	Advice to Government and others on the possible health implications of exposure to hazardous substances on crew and passengers.	Risks to occupational health and safety to crew members from exposure to hazardous substances are being adequately controlled on board the aircraft.	Risks to occupational health and safety of non-crew members are being adequately controlled.

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Recognition of the rights of appointed health and safety representative	No input.	No input.	No input.	HSE will consider any failure of this recognition in line with HSE enforcement policy.
Violence on board aircraft	Work in liaison with DfT on the systems and procedures required to ensure violence does not affect aircraft safety.	Advice to Government and others on violence on board where appropriate to ensure the health of crew.	Risks to crew members from violence are adequately controlled on board the aircraft.	Occupational health and safety risks to non crew members are adequately controlled.
Accident and incident investigation	Occurrences which endanger or which, if not corrected, would endanger an aircraft, its occupants or any other person, may be reportable to the CAA under the Mandatory Occurrence Reporting scheme (MOR).	Advice to Government and others on accident and incident reports where appropriate to ensure the health of crew and passengers.	Accidents involving personal injury to a crew member while on board aircraft.	Accidents while the aircraft is on the ground involving ground workers or crew members, whether or not reportable to the AAIB.

Chapter 2

Aerodromes

Scope

- 2.1 This chapter covers the interface between the Health and Safety Executive (HSE) and the Civil Aviation Authority/Safety and Airspace Regulation Group CAA/CAA in relation to health and safety at civil aerodromes.

Legislation

HSE / Local authority remit

- 2.2 The HSE and relevant Local Government Authorities (LAs) are responsible for enforcing health and safety law at all aerodromes. However, this responsibility is divided between the HSE and LAs and is set out in the Health and Safety (Enforcing Regulations) 1998.
- 2.3 As a consequence the HSE is responsible for dealing with most activities at airports (see para 2.6), except for:

- Common parts inside buildings, such as areas which are open to members of the public whether passengers or not.
- Organisations whose *main* activity at the airport is:
 - Shops, restaurants or other retail activities.
 - Office activities.
 - Provision of car parking facilities within the airport perimeter.

These activities fall within the remit of the local authorities.

- 2.4 However, the HSE remains responsible for all activities of the Crown, Police, Local Government and Fire Authorities, wherever those activities take place.