

Outcome of the consultation on a draft procedure for reviewing the classification of airspace

CAP 1990



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Contents

Chapter 1 The consultation	5
Purpose of this document	5
Background	5
Engagement regarding the consultation	6
Who responded to this consultation	7
Geographic spread of responses	8
Our analysis of the responses	9
List of those responding to the consultation by category of respondent	10
Chapter 2 Outcome of the consultation	12
Consultation questions	12
Summary of the main changes made as a result of the consultation	12
Why we have made these changes	14
Volumes of airspace identified from the initial review	15
Question 1: Views on the proposed procedure overall	15
Question 2: Views on the proposed Consider stage	18
Question 3: Views on the proposed Review stage	25
Question 4: Views on the proposed Amend stage	31
Question 5: Views on the cost impact of the proposed procedure	36
Chapter 3 Quantitative analysis of multiple-choice questions	39
Introduction	39
Question 2: Views on the proposed Consider stage	39
Question 3: Views on the proposed Review stage	40
Question 4: Views on the proposed Amend stage	41
Chapter 4 Qualitative analysis of open-text responses	42
Open-text questions	42
Methodology	42
Overarching themes	43
Positive comments about the CAA or the proposed procedure	43

Criticism of the CAA or the proposed procedure	44
Role of the airspace controlling authority	52
Review cycle	53
Concern about data	54
Impact on resources	54
Excluding airspace volumes subject to an airspace change proposal	56
Concern about noise/emissions	57
Safety concern	58
Cost impacts and possible mitigations	58
Chapter 5 Recommendations for improving the procedure	62
Introduction	62
General	63
Consider stage	64
Review stage	65
Amend stage	72
Costs	79
Appendix A Themes used for qualitative assessment of free-text responses	81

Chapter 1

The consultation

Purpose of this document

- 1.1 In June 2020, the CAA launched a consultation to seek your views on our proposed procedure for the CAA to review the classification of airspace.¹ This document explains how we have taken account of your feedback in the final version of the procedure. Alongside this document we have published that procedure as CAP 1991 *Procedure for the CAA to review the classification of airspace*.²
- 1.2 This document is not seeking further views.

Background

- 1.3 In October 2019, the Secretary of State wrote to the CAA to amend the 2017 Air Navigation Directions. The Directions set the CAA's functions, meaning the role we must carry out with respect to airspace. Direction 3 states that the CAA must:
- (a) develop and publish a national policy for the classification of UK airspace*
- (b) classify UK airspace in accordance with such national policy, publish such classification, regularly consider whether such classification should be reviewed, carry out a review (which includes consultation with airspace users) where the CAA considers a change to classification might be made and, as the CAA considers appropriate, amend any classification in accordance with procedures developed and published by the CAA for making such amendments;*
- (ba) in developing the national policy referred to in sub-paragraph (a), classifying UK airspace under sub-paragraph (b), or amending the classification of a volume of airspace under that sub-paragraph, seek to ensure that the amount of controlled airspace is the minimum required to maintain a high standard of air safety and, subject to overriding national security or defence requirements, that the needs of all airspace users is reflected on an equitable basis;*
- 1.4 This means the CAA must:
- regularly consider whether to review the current classifications of airspace

¹ CAP 1934 *Draft procedure for reviewing the classification of airspace – a consultation*.
www.caa.co.uk/cap1934

² www.caa.co.uk/cap1991.

- consult airspace users as part of that review
- where we consider a change to classification might be made, amend it ourselves in accordance with a new process that we must develop and publish
- in developing that procedure and our policy describing airspace classifications, seek to ensure that the amount of controlled airspace is the minimum required to maintain a high standard of air safety and, subject to overriding national security or defence requirements, that the needs of all airspace users are reflected on an equitable basis.

1.5 In response to this, the CAA decided to commence an **initial review** of the classification of UK airspace in December 2019, in parallel with developing the new procedure. Stakeholders were asked to identify airspace volumes where a change to classification could be made, and to provide a rationale and supporting evidence for their suggestions. In June 2020 we published a summary of the responses to that initial review, as CAP 1935 *Outcome of the consultation on the airspace classification review 2019/2020*.³

1.6 Directions 3(a), (b) and (ba), quoted in paragraph 1.3 above, require the CAA to have a procedure for amending airspace classifications. That is the procedure we have consulted on in draft, and which we will apply to the airspace volumes identified in the initial review, as well as to any future proposals we make for reviewing airspace classification.

1.7 The new procedure takes effect 1 December 2020.

Engagement regarding the consultation

1.8 To encourage wide engagement, on the day of launching the consultation the CAA contacted approximately 1325 individuals and organisations through a direct email and a further 10,000 through the CAA's Skywise platform. These communications advised that the consultation on the draft procedure for reviewing airspace classification had gone live, provided a link to the consultation and requested that all representative groups forward a copy to their members. A reminder email was sent to all original recipients two weeks before the end of the 12-week consultation period, reminding stakeholders that the consultation would close on 17 September 2020.

³ CAP 1935, *Outcome of the consultation on the airspace classification review 2019/2020* www.caa.co.uk/cap1935. The actual responses can be seen on our consultation website <https://consultations.caa.co.uk/corporate-communications/airspace-classification-review-2019-2020/>.

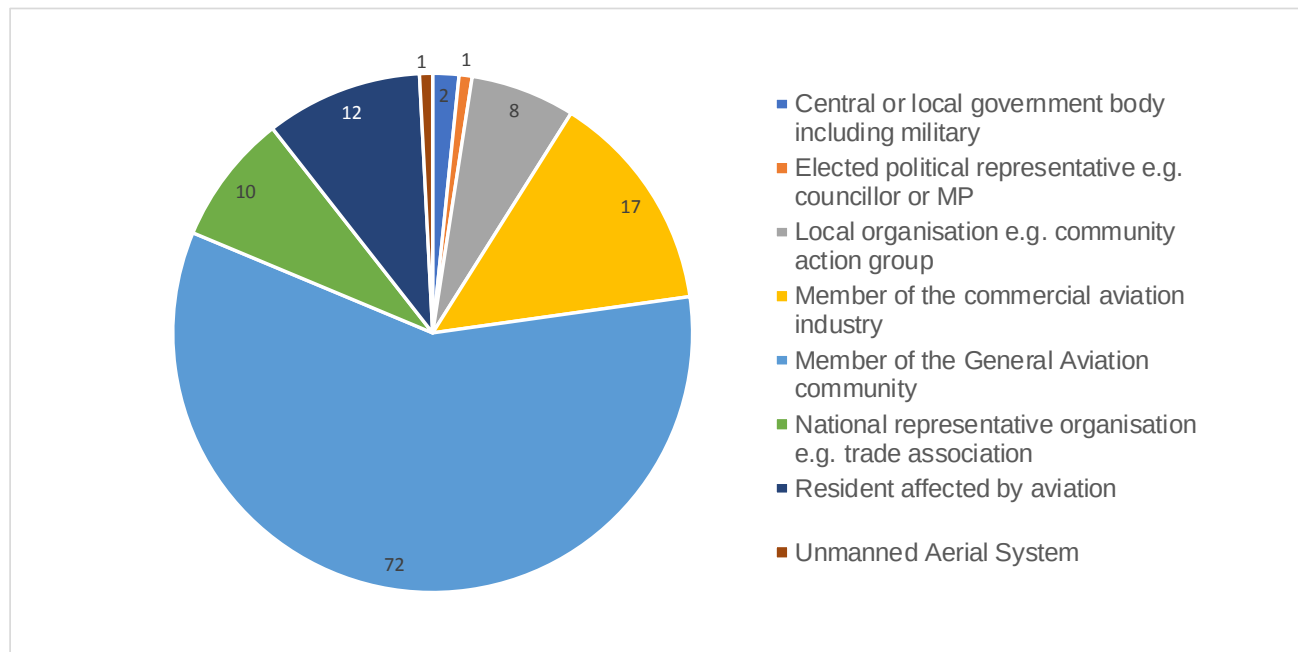
- 1.9 At the start of the year, we had already held stakeholder engagement sessions in connection with the December 2019 initial review referred to above, prior to us developing and seeking views on the draft procedure in June 2020.

Who responded to this consultation

- 1.10 We had 123 responses in total, after removing four duplications.⁴ We asked respondents to categorise themselves into one of the following nine categories:

- Central or local government body including military
- Elected political representative e.g. councillor or MP
- Local organisation e.g. community action group.
- Member of the commercial aviation industry
- Member of the General Aviation community
- National representative organisation e.g. trade association
- Resident affected by aviation
- Unmanned aerial system operator
- Airline passenger

Figure 1.1: Responses to the consultation by category of respondent



⁴ Where someone responded twice, we merged their free text and recorded their most critical answer to the multiple-choice questions. So if a respondent chose 'some modifications needed' in their first submission and 'significant modifications needed' in their second, we recorded the answer in the second submission.

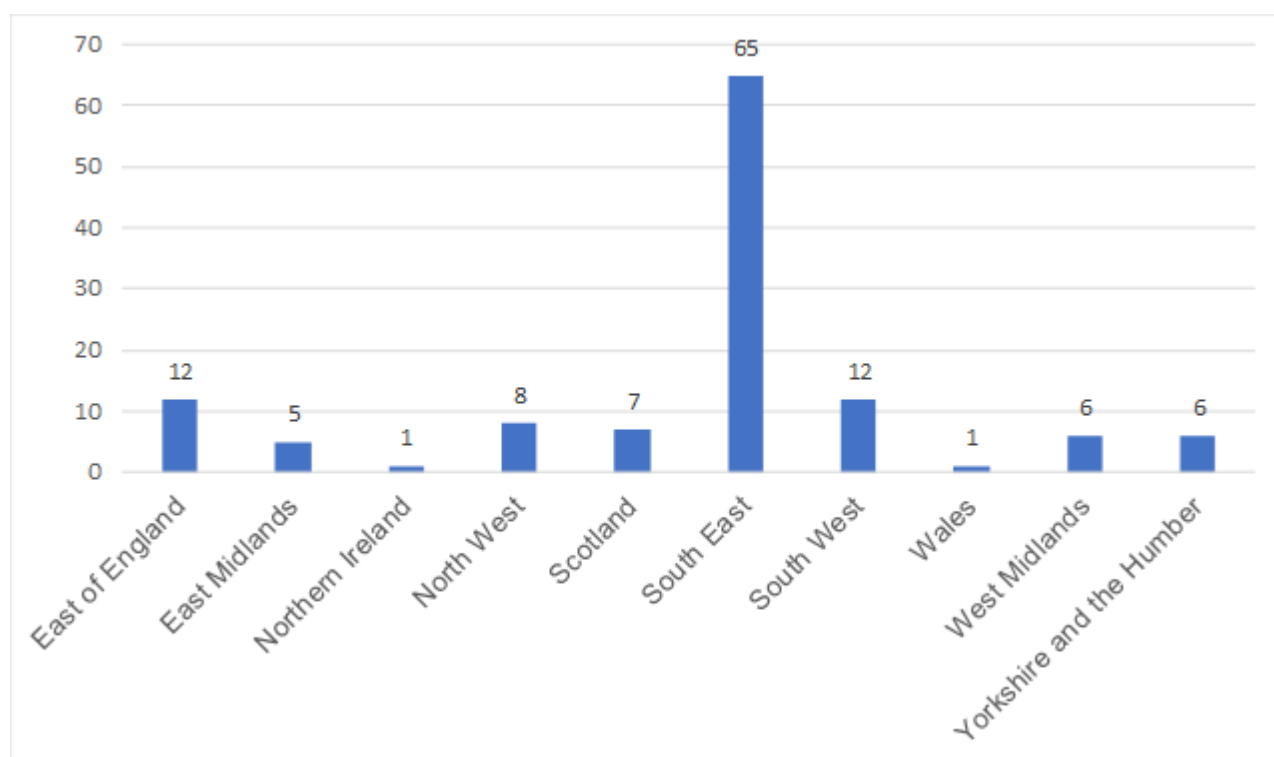
- 1.11 As shown in Figure 1.1, of the 123 respondents:
- two responses were from central or local government bodies including military
 - one response was from an elected political representative e.g. councillor/MP
 - eight responses were from local organisations, e.g. community action groups
 - 17 responses were from the commercial aviation industry
 - 72 responses were from members of the General Aviation community
 - 10 responses were from a national representative organisation e.g. trade association
 - 12 responses were from residents affected by aviation
 - one response was from an unmanned aerial system operator.
- 1.12 We had no responses in the airline passenger category.
- 1.13 A full list of respondents appears at the end of this chapter. You can also read individual responses, where we had respondents' permission to publish them, on our consultation website.⁵

Geographic spread of responses

- 1.14 As shown in Figure 1.2, the 123 respondents identified themselves as living in, or responding on behalf of an organisation based in the following areas:
- East of England (12)
 - East Midlands (5)
 - Northern Ireland (1)
 - North West (8)
 - Scotland (7)
 - South East (65)
 - South West (12)
 - Wales (1)
 - West Midlands (6)
 - Yorkshire and the Humber (6)

⁵ <https://consultations.caa.co.uk/policy-development/draft-procedure-to-review-airspace-classification>

Figure 1.2 Number of respondents by geographic area



Our analysis of the responses

- 1.15 Of our five consultation questions, three had both a closed (multiple-choice) and an open (free-text) element, and two were open (free-text) only. Stakeholder groups were not evenly represented in terms of numbers, so where there were differences of opinion we avoided focusing on the overall percentage of respondents favouring or criticising a particular aspect of the proposed process. Instead we considered how individual stakeholder groups had responded and whether they were split as a group or in disagreement with other groups.

Analysis of multiple-choice questions

- 1.16 The multiple-choice questions we asked provided quantitative feedback about the proposed procedure. The key findings from these questions are detailed in Chapter 3.

Analysis of open-text responses

- 1.17 Each of our five consultation questions included an open (free-text) element. This means that in addition to answering closed (multiple-choice) questions, respondents were offered an open box to write free text sharing the reasons for their chosen responses and any other views – in particular how the proposed procedure could be improved. However, if respondents chose the option ‘about right’ when asked about their views on a specific stage of the procedure, the open-text box for comment would not appear.

- 1.18 We found a number of recurring themes arising in the open-text responses. Chapter 4 details some of the most significant themes, and includes extracts from some responses where respondents gave us permission to publish them. Chapter 5 details specific recommendations and questions submitted by respondents and how the CAA has responded to those.

List of those responding to the consultation by category of respondent

Central or local government body, including military (2)

- Ministry of Defence
- One local government body that wished to remain anonymous.

Elected political representative, e.g. councillor or MP (1)

- Prestbury Parish Council

Local organisation, e.g. community action group (8)

- Edinburgh Airport Noise Advisory Board
- Nutfield Conservation Society
- Richmond Heathrow Campaign
- Stop Stansted Expansion
- Four local organisations that wished to remain anonymous

Commercial aviation industry (17)

- Air Navigation Solutions Limited
- Birmingham Airport Limited
- British Airways
- Heathrow Airport Limited
- Humberside Airport
- Manchester Airports Group
- NATS
- Norwich Airport
- Four individuals
- Five commercial aviation industry representatives that wished to remain anonymous.

Member of the General Aviation community (72)

- British Gliding Association
- British Microlight Aircraft Association
- Booker Gliding Club Limited
- Cotswolds Airport
- The Bath, Wilts and North Dorset Gliding Club
- The Yorks, Derbyshire & Nottinghamshire Regional Soaring Airspace Group
- Ulster Hang Gliding and Paragliding Club
- 63 individuals
- Two General Aviation organisations that wished to remain anonymous.

National representative organisation, e.g. trade association (10)

- Aircraft Owners and Pilots Association
- Aviation Communities Forum
- GA Alliance
- Industry Coordination for the Airspace Modernisation Strategy
- Light Aircraft Association
- Prospect Air Traffic Controllers Branch
- Royal Aeronautical Society
- The Honourable Company of Air Pilots
- Two national representative organisations that wished to remain anonymous

Resident affected by aviation (12)

- 12 individuals

Unmanned Aerial System (1)

- One individual.

Chapter 2

Outcome of the consultation

Consultation questions

- 2.1 Question 1 in the consultation asked for **general** comments on the proposed procedure for reviewing airspace classification. Questions 2, 3 and 4 asked for views on the proposed **Consider**, **Review** and **Amend** stages. Question 5 asked a specific question about respondents' views on **cost impacts** of the proposed procedure on their organisation, and how we might best minimise these.

Summary of the main changes made as a result of the consultation

Subject	Change
CAA plan for 2021 listing airspace volumes where a case could be made for a proposed amendment to the airspace classification	Now that we have confirmed the final procedure, we are able to act on the initial review of airspace classification we commenced in December 2019 by addressing our first plan. We will announce the detail of the plan in December 2020, to give us the opportunity to flag it in advance with the controlling authorities concerned. We will commence work on the first volumes of airspace in January 2021 once our new Airspace Classification team is in place.
Review of procedure after three years	We will review the whole procedure after three years, i.e. at the end of 2023, or earlier if there is a change in Government policy.
Need for a holistic approach to airspace design	The procedure is the means of delivering one initiative of the Airspace Modernisation Strategy. The procedure for reviewing airspace classification must therefore align with the Airspace Modernisation Strategy and dovetail with the other initiatives, to achieve the important, holistic approach to airspace modernisation. The list of airspace volumes where a case could be made for a proposed amendment to the classification will be formally adopted into the Airspace Modernisation Strategy. We have made the linkage clearer in the procedure.

Subject	Change
Consider stage – more CAA commitment to a review	We have amended the Consider stage to commit the CAA to a review every two years unless it would be unreasonable for the CAA to carry out a review. If we decide not to do a review, we will defer it for a maximum of one year. We may still choose to limit the scope of a review.
Engagement before the CAA consults on its plan at the Review stage	We have set out more clearly that the procedure is based on taking aviation stakeholder input constantly throughout the year, including specific reporting through the online FCS1522 form.
Prioritising proposals within the plan	The procedure will prioritise proposals within the two-year plan through a broad assessment of which proposals seem likely to bring the greatest benefits for the minimum change or cost.
Interaction with airspace change proposals	We have made the criteria more flexible. We will not normally consider under this procedure any volumes of airspace that are subject to an ongoing proposal for a change in airspace design (Levels 1, 2, M1 or M2) at stages 1 to 4 of the CAP 1616 airspace change process, or its equivalent where subject to the CAP 725 process. However, we may need to make exceptions and assess individual volumes of airspace on a case-by-case basis, where justified. For example, where: - the Statement of Need was submitted after the airspace volume was identified in our plan at the Review stage, or - the airspace change proposal has been paused for more than a year, or a decision has been taken to delay it for more than a year, or - the sponsor recognises that a change of circumstances has occurred that requires a revision to its Statement of Need. We will take advice from the CAA's Airspace Regulation team and from the Airspace Change Organising Group where its work relates to the airspace change proposal.
Environmental impacts	Should we see a correlation between increased noise complaints and classification amendments when reviewing the procedure in 2023, we will advise the Department for Transport, and reflect any policy changes they make in updates to the procedure. Currently our view is that there is unlikely to be a significant environmental impact from a change made under this procedure, but we cannot model the impacts outside controlled

Subject	Change
	airspace and we have no specific guidance from the Department for Transport on assessing environmental impacts.
Reviewing the effectiveness of the change once implemented	We have amended the procedure in recognition that it would be more appropriate for the CAA to review the effectiveness of a change one year after implementation, based on inputs from airspace users, the controlling authority and the CAA's own data (including noise complaints). The Airspace Classification team will provide a report to the CAA's Airspace Regulation team. We have also added what the potential consequences may be of this review, including that a classification change could, where possible, be reversed if necessary. We have added expected timelines for the review.

Why we have made these changes

- 2.2 The rest of this chapter explains in more detail how we are modifying the procedure for reviewing airspace classification in light of the responses we received, and why we have done so. We also include some commentary on suggestions that we are not adopting. A fuller analysis of the responses we received appears in Chapters 3, 4 and 5.

Matters out of scope

- 2.3 Some responses included comments that were out of scope of the consultation because they concerned matters not in the CAA's gift to change. The consultation document said that we were seeking views on the procedure we adopt for amending the classification of airspace. We were very clear that we would disregard elements of responses to this consultation that focused on:
- the policy on airspace classification
 - the classifications of particular volumes of airspace
 - the functions given to the CAA in the Air Navigation Directions, which come directly from the Secretary of State
 - aspects of government policy, including the Air Navigation Guidance – the statutory guidance which the Secretary of State gives the CAA on how it should take environmental impacts into account – including policy objectives in respect of people significantly affected by aircraft noise, the concentration, dispersion or alternation of flight paths, or avoidance of tranquil areas; government policy is not within the direct control of the CAA

- the CAP 1616 airspace change process, specific airspace change proposals going through that process, or specific airspace changes that have already happened using that process or its predecessor.

2.4 The CAA has been directed by the Secretary of State to introduce this new procedure by 1 December 2020. The Directions require that in developing the national airspace classification policy, classifying UK airspace, or amending the classification of a volume of airspace, the CAA must seek to ensure:

- that the amount of controlled airspace is the minimum required to maintain a high standard of air safety, and
- subject to overriding national security or defence requirements, that the needs of all airspace users are reflected on an equitable basis.

Volumes of airspace identified from the initial review

2.5 Chapter 1 explained that in December 2019, in parallel with developing the new procedure, the CAA decided to commence an initial review of the classification of UK airspace. Stakeholders were asked to identify airspace volumes where a change to classification could be made, and to provide a rationale and supporting evidence for their suggestions.

2.6 Now we have decided on the new procedure and have recruited the new CAA Airspace Classification team to run it, we can address our plan for 2021 of airspace volumes where we believe a case could be made for a proposed amendment to the airspace classification. We will announce the detail of the plan in December 2020, to give us the opportunity to flag it in advance with the controlling authorities concerned. We will commence work on the first volumes of airspace in January 2021 once the new Airspace Classification team is in place.

Question 1: Views on the proposed procedure overall

Implementation date

2.7 One respondent asked us to defer the implementation date because of the great uncertainty and downturn in revenue and traffic that the aviation industry is going through since the consultation document was drafted, and the potentially unquantifiable cost on the controlling authority.

2.8 **Outcome:** The Secretary of State has been clear that he will accept no delay in implementing the new procedure, so we cannot move the date. Nevertheless, we do of course recognise the issues that the industry is currently dealing with.

Proportionality

2.9 Several responses urged us to keep the procedure simple.

- 2.10 **Outcome:** We agree that it is important not to over-complicate the procedure, in particular the Consider stage (see below). The procedure needs to be proportionate to the intended outcome.

Holistic approach to airspace design consistent with the Airspace Modernisation Strategy

- 2.11 A number of responses said that the CAA was missing the big picture on airspace. They said that this was an opportunity to put right the whole of the airspace structure with a joined-up, holistic approach, led centrally, addressing all airspace user needs (including those using uncontrolled airspace), rather than a patchwork approach that might result from individual changes initiated by commercial industry. We were given advice on simplifying the airspace design for users and those managing it, and the need to avoid problematic pinch points in Class G airspace.
- 2.12 Some responses agreed that the procedure needed to be consistent with the Airspace Modernisation Strategy, but that it should explicitly consider both current and planned future developments in support of the strategy. One response suggested that the CAA should discuss its priorities with government and with industry to ensure that modernisation remained on track. Another response said that many classification issues will likely be addressed through individual airspace change proposals through the CAP 1616 process as part of the national programme of airspace modernisation.
- 2.13 **Outcome:** We agree that a holistic approach is needed. The Airspace Modernisation Strategy⁶ sets out the ways, means and ends of modernising airspace through 15 initiatives that will modernise the design, technology and operations of airspace, initially focusing on the period until the end of 2024. Reviewing airspace classification is the means of delivering one of these initiatives which must be joined up and dovetail with the other initiatives. The classification procedure could also aid improvement in the UK's compliance with ICAO requirements or to facilitate the introduction of new air traffic management concepts. So the procedure for reviewing classification on which we consulted makes reference to alignment with the Airspace Modernisation Strategy and those other initiatives, thus achieving the important, holistic approach to airspace.
- 2.14 The classification procedure Review stage will be used to develop a plan of airspace volumes where a case could be made for a proposed amendment to the airspace classification. That plan will be formally adopted into the Airspace Modernisation Strategy. The CAA is required to report to the Secretary of State

⁶ CAP 1711 Airspace Modernisation Strategy published in December 2018 www.caa.co.uk/documents

on delivery of the strategy annually, including the dependencies between the initiatives, thus ensuring that we adhere to an overall holistic approach.

- 2.15 The CAA next plans to refresh the Airspace Modernisation Strategy in 2021. We will decide what we include in future iterations, as and when we develop them, but the review of airspace classification remains an important element and is the subject of specific Directions from the Secretary of State. For the time being we therefore anticipate that the plan we develop every two years will continue to be formally adopted into the strategy and is tracked and reported on.

CAA resources

- 2.16 In the consultation document we said that for the first year we plan to resource the team that would run the new procedure through internal reprioritisation of colleagues and secondments, because of a general freeze on recruitment caused by the impact of the Covid-19 crisis on the CAA's financial position. Some responses expressed concern at the resource implications for the CAA as a result of the new procedure. They questioned whether the CAA implementing regular reviews of airspace classification would divert our resources away from work on modernisation and airspace change proposals, and whether we could justify and absorb the related costs. It was observed that the CAA's airspace teams were already stretched, and the specialist skills required by the new team could compound the problem.
- 2.17 **Outcome:** The Secretary of State has been clear that he will accept no delay in implementing the new procedure or resourcing the team to run it. In this case, we were able to justify an exception to our recruitment freeze, allowing us to create a completely new Airspace Classification team. We have nearly completed the process of recruiting from either external or internal applicants to fill those six vacancies. We anticipate having the team fully in place early in 2021, recognising the lead time for both internal and external candidates to take-up these new roles.
- 2.18 We are now confident that we have recruited the right skills to give us the ability to make changes in airspace design. There will inevitably be a bedding-in period for the new team, not least because of the impact of Covid-19 on the CAA and the industry generally. The team will therefore not be fully operational immediately, but work will build in momentum through 2021. On the plus side, the team is completely separate from our existing airspace teams and we can minimise any knock-on impacts. Indeed the strengthening of our airspace resource and skillset should bring long-term advantages.
- 2.19 At the Review stage, the new team will draw up a plan that lists airspace volumes where a case could be made for a proposed amendment to the airspace classification. That includes consideration of existing airspace changes.

In terms of the CAA developing the actual amendments, input from the airspace controlling authority is vital, as we explained in the consultation document.

Airspace portal/publication

- 2.20 Some respondents understood but expressed disappointment that we were unable to commit to adapting our online airspace change portal to accommodate the new classification procedure, and that for the moment we will place relevant information on a dedicated webpage. They felt that a 'one-stop shop' portal was beneficial to all stakeholders and that hosting classification proposals elsewhere diluted stakeholder trust and overall transparency.
- 2.21 **Outcome:** We agree, and in principle, as we said in the consultation document, the CAA sees merit in adapting the portal in this way. We have begun exploring the IT technical challenges, and subject to there being no insurmountable technical or financial constraints, i.e. that the modification is achievable at a reasonable cost relative to the likely number of classification proposals, we would like to go ahead with this. To avoid nugatory work, we obviously could not progress this until we had settled on a final procedure in the light of consultation responses. Ideally, our ambition would be to have the portal ready for future review cycles, but we cannot commit to a timeline in the current financial circumstances.

Question 2: Views on the proposed Consider stage

CAA commitment to the procedure

- 2.22 We had many comments suggesting that the CAA was not committed to the new procedure. We were accused by some of not taking our new function seriously. It was suggested that the way we had designed the procedure was a missed opportunity for bold, decisive actions; and that doing a review was a new CAA duty, not optional. Some responses said that the way the Consider stage was written (setting out what we would take into account in making our decision whether to go ahead with a review) implied that simply 'considering' a review would be used by the CAA as an easy excuse not to do a review at all, or to do as little as possible. Or even that over time we might quietly drop the procedure altogether. This lack of trust in the CAA was felt by a wide range of respondents.
- 2.23 **Outcome:** We are pleased to confirm our commitment to the procedure and to a regular review. We are adopting some of the suggestions made to us and we have reworded the Consider stage accordingly.
- 2.24 The Consider stage (which is written in to the procedure because it draws directly from the wording of the Directions) gives us the option not to hold a review, or to limit the scope of the review, should this be necessary. As a regulator with limited resources and a primary commitment to safety, we have to be realistic and give ourselves some flexibility. Our aim was not to tie our hands.

unnecessarily to a cycle with an arbitrary two-year timetable that takes no account of the complexity of changes that are already in the pipeline, resourcing issues, or external events over which we may have no control. It should also be appreciated that this is an entirely new procedure for the CAA, run by a new team. Our consultation document sought to be transparent about what we would take into account at the Consider stage and to manage stakeholder expectations of what the procedure can achieve.

- 2.25 Unfortunately some respondents misinterpreted this as a lack of commitment to holding a regular review, which was absolutely not our intention, and indeed would run counter to the Directions given to us by the Secretary of State.
- 2.26 As described above, we have demonstrated our commitment by recruiting a new Airspace Classification team of six FTE staff, and announcing in December 2020 our first plan for volumes of airspace that will be subject to review when the new team is in place in January 2021.

Triggers for the decision to review

- 2.27 Some respondents said that the Consider stage lacked detail about what would trigger a review, and that the criteria in the draft procedure were either too vague or inappropriate and left too much to the CAA's discretion. In particular, they said that a review should not depend on CAA workload or resources, which were a matter of effective business planning, nor should it depend on a specific request from the Department for Transport. Some suggested that all airspace should be subject to ongoing regular review.
- 2.28 It was suggested that our decision to review should be more data-driven and the triggers spelt out more clearly; it was not clear how the 'airspace safety, efficiency and environmental or access benefits' were measured. Other responses suggested adding in other elements to the Consider stage: for example, a cost-benefit analysis of classification changes; stakeholder consultation, including the ability to submit to the CAA suggested airspace volumes where the classification could be reviewed; or bringing forward the filters applied at Review stage to avoid nugatory work.
- 2.29 **Outcome:** Among many respondents there appeared to be a fundamental misunderstanding of the Consider stage. It is possible that some may have only read as far as the Consider stage and come to the conclusion that this stage determines what volumes of airspace would be reviewed. That is not the case. The volumes of airspace that we choose to review are determined at the **next** stage (Review). The Consider stage is a simple binary yes/no decision as to whether to launch a review. We are not going to take that decision in an information vacuum; we will use what information we have to hand using a high-level dashboard of information drawn from a variety of sources throughout the

year. But the Consider stage is not where we choose airspace volumes to review and therefore many of the suggestions made are not relevant.

- 2.30 Some responses said that it was not a binary decision because we were potentially deciding whether to limit the scope of the review in very broad terms, as described in paragraphs 4.10 and 4.11 of the consultation document (for example to a broad geographic region or in order to comply with international obligations). That is true to an extent, although this limitation in scope may or may not be necessary. Against our high-level dashboard, it may become clear that we cannot do everything at once – for example, if there is a compelling international obligation that will consume much of our resources for the following year – so we want to be transparent about that, and not raise expectations.
- 2.31 In light of the feedback we received, we have reworded the Consider stage in order to make our commitment to the procedure more explicit. Instead of considering whether a review is needed or not, the default position will be that **the CAA commits to doing a review every two years, unless it would be unreasonable for us to commit to a review**. This remains a binary yes/no internal decision. **If we decide not to do a review, we will defer it for a maximum of one year**. We may still choose to limit the scope of a review.
- 2.32 Any decision to defer would be based on whether the CAA can reasonably anticipate having sufficient staff resource (including the necessary skillset) to carry out a review, taking into account:
- new or amended regulatory requirements – whether from national law or international obligations from ICAO – in respect of airspace classification that need to be complied with within a certain timeframe
 - whether we know of airspace safety, efficiency, environmental or access benefits that a review might help to define and deliver, for example in support of an initiative in the Airspace Modernisation Strategy
 - whether there are outstanding priorities that we have gleaned from previous classification reviews
 - Department for Transport advice or directions prioritising our airspace functions.
- 2.33 We agree that stakeholder engagement is important (see below). However, the Consider stage is not the place for it. We are not choosing airspace volumes. It could be viewed as simply the CAA doing its internal work planning in a transparent way. It is important to recognise that the CAA is **already** receiving stakeholder views about airspace classification throughout the year – through FCS1522 reports, feedback from regulatory oversight activities, and general stakeholder engagement, such as engagement with the CAA's NATMAC (National Air Traffic Management Advisory Committee) forum. Indeed, as we

explain below, continuous engagement by our Airspace Classification team is a requirement of the Airspace Modernisation Strategy governance.

- 2.34 The suggestion that we review all airspace all the time may sound like a reasonable aim, but in practice would be a gargantuan and expensive task that would take many times the resources available and for the most part would produce little useful information. (The airspace controlling authority is of course responsible for doing its own continuous monitoring.) Instead we have designed a procedure that we believe is proportionate to the aims.

Earlier or more engagement with stakeholders

- 2.35 A considerable number of responses from all categories of stakeholder raised the question of engagement more generally at all stages of the procedure. Many responses suggested that we had been remiss in not including more engagement with local communities, local councils, political representatives or airport consultative committees. Some responses suggested that earlier engagement with industry would reveal the potential cost of what we were proposing.
- 2.36 **Outcome:** In principle, we agree that engagement is extremely important and should be encouraged, subject to being appropriately targeted at those that potentially could be impacted or that could provide useful input. In the words of one respondent, better engagement will result in better outcomes.
- 2.37 However, we must keep engagement proportionate to the desired outcome. Engagement does not necessarily require a full public consultation, indeed that can be counter-productive in the burden it creates tying up resources that could be used for a more targeted approach, as described in paragraph 5.5 of the consultation document.
- 2.38 We have seen no reason to change the consultation and engagement aspects of the procedure. At the Review stage we share our plan and invite feedback from aviation stakeholders, including any strategic advice or other information they would like us to consider. The fact that the plan is drawn up by the CAA alone attracted some criticism. This misses the point that at all stages we rely on engagement with airspace users and industry through the ongoing feedback received from them throughout the year. Paragraphs 5.4 to 5.9 and 5.25 to 5.34 of the consultation document explained why we chose to run the Review stage that way, although it also said that we might consult more widely on occasion, in the interest of being fully open to new ideas and suggestions. Having developed a specific proposal, we use appropriate consultation or engagement in a more targeted way at the Amend stage. In this way we can keep the procedure proportionate, and use the team dedicated to reviewing classification most effectively.

- 2.39 This procedure forms one of the initiatives in Airspace Modernisation Strategy, and because of that it is subject to certain governance requirements. The initiative must have an engagement plan, and that engagement plan must reflect the entities listed in the Airspace Modernisation Strategy governance structure.⁷ In the light of responses, we have clarified the procedure to specify what we mean by aviation stakeholders consulted at the Review stage. These are principally organisations in the Airspace Modernisation Strategy governance structure that represent airspace users or that are a conduit to them. They include members of NATMAC and also Airspace4All, Airlines UK, the Airport Operators Association, the British Airline Pilots Association, the Guild of Air Traffic Control Officers, the CAA's General and Business Aviation Strategic Forum, Industry Coordination for the Airspace Modernisation Strategy, the Ministry of Defence, NERL, the Airspace Change Organising Group and the CAA's UAS Stakeholder Forum. NATMAC also includes representatives of a wide range of stakeholders including (in addition to the above) smaller airfields, airlines, drone operators, the military, unions, plus multiple representatives of General Aviation in its many forms.
- 2.40 It is not appropriate to consult communities at the Review stage because (a) we are simply identifying volumes of airspace that warrant a review and the impacts on the ground will not be assessed until the Amend stage and (b) even if we do decide to propose an amendment to classification, that would only be if there were no significant environmental impacts. We have stated in the procedure that by 'significant' we mean that the procedure would not be used for any change that affects published or predictable aircraft tracks inside controlled airspace, such as changes to departure and arrival routes at aerodromes (the full list was shown in Table 1 on page 37 of the consultation document).
- 2.41 Some concerns were expressed that the CAA should ensure that the mapping of stakeholders is transparent and appropriate and that some sectors (for example hang gliders) are not omitted. For a given proposal, the Airspace Classification team will set out its engagement plan, including how it will run any consultation or engagement exercises, and how it will update relevant entities in its stakeholder map. This would include the wide range of aviation stakeholders in the governance structure, but would only include communities or their representatives where the CAA saw this as appropriate to the proposal. The scope of engagement is dependent on the nature of the change proposed. For example, we are likely to engage with any stakeholder directly affected at a local level, such as a flying club, but it may be considered excessive to extend engagement to national representative organisations.

⁷ For the latest version please see page 7 of the Airspace Modernisation – 2019 Progress Report www.caa.co.uk/cap1862. The original can be found in the governance annex to the Airspace Modernisation Strategy, published in December 2018 www.caa.co.uk/cap1711b.

- 2.42 Stakeholder mapping means keeping engagement proportionate; it does not mean consulting everybody about everything. We are careful to ensure that the sponsors of airspace change adhere to the best-practice principles for consultation that we set out in CAP 1616. We will apply the same principles to the classification procedure as appropriate when working with the airspace controlling authority, including setting timescales. In general, our proposals and decisions will still be published, and there will be a standing item on the agenda of NATMAC, the CAA's main airspace engagement forum.

Intervals between review cycles or between stages

Between review cycles

- 2.43 We had a variety of responses to our proposed two-year review cycle: that the cycle should be more frequent than every two years; that two years was reasonable; that two years was not long enough because of the potential complexity of proposals; that two years was arbitrary and should take into account external drivers such as international requirements with which the UK must comply; that review should be triggered by a request or an event; and that if a certain volume of airspace had not been reviewed for a certain period, review should be automatic because technology and use of that airspace will change over time.
- 2.44 **Outcome:** The Directions do not oblige the CAA to adhere to any particular timing, and on balance, we think that a two-year cycle is about right. As one respondent pointed out, any amendment to classification will involve extensive analysis of data, stakeholder consultation, design work, cooperation with the airspace controlling authority, and implementation arrangements. For a whole plan of changes, this could easily take most of the two-year period between reviews, excluding the need to review the effectiveness of the change after it has been implemented.
- 2.45 We must also retain some flexibility. That works both ways; if, at the Consider stage, we decide that we need to defer the next review, i.e. we introduce an interval longer than two years, we will be transparent about this and we will do so for a maximum of a year, as explained above. Whereas we would make an exception and launch an earlier review if we identify a pressing necessity for this outside the biennial cycle because of either:
- a new or amended regulatory requirement, or
 - an immediate safety issue that requires resolution, based on intelligence derived from Mandatory Occurrence Reports or the CAA's safety oversight activities.

Between stages

- 2.46 Some responses said that the procedure needed a more definitive timetable within the review cycle, i.e. the duration of a particular proposal. Some responses said proposals should not take anything like two years, some said they might take longer.
- 2.47 **Outcome:** At the Review stage we publish a plan for airspace volumes where a case could be made for a proposed amendment to the airspace classification, and this will set out broad timelines over the two-year period. It should be recognised that this is a new function for the CAA, run by a new team involved in airspace design work that until now has exclusively been done by industry, not the CAA. We have no experience of designing airspace in conjunction with the airspace controlling authority. There will undoubtedly be other challenges we will have to overcome.
- 2.48 We therefore feel able only to give a general guide for a timeline for a typical proposal until we have more experience. Each may vary considerably in relative complexity. We can probably set some bounds for a specific proposal: in CAP 1616 we give a typical timeline for a Level 1 airspace change of 110 weeks, which, because of the potential impacts of the change, is likely to involve a more complex process than a classification change under this procedure. We can be reasonably confident therefore that a classification change under this procedure would take a shorter time. We do however have consultation or engagement exercises at both the Review and Amend stages. Should we need to allow eight or 12 weeks for those, plus time for preparation and analysis, this suggests a lower bound of around 50 weeks minimum, without taking into account other elements of the procedure.

Independent oversight or appeal of the procedure

- 2.49 Several responses suggested that there needed to be a way of appealing a CAA decision, or a clear escalation and mediation process in place to address conflicts that cannot be resolved. Many responses expressed a general distrust of the CAA's independence and called for independent oversight of our decisions. Some said that the CAA was 'marking its own homework' in both designing and proposing a classification amendment, and then submitting that proposal to its (separate) Airspace Regulation team for submission to the decision-making process. At present, the only way to challenge an airspace decision made by the CAA is through judicial review in the courts. Judicial review is a challenge to the lawfulness of the process followed by the CAA in reaching our decision.
- 2.50 **Outcome:** The reasons for not introducing the ability to appeal a CAA decision on a change in airspace design were discussed at some length when we developed CAP 1616 (see in particular CAP 1465, pages 15 to 18). Similarly, we also rejected suggestions that an 'oversight committee' should provide

independent oversight of CAA decisions (CAP 1465 page 21). With those arguments in mind, we do not see a case for introducing an appeal process or an oversight committee for the relatively few airspace classification changes we decide on each year.

- 2.51 We are not repeating all those arguments here, but we stand by them. We recognise that there are some differences in the classification procedure: the CAA is designing the proposal, with essential input from the airspace controlling authority; and the Secretary of State has chosen not to have the ability to call-in a decision under this procedure. Many of the responses saying that external oversight of CAA decisions was needed either did not suggest who should provide the oversight, or suggested an ombudsman, stakeholders themselves, consultants or other undefined experts. Those solutions would be unlikely to provide the necessary expertise or independence stakeholders are calling for, nor the authority to make decisions, all of which are necessary; and in our view would likely create more problems than they solve.
- 2.52 The procedure already includes a decision being made by a completely separate CAA team with a countersignature by the CAA's Head of Airspace, ATM and Aerodromes. If there were some solution involving external scrutiny (a) it is not at all obvious who would have the expertise, authority and independence to provide it, and (b) it would add considerable complexity for little apparent gain, yet we have been asked to keep the procedure proportionate. The CAA is committing to being as transparent as we can and will be held to account through that transparency. Progress will be reported to twice-yearly meetings of the NATMAC forum at which a wide range of aviation stakeholders are represented.
- 2.53 In terms of an appeal on the process the CAA has followed, the most appropriate body to carry out such a review is the court through the judicial review process.

Question 3: Views on the proposed Review stage

Data issues

- 2.54 Many responses mentioned data. This included comments in relation to data sources the CAA referred to at the Consider stage, such as the relaunched online form to report access or utilisation issues (now form FCS1522), as well as suggestions for other sources we should use in our assessment at the Review stage. Some respondents said that we should be more transparent and explicit about the data we would be using, including sharing it with stakeholders. There was also a concern about who would be the ultimate custodian of data related to that airspace, how this data will be used, who will be granted access to it and who will be responsible for analysing it.
- 2.55 Some respondents were concerned that the data sources available to the CAA were too limited and would not give the CAA the full picture, i.e. what was