

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CIVIL AVIATION
AUTHORITY SAFETY REGULATION GROUP AND THE HEALTH & SAFETY
EXECUTIVE**

Introduction

1. This Memorandum of Understanding is between the Civil Aviation Authority Safety Regulation Group (CAA/SRG) and the Health and Safety Executive (HSE).
2. It establishes a framework for liaison between CAA/SRG and HSE with the aim of ensuring the effective co-ordination of policy issues, enforcement activity, and investigation in terms of CAA/SRG and HSE responsibilities for safety in relation to aircraft and the systems in which they operate.
3. Under this Memorandum of Understanding, both the CAA/SRG and HSE are committed to close co-operation to minimise duplication of regulatory effort and conflicting demands where both regulatory authorities have an interest.
4. Interfaces between the CAA/SRG and HSE may arise in many ways, for example, in the regulation of safety at aerodromes, heli-decks and airborne leisure and recreational activities. It is the responsibility of every individual at all management levels in both organisations to adopt an intelligent, open and expeditious approach to achieve effective liaison between the CAA/SRG and HSE. This will involve discussions at the working level to agree how the statutory provisions, and standards and guidance issued under them, should be interpreted in particular circumstances and to determine ways of reconciling any differences that may arise. Reference to a higher level of management may be necessary in some cases. Where agreement is reached, where appropriate it will be set out in an annex to this document.

5. Annex 1 of this Memorandum sets out the broad legislative framework under which the respective organisations operate. Subsequent annexes set out the respective areas of responsibility that both organisations have agreed to.

Joint Co-ordination Group

6. A Joint Co-ordination Group, chaired by the Head of the Aerodromes and Air Traffic Standards Division for the CAA/SRG and the Head of Policy Unit for HSE, will meet whenever the need arises, and normally at least every 12 months, to review the working of the Memorandum of Understanding. The chair will be taken alternately by the CAA/SRG and HSE, with the Head of HSE's Policy Unit taking the chair for the period 1998/99, and similarly there will be an alternating secretariat in line with the chair.
7. The terms of reference for the Joint Co-ordination Group are to keep under review the working of the Memorandum of Understanding, and in particular:
 - a. to consider and where appropriate agree to recommendations for interface agreements, put forward at working level, for inclusion as an annex;
 - b. to resolve any problems referred to the Group arising from the practical application of statutory provisions and responsibilities;
 - c. to consider operational implications of policy decisions, and discuss other matters of common interest; and
 - d. to make recommendations to the signatories for changes to the Memorandum as necessary.

8. Membership of the Group will comprise the Head of the Aerodromes and Air Traffic Standards Division of the CAA/SRG, the Head of Policy Unit of HSE, and representatives of both organisations as agreed by the chairs. In the event of the Group's inability to resolve particular issues which may bear on policy matters, the CAA/SRG will refer to its Executive Committee, and HSE to its Board or to the Health and Safety Commission as appropriate.

Working Arrangements

Operational and Enforcement Issues

9. The CAA/SRG and HSE are both involved in enforcing existing legislation and standards in line with their statutory responsibilities. Most direct contact arises from individuals from either organisation dealing with these areas of work. It is the responsibility of those involved in both organisations to liaise where they believe there may be a joint interest or need for clarification of responsibilities to ensure that such matters are dealt with effectively, and to ensure there is no conflict with the responsibilities of the other organisation.
10. The CAA/SRG and HSE will, wherever possible, agree the interfaces between them to minimise the duplication of regulatory effort. Any agreements reached should be put forward for inclusion in an annex to the Memorandum.
11. The CAA/SRG and HSE will consult, so far as possible, before instituting criminal proceedings in connection with matters of concern to both organisations.

Response to Air Accident Investigation Branch Recommendations

12. The CAA/SRG and HSE may have roles arising out of incidents and emergencies investigated by the Air Accident Investigation Branch (AAIB).

13. Where both organisations are cited in AAIB investigation reports the CAA/SRG and HSE will liaise in responding to the relevant recommendations.

Policy Issues

14. The CAA/SRG and HSE are both involved in policy issues, for example developing new legislation, standards and guidance, arising out of their statutory responsibilities. Both organisations agree to liaise on new developments in these areas where they believe there may be a joint interest to ensure that the other organisation is informed and consulted where necessary.

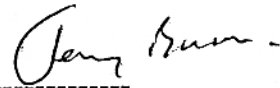
Liaison with HSE/Local Authority Enforcement Liaison Committee (HELA)

15. The CAA/SRG and HSE responsibilities interface with those of local authorities, and there may be issues which impact on the role of local authorities which should be raised with the Health and Safety Executive/Local Authority Enforcement Liaison Committee (HELA).
16. Where issues being dealt with by the CAA/SRG and HSE impact on the role of local authorities the HSE will ensure that HELA is informed or consulted as appropriate.

Signed



Richard Profit
for CAA/SRG



Jenny Bacon
for HSE

Date: 24 April 1998

**LEGISLATION
RESPECTIVE DUTIES**

This annex summarises the broad legislative framework under which the CAA/SRG and HSE operate.

(1) CIVIL AVIATION AUTHORITY

Functions under the Civil Aviation Act 1982

The safety regulatory functions of the Civil Aviation Authority are set out at Section 3(c) of the Civil Aviation Act 1982. 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 crews and aerodromes.

More detailed provisions are contained in the Air Navigation Order (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.

Enforcement

The CAA may, if it thinks fit, 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 only take such action for safety reasons, for example where it is no longer satisfied that a person or organisation remains competent to exercise the privileges of a licence or certificate. It may not take licence action for punitive reasons.

An authorised person may detain an aircraft if it appears that it is intended or likely to be flown in contravention of any one of a number of specified provisions or be a cause of danger to any person or property or in a condition unfit for the flight - Article 107.

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 - Article 108.

Penalties

If any provision of the ANO or any Regulations made thereunder is contravened, it is a criminal offence. CAA is tasked with investigating and prosecuting offences under the ANO.

Summary

The CAA's powers and duties are focused on the safe operation of aircraft. Clearly, the requirements and policies developed by CAA in discharging its obligations will tend to provide a safe environment generally.

(2) HEALTH & SAFETY EXECUTIVE

The Health and Safety at Work etc Act 1974

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 and members of the public 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. One of these key duties requires employers and self-employed people to undertake a 'risk assessment' to assess the risks to workers and anyone else, including members of the public, who may be affected by the work activities being undertaken. Both the HSWA and regulations made under the Act covering particular hazards or sectors of work require that appropriate preventive and protective measures should be taken in the light of the risks identified.

Enforcement

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.

HSC/E provides guidance and advice to LAs on health and safety enforcement through its Local Authority Unit and the Health and Safety Executive/Local Authority Liaison Committee (HELAL).

Penalties

HSE and local authority inspectors seek to secure compliance with the law. Most of their dealings with dutyholders are informal (offering information, advice and support). They may also use formal enforcement mechanisms, including improvement notices, prohibition notices, or ultimately prosecution.