

**Finance and Corporate Services**  
Information Management

4 January 2011  
FOIA reference: F0001092

Dear XXXX

I am writing in respect of your recent application of 8 December 2010, for the release of information held by the Civil Aviation Authority (CAA).

Your request:

*“copies of the CAA’s safety inspection reports for Lydd Aerodrome, Lydd, Kent, for the last four years”.*

Our response:

In assessing your request in line with the provisions of the Freedom of Information Act 2000, we are able to provide the information below.

Audit reports are connected with the CAA’s regulatory duties under Article 211 of the Air Navigation Order 2009, whereby aerodromes are licensed and inspected. Section 44 of the FOIA provides that information is exempt if its disclosure is prohibited by, or under any enactment. Section 23 of the Civil Aviation Act is such a statutory prohibition. Accordingly, the obligations of the CAA to comply with Section 23 are unaffected by the Freedom of Information Act (an explanation of this exemption can be found below):

Freedom of Information Act: Section 44

(1) Information is exempt if its disclosure (otherwise than under this Act) by the public authority holding it-

(a) is prohibited by or under any enactment,

(b) is incompatible with any Community obligation, or

(c) would constitute or be punishable as a contempt of court.

(2) The duty to confirm or deny does not arise if the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) fall within any of paragraphs (a) to (c) of subsection (1).

Under Section 23, information supplied to the CAA in connection with its regulatory functions and which relates to a particular individual or organisation must not be disclosed

**Civil Aviation Authority**

Aviation House GW Gatwick Airport South Crawley West Sussex England RH6 0YR [www.caa.co.uk](http://www.caa.co.uk)  
Telephone 01293 768512 [rick.chatfield@caa.co.uk](mailto:rick.chatfield@caa.co.uk)

by the CAA unless such disclosure is authorised by one of the exceptions contained in Section 23 itself. Section 44 of the FOIA is an absolute exemption, which means that information can be withheld without considering any public interest in disclosure. However, when a licence is issued it is published on the CAA website. The currency of the licence indicates that safety standards have been met, and therefore transparency is provided.

In addition to the prohibition under section 23 of the Civil Aviation Act, the CAA believes that section 31(1)(g) of the FOIA (attached) protects a vital principle, which applies to the Authority's audit reports and related records. As this is a qualified exemption, we have also considered whether in all the circumstances of the case, the public interest in withholding the information outweighs the public interest in disclosing the information.

The free flow of essential safety information depends upon the licence holder's complete confidence that any matter can be discussed without fear that the pressures of the public arena might delay action or distort the safety focus. The CAA relies on such information to discover illegal or improper conduct, assess the need for regulatory action and judge the fitness and competence of the licence holder. These are all functions listed under section 31(2) of the FOIA.

The public interest in disclosing the results of safety inspections in the UK includes enabling the wider public to make informed decisions about the safety of aerodromes in the UK; transparency and open government; the public right of access to information held, and reinforcing public confidence in the safety of aerodromes.

However, there is a strong public interest in maintaining the open relationship between the CAA and those we regulate and in ensuring that the free flow of information between the CAA and aerodrome licence holders is maintained. It is vital that the CAA's ability to carry out these inspections, and therefore the UK's ability to ensure that aerodromes in the UK are complying with the required safety standards, is not compromised by a lack of co-operation from those we regulate. This requires a degree of caution in disclosing information related to our oversight activities.

The CAA recognises the public interest factors in relation to the disclosure of this information but, as detailed above, believes that the publication of the licences of those aerodromes that are subject to these inspections, goes some way to satisfying the public interest factors in this case.

Therefore, having considered the public interest the CAA has therefore concluded that, in relation to this information, the public interest in disclosure is outweighed by the public interest in maintaining the exemption and disclosure is therefore withheld as also being exempt under Section 31(1)(g).

If you are not satisfied with how we have dealt with your request in the first instance you should approach the CAA in writing at:-

Mark Stevens  
External Response Manager  
Civil Aviation Authority  
Aviation House  
Gatwick Airport South  
West Sussex  
RH6 0YR

[mark.stevens@caa.co.uk](mailto:mark.stevens@caa.co.uk)

The CAA has a formal internal review process for dealing with appeals or complaints in connection with Freedom of Information requests. The key steps in this process are set in the attachment.

Should you remain dissatisfied with the outcome you have a right under Section 50 of the Freedom of Information Act to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office  
FOI/EIR Complaints Resolution  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
[www.ico.gov.uk/complaints.aspx](http://www.ico.gov.uk/complaints.aspx)

Should you wish to make further Freedom of Information requests, please use the e-form at <http://www.caa.co.uk/foi>.

Yours sincerely

Rick Chatfield  
FoIA & EIR Case Manager

## **CAA INTERNAL REVIEW & COMPLAINTS PROCEDURE**

- The original case to which the appeal or complaint relates is identified and the case file is made available;
- The appeal or complaint is allocated to an Appeal Manager, the appeal is acknowledged and the details of the Appeal Manager are provided to the applicant;
- The Appeal Manager reviews the case to understand the nature of the appeal or complaint, reviews the actions and decisions taken in connection with the original case and takes account of any new information that may have been received. This will typically require contact with those persons involved in the original case and consultation with the CAA Legal Department;
- The Appeal Manager concludes the review and, after consultation with those involved with the case, and with the CAA Legal Department, agrees on the course of action to be taken;
- The Appeal Manager prepares the necessary response and collates any information to be provided to the applicant;
- The response and any necessary information is sent to the applicant, together with information about further rights of appeal to the Information Commissioners Office, including full contact details.

**Freedom of Information Act : Section 44**

(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it-

- (a) is prohibited by or under any enactment,
- (b) is incompatible with any Community obligation, or
- (c) would constitute or be punishable as a contempt of court.

(2) The duty to confirm or deny does not arise if the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) fall within any of paragraphs (a) to (c) of subsection (1).

**Section 23 of the Civil Aviation Act is such a statutory prohibition. Accordingly, the obligations of the CAA to comply with Section 23 are unaffected by the Freedom of Information Act.**

*Under Section 23, information supplied to the CAA in connection with its regulatory functions and which relates to a particular individual or organisation must not be disclosed by the CAA unless such disclosure is authorised by one of the exceptions contained in Section 23 itself.*

**Freedom of Information Act : Section 31**

(1) Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice-

- (a) the prevention or detection of crime,
- (b) the apprehension or prosecution of offenders,
- (c) the administration of justice,
- (d) the assessment or collection of any tax or duty or of any imposition of a similar nature,
- (e) the operation of the immigration controls,
- (f) the maintenance of security and good order in prisons or in other institutions where persons are lawfully detained,
- (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),
- (h) any civil proceedings which are brought by or on behalf of a public authority and arise out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment, or
- (i) any inquiry held under the Fatal Accidents and Sudden Deaths enquiries (Scotland) Act 1976 to the extent that the inquiry arises out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment.

(2) The purposes referred to in subsection (1)(g) to (i) are-

- (a) the purpose of ascertaining whether any person has failed to comply with the law,
- (b) the purpose of ascertaining whether any person is responsible for any conduct which is improper,
- (c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,
- (d) the purpose of ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on,
- (e) the purpose of ascertaining the cause of an accident,
- (f) the purpose of protecting charities against misconduct or mismanagement (whether by trustees or other persons) in their administration,
- (g) the purpose of protecting the property of charities from loss or misapplication,
- (h) the purpose of recovering the property of charities,
- (i) the purpose of securing the health, safety and welfare of persons at work, and
- (j) the purpose of protecting persons other than persons at work against risk to health or safety arising out of or in connection with the actions of persons at work.

(3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1).