

Foreword

On behalf of the Directorate of Airspace Policy (DAP), I would like to take this opportunity to thank you all for providing such detailed feedback, in the form of both the questionnaire and written comments, on our proposal to revise the Airspace Change Process as detailed in the *Guidance on the Airspace Change Process* (CAP725). All the information received from consultees has been collated into a single *Report on Findings* document which can be downloaded from the CAA website. The Directorate has considered all the comments from consultees and has published this *Response to Consultees* document.

Introduction

The purpose of this document is to provide a formal response to the comments and feedback that was received as a result of the consultation exercise on the proposals to revise the Airspace Change Process. In order to present this information succinctly, the Directorate has taken the individual comments, identified recurrent themes and then provided a CAA response. It is, however, important to keep in mind the Directorate's assurance that all remaining concepts will be considered and, where it is considered appropriate, integrated as part of the enhancement to the Airspace Change Process.

For further clarification on the Directorate's responses, the reasons for inclusion/exclusion of comments/suggestions or to answer any other queries, please write to:

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The finalised CAP725 is due to be published and implemented in March 2007.

The Directorate has identified recurrent themes during the review of the Reports on Findings. The themes have been included in this document and answered accordingly in a separate paragraph directly below each theme box.

Overview of the process

Consultees expressed confusion regarding the current Airspace Change Process and the terminology used within the proposed CAP725; in particular, references to a 'JFADT-sponsored' change, the 'Fast-Track' and the 'Abbreviated' processes. In addition, the reasons for a 'Fast-Track' process being utilised only by the Directorate were unclear.

DAP's Response:

This was a textual error and DAP will re-word the paragraph to clarify that there is only one process that Change Sponsors must follow. However, reference to the "Fast-Track" process will remain. Although it is not anticipated that this process will be used, there must be a process available, in the highly unlikely event that the CAA has to implement a 'safety critical' change. Text will be included to clarify that the CAA will liaise closely with the ANSP in this event. All other airspace changes must follow the 'standard' process as published in the revised CAP724 and CAP725.

Categorisation of airspace

Within the categorisation of airspace paragraph (Foreword, paragraph 1.2), the guidance was felt by some Consultees to be confusing. There was a strong suggestion that differentiation as to what airspace changes would require consultation or what type of consultation would be required for specific types of airspace change was necessary.

DAP's Response:

It is safe to say that all airspace changes, regardless of scale, will require some form of consultation.

The theory that being able to categorise airspace changes in relation to levels of consultation would be beneficial, however, each airspace change proposal will be unique. It is the 'impact' that the change will have on others and not the 'size' of the change that will determine the level of consultation. However, it is also not possible to establish definitive environmental criteria, therefore, the concept of categorising airspace change proposals is impractical.

It will be possible to utilise the Directorate's experience and apply the guidance material once the Change Sponsor has identified a need and is considering changing arrangements. The Framework Briefing is intended to be the occasion when Change Sponsors can discuss their intentions (before any proposal development begins) with the Regulator and, the opportunity for the Regulator to provide the appropriate and tailored advice and guidance on the specific requirements. Textual changes will be made to explain this concept and the importance of the Framework Briefing.

Government Policy

Some aviation-orientated consultees expressed concern on the revised process as it was felt that the guidance was significantly biased towards environmental considerations. Consultees perceived that this was an additional requirement that added a considerable amount of extra requirements, significantly impacting on resources and costs with little benefit to purpose of the proposal.

DAP's Response:

The revised guidance material (CAP 725) must be as comprehensive as possible in order to facilitate a better understanding of the process and its detailed requirements. Within the current existing process, the operational guidance is mature but consultation and environmental requirements are not sufficiently robust and therefore the environmental guidance has been enhanced.

The Directorate does have a duty to assist with the delivery of Government Air Transport policies and a reference to these policies will be included. However, the Directorate's regulatory decisions are based on its statutory obligations, under which the correct balance between environmental mitigation and the objective of securing the most efficient airspace arrangements must be maintained.

The role of DfT/MoD

Consultees expressed concern as to a Change Sponsor's interaction and involvement with MoD and DfT on the grounds of national security and the environment respectively.

DAP's Response:

The CAP725 will be reworded to clarify the interaction and involvement with MoD and DfT. It will be made clear that the MoD must be considered as a stakeholder and, thus, consulted on with regard to any proposed changes. However, it will be the responsibility of the Directorate to satisfy its statutory obligations with regard to MoD (national security) and DfT (environment). Reference to these obligations will be included in the revised text.

Success Criteria for Regulatory Approval

There was a call to provide greater clarity on the criteria that the Directorate will use when assessing and approving an airspace change; in particular, regarding the assessment of the consultation exercise and the operational and environmental requirements. Furthermore, Consultees believed that it would be beneficial that reference to the Directorate's success criteria was made earlier in the process. Requests were also made for a prescribed format for the Proposal Submission.

DAP's Response:

The criteria that the Directorate will use to assess a Change Sponsor's change proposal will now be detailed in the Regulatory Approval stage and will cascade from the statutory duties. References to the criteria will be made at relevant stages such as the Proposal Development, the Consultation and the Formal Proposal Submission stages. The Directorate's assessment criteria will also be covered at the Framework Briefing.

There will also be clearer 'sign posting' to the Annexes where the format is provided.

Importance of the Framework Briefing

The majority of Consultees indicated that there was a need to cover the core requirements of the proposal and other areas such as Stakeholder Analysis, Focus Groups and Handling Responses during the Framework Briefing.

DAP's Response:

This stage will be compulsory for all potential Change Sponsors. The Directorate will strengthen the guidance on this basis to ensure that the Framework Briefing is recognized as a key stage in the whole process.

The Directorate will include the appropriate clarification and text to reflect what areas the brief will include such as operational, environmental and consultation requirements. Specific areas within the consultation phase will be covered, particularly the role of the Focus Group, stakeholder analysis and the recording and handling of responses. The Directorate's assessment criteria, as part of the Regulatory Approval stage, will also be covered during the Briefing.

Considering the importance of the Framework Briefing session, the Directorate will provide a written record for every Sponsor in order to avoid any misinterpretation before the consultation is initiated.

Stakeholder Analysis

Consultees requested a definition of a stakeholder and the differentiation between primary and secondary stakeholders. Further guidance was requested on how to undertake a stakeholder analysis whilst other requests focussed on how to procure the Stakeholders Tool and other sources that identify stakeholders. The absence of NATMAC members, and their role within the process, was also highlighted.

DAP's Response:

The guidance will be enhanced to better explain the concept of what represents a stakeholder and the issues surrounding 'key stakeholders' will be addressed appropriately. Although the Directorate might propose generic definitions for the categorisation of stakeholders, it is up to the Change Sponsor to identify those stakeholders that might be affected by their proposed change. More advice on the concept of primary and secondary stakeholder will be provided at the Framework Briefings.

NATMAC members are to be regarded as consultees; the Directorate will provide contact details of its NATMAC members together with the details of other environmental groups.

Use of Focus Groups

Consultees expressed their doubts as to the purpose, the role and the benefits of utilising a Focus Group.

DAP's Response:

The decision to use a Focus Group, and selecting its membership, is down to the Change Sponsor as it is only a recommendation within the process, not a mandatory step. The purpose of using a Focus Group is for the Change Sponsor to seek the views on the airspace design option(s) from a cross-section of those affected, in an attempt to highlight potential consequences that have been overlooked that, with some modification to the option(s), may be avoided.

A Focus Group role is to provide advice and opinions rather than to endorse the Change Sponsor's design option(s). The revised description of the role of the Focus Group should assist with providing more detail on how Change Sponsors can make the best use of the Group.

Consultation - Iterative Process

Concern was expressed in relation to the consultation process; in particular, the concept of it being an iterative process combined with achieving consensus. More clarity was requested in defining the terms 'significant' and 'not significant'.

DAP's Response:

Further guidance will be provided to clarify those cases when it is appropriate and necessary for a Change Sponsor to re-consult in the event that the proposal is modified following the first consultation exercise. It is not envisaged, nor expected, that this becomes a never-ending process of consult-modify-consult. At the point at which the proposer considers that issues raised have been accommodated, to the extent possible, then the proposal should be submitted to DAP who will be the arbiter of whether the proposer has acted 'reasonably' in meeting the needs of stakeholders.

In addition, more clarity will be provided as to what constitutes a "significant" and "non-significant" change and consequently the criteria for re-consultation.

Handling and Recording Consultation Results

More guidance was requested on how a Sponsor must record the results of each round of consultation. A clearer process was needed to direct queries that were not related directly to the Change Sponsor's proposal.

DAP's Response:

The guidance on how to record responses from the consultation exercise will be revised and some completed examples of the Consultation Record Sheet (Annex E to CAP725) will be distributed at the Framework Briefing meeting.

The Directorate will also provide further clarification on the concept of handling queries that arise from the consultation process. However, aspects that arise from the consultation that are not related to the proposed change, such as Government policy, should be forwarded and handled by the appropriate Government Department (e.g. DfT) or indeed the CAA. Handling responses will also be addressed as part of the Framework Briefing meeting.

Feedback

The majority of Consultees believed the process must be as transparent as possible, but highlighted that 'feedback loops' were missing.

DAP's Response:

The Directorate agrees that, within the general spirit of openness and transparency, feedback is important at various stages in the Process. The Change Sponsor must provide feedback on the results of the consultation exercise and at Regulatory Approval; the latter may be a joint undertaking with the Regulator (e.g. press release).

It is acknowledged that an appeal mechanism was not evident in the draft documentation however; an appeal mechanism will be incorporated into the Change Sponsor's consultation documentation (as stated in the Cabinet Office's *Code of Practice on Consultation*). The focus of this mechanism is on the consultation exercise. The revised CAP725 will also detail the Appeal mechanism relating to the Directorate's regulatory approval.

As a Public Corporation, any information request made to the CAA falls within the Freedom of Information Act 2000 (FOIA). Any individual may apply for access to existing documents, e-mails and information held by the CAA. The Act and the Environmental Information Regulations (EIR) demand that the CAA make the information available within 20 working days of receipt of the request. In certain, exceptional, situations Change Sponsors may wish to caveat particularly sensitive information provided as part of the airspace change process. This will aid the CAA in assessing how to handle a particular FOIA request.

Format of Formal Proposal Submission

A number of requests were made regarding the need to set out the format requirements for the submission documentation such as the operational, environmental and consultation reports.

DAP's Response:

Following the steps suggested in the annexes of the revised Airspace Change Process, a Change Sponsor should submit the documentation in a clearly defined structure in order to address the various areas for assessment by the Directorate. The structured report will enable the Directorate to perform an accurate analysis to achieve a well-informed and thorough decision. This is the methodology currently in place for a proposal submission, which a Change Sponsor must follow. The Directorate will reference the format for the submission documentation more clearly.

Criteria for Operational Review

The Consultees requested confirmation of the purpose and the criteria by which the Directorate will assess the operational review at the regulatory approval stage.

DAP's Response:

In essence, the purpose of the Operational Review is for the Directorate to assess and validate the workings of the new airspace arrangements against the rationale behind the change that were provided by the Change Sponsor in its proposal submission.

The exact criteria cannot be determined as it will be specific to each airspace change.

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