

24 February 2014
FOIA reference: F0001828

Dear XXXX

I am writing in respect of your recent request of 14 February 2014, for the release of information held by the Civil Aviation Authority (CAA).

Your request:

"It is my intention to pursue a legal action against Monarch Airlines for rejection of a compensation claim following a flight delay.

I understand that Monarch reported the incident to the CAA following the incident and I now wish to put in a request for dis-identified data under the CAA scheme of Charges. To show evidence of the incident when the case comes to court I need the specific details of the incident on: Flight ZB248 January 16th 2014 ex London Gatwick to Sharm El Sheik".

Our response:

We have assessed your request in line with the provisions of the Freedom of Information Act 2000 (FOIA) and are able to provide the information below.

Incident reports are provided to the CAA under the terms of the Mandatory Occurrence Reporting (MOR) scheme, as described under Article 226 of the Air Navigation Order 2009 (ANO). Each report made is reviewed and, where appropriate, further investigation carried out and action taken.

A report has been filed under the MOR scheme regarding this flight. However, in order to preserve the open reporting culture, which is a vital component of the UK's excellent safety record, information that is provided to the CAA under the MOR scheme, and which relates to a particular person or organisation, is exempt from release under Section 44 (1) (a) of the FOIA.

Section 44 (1) (a) of the FOIA provides that information is exempt from release if its disclosure is prohibited by, or under, any enactment. Under Section 23 of the Civil Aviation Act 1982, information which relates to a particular person (which includes a company or organisation), and has been supplied to the CAA pursuant to an ANO, is prohibited from disclosure. This includes information submitted to the CAA under the MOR scheme. A copy of this exemption can be found below.

Civil Aviation Authority

Aviation House GW Gatwick Airport South Crawley West Sussex England RH6 0YR www.caa.co.uk
Telephone 01293 768512 rick.chatfield@caa.co.uk

In relation to your correspondence with my colleague Kim Savage, and your question as to whether your legal adviser would be able to access the report using 'the powers of the judicial system', although there are a number of exceptions within Section 23 of the Civil Aviation Act 1982 which permit disclosure of information in certain circumstances, none of them would be applicable in this situation

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

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

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
Information Rights and Enquiries Officer

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.