



Department  
for Transport

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To: Jon Round  
Head of Airspace, Air Traffic Management and  
Aerodromes, Civil Aviation Authority

Date: 13<sup>th</sup> November 2018

cc: Tim Johnson, Imogen Brooks

Dear Jon,

**The Civil Aviation Authority (Air Navigation) Directions 2017, Direction 6  
Birmingham Airport airspace design change proposal**

We note that Birmingham Airport has submitted a proposal for a change to airspace design and that the CAA has received a request from a third party ( [REDACTED] ) that the proposal be referred to the Secretary of State for determination by him rather than the CAA. In accordance with The Civil Aviation (Air Navigation) Directions 2017, the Secretary of State must now determine whether one or more of the call-in criteria listed at direction 6(5) have been met before his discretion to call-in the proposal is engaged.

On behalf of the Secretary of State, I request that the CAA provide the Secretary of State with the CAA's assessment whether one or more of the criteria set out in direction 6(5) may be met and whether any of the exclusions in direction 6(6) apply. I also request that, when doing so, the CAA take into account the draft statutory guidance on the call-in criteria which I attach.

Please provide this advice by 11<sup>th</sup> December 2018, which is 7 weeks from the date of publication of the redacted version of the Birmingham proposal on your website (23<sup>rd</sup> October 2018). Please let me know if you are unable to comply with this timeline.

In accordance with paragraph 6.14 of the Air Navigation Guidance, we will seek to advise you and the requestor of our decision as to whether the call-in function is to be exercised by 18<sup>th</sup> December, subject to receiving your advice by 11<sup>th</sup> December.

Yours sincerely,

**Sarah Bishop**



# Department for Transport

## Guidance to the Civil Aviation Authority (CAA) on providing an assessment to the Secretary of State (SofS) as to whether a proposal for a permanent change to airspace design meets one or more of the call-in criteria

### Introduction

1. This document provides guidance to the CAA on its function to provide an assessment to the SofS as to whether a request for the SofS to call-in a proposal for a permanent change to airspace design meets one or more of the criteria set out in Direction 6(5) of the Air Navigation Directions.<sup>1</sup>
2. This document explains how the SofS will apply the call-in criteria and exceptions set out in Direction 6. The decision as to whether the criteria are met, whether the exceptions apply, and whether to exercise any consequential discretion to call-in the proposal remain with the SofS.
3. The call-in function is primarily designed to help ensure the delivery of the Government's objectives which otherwise might not be attained without intervention.
4. This document will be regularly reviewed by Department for Transport (DfT) officials to ensure it remains up to date with government policy.

### Call-in process

5. Any party has four weeks from the date an airspace change proposal is submitted to the CAA for a regulatory decision to request that the final decision on the proposal should be made by the SofS rather than the CAA.
6. The CAA will have a further three weeks (i.e. seven weeks from the date the proposal was submitted) to assess whether the airspace change proposal meets at least one of the criteria.

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<sup>1</sup> The Civil Aviation Authority (Air Navigation) Directions 2017, which came into force on 1 January 2018. The CAA must also have regard to the Air Navigation Guidance 2017, published on 24 October 2017.

7. The CAA will then send to DfT officials the airspace change proposal that one or more third parties has requested to be called-in, together with the CAA's assessment as to whether at least one of the call-in criteria is met. The SofS can use this assessment to inform the final decision on whether the proposal is to be called in.
8. The CAA should alert DfT officials on all of the following occasions:
  - I. **when it has received an airspace change proposal submitted by a sponsor** – within seven working days of the date the proposal was submitted via an automatic notification to the DfT from the CAA's online airspace change portal;
  - II. **when it has received a request to call-in a given airspace change proposal** – within seven working days for the first request, with a list of all subsequent requests made within the call-in timeframe to be provided alongside the CAA's assessment against the call-in criteria of that proposal;
  - III. **when the CAA has made its assessment against the call-in criteria of a proposal that is the subject of a call-in request** – advising the DfT of the conclusions of that assessment within seven weeks of the date the proposal was submitted.

#### Guidance to the CAA on the assessment it should provide to the SofS

9. This document provides guidance to assist the CAA in assessing whether an airspace change proposal meets the call-in criteria. In its assessment, the CAA will set out its view as to whether the proposal meets one or more of the following three criteria.

#### Call-in criterion (a) – Strategic national importance

10. The proposal would be of strategic national importance if it supports or conflicts with the delivery of national policy to the extent that the approval or rejection of the proposal will impact the **overall** delivery of one or more of the following government policies only:
  - I. **an Airports National Policy Statement (NPS)**, for example, if the CAA considers that a proposed airspace change could prevent the successful delivery of on-going or future airspace changes that could increase future capacity as agreed in that NPS;
  - II. **maintaining UK national security**, for example, a proposal that the CAA has been advised by the Ministry of Defence or another government department might have a national security impact on the operations of a site of critical national infrastructure, such as a nuclear installation or prison;
  - III. **the UK's Industrial Strategy as it relates to space ports**, but only where a proposal establishes the airspace needed for operations from the first space

ports designed for sub-orbital use and vertical launchers, and which therefore sets the precedent for future design and airspace change decisions;

- IV. **airspace zones specifically linked to the UK policy on the safe use of drones in the UK**, but only in respect of the first proposal to establish the airspace needed for the use of drones commercially (i.e. excluding testing) and which therefore sets the precedent for future design and airspace change decisions.

11. The DfT will notify the CAA at the point it no longer needs to take one or more of the bullet points in paragraph 10 into account.

Call-in criterion (b) – Could have a significant impact (positive or negative) on the economic growth of the United Kingdom

12. A proposal would have such an impact if it were directly linked to a plan to increase capacity at an airport or airports by more than 10 million passengers a year.<sup>2</sup> This is the passenger threshold used for an airport to be classed as a Nationally Significant Infrastructure Project.

Call-in criterion (c) – Could both lead to a change in noise distribution resulting in a 10,000 net increase in the number of people subjected to a noise level of at least 54 dB  $L_{Aeq\ 16hr}$  and have an identified adverse impact on health and quality of life

13. To enable this criterion to be assessed, the CAA must ensure that a sponsor submitting any airspace change proposal to the CAA for a decision includes either (a) an assessment of whether the 54 dB  $L_{Aeq\ 16hr}$  test set out in criterion c is met, based on satisfactory noise modelling, or (b) where agreed with the CAA, other satisfactory evidence demonstrating that the anticipated change in noise impacts will not meet this criterion.

14. The Air Navigation Guidance 2017 (section 6.7) states that “the CAA must require that the sponsor assesses whether the anticipated noise impact of its proposals will meet the relevant call-in criterion and provide that assessment to the SofS to enable the expected noise impact to be checked and determined by the SofS.” This assessment must be made for all proposals submitted to the CAA for decision after 1 January 2018<sup>3</sup>, including those that are being considered under CAP 725 and against the Air Navigation Guidance 2014.

15. This criterion<sup>4</sup> concerns proposals that have both “a change in noise distribution ...**and**...an identified adverse impact on health and quality of life”. For the purposes of this assessment, the CAA should consider whether any proposal leading to the specified change in noise distribution in criterion (c) will consequently have “an identified adverse impact on health and quality of life” and therefore will meet this criterion.

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<sup>2</sup> This will only apply where the SofS has not already reviewed the change through a planning procedure, as per exception II(a)

<sup>3</sup> Direction 6(6)(d)

<sup>4</sup> Direction 6(5)(c)

## Exceptions

16. Direction 6(6) specifies the following exceptions from the call-in process:

- I. **a proposal which is submitted by, or on behalf of, the Ministry of Defence (MoD).** This would include a proposal jointly submitted with a civilian sponsor;
- II. **a proposal directly related to a planning decision:**
  - a. which has already been determined by the SofS; or
  - b. made by another planning authority which involved detailed consideration of changes to flight paths in UK airspace consequential on the proposed development, which the sponsor has taken into account when developing its proposal.

17. In the case of a proposal that is subject to an exception under paragraph 16 above, the CAA is requested to provide its views as to why the exception applies and no detailed assessment of the call in criteria against the proposal is required.