

CAA/HSE/HSENI Memorandum of Understanding guidance

CAP 1484



Published by the Civil Aviation Authority, 2017

Civil Aviation Authority,
Aviation House,
Gatwick Airport South,
West Sussex,
RH6 0YR.

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First published 2017

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Forward

Purpose of this document

This document provides guidance to Civil Aviation Authority (CAA), Health and Safety Executive (HSE) and Health and Safety Executive Northern Ireland (HSENI) colleagues to support the strategic goals of the CAA/HSE/HSENI Memorandum of Understanding. It provides details on areas of potential enforcement overlap. The guidance will also be of interest to other stakeholders in the aviation industry that may be subject to safety regulation by the CAA, HSE and HSENI.

Guidance in this document

The information contained in this document is guidance and is not to be viewed as providing the definitive structure of health and safety enforcement responsibilities for the CAA, HSE and HSENI. Where there is any doubt colleagues should discuss the issues with the other relevant enforcement body.

Application to Health and Safety Executive Northern Ireland and Northern Ireland Legislation

The principles set out in this document apply to both Great Britain and Northern Ireland. However, to avoid complex referencing throughout this document the specific legislation applying to Northern Ireland is not referenced in this guidance. Those operating in Northern Ireland should ensure they are aware of the equivalent Northern Ireland health and safety legislation made under the Health and Safety at Work (Northern Ireland) Order 1978 when reviewing this guidance. References to HSE should be considered as including HSENI.

Chapter 1

CAA and HSE safety duties and interface arrangements

Scope

1.1 This chapter sets out the overarching functional interfaces between HSE and CAA business areas, providing legislative background, interface arrangements and examples of potential areas of interface. Additional chapters provide greater detail on specific areas of potential enforcement overlap.

1.2 HSE health and safety function

- By agreement HSE is responsible for regulating the occupational health and safety of all work activities on and around an aircraft on the ground, except the activities of crew members whilst they are on board the aircraft.
- The HSE retains enforcement responsibilities for health and safety employee and employer consultation legislation.

1.3 CAA aviation safety function

- 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 crew members and aerodromes.

1.4 CAA occupational health and safety function

- By agreement the CAA is responsible for regulating the occupational health and safety of crew members whilst they are on board an aircraft. For the purposes of occupational health and safety reporting and regulatory consideration, the CAA will monitor events occurring in aircraft while operating outside the UK.

1.5 **CAA aviation health function**

- The CAA is responsible for providing advice and assistance to the Secretary of State for the safeguarding of the health of all persons whilst they are on board UK Registered aircraft.
- The CAA Aviation Health Unit is the focal point for promoting this advice and guidance to Government and other interested parties for health issues that may affect crew members and passengers.

Derivation of legal powers

1.6 **HSE health and safety function**

- 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. They also have duties to protect the health and safety of other persons 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.
- Both the HSWA and regulations made under the Act covering particular hazards or sectors of work require that risks arising from the work activities are controlled, so far as is reasonably practicable.

1.7 **CAA aviation safety function**

- Safety regulatory functions of the Civil Aviation Authority derive from the Civil Aviation Act 1982 and from its designation as the United Kingdom competent authority for the purposes of European aviation safety regulations.
- The detailed powers and obligations for aviation safety functions are set out in Air Navigation Order 2016 (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.

- Additionally Regulation 216/2008 establishes the European Aviation Safety Agency and enables detailed implementing rules to be made. The implementing rules deal with initial aircraft certification, continuing airworthiness, aircrew licensing, aerodrome certification and aircraft operations. For each of these, the CAA is designated as the UK competent authority.

1.8 **CAA occupational health and safety function**

- The CAA's occupational health and safety regulation functions are set out in the Civil Aviation (Working Time) Regulations 2004 (as amended).
- These regulations require that the health and safety of crew members be adequately protected while they are at work for UK registered operators.

1.9 **CAA aviation health function**

- Section 3(c) of the Civil Aviation Act 1982, as amended by the Civil Aviation Act 2006, charges the CAA with a general duty to provide advice and assistance to the Secretary of State and others for the safeguarding of the health of all persons whilst they are on board UK Registered aircraft.

Outline enforcement powers

1.10 **HSE health and safety function**

- 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.

1.11 **CAA aviation safety function**

- To maintain aircraft and flight safety the CAA has powers to 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 not take licence action for punitive reasons.
- CAA 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 to maintain safety.

1.12 **CAA occupational health and safety function**

- To ensure the health and safety of Crew members the CAA has powers to investigate and monitor health and safety activities.
- These powers include the ability to issue improvement or prohibition notices to secure compliance.

1.13 **CAA aviation health function**

- There are no enforcement powers in relation to the Aviation health function.

Potential enforcement actions

- 1.14 Both the CAA and HSE will seek to secure compliance through advice and guidance, but where necessary will use formal enforcement powers, as set out in the table below.

1.15 HSE health and safety function

- HSE inspectors may use formal enforcement mechanisms, including improvement notices, prohibition notices, or ultimately prosecution.

1.16 CAA aviation safety function

- If any provision of the ANO or any Regulations made there under, or any provision of a European Union aviation safety regulation listed in the ANO, is contravened, it is a criminal offence. The CAA will investigate and prosecute such offences as appropriate.

1.17 CAA occupational health and safety function

- If any of the relevant requirements of the Civil Aviation (Working Time) Regulations 2004 are contravened, a criminal offence is committed. The CAA will investigate and prosecute such offences as appropriate.

1.18 CAA aviation health function

- None.

Interface arrangements

1.19 The CAA and HSE will maintain an open dialogue between the inspectorates and liaise and consult on any issues arising on a day to day basis. Contact points are provided in the contact schedule to the MoU.

1.20 Additionally a joint Co-Ordination Group will meet whenever the need arises and normally at least every 12 months. This meeting may include other regulatory bodies such as Local Authorities.

- 1.21 The Terms of Reference for the Join Co-Ordination Group are to keep under review the working of the Memorandum of Understanding, and in particular:
- to consider and, where appropriate, agree to recommendations for interface agreements, put forward at working level, for inclusion as a chapter in this guidance;
 - to resolve any problems referred to the Group arising from the practical application of statutory provisions and responsibilities;
 - to consider operational implications of policy decisions and discuss other matters of common interest;
 - to make recommendations to the signatories for changes to the Memorandum as necessary; and
 - to recognise, and take due account of, the activities of the CAA Aviation Health Unit and interface with the Department for Transport as required.
- 1.22 Membership of the Group will comprise the Policy Lead Aerodromes CAA, HSE Transport Lead, HSENI Transport Lead, and other representatives of these bodies organisations as appropriate. Standing membership will also include the CAA Lead on Civil Aviation (Working Time) Regulations and the Head of the CAA Aviation Health Unit. In the event of the Group's inability to resolve particular issues that may bear on policy matters, the CAA/CAA will refer to the CAA Executive Committee, HSE and HSENI to their Boards for determination of action required.

Potential points of interface between CAA and HSE

- 1.23 To assist inspectors and other stakeholders the table 1 below sets out the possible points of interface between the CAA and HSE. Where appropriate additional in depth guidance is provided in the subsequent chapters in this guidance.

Table 1: Examples that illustrate the agreed division of CAA and HSE responsibilities in respect of aircraft

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Design of aircraft and aircraft systems	Where appropriate approval of aircraft designs, including assessment against relevant national and international aircraft design standards.	No input.	Responding to issues where the occupational health and safety of crew members may adversely impacted by aircraft design.	Raise concerns with CAA CAA on aircraft design that may affect occupational health and safety.
Maintenance activity and modification of aircraft	Maintenance or modifications are undertaken to appropriate standards by competent personnel (see Chapter 8 <i>Aircraft maintenance to the CAA/HSE MOU</i>).	No input.	For crew members while on board, that the maintenance or modification to the aircraft (not affecting its airworthiness) are adequate to ensure their occupational health and safety.	To ensure maintenance and modification activities are undertaken in a manner that any risks arising to health and safety of those undertaking the activity or otherwise affected are controlled, so far as is reasonably practicable.
Aircraft dismantling and scrapping	Spare parts are in serviceable condition for their use and are traceable.	No input.	No input.	Risks to occupational health and safety from dismantling/scrapping activities are being adequately controlled.

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Aircraft baggage and cargo	Aircraft baggage and cargo areas meet and are operated in accordance with the appropriate standards to maintain aircraft flight safety.	No input.	Occupational health and safety risks to crew members on board aircraft are adequately controlled.	Risks to occupational health and safety from baggage and cargo handling activities whilst the aircraft is on the ground are adequately controlled.
Equipment on board aircraft (e.g. galley equipment)	Equipment is adequate to meet the appropriate aircraft design standards in order to maintain airworthiness and training is adequate to use such equipment.	No input.	The use of equipment on board aircraft is adequately controlled to prevent occupational health and safety risks to crew members.	While on the ground the occupational health and safety risks from activities associated with the storage, installation and maintenance of aircraft equipment are being adequately controlled.
Pushback	Safety of the aircraft during pushback.	No input.	Health and safety of crew members during pushback.	Health and safety of ground personnel during pushback.

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Electrical safety of aircraft	Where appropriate ensure the design, installation and maintenance of the aircraft electrical systems meet the relevant standards to assure the safety of the aircraft.	No input.	Electrical systems on aircraft are suitably controlled to assure the health and safety of crew members using them while on board the aircraft.	While on the ground activities related to work on electrical systems on board aircraft is carried out in an appropriate manner to ensure the occupational health and safety of non-crew members.
External aircraft noise	Assessment and certification against appropriate standards of external noise levels generated by aircraft.	No input.	No input.	Effects on health and safety of external noise on ground workers and crew members during external pre-flight checks.
Internal aircraft noise	Ensure that the level of internal noise does not interfere with safety related communication of information on the aircraft.	Advice to Government on the implications of internal noise of aircraft for safeguarding crew and passenger health.	Effects of internal aircraft noise on occupational health and safety of crew members on board aircraft.	Under the Control of Noise at Work Regulations 2005 the HSE will have responsibility for any arrangements for exemption from full and proper use of hearing protection.

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Vibration within aircraft	Where appropriate approval of aircraft designs, including assessment against relevant national and international aircraft design standards to ensure vibration is not detrimental to the aircraft or operation.	Advice to Government and others on the implications of vibration aircraft for safeguarding crew and passenger health.	Effects of vibration on occupational health and safety of crew members on board aircraft are adequately controlled.	Under the Control of Vibration at Work Regulations 2005 the HSE will have responsibility for issue of any exemption certificates for air transport in respect of whole-body vibration.
Competence of crew	Crew are competent to ensure continued safety of the aircraft and its passengers.	Advice to Government and others on the provision of health awareness guidance to crew as required.	Crew members have received adequate information, instruction and training to ensure their occupational health and safety whilst on board the aircraft.	Crew have received adequate information, instruction and training to ensure their health and safety whilst outside the aircraft.

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Crew training activities	Effective training is carried out to maintain competence consistent with safe operation.	Advice to Government and others where appropriate on training to ensure the health of crew and passengers.	Effective training is carried out by crew members to manage occupational health and safety on board the aircraft.	Risks to health and safety during ground-based training are adequately controlled.
Manual handling on board aircraft	Interested only if injury to member of cabin crew through manual handling prevents them from performing their safety functions.	Advice to Government and others where appropriate on manual handling activities to ensure the health of crew.	Manual handling risks to crew members are being adequately controlled.	Manual handling risks to non-crew members are being adequately controlled.
Exposure to hazardous substances within the aircraft	Effect of substances on ability of crewmembers to operate the aircraft. Safe flight and landing.	Advice to Government and others on the possible health implications of exposure to hazardous substances on crew and passengers.	Risks to occupational health and safety to crew members from exposure to hazardous substances are being adequately controlled on board the aircraft.	Risks to occupational health and safety of non-crew members are being adequately controlled.

Subject	CAA safety and airspace regulation group	CAA aviation health unit	CAA aviation occupational health and safety	HSE
Recognition of the rights of appointed health and safety representative	No input.	No input.	No input.	HSE will consider any failure of this recognition in line with HSE enforcement policy.
Violence on board aircraft	Work in liaison with DfT on the systems and procedures required to ensure violence does not affect aircraft safety.	Advice to Government and others on violence on board where appropriate to ensure the health of crew.	Risks to crew members from violence are adequately controlled on board the aircraft.	Occupational health and safety risks to non crew members are adequately controlled.
Accident and incident investigation	Occurrences which endanger or which, if not corrected, would endanger an aircraft, its occupants or any other person, may be reportable to the CAA under the Mandatory Occurrence Reporting scheme (MOR).	Advice to Government and others on accident and incident reports where appropriate to ensure the health of crew and passengers.	Accidents involving personal injury to a crew member while on board aircraft.	Accidents while the aircraft is on the ground involving ground workers or crew members, whether or not reportable to the AAIB.

Chapter 2

Aerodromes

Scope

2.1 This chapter covers the interface between the Health and Safety Executive (HSE) and the Civil Aviation Authority/Safety and Airspace Regulation Group CAA/CAA in relation to health and safety at civil aerodromes.

Legislation

HSE / Local authority remit

2.2 The HSE and relevant Local Government Authorities (LAs) are responsible for enforcing health and safety law at all aerodromes. However, this responsibility is divided between the HSE and LAs and is set out in the Health and Safety (Enforcing Regulations) 1998.

2.3 As a consequence the HSE is responsible for dealing with most activities at airports (see para 2.6), except for:

- Common parts inside buildings, such as areas which are open to members of the public whether passengers or not.
- Organisations whose *main* activity at the airport is:
 - Shops, restaurants or other retail activities.
 - Office activities.
 - Provision of car parking facilities within the airport perimeter.

These activities fall within the remit of the local authorities.

2.4 However, the HSE remains responsible for all activities of the Crown, Police, Local Government and Fire Authorities, wherever those activities take place.

- NOTE:** A common part is that part of the premises used in common by, or for providing common services to, or common facilities for all the occupiers of the premises.
- 2.5 The Regulations do not define 'airport', but the HSE interprets an airport to be any aerodrome, except those used predominantly by private flying clubs, or for entertainment flights.
- 2.6 At aerodromes which are not airports, it will normally be the LA which enforces health and safety legislation. However, at such aerodromes the HSE remains responsible for enforcing health and safety law in relation to:
- All activities of the Crown (including the military), Local Government, Police and Fire Authorities.
 - The following activities if undertaken by persons who do not normally work at the aerodrome:
 - Construction activities.
 - The installation, maintenance and repair of electricity systems up to the supplier's side of the supply meter (but not these activities on the consumer's side of the supply meter).
 - The installation, maintenance and repair of any gas system, or any work in relation to a gas fitting.
 - All activities involving work with ionising radiations.
- 2.7 Regulation of military air safety is the responsibility of the Military Aviation Authority (MAA). The MAA is part of the Ministry of Defence (MOD) but is an independent and autonomous organisation responsible for the regulation, surveillance, inspection and assurance of air safety across Defence.

CAA remit

- 2.8 It is the responsibility of the CAA to ensure that the holders of aerodrome licences or EASA certificates are competent and suitable to exercise the privileges of those licences/certificates. The requirements for an aerodrome to be licensed are described in the Air Navigation Order (as amended) The EASA requirements for aerodromes to be certified are described in EU Basic Regulation 216/2008 as amended.

Interface arrangements

- 2.9 CAA will lead on those issues which concern the safety of aircraft at aerodromes. The HSE will lead on those issues which affect:
- the occupational health, safety and welfare of ground-based workers (including self-employed persons) working airside;
 - the health and safety of other persons who may be affected by ground-based activities.
- 2.10 Where an issue is likely to involve both agencies, there should be appropriate co-operation, initially through the Transportation Section for the HSE and of the Manager Aerodromes for CAA. Operational colleagues will need to liaise locally but must ensure that the HSE Head Transportation section and CAA Manager Aerodromes.
- 2.11 Examples of the division of responsibilities between the HSE/LAs and CAA are given in Table 2.

Unlicensed aerodromes

- 2.12 Although many aerodromes do not need a licence, CAA is still responsible for all applicable matters affecting the safety of aircraft at aerodromes through its regulation of aircraft operations, flying training providers and maintenance competence

Table 2: Examples of CAA and HSE/LA enforcement responsibilities at licensed/certificated aerodromes

Subject	CAA responsibility	HSE/LA responsibility
Aerodrome licensing / certification	All issues.	None.
Aerodrome layout	All issues relating to the effect of aerodrome layout on the safety of aircraft.	All other health and safety issues relating to aerodrome layout.
Aerodrome lighting	Adequacy of lighting systems intended to ensure aircraft safety and their maintenance. Issues relating to lighting which may compromise aircraft safety on and around the aerodrome.	Safety during maintenance and installation of all lighting on the aerodrome. Issues relating to all other lighting on the aerodrome.
Obstructions on and around the aerodrome	All issues relating to obstructions which affect aircraft safety.	Issues relating to obstructions on the aerodrome which affect the safety of persons.
Co-ordination of air traffic and procedures with other aerodromes	All issues.	None.
Aircraft fuelling	Quality, storage and handling of fuel in respect of the safety of the aircraft.	All other issues pertaining to fuel.
Vehicle safety	Adequacy of vehicle maintenance in as far as it affects aircraft safety.	All other issues pertaining to vehicle safety, except those which are the responsibility of the Police.
Driver training	Adequacy in driver training and requirements for driving operations in as far as it affects aircraft safety.	All other issues pertaining to vehicle drivers, except those which are the responsibility of the Police.

Subject	CAA responsibility	HSE/LA responsibility
Bird control activities	The adequacy of bird control.	Health and safety of those involved in bird control.
Airport Rescue and Fire-fighting Services (RFFS)	Adequacy of RFFS.	Health and safety of RFFS personnel, including health and safety during training.
Aircraft maintenance	Adequacy and quality of maintenance and technical competence of those involved.	Health and safety of those involved, including their health and safety training.
Safety of aircraft in flight	See chapter 1.	See chapter 1.
Dangerous goods	See chapter 7.	See chapter 7.
Regulation (EC) No. 1107/2006 <i>in full</i>	This regulation places obligations on travel agents, tour operators and aircraft operators designed to enable a disabled person or a person of reduced mobility (PRM) to travel by air with an electric mobility aid, including the ground handling and carriage of electric mobility aids subject to compliance with dangerous goods requirements. Enforcement and complaints under this legislation are the responsibility of the CAA, the General Consumer Council for Northern Ireland and the Commission for Equality and Human Rights. CAA focuses on the safe handling of the mobility aids (e.g. ensuring batteries are disconnected for flight).	Health and safety of those involved in providing the services to disabled passengers, including their health and safety training, and any other person who may be affected, including passengers.

NOTE: The HSE is responsible for the items listed in Table 2 in relation to licensed aerodromes which are also airports interpreted by Paragraph 2.6. At licensed aerodromes that are not airports, the LA will be responsible for enforcement.

Inspection and accident investigation

HSE remit

- 2.13 HSE may investigate accidents that occur within its area of responsibility and will co-operate with other agencies, as appropriate. HSE seeks to agree with other authorities who should take the lead on an investigation (to avoid unnecessary overlap and time delays) and where there may be a need to act alongside each other, which activities are most appropriately dealt with by each authority.
- 2.14 Therefore, HSE inspectors/LA enforcement officers would not normally take enforcement action on those matters which are subject to legislation enforced by the CAA. This includes matters relating to airworthiness of aircraft and the competence, training and conduct of pilots. However, if HSE inspectors/LA enforcement officers have reason for concern they should report this to the relevant authority.
- 2.15 Except as prohibited by specific statutory requirements, HSE will advise and consult CAA on any incident or finding which might affect the safety of aircraft and will take appropriate action in response to Mandatory Occurrence Reports (MOR) which are referred to it by the CAA.

CAA remit

- 2.16 Except as prohibited by specific statutory requirements, CAA will advise and consult the HSE on any incident, finding or MOR which might affect the safety of persons working at aerodromes or affected by ground-based activities. CAA will co-operate with other agencies in the investigation of accidents and incidents.

NOTE: The agency charged with investigating accidents and incidents to aircraft is the DfT Air Accident Investigation Branch (AAIB).

Chapter 3

Offshore operations

Scope

- 3.1 This chapter covers the interface between the Health and Safety Executive (HSE) and the Civil Aviation Authority (CAA) in relation to helicopter operations on and in the vicinity of offshore installations. Offshore installations include renewable energy structures such as (offshore) wind turbines.

Legislation

- 3.2 This agreement recognises that the HSE and the CAA share regulatory responsibility for aspects of offshore safety:
- HSE regulates the safety of activities on offshore installations and activities in connection with offshore installations;
 - CAA regulates the safety of Air Operator Certificated (AOC) helicopter operators that support offshore installations; including helicopter ground handling services provided offshore, civil AOC helicopter search and rescue operators and the shipment of dangerous goods for carriage by air from offshore installations and vessels.

HSE remit

- 3.3 HSE regulates the provision of suitable arrangements for the provision of a safe operating environment for helicopters on or in the vicinity of installations, including the delivery of arrangements for dealing with emergencies. Such regulation includes the acceptance of duty holders' safety cases.

CAA remit

- 3.4 CAA has the responsibility to ensure that offshore helicopter operators are competent to conduct safe helicopter operations enabling them to meet their legal requirements for the safe transportation of passengers. This responsibility covers all regulatory aspects of the areas concerning the airworthiness of aircraft and the safety of flight operations and helicopter ground handling.
- 3.5 CAA places a duty through the Air Navigation Order and through EU Air Operations Regulations on helicopter operators to permit flights only to suitable landing areas and to satisfy themselves that a safe operating environment is in place. Guidance on standards for offshore helidecks and associated facilities to assist helicopter operators and offshore installation duty holders is provided in the CAA document, '[Standards for Offshore Helicopter Landing Areas: \(CAP 437\)](#)'. This document is regarded as the accepted standard for installation duty holders by HSE. CAA also regulates the occupational health and safety of crew members while on board the aircraft.

Interface

- 3.6 The interface for offshore helicopter operational safety occurs on the helideck/winch area and during associated activities and in connection with the operation of facilities necessary to support safe operations on or in the vicinity of the installation.
- 3.7 CAA will lead on issues that concern the safety of the helicopter operations for operators holding an Air Operator Certificate (AOC) supporting offshore installations, including civil helicopter search and rescue operators and the competence of the helicopter crews. The CAA will be responsible for providing the functional specification for offshore helidecks, with HSE acting within its remit at the design stage to ensure that these are delivered by the installation's structure and systems, and during operation to influence the safe management of helideck operations.

3.8 The interface between the CAA and the HSE with respect to dangerous goods in transit at aerodromes is set out in Chapter 7 of this guidance. With regards to the responsibilities established within the ICAO Technical Instructions that are discharged by personnel of offshore installations, the CAA regulatory oversight will include:

- auditing the training of installation personnel who:
- prepare consignments of dangerous goods for transport by air
- accept dangerous goods or other cargo for transport by air
- process passengers
- load baggage or cargo;
- auditing compliance with the requirements for the carriage of dangerous goods by air and the provision of information to passengers, etc. as established by the ICAO Technical Instructions; and
- enforcement of the Air Navigation (Dangerous Goods) Regulations and regulation 965/2012 in so far as it imposes dangerous goods requirements on aircraft operators (while the HSE will lead on any issues covered by HSE Dangerous Goods legislation).

3.9 The HSE and the CAA will co-operate on any matters of relevance to the responsibilities of both organisations. For this purpose the HSE and CAA will:

- identify appropriate points of contact to be responsible for the exchange of information and the management of HSE/CAA interfaces on operational matters;
- maintain regular liaison between the parties to ensure that matters of mutual interest are discussed in a timely fashion, particularly those concerning accidents, incidents and reported occurrences;
- participate in appropriate aviation forums e.g. the Offshore Helicopter Safety Action Group (OHSAG).

Accident and incident investigation

3.10 HSE will investigate accidents and incidents which occur within its area of responsibility and will co-operate and liaise with other interested parties, including the CAA and the DfT Air Accident Investigation Branch (AAIB), as appropriate.

3.11 CAA will co-operate with other interested parties, including the HSE, in relation to events on and in the vicinity of offshore installations in the investigation of accidents and incidents including any accidents or incidents associated with any civil airborne search and rescue activity.

NOTE: The appropriate lead agency in the investigation of all aircraft accidents is normally the DfT Air Accident Investigation Branch (AAIB). However there may be occasions when it is appropriate for HSE to conduct a separate parallel investigation for accidents which occur within HSE's area of responsibility. In this event the HSE will notify the CAA that a separate parallel investigation is being conducted by them.

Exchange of information

3.12 HSE will advise and consult CAA on reported incidents and other issues, including inspection findings which may affect the safety of offshore helicopter operations.

3.13 CAA will advise and consult HSE on reported incidents and other issues, including inspection findings and Mandatory Occurrence Reports (MORs) which may have implications for the safe conduct of helicopter operations on or in the vicinity of offshore installations.

3.14 In the case of any incident or accident that spans each other's areas of responsibility the CAA and the HSE will form a collaborative working group to ensure appropriate specialist input and to ensure the avoidance of unnecessary duplication of regulatory activity.

3.15 Organisational points of contact are set out in the MoU Contacts Schedule.

Research

- 3.16 HSE and CAA will co-operate in offshore-related research topics of mutual interest. Where appropriate, research intended to quantify/improve aviation safety on or in the vicinity of offshore installations, where appropriate, will be project managed by CAA and funded by both HSE and CAA, either jointly or independently.

Chapter 4

Third party risks

Scope

- 4.1 The CAA oversees the safety of aircraft and air navigation, the control of air traffic, and the licensing of aerodromes and air crew. This will tend to provide a safe environment generally.
- 4.2 However, air travel, as with all other forms of transport, presents safety risks to consumers (those on board aircraft) and the public (third parties).
- 4.3 This chapter covers the interface between CAA, HSE and others with respect to Third Party Risk. Third Party Risk can be categorised as **individual risk** and **societal risk**.

Individual public risk: People living, working or travelling near the ends of airport runways face an increased risk of death or serious injury as the result of an aircraft crash compared with the general population. Individual risk is the probability (per year) that a person permanently residing at a particular location in the area around the airport is killed as a direct consequence of an aircraft accident. The DfT's current policy for minimising this risk – Public Safety Zone (PSZ) policy – imposes planning restrictions in those areas where the risk is highest, in order to limit the number of people exposed to it.

- 4.4 Public Safety Zones (PSZs) are areas of land at the ends of the runways at the busiest UK airports within which development is restricted in order to control the number of people on the ground at risk of death or injury in the event of an aircraft accident on take-off or landing. There are currently 31 UK airports with PSZs.
- 4.5 In 2010 the responsibility for day to day administration of the Government's PSZ policy was transferred from the Department of Transport (DfT) to the Civil Aviation Authority (CAA). The DfT retain overall policy responsibility for PSZs. The PSZ policy itself and the

guidance in the DfT Circular 01/2010 to local planning authorities, who apply the PSZ policy, remains the same.

Table 3: Individual risk summary

Organisation	Role
DfT	Responsible for setting PSZ policy (circular 01/2010) and guidance.
CAA	Administration of the DfT PSZ Policy. Responsible for the implementation of new PSZs and the review and update of existing PSZs.
Local authorities	Restrict development with PSZ's in order to control the number of people at risk of death or injury.
HSE	No role.

Societal risk: Is the probability per year of a number of third party victims due to an aircraft accident. Societal risk is therefore generally higher where densely populated areas are overflowed more frequently. Societal risk is usually considered during planning inquiries where significant changes to traffic volume are likely to occur (but could also be a topic for public inquiries following a major incident).

- 4.6 The responsibility for judging the tolerability of risk lies with the decision maker who is able to weigh the benefits of a proposal against the safety risks. For example, the decision maker could be the Government developing a National Policy Statement on aviation, or Planning Authorities considering specific airport planning applications.

Table 4: Societal risk summary

Organisation	Role
Government	Weighs the benefits against risks when setting aviation policy.
Planning authorities	Weighs the benefits against risks when considering airport development proposals.
CAA	No specific policy role or guidance. Can provide support to aid the decision maker e.g. statistics.
HSE	No specific policy role or guidance. Can provide bespoke risk assessment support and advice via the Health and Safety Laboratory.

Interface

- 4.7 The CAA can provide support and advice to assist in the decision making process, for example by providing traffic or accident statistics.
- 4.8 The HSE have previously produced guidance on the tolerability of industrial accidents in their publication 'Reducing Risk, Protecting People – 2001'. This explains the HSE's decision making process and does not represent specific aviation third party risk tolerability guidance.
- 4.9 The HSE do not currently have a general policy or guidance documentation in relation to aviation related third party risks, however the Health and Safety Laboratory (part of HSE's Science Directorate) do offer bespoke expert risk assessment support and advice as part of their portfolio of technical services.

Chapter 5

Air traffic services

Scope

- 5.1 This chapter covers the interface between the Health and Safety Executive (HSE) and the CAA Safety and Airspace Regulation Group (CAA) in relation to Air Traffic Service (ATS) facilities.

Legislation

HSE remit

- 5.2 The HSE is responsible for enforcing health and safety law at ATS facilities.
- 5.3 Relevant legislation is occupational health and safety legislation under The Health and Safety at Work etc Act 1974 and relates to the health and safety of employees, the self-employed and any other person who may be affected by the undertaking, including visitors to ATS facilities, contractors etc.
- 5.4 The legislation will generally apply to the workplace and infrastructure, maintenance and construction activities.

CAA remit

- 5.5 Relevant legislation initiated by the European Union (EU) or by the UK that is enforced by the CAA in relation to ATS facilities is set out either in the EU legislation (and the associated Acceptable Means of Compliance and Guidance Material) or in Articles contained in the Air Navigation Order 2016. The legislation is designed to ensure that the service provided to aircraft is safe. The legislation is amplified and interpreted in documents published by the CAA in the Civil Aviation Publication (CAP) series.

- 5.6 There are two levels of ATS in the UK (ATC & FISO):
- *Air Traffic Control (ATC) service* that can be provided from an air traffic control centre or from an aerodrome (including a flight information service where this is provided concurrently);
 - *Flight Information Service (FIS)* that is provided from an aerodrome (and occasionally in support of other aviation activity remote from an aerodrome).
- 5.7 Many smaller aerodromes and unlicensed/licensed aviation sites do not have air traffic services but do provide an Air/Ground Communication Service:
- *Air/Ground Communication Service (A/GCS)* that can be provided from an aerodrome (and occasionally in support of other aviation activity remote from an aerodrome).
 - *Offshore Communication Service (OCS)* that can be provided from an offshore facility broadly similar to an Air/Ground Communication Service and which falls within the scope of Chapter 3 of the HSE/CAA MoU.
- NOTE:** A/GCS is subject only to UK regulations.
- 5.8 In addition, a number of services (e.g. national communications and radar networks) are required to support the provision of an ATC service. Some support services are provided at the same site that the ATC service is provided from, others are at remote locations.
- 5.9 The relevant primary ATS provision EU legislation is:
- *Commission Implementing regulation (EU) No 1034/2011* on safety oversight in air traffic management and air navigation.
 - *Commission Implementing regulation (EU) No 1035/2011* laying down common requirements for the provision of air traffic services.

- 5.10 The relevant Air Navigation Order 2016 sections are summarised below:
- *Requirement for an air traffic control approval* – requires any person (or organisation) to be approved by the CAA before an ATC service is provided. Approval is granted if the CAA is satisfied that the person is competent to provide a service which is safe for use by aircraft.
 - *Prohibition of acting under the influence of psychoactive substances or medicines* – prevents an air traffic controller from providing a service whilst under the influence of drink or a drug to such an extent as to impair his/her capacity to provide a safe service. (Additional requirements exist under Railways and Transport Safety Act enforced by the Police.)
 - *Fatigue of air traffic controllers* – prevents an air traffic controller providing a service whilst suffering fatigue that may endanger the safety of any aircraft that is receiving a service.

NOTE: A scheme to regulate the working hours of air traffic controllers is in place (SRATCOH).

- *Air traffic service equipment* – requires equipment used to support the provision of an ATC service to be approved by the CAA.
- 5.11 [CAP1180 “State Safety Programme for the UK”](#) is also a useful reference in particular Attachment 1 that provides a description of 'UK Aviation Safety Regulatory Legal Framework'. The document is jointly produced by DfT and CAA and is carried on both websites.
- 5.12 Operators of A/GCS and OCS Aeronautical (Ground) Radio Stations are required to hold a Certificate of Competence issued by the CAA and signed by the Wireless Telegraphy (WT) Act licensee thereby granting authority to operate.

Interface arrangements

- 5.13 CAA will lead on those issues which concern the safety of aircraft and which concern the safety of the service provided to aircraft.
- 5.14 The HSE will lead on those issues which affect:
- the occupational health and safety of employees (including self-employed persons) working at an ATS facility;
 - the health and safety of other persons who may working at an ATS facility.
- 5.15 Where an issue is likely to involve both agencies, there should be appropriate co-operation, initially through CAA AAA Manager Air Traffic Management (ATM) and HSE Head of Transportation.
- 5.16 If a HSE representative wishes to raise an issue related to the provision of ATS that he/she believes requires consideration of regulatory action by CAA, the point of contact is the CAA AAA Manager ATM.
- 5.17 If an CAA representative wishes to raise an issue within an ATS facility that he/she believes requires consideration of enforcement action by the HSE, the point of contact is The Head of Transportation Section.
- 5.18 Examples of the division of responsibilities between the HSE and CAA are given in Table 4.

Inspection and incident investigation

HSE remit

- 5.19 HSE will undertake inspections of ATS facilities according to its current plan of work and priorities for routine inspection, and policy on investigation of complaints from employees or others regarding health and safety standards.

- 5.20 HSE may also investigate complaints from staff at ATS facilities, other companies and members of the public relating to occupational health and safety issues, subject to its complaints procedure and Enforcement Policy,

CAA remit

- 5.21 CAA will conduct inspection and audit of ATS facilities for the purpose of ensuring that the services provided are safe for use by aircraft.
- 5.22 Any incident in which the safety of aircraft or the routine provision of the ATS is involved will be subject to investigation by CAA or, as appropriate, DfT AAIB.

Accident investigation

HSE remit

- 5.23 HSE will investigate accidents and cases of ill health reportable under Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR) according to the HSE policy on accident selection and investigation.

CAA remit

- 5.24 Where relevant, CAA will co-operate with HSE in the investigation of accidents and incidents within ATS facilities that fall within the terms of health and safety legislation.
- 5.25 CAA will investigate incidents in which personnel, equipment or procedures may have contributed to the reduction of the level of safety of the air traffic service. Where appropriate, CAA will require/suggest/authorise remedial action.

Relationship with AAIB

- 5.26 In the event of an aircraft accident or serious incident involving an aircraft, both CAA and HSE will assist any AAIB investigation.

Table 5: Division of responsibilities between the HSA and CAA in air traffic environment

Subject	CAA responsibility	HSE responsibility
ATS personnel licensing	All issues.	None.
Co-ordination of air traffic service procedures between ATS facilities or individual ATS staff, with aerodromes and with other agencies	All issues.	None.
The effect of drugs or alcohol	All issues associated with the ability to provide a safe air traffic control service.	Issues where the health and safety of individuals in the workplace are put at risk. Additional guidance on this topic is available.
Display screen equipment including radar screens, computers etc.	All issues related to the suitability of the DSE to support the provision of a safe air traffic service.	Aspects of the design, operation and maintenance of display screens and workstations that affect the health and safety of users (the DSE Regulations).
Working environment and equipment	To gain assurance that the environment permits a safe service to be provided to aircraft (or to provide a support service).	Regulatory oversight of the controls of risks to health and safety arising from the working environment and equipment. Risks to be controlled in relation to employees or any other person who may be affected at the ATS facility.

Subject	CAA responsibility	HSE responsibility
<p>Construction and Maintenance activities/ work of ATS engineers/ contractors</p>	<p>Gaining assurance that the air traffic service provider organisation has procedures in place:</p> <ul style="list-style-type: none"> ▪ to identify the hazards involved (with respect to the provision of the air traffic service); ▪ to assess the risks associated with the work; and ▪ to manage the risks such that they will not adversely affect the provision of a safe air traffic service. 	<p>To ensure that construction and maintenance activities are planned and undertaken to avoid risks to the construction/maintenance workers and any other individuals in the workplace, including electrical safety, control of asbestos, segregation of work areas etc.</p>
<p>Emergency evacuation of ATS facilities</p>	<p>All issues relating to the continued provision of a safe air traffic service until such time as the service can be withdrawn in a safe and orderly manner.</p> <p>NOTE: Subject to conditions and regulations specified or required by the relevant Fire Authority.</p>	<p>Issues related to the health and safety of individuals as they evacuate the facility.</p> <p>Issues related to the continued health and safety of any individuals that are required to remain within the ATS facility for a period in order to manage the withdrawal of the air traffic service.</p> <p>NOTE: Subject to conditions and regulations specified or required by the relevant Fire Authority.</p>

Chapter 6

Flying for personal transportation, recreational flying and parachuting

Scope

6.1 This chapter outlines the interface between the HSE and the CAA in relation to the health and safety of persons involved with, or affected by, flying for personal transportation, recreational flying activities and parachuting. These activities include:

- Captive balloons
- Flying displays (including model aircraft)
- Gliding
- Hang-gliding
- Hot-air ballooning
- Light aircraft flying (including microlights, Gyroplanes and helicopters)
- Paragliding and parascending
- Launching of rockets
- Also included are related training activities.

Legislation

CAA remit

6.2 The CAA is responsible, under the terms of the Civil Aviation Act and the Air Navigation Order (ANO), and where applicable, European Union regulations for generally regulating the safety of all aviation activities.

6.3 In all cases overall responsibility for the safe regulation of the flying activity remains with the CAA, however the CAA recognises the important role played by the governing bodies of sport. The degree of self-regulation exercised by these sporting bodies is not the same for each activity.

HSE/Local authority remit

- 6.4 The HSE and the relevant Local Authority (LA) are responsible for enforcing health and safety law at all premises. Detail is contained in the Health and Safety Enforcing regulations and associated guidance.
- 6.5 HSE seeks to agree with other authorities who should take the lead on an investigation (to avoid unnecessary overlap and time delays) and where there may be a need to act alongside each other, which activities are most appropriately dealt with by each authority. The following principles are considered when deciding whether it is suitable to take the lead on an investigation:
- **Effectiveness:** Which authority is best equipped, including appropriate powers, to investigate the alleged risks?
 - **Capability:** is the other body capable of ensuring public safety? Does it have the enforcement powers necessary to do so?
 - **Health and safety expertise:** Which body knows most about the risks concerned and the effective control measures?
 - **Economy:** Is either body already inspecting/visiting the premises or activity in question? Can duplicate visits be avoided?
 - **Efficiency:** Is health and safety enforcing authority involvement a good use of resources when considered against the scale of risk or level of public concern?
- 6.6 Therefore, HSE inspectors/LA enforcement officers would not normally take enforcement action on those matters which are subject to legislation enforced by the CAA. This includes matters relating to airworthiness of aircraft and the competence, training and conduct of pilots. However, if HSE/LA inspectors have reason for concern they should report this to the relevant authority.
- 6.7 Many recreational and personal transport flying activities provide employment, either in connection with the main activities or as a sideline. Chapter 1 to this guidance gives details of the appropriate application of legislation

- 6.8 There are certain circumstances in which the HSE/LA may become involved in investigations into accidents. For example, civilian parachuting accidents must be reported to AAIB only if the accident occurs while the injured party is in or upon an aircraft or by direct contact with any part of an aircraft. Accidents are reportable to the HSE/LA when they arise out of or in connection with work.
- 6.9 If HSE/LA inspectors have reason to believe that a parachute centre, club or team may be operating in such a way as to endanger the safety of non-employees including the public, they should inform CAA General Aviation Unit
- 6.10 Accidents to Ministry Of Defence (MOD) service personnel whilst on duty in Great Britain are not reportable under the Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR), but accidents to civilians taking part in MoD sponsored parachuting, and accidents involving other persons who may be affected (e.g. third parties injured by a parachutist) are reportable.
- 6.11 However, it has been agreed with HSE that MOD will voluntarily report work related fatalities and serious incidents to service personnel.
- 6.12 Any incidents involving MOD personnel or civilian members of MOD sponsored parachuting clubs, or members of the public affected by MOD activities, should be addressed to the HSE Public Services Sector (MOD lead) in the first instance.

The interface

- 6.13 The CAA will lead on those issues which concern the conduct of any flying activity itself where it has a regulatory responsibility. The HSE/LA will lead on those issues which concern the safety of premises and ground-based activities which involve employment, the self-employed or the provision of non-domestic premises as a place of work. Table 1 provides examples of how activities are split between HSE/LAs and CAA

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- 6.14 Where an issue is likely to involve both agencies, there should be appropriate co-operation, initially through the Head of the General Aviation Unit Department for the CAA and the appropriate HSE Unit or Section. Details are set out in the MoU Contacts Schedule
- 6.15 Table 5 highlights those activities where more specific arrangements may affect the division of responsibilities between HSE/LAs and the CAA

Table 6: Examples of Specific arrangements which may affect the division of CAA and HSE/LA responsibilities in recreational and personal transport flying etc. Additional guidance on the application of health and safety law to private clubs can be found on the HSE website

Subject	CAA responsibility	HSE/LA responsibility
Captive (helium) passenger balloons	Airspace matters and airworthiness only.	As for fairground equipment. See HSG175 Fairgrounds and Amusement Parks - Guidance on safe practice.
Flying displays – civil events	Subject to terms of CAA permission. Requirements in CAP 403 focus on safe operation of aircraft.	All other issues which affect the safety of persons.
Gliding	Airworthiness for EASA gliders only.	Enforcement of health and safety law in relation to work activities on the ground.
Hang-gliding	No CAA involvement.	As above.
Hot-air ballooning – passenger rides	Regulated under the Air Operator’s Certificate (AOC) scheme, and Airworthiness.	As above. Also health and safety of persons not connected with the airworthiness of the balloon or the conduct of the pilot.
Hot-air ballooning – private	Airworthiness.	Enforcement of health and safety law in relation to work activities on the ground.

Subject	CAA responsibility	HSE/LA responsibility
Light aircraft flying – aeroplanes and helicopters	Airworthiness.	As above. Also health and safety of persons not connected with the airworthiness of the aircraft or the conduct of the pilot where work activities are involved.
Microlight flying	Airworthiness only, not including Microlights with single seat and less than 115Kg empty weight.	Enforcement of health and safety law in relation to work activities on the ground.
Model aircraft/small unmanned aircraft	Operational rules under the Air navigation Order apply. In addition commercial operations require a permission from the CAA.	As above.
Parachuting – from civil aircraft	Operators must hold CAA permission - similar to a licence. Airworthiness of aircraft and activity leading to a parachuting permission.	Enforcement of health and safety law in relation to work activities on the ground. Enforcement of health and safety law in relation to some aspects of parachuting (see paragraph 6.7).
Parachuting (or abseiling) – from military aircraft	No CAA involvement.	Refer to HSE Public Services Sector (MOD lead).

Subject	CAA responsibility	HSE/LA responsibility
Paragliding/parascending	No CAA involvement	Enforcement of health and safety law in relation to work activities on the ground.
Powered hang-gliders/paragliders	No CAA involvement.	As above.
Rockets	Airspace matters only.	Refer to HSE Explosives Inspectorate.
Ground displays by aircraft not holding a certificate of Airworthiness or Permit to Flight with no intention to get airborne (e.g. taxiing of large aircraft)	No CAA Involvement. CAA remit only covers aircraft intending to fly.	Enforcement of health and safety law in relation to work activities on the ground.

Chapter 7

Dangerous goods in transit at aerodromes

Scope

- 7.1 The responsibilities and functions of the CAA and HSE concerning dangerous goods in transit (including temporary storage) are clearly set down in legislation. In general the CAA has regulatory interest in dangerous goods that may affect the safety of aircraft and the people within the aircraft when in flight. The HSE has regulatory interest in dangerous goods when they are not in flight and also when they are transported by land. However, there are circumstances where both organisations have an interest, and this Chapter seeks to identify simple operational guidelines as to which enforcing authority should lead in different situations. It notes that sharing of information will be beneficial in some circumstances.
- 7.2 Dangerous substances that are not in transit but are at airports for other reasons (e.g. dangerous goods that are being used by an organisation) are not included, since the enforcement responsibility will always fall to the HSE, or where the Local Authority enforces the Health and Safety at Work Legislation, the Local Authority.
- NOTE:** All regulations relating to the security of dangerous goods will, as with all other cargo, be enforced by the Department for Transport (DfT) except for security regulations relating to the land transport of radioactive materials. Enforcement of the latter is the responsibility of the Department of Energy and Climate Change (DECC) which has in turn delegated the function to Office for Nuclear Regulation (ONR). Operational responsibility for the function rests with the ONR statutory Public Corporation. ONR also approves package designs on behalf of CAA, for purposes of transporting radioactive materials by air, but such approval functions are outside the scope of this chapter.

- 7.3 It is recognised that the classifications of dangerous goods issued by HSE under ADR¹ are valid for all modes of international transport subject to compliance with the terms and any special conditions of the Modal Transport Regulations, including the ICAO Technical Instructions.

Legislation

HSE/Local authorities remit

- 7.4 The general legal requirements are set out in the main Memorandum of Understanding (MoU). In addition, there are regulations which make specific requirements which are relevant to dangerous goods in transit, such as the Ionising Radiations Regulations 1999 (relevant to storage and use of radioactive substances), the Explosives Regulations 2014, Dangerous Substances and Explosive Atmospheres Regulations (DSEAR) 2002 and Radiation (Emergency Preparedness and Public Information) Regulations (REPPIR) 2001.
- 7.5 HSE also enforces the legislation for the road transport of dangerous goods other than radioactive materials that might precede or follow on from an air journey.
- 7.6 The road and rail transportation of radioactive materials, is enforced by ONR on behalf of DECC. Air transport is regulated by the CAA however, ONR will be consulted on any surface transport breaches associated with the occurrence if they occurred within the UK.
- 7.7 The Office of Rail Regulation (ORR) is responsible for enforcing the transport of dangerous goods by rail that might precede or follow on from an air journey. Overall policy responsibility for dangerous goods legislation rests with the Department for Transport.
- 7.8 Although the requirements for the transport of dangerous goods in each mode (air, road, rail) are closely aligned, there are some differences.

¹ “Accord européen relatif au transport international des marchandises dangereuses par route”, known as ADR.

However, dangerous goods which are intended to be, or have just been, transported by the air mode are deemed to comply with the relevant parts of the land transport regulations provided that the goods are classified, packaged, labelled and documented in accordance with the International Civil Aviation Organisation (ICAO) Technical Instructions (see 7.9).

CAA remit

- 7.9 The CAA is responsible for enforcing the requirements for the carriage of dangerous goods by air. The requirements are set out in the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air which are implemented in the UK by the Air Navigation (Dangerous Goods) Regulations 2002 (SI 2786) as amended. The ICAO Technical Instructions derive from the UN Recommendations on the Transport of Dangerous Goods.
- 7.10 The investigation of civil aviation accidents is covered by the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996, which are enforced by the Air Accidents Investigations Branch (AAIB). The full responsibilities of the AAIB are not dealt with in this MoU but it should be noted that they may impinge upon the activities of both HSE and CAA in certain circumstances. Typical examples of where the CAA might investigate a dangerous goods incident are:
- when dangerous goods are found undeclared in cargo
 - when a package of dangerous goods is found not to be in accordance with the packing method;
 - the packaging is found not to be in conformity with the test report for the type; or
 - It is less likely that the AAIB will become involved in the investigation of a dangerous goods incident than the CAA, but they may do so when an incident occurs on an aircraft, for example a leakage of dangerous goods in cargo, or in the case of an accident for example, where people are seriously injured or killed and/or an aircraft is substantially damaged.

CAA and HSE remit

7.11 Incidents involving dangerous goods which are being, or have been transported by air, are likely to be found at airports in a number of areas as shown in the table below. Probably the simplest means of deciding whether HSE or the CAA legislation should be invoked is to ask the question: “At any time could flight safety have been adversely affected?”

7.12 If the answer to the question is yes, then the CAA legislation should take priority. However there may be some areas of uncertainty and the ‘Likely remit’ column in the table below sets out which enforcing authority is likely to have the primary interest.

Table 7: Dangerous goods likely lead enforcement agency

Location at airport	Likely remit
Those in transit on an aircraft	These are normally in the province of the CAA, particularly if the safety of the aircraft, or safety of people on board the aircraft when in flight, is at risk. If a leak or spill affects people when the aircraft is on the ground, the HSE or local authority may have an enforcement role.
Those loaded on or waiting offloading from a stationary aircraft	
Those which have been carried by air and which have been unloaded from the aircraft and are being carried by vehicle to the operator's or handling agent's freight shed	These are normally in the province of the HSE or Local Authority, since any incident is likely to affect ground workers. However, the CAA may have an interest if a defect or legal infringement could have occurred on the aircraft or resulted in an incident occurring in flight.
Those which are being carried by vehicle from the operator's or handling agent's freight shed for loading on an aircraft (if not on the public roads where police and DVSA would regulate)	
Those in the operator's or handling agent's freight shed which have been delivered for carriage by air or which have been carried by air and are awaiting collection	These activities are likely to be in the province of both the HSE and CAA, with HSE/Local Authority interest being related to their ability to cause injury or harm to

Location at airport	Likely remit
	<p>workers and CAA interest being related to confirming their compliance with all appropriate air transport requirements.</p> <p>The CAA may have an interest if evidence comes to light which suggests that they may endanger the safety of an aircraft if carried in their present state or did endanger the safety of an aircraft by being carried in a particular state.</p>
<p>Those in the premises of packing companies, freight agents, etc., which are intended for air transport or which have been carried by air and collected from the freight shed of the operator or handling agent</p>	<p>These activities will not create any responsibilities under CAA legislation and so regulatory responsibility will fall only to the HSE or Local Authority.</p>
<p>Those in transit, on a road vehicle (or rail wagon), either being delivered to the operator's or handling agent's freight shed or other premises or having been collected from the freight shed or other premises</p>	<p>These activities are not included in this MoU, and although the HSE has the enforcement lead under Carriage of Dangerous Goods, the Police and DVSA carry out the primary 'on road' enforcement for public road transport of dangerous goods. ONR might also be involved if the goods are radioactive.</p>

7.13 Chapter 2 to this CAP, 'Aerodromes', identifies the remits of the HSE and CAA in inspection and incident investigation, including taking action on the CAA's Mandatory Occurrence Reports (MORs). It should be noted that dangerous goods incidents may be reported initially through the MOR procedure or found during inspections by either HSE or CAA and the actions identified in Chapter 2 apply.

7.14 It is also important to note that if a serious breach of the Technical Instructions is found after air transportation of dangerous goods, and the serious breach arises from the method of carriage of the dangerous

goods, or the way in which the dangerous goods were packed etc, the CAA are obliged to notify the national aviation authority in the originating country.

Liaison between HSE and CAA

7.15 When necessary, HSE and the CAA will liaise on matters of joint interest or on any matter which does not appear to be covered by this chapter. For example liaison might take place when an incident appears to be a breach of both HSE and CAA enforced legislation. Should a joint investigation be necessary, the liaison will ensure that neither organisation, through their actions, prejudices the investigation being carried out by the other.

Examples where information could be shared

7.16 The following lists give examples of where there may be an interest in sharing information with either the CAA or the HSE. The main MoU sets out the principles and means of exchanging information between the two organisations.

7.17 HSE to be informed:

- inadequate or unsafe storage of dangerous goods (eg: unsafe stacking - but this might include non-dangerous goods as well);
- unintentional release, or leakage, of a dangerous substance (other than in an aircraft which is under the control of the Flight Crew);
- handling procedures in freight sheds etc which have, or could have, resulted in people being exposed to dangerous goods;
- where consignments of explosives cannot be transferred to the aircraft within twenty four hours and no licensed storage available. If the consignment is less than 2000 Kgs, instead of the HSE the following should be informed:
 - the local authority if the explosives are listed in Schedule 1 of the Control of Explosives Regulations 1991 (COER); or
 - the Police if the explosives are not listed in Schedule 1 of COER.

- Inadequately shielded radioactive materials being kept too close to persons should be shared with ONR.

7.18 CAA to be informed:

- processing of damaged/leaking packages for loading on an aircraft;
- processing of packages without due recognition of the contents as dangerous goods;
- labelling/marketing of packages found to be unsuitable for an air journey;
- packaging and transport documents found to be unsuitable for an air journey;
- leakage of dangerous goods in an aircraft at any time;
- Inadequately shielded radioactive materials being kept too close to persons (other than in an aircraft which is under the control of the Flight Crew) should be referred to the ONR.

Policy development

7.19 The DfT take the overall policy lead on the transportation of dangerous goods by all modes. Nevertheless the CAA take the specific lead on the air transportation of dangerous goods and HSE (and ONR where appropriate) provide technical and policy input to DfT on the land based modes of transport. All parties are invited to attend the other authorities' briefing meetings to ensure that there is no conflict between the transport requirements.

7.20 For surface transportation of dangerous goods, DfT has overall policy responsibility while HSE is responsible for enforcement policy.

7.21 The points of contact in the MoU Contact Schedule should be used in the first instance for all matters covered by this MoU.

Chapter 8

Aircraft maintenance

Scope

8.1 This chapter covers the interface between HSE and CAA with respect to aircraft maintenance activities.

Legislation

HSE remit

8.2 HSE enforces the law on health and safety at work during aircraft maintenance activities, wherever they take place within Great Britain (GB).

CAA remit

8.3 CAA regulates aircraft maintenance organisations in order to ensure that aircraft are fit to make the intended flight.

8.4 EC Regulation 216/2008 requires that the maintenance of aircraft, products and components will be certificated by qualified persons or organisations.

8.5 Engineers' licences and organisation approvals are issued in accordance with Regulation (EU) 1322/2014. In the UK, these approvals are granted and monitored by CAA, under the terms set out in part B of this regulation. This includes:

- Part 145 approved maintenance organisations,
- Part M sub-part F approved maintenance organisations, and
- Independent Part 66 qualified personnel.

8.6 Organisations who maintain aircraft that fall outside the scope of Regulation 216/2008 must be approved by the CAA under National

Requirements stemming from the Air Navigation Order (ANO), or in accordance with the requirements applicable in the State where the aircraft is registered.

- 8.7 Approvals that fall within the jurisdiction of the CAA will be granted when the organisation has demonstrated that it has satisfied the requirements under which they seek approval.
- 8.8 When considering an application for approval from a maintenance organisation, the CAA will satisfy itself that the organisation:
- Has an appropriate management structure in place with that is manned by suitably experienced and qualified persons who are acceptable to the CAA.
 - Has sufficient qualified staff authorised to release to service the aircraft and or components it is approved to maintain.
 - Has sufficient skilled staff able to carry out maintenance on the aircraft and/or components that fall within its approved scope of work.
 - Have the facilities to carry out the work for which it is seeking approval.
 - Have the necessary equipment, tools and materials to carry out the maintenance falling within their approved scope of work. This includes access platforms, docking, and supplementary lighting as required; and technical information relevant to the aircraft and/or components it is maintaining.
- 8.9 Aircraft registered in other States and operating in and out of the UK normally fall outside the direct remit of the CAA. However when advised of a situation involving a foreign registered aircraft that could adversely affect safety the CAA in conjunction with DfT will endeavour to ensure that appropriate action is taken.
- 8.10 Account is also taken of the condition and quality of the equipment available to support the approval. Whilst accepting that safety at work is not directly within their remit, the CAA will in particular consider the condition of equipment and docking to be used by those working at height

to ensure it is fit for purpose such that the maintenance carried out is to the required standard.

- 8.11 Once approval is granted to a maintenance organisation, the CAA will carry out visits at periodic intervals to ensure that the terms and conditions of the approval are upheld by the organisation. Visits may be pre-arranged or unannounced and may be performed outside normal office hours.
- 8.12 Once approved, organisations wishing to change the scope of their approval, will be investigated consistent with the change requested. This can include establishing that requirements listed in 8.6 are in place.
- 8.13 CAA powers also include authority to suspend or revoke a approvals and licences when conditions are breached.
- 8.14 Provision exists, under ANO, for the CAA (or any authorised person, meaning a constable or person nominated by the Secretary of State or the CAA), to prevent any aircraft from taking off if it appears that certain regulations will be contravened or the aircraft is unfit for flight.

Interface arrangements

- 8.15 The CAA will lead on issues that may affect the fitness of an aircraft for flight.
- 8.16 The HSE will lead on issues that may affect the health, safety or welfare of people employed by approved aircraft maintenance organisations.
- 8.17 The HSE will also lead when the activities of aircraft maintenance organisations affect the health and safety of people who are not employed by them. However, the HSE will not become involved in issues which concern the fitness of an aircraft for flight.
- 8.18 Examples of the respective responsibilities of the HSE and CAA are shown at Table 7 below.

Table 8: Examples of CAA and HSE responsibilities when aircraft are maintained

Subject	CAA responsibility	HSE responsibility
Use of hazardous substances	CAA is interested that the material, both in the manner in which it is applied and the conditions in which it is being applied, does not cause damage to the aircraft or render it unfit for flight.	The employer's duty to ensure health and safety of people affected by the material, including employees of the maintenance organisation and other people.
Use of inspection docking and access equipment	CAA is interested that the inspection docking and access equipment being used allows aircraft maintenance to be carried out to an acceptable standard.	The safety of workers erecting, altering, using or dismantling the inspection docking or access equipment.
Lighting	CAA will need to be satisfied that the lighting available allows aircraft maintenance to be carried out to an acceptable standard.	Adequate lighting in the workplace to enable personnel to avoid hazards, and that the lighting itself is safe and without risks to health.
Entry into aircraft fuel tanks	That any work carried out in the fuel tank is to an acceptable standard, whilst recognising the need to comply with the aircraft manufacturers recommendations associated with such work.	The employer has assessed and is adequately controlling the risks from entry into a confined space.
Inspection using ionising radiations	The inspection is carried out at a time and in conditions consistent with the requirements of the manufacturer and the operators approved maintenance programme.	The risks to health from the use of ionising radiation have been assessed and are being adequately controlled.

Subject	CAA responsibility	HSE responsibility
Tooling and equipment	Any tooling and equipment that is used to carry out aircraft maintenance activities is consistent with the specification and recommendations of the aircraft manufacturer.	The equipment is safe and without risks to health. Also that it is appropriate and adequate to ensure that the work can be carried out safely, and personnel are competent to use it so as to ensure their health and safety, and that of others.
Electrical safety	That any maintenance carried out on aircraft electrical systems is to an acceptable standard. Any external electrical supply used to power an aircraft whilst undergoing maintenance is consistent with the aircraft manufacturer's recommendations.	The safety of workers carrying out the maintenance, including those involved in live working on aircraft electrical systems.

8.19 Details for contacts for this chapter appear in the MoU Contacts Schedule.

Accident investigation

HSE remit

8.20 HSE may investigate accidents and incidents which occur within its areas of responsibility and will co-operate with other agencies as appropriate.

CAA remit

8.21 Aircraft accident investigation falls within the remit of DfT's Air Accident Investigation Branch (AAIB).

8.22 If an accident causes damage to an aircraft or to persons on the aircraft (including ground staff) the AAIB should be contacted in the first instance.

8.23 The investigation of reportable occurrences involving aircraft under maintenance falls within the remit of CAA Airworthiness.

8.24 If damage is caused to an aircraft as a result of a reportable occurrence CAA Airworthiness should be contacted in the first instance.

NOTE: An 'aircraft accident' is defined in The Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996 and limits application of the term to occurrences which take place when persons are on board the aircraft with the intention of flight. Damage to an aircraft during maintenance activity may not constitute an aircraft accident but may be a reportable occurrence under the terms of the Air Navigation Order Mandatory Reporting requirements and therefore must be reported to CAA Safety Intelligence.