

13 March 2015
EIR reference: E0002198

Dear XXXX

I am writing in respect of your request of 15 January 2015, for the release of information held by the Civil Aviation Authority (CAA). We have considered your request in line with the provisions of the Environmental Information Regulations 2004 (EIR).

Your request:

Please provide details of any discussions that CAA has had with Heathrow about changes since 2013 to flight paths, arrival or departure approaches or heights of aircraft landing or taking off from Heathrow over North Surrey and in particular the Windlesham area as compared to conditions that existed in previous years (ignoring any changes that occurred during the Trials that were supposed to have ended on 12 November 2014).

Our response:

I am very conscious that you have had to wait a long time to receive a reply from the CAA to your e-mail and for that I apologise.

Summary of our response

The delay in our response results in part from the scope and nature of your request and the consideration we have given to it as an organisation on how best to deal with it. The CAA recognises the public's rightful interest in aviation noise and absolutely acknowledges that the public needs information to enable it to meaningfully participate in that debate.

Nonetheless the CAA has concluded that the broad nature of your request has meant it is impossible for the CAA to deal with it. Heathrow Airport is obviously one of the biggest organisations regulated by CAA and large numbers of CAA employees will have discussion with employees of Heathrow about subjects that fall within the scope of your request every day.

We set out below our analysis, under the terms of the EIRs, why the CAA is not disclosing any information in respect of your request. However we have also set out some information which is aimed at perhaps helping you narrow your request for information if that is what you decide to do.

Roles and responsibilities

The CAA is responsible for deciding (after due process) whether to change the notified (or published) airspace structure. As detailed in our previous response to you, there has been no change to the mandatory or notified airspace classification or procedures (i.e. the airspace structure) that is published in the UK Aeronautical Information Publication relating to Heathrow Airport. As the airspace structure has not changed, the CAA has not had any airspace regulation function to perform in respect of the permanent airspace structure around Heathrow.

Air Navigation Service Providers (or ANSPs, the organisations that employ air traffic controllers) are responsible for devising procedures for their air traffic controllers to direct aircraft within the framework of the notified or published airspace structure. For example, air traffic controllers are responsible for directing (known as vectoring) aircraft from 'holds' down onto the ground at runways and the ANSP that employs them is responsible for drawing up the procedures in accordance with which those air traffic controllers will perform that function. As a safety regulator, the CAA certifies and designates ANSPs to provide air traffic services in a particular block of airspace. As part of that role the CAA will have continual discussions with ANSPs (in this case NATS) about the safety of their operations and procedures. But that safety role has no legal power to consider the noise resulting from those procedures, only the safety impact.

CAA Decision with respect to the information disclosure request under the EIRs.

The information you have requested is wide-ranging and extensive, and would require the consumption of considerable CAA resources to collate, assess and prepare for disclosure. Regulation 12(4)(b) of the EIR provides that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable and the CAA considers that this exception applies in this case (a copy of this exception can be found below).

I have outlined the factors that the CAA has taken into account in reaching this conclusion below.

- The interactions between the CAA, Heathrow Airport Ltd (HAL) and NATS on these issues are wide ranging and involve a number of CAA departments. Relevant correspondence may be held in relation not only to the CAA's role in regulating ANSPs, but also to the safety regulation of Heathrow airport itself, the development of policy on air traffic issues and the work of the CAA's Environmental Research and Consultancy Department (ERCD) which carries out research and analysis in relation to aviation noise.

Retrieving the information

- An initial assessment has identified in excess of 100 people that would have to search their records to see if they hold any relevant information.
- While under the EIR there is no appropriate cost limit above which public authorities are not required to deal with requests for information, the ICO's guidance on Regulation 12(4)(b) states '*In assessing whether the cost, or the amount of staff time involved in responding to a request, is sufficient to render a request manifestly unreasonable the FOIA fees regulations may be a useful starting point*'.
- Given the number of people that may hold relevant information, it is estimated that the time it would take to complete the activities that can be taken into account in determining whether the appropriate limit is exceeded in relation to a Freedom of Information (FOIA) request (i.e. locating, retrieving or extracting the information)

would considerably exceed the appropriate limit for a FOIA request of £450, or 18 hours.

Assessing/redacting the information

- Some of the information is likely to need to be assessed as to whether an exception to disclosure applies and whether the public interest favoured disclosure or maintaining the exception. In particular:
- Much of the information is potentially commercially sensitive or confidential information relating to HAL or NATS.
- Significant consultation with third parties would be necessary, primarily with HAL and NATS.
- All of the emails contain personal information

As well as the considerable time that would be required to collate the information, consult third parties, consider whether any exceptions apply and redact information, the CAA has also considered the overall effect that this would have on the organisation.

The information requested is complex, and much of the assessment of the information and consultation with third parties would have to be carried out by specialist subject matter experts. Complying with your request would require a significant diversion of resources away from ongoing work and would result in a significant and disproportionate impact on our core operations.

Taking all of the above factors into account, the CAA considers that the exception contained in Regulation 12(4)(b) of the EIR, which provides that a public authority may refuse to disclose information to the extent that the request for information is manifestly unreasonable, is engaged.

The public interest

We have also considered whether, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

There is a general public interest in the disclosure of environmental information to promote the transparency and accountability of public bodies and their decision making, greater public understanding and awareness of environmental issues, a free exchange of views and more effective public participation in environmental decision making. In this particular case, the CAA recognises the public interest in greater awareness and understanding of aviation noise issues in order that the public can properly and fairly contribute to the important public debate on these issues.

The public interest in maintaining the exception lies in protecting public authorities such as the CAA from exposure to a disproportionate burden in handling requests for information and its impact on core operations and, as has been explained above, the burden of responding to this request would be significant and disproportionate.

Having considered the public interest factors on both sides the CAA has concluded that, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

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:-

Caroline Chalk
Head of External Information Services
Civil Aviation Authority
Aviation House
Gatwick Airport South
West Sussex
RH6 0YR
caroline.chalk@caa.co.uk

The CAA has a formal internal review process for dealing with appeals or complaints in connection with FOI or EIR 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

A handwritten signature in black ink, appearing to read 'M Stevens'.

Mark Stevens
External Response Manager

CAA INTERNAL REVIEW & COMPLAINTS PROCEDURE

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

Exceptions to the duty to disclose environmental

12. (1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if—

- (a) an exception to disclosure applies under paragraphs (4) or (5); and
- (b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

(2) A public authority shall apply a presumption in favour of disclosure.

(3) To the extent that the information requested includes personal data of which the applicant is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13.

(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—

- (a) it does not hold that information when an applicant's request is received;
- (b) the request for information is manifestly unreasonable;
- (c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;
- (d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data; or
- (e) the request involves the disclosure of internal communications.