

23 April 2015  
EIR Reference: E0002292

Dear XXXX

I am writing in respect of your request of 19 March 2015 for the release of information held by the Civil Aviation Authority (CAA), which we have considered in line with the provisions of the Environmental Information Regulations 2004 (EIR), and I am sorry for the delay in our response.

Your request:

*Please can you provide copies of correspondence between CAA and NATS in relation to trials of new operating instructions for vectoring choices for flights using Heathrow Airport since 1st January 2011.*

## **Background**

The CAA is responsible for deciding (after due process) whether to change the notified (or published) airspace structure in accordance with its statutory duties. 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 (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 about the safety of their operations and procedures. Aircraft using Heathrow airport will receive air traffic services both from NATS Services Ltd

### **Civil Aviation Authority**

Aviation House Gatwick Airport South Gatwick RH6 0YR [www.caa.co.uk](http://www.caa.co.uk)  
Telephone 01293 768512 [foi.requests@caa.co.uk](mailto:foi.requests@caa.co.uk)

(NSL) as the ANSP for Heathrow airport, and from NATS (En-route) PLC (NERL) as the UK's en-route ANSP.

### **Your specific request**

You have requested correspondence relating to trials of new operating instructions for vectoring choices for flights. However, there is a difference between changes in air traffic procedures (which can sometimes involve an operational trial, but will not always) and vectoring choices. Controllers are able to make tactical decisions, within blocks of established controlled airspace, to vector aircraft as required to provide the safest and most efficient service depending upon the prevailing situation e.g. levels of air traffic, the weather etc.

Each ANSP is required to document their procedures in a manual of air traffic services (known as MATS Part II). Temporary Operating Instructions (TOIs) are procedures published by NSL and NERL (or other air navigation service providers) for its air traffic controllers as temporary amendments to its manual of air traffic services. TOIs, and the associated safety assurance (where appropriate), are reviewed by the CAA before the procedures within them are put into use. This is in the CAA's role as a safety regulator; there is no airspace regulation function for the CAA to perform. Procedures published in TOIs that are permanently adopted are incorporated into MATS Part II.

### **CAA Decision with respect to the information disclosure request under the EIRs**

Several hundred different TOIs relating to Heathrow (NSL) and London Terminal Control (NERL) have been submitted to the CAA since January 2011. To identify and collate all relevant correspondence 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, NSL and NERL on these issues are wide ranging and involve a number of CAA departments. Although you have specifically requested correspondence between CAA and NATS, there is also likely to be correspondence with Heathrow Airport Ltd (HAL) that is inextricably linked with correspondence between the CAA and NATS. 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 CAA's airspace regulation functions and the development of policy on air traffic issues.

### **Retrieving the information**

- An initial assessment has identified a considerable number of people (the CAA's airspace, ATM and aerodromes team consists of around 85 people) that would have to search their records to see what relevant information they hold.
- 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 TOIs that have been submitted to the CAA, and 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, including the TOIs themselves, 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:
- Some of the information, including the TOIs in scope of your request, will be commercially sensitive or confidential information relating to HAL, NSL or NERL. The TOIs themselves are internal documents not intended for public disclosure.
- Consultation with third parties on their view on disclosure would be necessary and need to be taken into account by the CAA when reaching its decision.
- Some information contained in TOIs, such as any frequencies, telephone numbers and operational unit names/control positions, could, if disclosed, provide information that would make it possible for members of the public to interfere with the proper operation of Air Traffic Services.
- 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.

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  
Gatwick  
RH6 0YR

[caroline.chalk@caa.co.uk](mailto:caroline.chalk@caa.co.uk)

The CAA has a formal internal review process for dealing with appeals or complaints in connection with requests under the Environmental Information Regulations. The key steps in this process are set in the attachment.

Should you remain dissatisfied with the outcome you have a right to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office  
FOI/EIR Complaints Resolution  
Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF

[www.ico.gov.uk/complaints.aspx](http://www.ico.gov.uk/complaints.aspx)

If you wish to request further information from the CAA, please use the form on the CAA website at <http://www.caa.co.uk/application.aspx?catid=286&pagetype=65&appid=24>.

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.

**Regulation 12 of the Environmental Information Regulations 2004**

- (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
- 5) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect—
- (a) international relations, defence, national security or public safety;
  - (b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;
  - (c) intellectual property rights;
  - (d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;
  - (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;
  - (f) the interests of the person who provided the information where that person—
    - (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
    - (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and

(iii) has not consented to its disclosure; or

(g) the protection of the environment to which the information relates.