

Aviation security brief

What aviation security work does the Department for Transport do now?

- **Threat and risk analysis.** The Department for Transport (DfT) engages with the Joint Terrorism Analysis Centre (JTAC) to understand and analyse the terrorist threats to aviation.
- **Policy formulation and development.** DfT develops aviation security policy, from first principles or in response to events, intelligence or trends, to give direction to its activities and inform its priorities. Engagement with industry, including meetings of the National Aviation Security Committee (chaired by the Secretary of State), is also a source from which policy may be formulated and developed.
- **Regulation.** In addition to European Union (EU) common basic standards for aviation security, the DfT develops and maintains the UK's more stringent measures. These aviation security requirements are set out in directions which the Secretary of State serves on industry.
- **Inspection.** Inspections are carried out by DfT to ensure compliance with aviation security directions. Inspectors, who, in statute are described as "authorised persons", are DfT employees. With regard to known consignors of cargo, inspections are undertaken by independent validators acting on behalf of the Department.
- **Enforcement.** Where there has been a failure to comply, a "stepped approach" to enforcement is taken, ranging from words of warning, enforcement procedures and, if appropriate, prosecution.
- **Advice and guidance.** DfT provides advice and guidance to the aviation industry to assist compliance with EU and UK aviation security requirements and to improve aviation security more generally.
- **International negotiations.** DfT represents the UK on international forums and, with partner countries, helps deliver the UK's aviation security objectives on the global stage. DfT negotiates EU common basic standards for aviation security and encourages international co-operation in the sharing of research.
- **Overseas capacity building.** DfT assists in the management of the threat from aircraft bound for the UK by providing assistance (training, equipment, advice etc.) to certain countries where particular threats and vulnerabilities have been identified.
- **Incident management.** As well as playing a full part in the Government response to aviation security incidents, the DfT provides an "on the ground" presence at incidents and potential incidents which may have an impact on aviation security or where immediate security advice, or a decision on a variation from normal security practice to meet the immediate circumstances, may be needed. Such incidents range from demonstrations, diplomatic conferences through to actual terrorist incidents.
- **Vetting.** The Secretary of State specifies in directions (served on industry) certain aviation security activities that can only be carried out by individuals who have been vetted. DfT operates arrangements for the national security vetting of such individuals. This involves the making of vetting decisions (e.g. to grant/not grant clearance) and the handling of any appeals.
- **Research.** DfT not only commissions but also plays an active part in research to understand, among other things, the consequences of terrorist attacks, vulnerabilities in aviation, assessment of new detection and screening technology or processes with the aim of delivering enhanced capability and encouraging innovation.



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What aviation security functions are we conferring on the Civil Aviation Authority?

The Bill provides for the following aviation security functions to be conferred on the Civil Aviation Authority (CAA):

- **Regulation.** The CAA will have a duty to review aviation security directions that are currently in force and make recommendations to the Secretary of State about those directions and about the giving of further directions, which may, for example, follow from a change in the security threats to civil aviation. The Secretary of State may specify the form of the recommendations. Aviation security directions will continue to be made by the Secretary of State. The CAA's role will be, for example, to prepare draft directions for the Secretary of State to make or to prepare guidance on directions.
- **Inspection and enforcement.** The CAA will have the power to appoint authorised persons (i.e. inspectors) to carry out inspections and, if necessary, enforcement. The inspection and enforcement powers of CAA-appointed inspectors will be the same as currently exist for DfT-appointed inspectors.
- **Advice and assistance to the Secretary of State.** The CAA will have a duty to provide advice and assistance to the Secretary of State, as the Secretary of State requires, in connection with matters relevant to the purposes of Part 2 of the Aviation Security Act 1982 (the protection of civil aviation against acts of violence). This may include, for example, assisting with work relating to the International Civil Aviation Organisation and the European Union on aviation security, or with incident management.
- **Advice and guidance to industry.** The CAA will have a duty to provide such advice and assistance to industry as it considers appropriate with regard to the purposes to which Part 2 of the Aviation Security Act 1982 applies (the protection of civil aviation against acts of violence).

- **Vetting.** The CAA will be required to make arrangements for the national security vetting of individuals carrying on or wishing to carry on certain aviation security functions, as specified in directions, including arrangements for renewing and withdrawing clearance and handling appeals.
- **The Secretary of State will remain responsible** for aviation security policy and for serving all aviation security directions on industry.

Why?

- The CAA has regulated aviation safety since it was formed in 1972, but security has always been regulated directly by Government. This current situation does not align with modern regulatory best practice.
- The proposals in the Bill will mean that the industry will have a single regulator for aviation safety and security. This should enable industry to better integrate security with its other day-to-day business activities, such as safety.
- Aviation security regulation can benefit from the CAA's operational experience of safety regulation.
- The 'user pays' principle will apply to aviation security regulation as it does currently to the regulation of aviation safety.
- The CAA has wide experience of risk based safety regulation and this should prove to be very valuable for a future move to Security Management Systems and Outcome Focused, Risk Based (OFRB) security regulation. This approach would enable the industry to deliver bespoke solutions, focused on achieving security outcomes, rather than following prescriptive processes.



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Will the CAA be equipped to discharge these functions?

The CAA is already the UK aviation safety regulator and is widely regarded as being a world class regulator.

The CAA has had many years of providing frameworks to facilitate the implementation of Safety Management Systems and there are many parallels with this work and the development of Security Management Systems.

CAA also has responsibility under EU regulations for ensuring that Air Navigation Service Providers implement Security Management Systems. This has many similarities to the way in which DfT intends industry to deliver aviation security, so the CAA already has some relevant knowledge and experience. The DfT and the CAA are working together to ensure that the CAA will have the necessary security expertise and access to information to deliver its new security functions. **The Bill will enable aviation security functions to be conferred on the CAA, and subsequently for transfer schemes to be made containing the detailed arrangements for the transfer of staff in the relevant posts.**

We would hope that the majority of staff will decide to go to the CAA, but if people do decide to move elsewhere we believe there will be enough time to manage this. The intention is for the proposed transfer scheme to follow the general TUPE (Transfer of Undertaking, Protection of Employment) principles. Formal engagement with the trade unions has begun.

When?

The DfT is working to a plan that will aim for the CAA to take on its new aviation security regulation functions from spring 2014. This will allow sufficient time for the joint DfT/CAA programme team to determine the exact division of responsibilities and to ensure that the aviation industry is cognisant of the respective roles.

Costs to industry

We have estimated that the ongoing cost to the CAA of its new security functions would be £4.8m per year. This cost, if it were to fall equally to passengers and cargo, would equate to approximately £0.01 per passenger movement per year and £0.001 per kilogram of cargo.

The CAA will determine how and on whom it intends to levy charges for security regulation. The CAA already consults with industry on its charges on a voluntary basis but the Bill will make this a statutory requirement. The Secretary of State must also be consulted. Under section 11(3) of the Civil Aviation Act 1982, the Secretary of State has the power to make regulations to override any charging scheme made by the CAA.

Charging the industry for the regulation of aviation security aligns with the vast majority of other forms of regulation, including CAA's regulation of aviation safety. The aviation industry already meets the costs of providing security (close to £1bn), and the cost of regulation (£4.8m) is a small addition which could be neutralised by efficiency savings from the overall reform package.

Preparatory work

A great deal of work is already underway to make sure the transfer is as smooth as possible, and we have established a joint DfT/CAA team to ensure the right processes are established before the transfer takes place. Some of the key work programmes are:

- Information sharing between DfT and CAA (including threat and risk analysis)
- Integrating security into the wider CAA structure
- IT arrangements
- Transfer schemes (staff, assets etc.) and secondary legislation
- Arrangements for CAA charges on industry in respect of security regulation.
- Transition plan (division of functions).



Civil Aviation Bill

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Developing new interfaces

DfT is working closely with the CAA to develop new interfaces. The DfT and CAA already have experience of working together in high pressure situations such as volcanic ash. We have good communication between staff at all levels and Ministers are in regular communication with the Chair and Chief Executive of the CAA.

Consultation

Pre-Legislative Scrutiny of the Bill, including the aviation security provisions, was undertaken by the House of Commons Transport Committee in November and December 2011. The Transport Committee report published in January may be found at: <http://www.publications.parliament.uk/pa/cm/201012/cmselect/cmtran/1694/169402.htm>
We made industry aware of the aviation security proposals at the earliest opportunity and are looking at how we can engage industry on the transfer as we go forward. The separate but parallel process of moving to OFRB was the subject of full public consultation during 2011.

Further information

For more information on the Civil Aviation Bill please visit:

<http://www.dft.gov.uk/topics/legislation/civil-aviation-bill>

You can also track progress on the Parliament website at:

<http://services.parliament.uk/bills/2010-11/civilaviation.html>

Civil Aviation Bill

The Civil Aviation Bill modernises the regulatory framework for civil aviation in the United Kingdom to enable the sector to increase its contribution to economic growth without compromising high standards. There are four key areas:

- a. reforms to the legislative framework for the economic regulation of airports
- b. modernisation of the CAA's powers and governance
- c. conferring certain aviation security functions on the CAA
- d. ATOL.

