



Ministry of Defence

Air Command Secretariat
Spitfire Block
Headquarters Air Command
Royal Air Force
High Wycombe
Buckinghamshire
HP14 4UE

Our Ref: FOI2015/02669

Email: via whatdotheyknow.com

9 April 2015

Dear [REDACTED]

Thank you for your email of 8 March 2015 requesting the following information:

“What is the legal basis for authorising the pilot of an RAF aircraft to threaten to shoot down an aircraft flying in British controlled airspace that is failing to connect with or respond to Air Traffic Control, and does that also authorise him to shoot down such an aircraft if the response to a warning is unsatisfactory? Is the pilot legally immune from any criminal liability if his action results in a fatality, including one caused by an aircraft crashing in a populated area, and if so what is the statutory basis for that immunity? If there is immunity from criminal liability does that also apply to any claim for compensation under civil law? Does an RAF pilot in such a situation require specific authorisation before shooting down such an aircraft? If so who gives that authorisation and what political control or accountability is there over that decision? Has this whole situation been discussed with the CAA, NATS or the AAIB or any other non-military agency, and if so how did they respond?”

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOIA).

A search for the information has now been completed within the Ministry of Defence, and I can confirm that all the information in scope of your request is held.

Under Section 16 of the Act (Advice and Assistance) you may find it helpful to note that incidents of this nature are primarily the responsibility of the civil authorities, including the Department for Transport, NATS the civil Air Traffic Control organisation and the civil police. We do hold information about the occasions when civil authorities report to MOD details of aircraft which are causing them concern for which we launch Quick Reaction Alert aircraft to provide assistance to those civil authorities.

The Civil Aeronautical Information Publication clearly set out that interception of civil aircraft is in accordance with Article 9 of the Convention on International Civil Aviation and that the interception procedures will only be used as a last resort. It also details the actions to be undertaken by pilots in the event they have been intercepted. This is contained at the following link:

[http://www.ead.eurocontrol.int/eadbasic/pamslight-](http://www.ead.eurocontrol.int/eadbasic/pamslight-4611AE7F47B3485C944A7227C8E1A97E/7FE5QZZF3FXUS/EN/AIP/ENR/EG_ENR_1_12_en_2012-12-13.pdf)

[4611AE7F47B3485C944A7227C8E1A97E/7FE5QZZF3FXUS/EN/AIP/ENR/EG ENR 1 12 en 2012-12-13.pdf](http://www.ead.eurocontrol.int/eadbasic/pamslight-4611AE7F47B3485C944A7227C8E1A97E/7FE5QZZF3FXUS/EN/AIP/ENR/EG_ENR_1_12_en_2012-12-13.pdf)

To further reinforce this safety messaging the Civil Aviation Authority have produced a safety leaflet which clearly details the internationally recognised signals and the actions to be taken by pilots who are intercepted. This leaflet details how the signals can be escalated in the event of continued non-compliance by the intercepted aircraft.
<http://www.caa.co.uk/docs/33/20130121SSL11.pdf>

The primary aim of Quick Reaction Alert interception of civil aircraft is to resolve the incident with the intercepted aircraft complying with the intercepting aircraft and Air Traffic Control requests. This has always been the case to date. However, in relation to your freedom of information request I can confirm we hold an Operation Order for the Quick Reaction Alert mission. This Operation Order details the robust Rules of Engagement which are in place as a last resort alongside the graduated escalatory signalling procedures for this armed operational mission. Those Rules of Engagement also state the levels of authorisation required and accountability levels.

I can also confirm that we hold expert legal opinion on those rules of engagement. Under Section 16 of the Act (Advice and Assistance) you may find it helpful to note that in general terms this legal opinion is that the rules of engagement are commensurate with the provisions of Article 9 of the Convention on International Civil Aviation, the UK Air Navigation Order and wider International Humanitarian Law.

Section 26(1)a of the FOI Act provides that we should withhold information which would be likely to prejudice the defence of the British Islands or any Colony. The Act requires that we have to carry out a public interest test (PIT) in this respect to show that the reasons for withholding the information outweigh the reasons for releasing the information.

Public Interest (PI) factors in favour of disclosing the information requested:

- The public interest in ensuring that the UK is protected from airborne threats and that the resources invested in aircraft detection and Quick Reaction Alert (QRA) is properly employed.
- To provide a detailed measure of the Rules of Engagement and expert legal opinion in the air policing mission.
- To promote an understanding of the RAF's ability to respond efficiently, effectively and appropriately to potential threats in UK airspace.

Public Interest (PI) factors against disclosing the information requested:

- If precise or comprehensive information on the Rules of Engagement or legal opinion were released, any potential aggressor or terrorist organisation wishing to use aircraft as a means to attack the UK could extrapolate this information if they were probing our defences. It would consequently provide them with details of our expected actions.
- This in turn could enable them to plan effective countermeasures to counter our actions.

Because deterrence is a principal function of QRA and QRA is in turn an integral part of the air defence of the UK, the disclosure of information that might compromise the QRA deterrent capability, which is an ongoing armed operational capability, would also be a disclosure prejudicial to the defence of the UK. The disclosure of information that interception is a last resort, coupled with information on International interception procedures and the actions to be undertaken by crews when intercepted does provide a reasonable level of overall understanding of the effectiveness of QRA as a deterrent capability. As a limited amount of information has been released for some incidents as examples of how the RAF is able to respond and successfully and safely resolve this kind of incident, the public interest in further disclosure of rules of engagement is therefore limited.

There remains a very strong public interest in preserving the RAF's ability to defend the UK through the effectiveness of its air defences and to maintain its full deterrence value. I conclude that the balance of the public interest for providing Rules of Engagement and expert legal opinion in relation to Quick Reaction Alert is firmly in favour of maintaining the exemption under S.26(1)(a) and thus of withholding the information.

If you are not satisfied with this response or you wish to complain about any aspect of the handling of your request, then you should contact me in the first instance. If informal resolution is not possible and you are still dissatisfied then you may apply for an independent internal review by contacting the Information Rights Compliance team, 1st Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk) . Please note that any request for an internal review must be made within 40 working days of the date on which the attempt to reach informal resolution has come to an end.

If you remain dissatisfied following an internal review, you may take your complaint to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not investigate your case until the MOD internal review process has been completed. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website, <https://ico.org.uk/>.

Yours sincerely

[Original Signed]



Secretariat 3a
Air Command