

ANNEX B: Summary of consultation responses – revising night flight dispensation guidance

Night flight dispensation review

We asked the following question:

What are your views on the findings of the night flight dispensation review?

Individuals responded with concerns/suggestions that dispensations were easily granted for reasons which are not urgent enough and may be used by airports to allow further night flights beyond the restrictions. Other individual responses asked/suggested whether dispensations should/could be factored into operations.

Community groups' views suggested that dispensations are being given for reasons outside of those officially permitted and that the definition of flights qualifying for dispensations is too generous/broad. It was argued that dispensations favour the airline operators and airports, that dispensation monitoring and reporting has become too relaxed, and that many dispensation reasons are for events which should be accommodated within airline/airport resilience planning and/or scheduling processes.

Local authorities expressed a view that the dispensation process should be tightened up and highlighted that previous success with reduction in unscheduled night movements suggests that airports can control dispensations. Some responses suggested that there was inadequate reporting and monitoring, and the findings of the review were disappointing.

Airlines support the existence and retention of a dispensation system that allows recovery after disrupted operations that are sometimes unavoidable. However, they did also recognise the sensitivity of delayed flights into the night and stated that they are heavily incentivised to avoid delays that impact on the existing night quota.

Airport responses largely agreed that it is important that the dispensation process is transparent and driven from a consistent rule set. Airports also stated that it can be extremely challenging to categorise all eventualities for dispensations that balances the

needs of stakeholders. Therefore, airports recommended UK guidance should concentrate on the evidence required to demonstrate the need for the night flight.

Views on Proposals for the Review

We asked the following question:

What are your views on the proposals for the night flight dispensation review?

Individuals provided a mixed response to this question. Overall, individuals responded by agreeing that a review was needed and expressed dissatisfaction with the current dispensation process, stating it is not strict enough and favours industry. Individuals called for the data on dispensations and the reasoning for dispensations to be made public. Those individuals firmly against night flights responded by stating that all night flights, including dispensations, should be banned, mainly due to sleep impacts and environmental reasons. A few respondents expressed favour in allowing unregulated night flights, stating restrictions could be preventing economic growth.

Community and noise groups generally expressed the opinion that all night flights should count towards the quota, arguing that dispensations undermine the value and objective of the night-noise quota scheme. Groups stated that dispensations should only be granted for exceptional circumstances, such as safety or medical emergencies; regular occurrences should not count. Furthermore, it was argued that dispensations should not be granted by airports, but by the Department for Transport, with every dispensation subject to a robust reporting and review process with appropriate consequences, should dispensations be inappropriately granted. One community group highlighted that the findings of the review indicated a need for greater government oversight and regulation to protect communities from unjustified noise intrusion at night.

Many councils and local parishes were broadly supportive of the review but expressed an opinion that a more transparent and open process for dispensations was needed. A handful of local authorities largely felt that any dispensations outside of a genuinely exceptional emergency should be built into the night flights quota. Of that handful, some authorities added that any dispensations granted should be made by the Secretary of State, not by airports.

Industry responses generally supported the view that increasing the transparency of the guidance would be helpful. However, industry was against any further restrictions on the dispensation system and believed dispensations to be an important resilience tool.

Airports believe that it is important that the ability to grant night flight dispensations remains, stating that flight cancellation is not always the outcome in the best interest of all stakeholders when balancing their needs. However, airports acknowledged that the dispensation processes should be transparent and fair. Airports proposed guidance for revised dispensation arrangements that focuses on the need to demonstrate the impact to flights and their schedules. They proposed a set of guiding principles which focuses on the requirement to demonstrate that the impact of events on a flight leads to the requirement for a night flight. They added that there must be evidence provided to demonstrate that the airline has taken all reasonable steps to mitigate the impact ahead of time. Overall, airports clearly stated that flexibility is required to support a resilient and viable airport and airline operation, and in their view the dispensation scheme should remain alongside any quota or noise reduction system.

Weather and Dispensations

We asked the following question:

Should disruption due to local, en-route and foreign airports weather qualify for dispensations?

Most individual responses did not believe bad weather should qualify night flights for a dispensation. Many individuals referenced that only 'genuine', 'exceptional' or 'emergency' events should be acceptable and that weather forecasts enable accurate predictions.

Although it was generally accepted that weather impacts that were not forecasted could be dispensed, some individual respondents did concede that there may be occasions when the granting of dispensations due to adverse weather conditions may be necessary.

Several responses highlighted that safety must take priority. A few individual responses reiterated concerns that weather dispensations could be open to abuse, with some stating that weather dispensations should be granted by the Secretary of State, whilst following Met Office guidelines. Other responses called for financial penalties to encourage airlines to be responsible when re-scheduling flights ahead of adverse weather forecasts.

Responses from community and noise groups mirrored that of the individual's responses, with the core theme being the belief that weather forecasting is available and should be used to plan. For example, weather patterns that occur on a regular basis e.g., high winds, fog, snow or ice should be accommodated for in normal airport schedules and should therefore, not be included in any dispensation. However, some community responses did recognise the difficulties around planning for adverse local weather events and expressed a belief that in exceptional circumstances, where safety is threatened, dispensations should be granted.

Local authorities reiterated the views of individuals and community groups in that dispensations should only be granted in exceptional circumstances or emergencies. Some argued that the interpretation of exceptional should not be at the discretion of the airport but should be linked to independent weather forecasting agencies and linked to amber/red weather warnings.

Most of industry expressed a belief that bad weather should qualify flights for dispensation because weather can cause knock on disruption which cannot be included in resilience or operational planning, especially rapidly escalating events. Industry responses added that the UK is exposed to all kinds of weather-related events, including fog, snow, ice, high winds and thunderstorms and there is overwhelming evidence that airports are unable to cope with all such phenomena without resulting disruption to schedules. An industry response expressed a belief that local weather should qualify and be valid for both the local airport (in the UK) and the departure airport (usually outside the UK). This is because the weather, including for example, prolonged high winds, can affect aircraft returning to its home airport base. If aircraft were unable to return to their home bases at the end of the day, there is a high probability of delays and cancellations due to the displacement.

Airports stated that for weather events that have a greater-than-forecast impact on the day prior to the flight's operation, and/or for which airlines could not be reasonably be expected to take action to mitigate, dispensations should be granted. Airports also expressed the

view that the definition of ‘local’ is difficult to identify, given weather disruption far away from the airport can still impact its operations.

Industrial Action and Dispensations

We asked the following questions:

Should disruption caused by Air Traffic Control industrial action qualify for dispensations?

Should disruption caused by industrial action by airport staff qualify for dispensations?

Many individual respondents did not believe that disruption stemming from industrial action should warrant dispensations, as airlines know in advance of these issues and should make cancellations before the need for dispensations arise. A common theme in the responses, was that communities should not have to suffer additional night flights due to internal management disputes. However, a few responses from individuals acknowledged the need for dispensations in this situation, where alternative arrangements cannot be found. Those individuals in favour of dispensations, expressed the view that the airline is not usually responsible for industrial action in these examples.

Community and noise groups responded by saying that these scenarios should not qualify as dispensations, since industrial disputes should be covered by proper contingency planning, especially given there is evidence that points to this being a regular annual occurrence. Many groups agreed that industrial relations are the responsibility of airports, airlines, and aviation management. Therefore, any failure to effectively manage these relationships should not adversely impact communities already suffering the effects of night flights. More widely, some responses did concede that some consideration should be given, depending on who was striking.

Local authorities reiterated the views of many individuals and community groups that industrial action can be predicted and should be managed through planning, normal scheduling and cancellations. It was expressed that any failure to manage industrial relations adequately should not impact upon communities.

Industry responses claimed that dispensations should be given, but it should be clearly demonstrated, with evidence, that reasonable and pro-active steps were taken to resolve or minimise the consequences of the dispute. It was argued by industry that sometimes the notice of industrial action can be short, meaning the impact cannot always be planned for or analysed in advance. Therefore, the view was expressed that it is reasonable that dispensations should be given.

Network Capacity Delays

We asked the following question:

Should network capacity delays qualify for dispensations?

Almost all individual responses were against network capacity delays qualifying for dispensations. Many responses pointed out that the sector is aware of busy periods in

advance and that better flexible planning is needed to avoid dispensations. Some individual responses suggesting building extra runways and facilities and/or enabling the use of technological development to cope with demand.

Most community and noise groups expressed the view that network capacity is the direct responsibility of the aviation industry. Therefore, it should be the industry who bear the consequences of capacity failures, not communities affected by noise.

Local authorities stated that network capacity is the direct responsibility of the aviation industry and the regulators that oversee it.

Industry responses favoured dispensations as network capacity delays are difficult to anticipate and therefore, hard to adjust plans for. Some industry responses emphasised that the impact of network delays is far reaching and can significantly hamper on-time performance. Such delays also affect not only the flights to which they are applied, but scheduled flights that have no regulation applied, due to the rolling nature of delays. Therefore, it is inevitable that some flights will creep into the night quota periods and should be given alleviation.

Airports stated that they would support dispensations where the direct impact of capacity constraints can be demonstrated to lead to the requirement of a night movement, and reasonable mitigating actions had been exhausted. Airports called for a definition and a process for identifying the evidence, and the steps to be following in UK guidance to ensure appropriate decisions are taken locally in these scenarios. This would give them a better understanding of in what circumstance it is practical to expect aircraft to re-route or make alternative arrangements.

Serious Criminal or Terrorist Activity

We asked the following question:

Should delays caused by serious criminal or terrorist activity that affect multiple flights qualify for dispensations?

Many individual responses stated that extreme events causing this form of disruption cannot be foreseen or planned for, therefore they should qualify for dispensation. However, some responses suggested such events should be monitored and granted dispensations by an independent authority or the government, and not the airport. Those individual responses against the use of dispensations in this scenario suggested a few reasons as to why, such as given the rarity of these events it was not unreasonable to expect airports to work around such events.

Community and noise groups largely agreed that such events are exceptional and should, therefore, qualify for a dispensation. Many of these responses added that the incident must be declared by a public authority and not the airport operator. One group stated that given the occurrences are likely to be low, and that serious criminal or terrorist activities are a matter for the state, a dispensation rule is not necessary as any dispensation could be granted instead by the Secretary of State.

Local authorities agreed that exceptional emergency situations should be granted dispensations. Some added that the declaration should be granted by an investigating agency.

Industry strongly agreed that this scenario should qualify for dispensations, given these are unforeseeable events which can cause significant delays. While referencing the repeated drone infringements at Gatwick in 2018, one industry stakeholder further explained that although such incidents are rare, they are hugely disruptive and can cause planned networks to be catastrophically affected. For example, the event mentioned above at Gatwick, triggered multiple diversions to airports across the UK (some as far away as Glasgow). Therefore, it was argued that it is imperative operators can bring aircraft, aircrew and passengers back to resume normal operations as soon as possible.

Cumulative Delays

We asked the following question:

Should cumulative delays qualify for dispensations?

Individual responses were in the main not in favour of cumulative delays being a reason for dispensations. Individuals largely believed that over-booking and too-tight turnaround times are the source of cumulative delays and that dispensations granted in this scenario only unfairly benefit airlines with unsuitable business plans. Many respondents stressed that good contingency planning could help remove the need for dispensations for cumulative delays. There were some individual responses in favour of dispensations here and several reasons why were given, such as that safety related delays should be allowed and the need for passengers to complete their journeys.

Responses from community and noise groups were against cumulative delays qualifying for dispensations. These groups argued that communities would not have to suffer if planned levels of resilience were in place for potential delays. Some groups argued that rather than exposing communities to greater noise intrusion, the government should require airlines and airports to ensure robust forward planning to avoid cumulative delays.

Local authorities generally disagreed with cumulative delays qualifying for dispensations and reiterated that airports and airlines should plan sufficient resilience into their schedules. Some responses argued that granting dispensations in this scenario does not challenge the core root of delays, and in fact enables them.

Industry responses emphasised the importance of dispensations for cumulative delays, given a build-up of delays can be incurred for multiple reasons throughout any given day, such as by weather-related disruptions or network capacity constraints. Industry responses argued that the alternative, which would be to cancel flights, disproportionately impacts on customers. One industry response argued that stopping dispensations for this reason could have both safety and environmental implications from additional holding and/or diversion.

Night Quota Period (NQP) Medical Emergency

We asked the following question:

Should dispensations be permitted for flights delays to the NQP due to a medical emergency that has passed?

Individual responses were split in response to this question. Many respondents agreed that dispensations should be allowed in this situation, although there were concerns raised about who should grant this type of dispensation, with respondents stating that they should be subject to a proper investigation. Some argued that dispensations in this scenario should not be granted if the emergency had passed or if the flight was to transport medical equipment or human organs.

Community and noise groups largely argued that dispensations should be approved only in cases of genuine and ongoing medical emergency, adding that airports should have plans in place to restore services once a medical emergency has passed. Some responses felt that the larger airports should be able to accommodate for these scenarios within their overall night flight allowance.

Responses from local authorities maintained that safety of life must be a priority, but scheduling should allow for some medical emergencies. Some responses suggested that they be reviewed on a case-by-case basis, given the rarity of these events.

Industry responses were in favour of dispensations in the scenario mentioned, stating that it would be an unforeseeable event that is outside of the airline's control. Furthermore, industry added that the cancellation of a flight due to an otherwise uncontrollable circumstance would have severe impacts for customers and airlines. One industry response suggested evidence could be provided, for example, data records could show the time and nature of calls to emergency services.

Police Emergency

We asked the following question:

Should dispensations be permitted for flights delays to the NQP due to a police emergency (for example a disruptive passenger) that has passed?

Most individual responses stated that in this scenario a dispensation should not be granted. Two clear reasons were given for this by individuals. The first was that stronger penalties should be put in place to deter or reduce the frequency of these events. Second, was that airports should have sufficient operational resilience to deal with these scenarios. Some individual responses agreed with the granting of dispensations for a police emergency, citing safety as a concern.

Community and noise groups views on this question differed with some suggesting that dispensations should only be permitted once the flight is already airborne. Some responses recognised that these were rare events that could not be foreseen and therefore, a dispensation should be granted. Many responses suggested that communities should not be impacted by a delayed flight entering the NQP, regardless of the operational issues within the airport.

Local authority responses stressed that safety should be a priority, but dispensations of this nature should be strictly monitored. Some local authority responses argued that airlines should be able to manage these kinds of delays and accommodate them within their existing schedules.

Industry responses overwhelmingly agreed that dispensations should be permitted in this scenario. One industry response argued that stopping this dispensation would have both

safety and environmental implications from additional holding and/or diversion. A further response stated that in the interest of the health and safety of all involved, dispensations should be considered for emergencies in all circumstances.

Repositioning of Emergency Services

We asked the following question:

Should dispensations be permitted for the repositioning of emergency service (including medical transplant) aircraft?

Most individual responses to this question agreed that a dispensation should be permitted in this scenario, given that it is considered necessary to prevent a potential risk to life or health. In addition, it was argued that given this type of transportation often involves very few and smaller aircraft, these would be exceptional occurrences. There were a few, albeit in the minority, who disagreed that in this scenario a dispensation should be granted. Those who disagreed argued that this type of event should be made within the airport's movement allowance; low priority flights, such as cargo should be delayed instead; and RAF bases would be more appropriate airports for this purpose.

Responses from community and noise groups mostly believed that since this type of flight is likely to represent a small portion of night flights, airports should accommodate them in their overall quota rather than allowing dispensations.

Councils and local authorities' responses focused almost exclusively on the safety aspect of this question. Therefore, responses favoured a decision that allowed dispensations in this scenario.

Industry responses agreed that in this scenario dispensations should be granted. Responses argued that if repositioning is essential to the ability for the emergency flights to respond, then it should be counted. Failure to reposition could result in an aircraft not being in the optimum position to respond to future emergencies.

Reducing Carbon Emissions

We asked the following question:

Should dispensations on the basis of reducing carbon emissions be permitted?

Most individual respondents did not agree with the above scenario being a reason for dispensations. Those against any permissions argued that airlines ought to plan their journey to reduce carbon emissions. Many respondents felt that granting dispensations in this instance would allow every flight to land early based on reducing fuel emissions. Therefore, they argued, this would effectively disregard controls on night noise. A few responses did agree with allowing dispensations in this scenario, arguing that it was essential for reducing emissions which would result in better protections for the environment and improve air quality. However, some of the responses that supported dispensation here, stated that they would want to see independent evidence to support that granting dispensations would lead to a reduction of emissions.

Community and noise groups expressed that proper scheduling and advance planning should mean it is possible to avoid the need to grant dispensations for the reason of reducing carbon emissions. Whilst most respondents supported efforts to reduce carbon emissions, it was clearly stated that it would not be beneficial to communities under (night-time) flight paths if flights were permitted to land early, slightly reducing impact. Furthermore, groups stated that to reach net zero, the government should seek to reduce emissions through national climate policies and aviation strategies, rather than relying on ad-hoc local trade-offs that will disbenefit communities.

Councils and local authorities' responses were mostly against dispensations being granted in this scenario, stating that only in certain circumstances where the flight schedule would have not envisaged an arrival earlier than 6.00am could it be considered. Furthermore, some respondents believed that planning by airlines and airports could help deal with this issue.

Industry provided mixed responses to this question, whilst recognising the importance of reducing emissions. Those in favour, stated that it would assist in meeting the government's emissions target. Those against, argued that the number of occasions this occurrence may occur is low on a day-to-day basis, and can generally be avoided using existing mechanisms. Furthermore, one response stated that broad dispensations based on reducing carbon emissions should not be permitted as this would be difficult to quantify, administer and operationalise.

Pre-Emptive Dispensations

We asked the following question:

Should pre-emptive dispensations be permitted?

Most individual respondents did not agree with the process of pre-emptive dispensations to land flights early on poor weather days. Many respondents who disagreed expressed that insufficient evidence had been gathered that proved that pre-emptive dispensations made a difference to reducing delays. It was added that the use of dispensations in this scenario could be open to abuse.

Community and noise groups responded by stating that there was no rationale for any pre-emptive dispensations, and airports should manage their operations so that it is not necessary. Furthermore, community and noise groups were clear that the current practice granting these dispensations should not continue.

Councils and local authorities expressed concerns that pre-emptive dispensations could be open to misuse. The respondents stated that such dispensations should be a last resort, that is tightly regulated, and not a tool used to optimise flexibility.

Industry responses were overwhelmingly in favour of pre-emptive dispensations being permitted. Industry responses argued that dispensations in this scenario help reduce the risk of delays throughout the day and reduce knock-on-effects that could possibly go into the night period. Industry responses stated that pre-emptive dispensations are employed sparingly, in a controlled fashion, and once other measures have been tried to avoid having a night movement have been exhausted or are not appropriate.

IT Failure –

We asked the following question:

Should dispensations be granted for information technology failures?

Most individual responses were not in favour of dispensations being granted in this scenario. Those not in favour argued that sufficient planning and resilience by airports and airlines would avoid the need for dispensations. Responses stated the importance of regular maintenance and updates to equipment and software to avoid IT problems occurring. Those respondents who agreed that dispensations should be granted in this scenario, were clear that where IT is specifically related to safe airport and aircraft operation, then landing the aircraft safely is critical. While some responses in favour argued dispensations should depend on the nature, scale and scope of the failure, others argued they should only be granted for aircraft currently airborne and not for aircraft that have not departed from their origin.

Respondents from community groups reiterated the need for industry to build resilience into their IT systems, stating that communities should not have to suffer due to these failures.

One local authority response stated that a failure to provide a dispensation in this scenario would have safety implications.

Industry overwhelmingly stated that unforeseen IT failures should be granted dispensations. Industry argued that airlines go through great lengths to make sure their information systems are safe and accurate. However, in rare cases unforeseen issues arise and this is where dispensations should be allowed. It was argued that this would reduce delays/cancellations and would reduce the risk of knock-on effects in global air traffic networks. One industry response did state that it may on occasion be suitable to exclude failures where it can be demonstrated that an airline had the ability to control, anticipate, or otherwise prevent the impact.

Views of Dispensation Guidance

We asked the following question:

If you have further views or evidence on the guidance allowing airport operators to grant dispensations, please provide it here.

Overall, the individual responses in this section centered around the belief that there was not enough data being made available to the public on dispensations. It was argued that guidelines were too open to interpretation and there was a belief that there should be an independent body to apply dispensations. It was suggested that to improve the clarity and helpfulness of the revised guidance, it must include details of real examples for all potential sources of dispensation, indicating which should or should not have been granted. In addition, it was argued short journeys to other UK cities and mainland Europe should be encouraged by high-speed train.

Councils and local authorities largely held a view that airport operators should have some leeway in making decisions relating to dispensations. However, these decisions should be transparent and available to the public. For example, this could be done through audits to

increase confidence from the public. Some local authorities reiterated that dispensations should only be granted in exceptional circumstances and that there should be a review process and sanctions for when dispensations are inappropriately deployed. Furthermore, one response emphasised that ambient noise in the rural environment is significantly lower than in the urban context, arguing night flights are not conducive to family and mental well-being.

The dispensation process did not receive much support from local communities, with responses stating that dispensations should be the exception, not the rule. Many responses felt that there should be a focus on increasing the efficiency of the industry as to not rely on dispensations when things go wrong. Some responses argued that the granting of dispensations has become overly generous, without regard for the communities nearby. Furthermore, there were calls for airport operators to face greater scrutiny when dispensations are granted, with some responses suggesting airport operators should appear before local authorities to take questions and explain permitted dispensations.

Industry responses reiterated the importance of the dispensation system not just for airlines and airports, but to avoid disruption to passengers. While industry respondents accepted that the dispensation system should be transparent, these responses were keen that the system remain in place. Some responses emphasised the importance of the airport's ability to influence the process, given they have a vested interest in managing local dispensations and their relationship with local communities. It was argued that to remove the airport's influence, could result in a significant impact on how an airport can manage periods of significant disruption.

Views on government dispensations

We asked the following question:

What are your views on government dispensations overall?

Overall, the individual responses in this section were mixed, but had some key themes. Most individual respondents felt that dispensations were being misused and called for penalties for misuse. Despite some negative feelings towards their use, individuals were accepting of dispensations in exceptional circumstances, for example for emergencies. However, individuals called for more consistency and the publication of data on dispensations that had been granted. Some individual respondents expressed a strong objection to dispensations for 'VIP' flights and major events. Those individuals who had a positive view of dispensations, largely stated that UK airports are the engine of investment of the UK and should be embraced and promoted. Some respondents claimed that airports are better at making decisions about their operations than the government.

Councils and local authorities' responses indicated an acceptance of the use of dispensations for the reasons of state visits, safety and security. However, responses were generally supportive of further restrictions to the dispensation process. There was a general view that dispensations should be granted on rare occasions, with the criteria more specific.

Community and noise groups expressed the view that they did not support the granting of dispensations for most circumstances and argued that the government should look to reduce the number of dispensations. Community and noise groups expressed frustration

that visits from dignitaries and associated sporting event traffic are granted dispensations and argued this cannot be justified. One response claimed that they did not feel that this was an appropriate use of the government's powers under the Civil Aviation Act.

Industry's overall view on dispensations was that they are an essential tool to assist airlines deal with unplanned disruption and to reduce pressure on the network and should continue to be granted as they are at present. One industry response stated that dispensations are integral in ensuring exceptional circumstances do not disproportionately impact air traffic at designated airports and to maintain global connectivity. They argued that a stricter night period that does not have flexibility would have knock on effects throughout the global air traffic system.