



Civil Aviation Authority
Regulatory Enforcement
Policy

Foreword

As the UK's specialist aviation regulator, the CAA's sole purpose is to protect the interests of the consumers and the public. This goal is central to our work in safety, market regulation and consumer protection, and in relation to airspace and the environment. Our ambition is that routine compliance with civil aviation rules and regulations is the norm. We recognise, though, that we have not yet reached that position and that we must continue to take action to detect and respond to breaches of civil aviation requirements. Our purpose in taking action is to ensure that consumers and the public can benefit from an aviation industry that is safe and sustainable and provides choice and value.

We also have a responsibility to those we regulate to be clear about when, why and how we will take action so that they know what we expect from them and what will happen in response to a breach of rules or regulations.

Establishing a transparent and consistent approach to enforcement reinforces a "just culture". Open reporting systems will be a key source of information and continue to underpin

the maintenance of a safe aviation system. But, of itself, open reporting cannot ensure that consumers and the public remain protected and to rely on this alone would not achieve the goals and ambitions outlined above. This means we may have to take action in response to illegal activity and, where appropriate, publicise it.

The CAA Regulatory Enforcement Policy, coupled with the supporting guidance that will also be published, has been developed to address these important responsibilities. As our policy makes clear, enforcement activity forms an important part of our regulatory toolkit, sitting alongside our other activities such as continuing oversight. We will continue to work with those we regulate to encourage and support compliance, but we will become much more visible and proactive in dealing with those who do not, or choose not, to comply with the rules. We will use all of the enforcement tools available to us in a proportionate, transparent and consistent manner to ensure a return to compliance and deter future non-compliance.

The policy is being implemented in a phased approach over the next nine

months. By taking this approach we will provide those we regulate with an opportunity to share their views on both the policy and its supporting guidance, and develop a supporting framework for our regulatory teams to implement the policy in their areas.



Andrew Haines, CAA Chief Executive



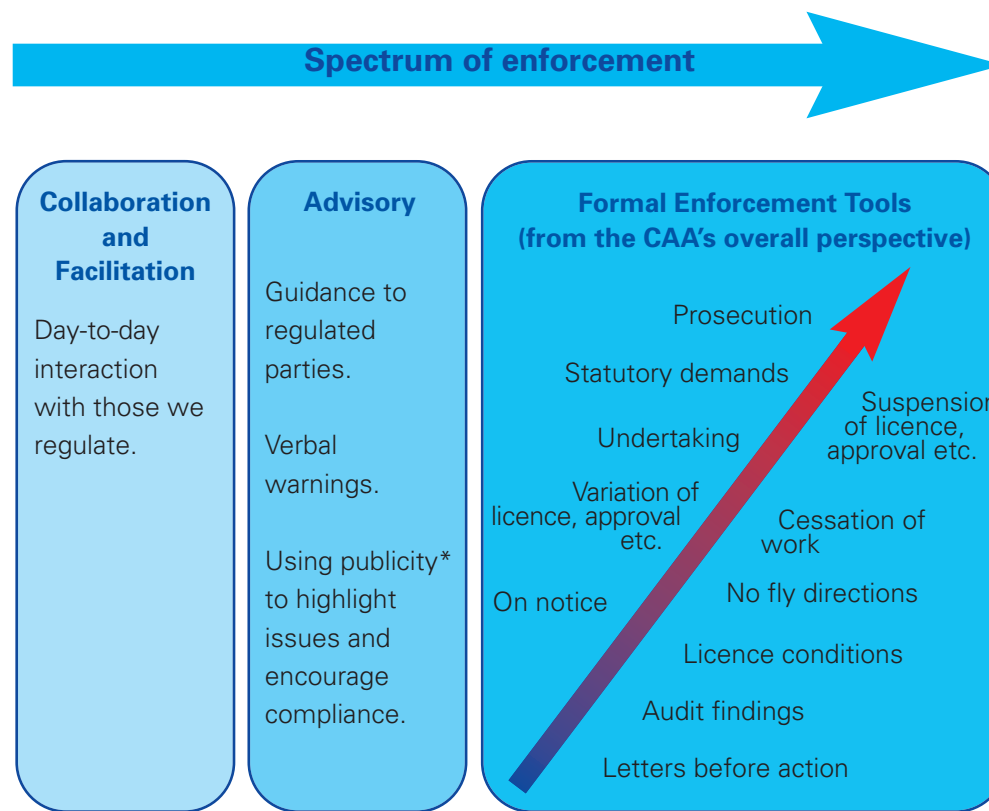
Introduction

The CAA has developed a Regulatory Enforcement Policy with associated guidance to directly support our strategic objective to be an efficient and effective organisation that meets Better Regulation principles and gives value for money. We have sought to define a proportionate policy that will focus the attention of those we regulate on addressing risks to the consumer and the public, and is transparent to those we regulate, to consumers and to the wider public.

Enforcement activity

We consider enforcement to be any activity that is carried out in order to seek to effectively remedy a breach, or suspected or potential breach, of rules applicable to civil aviation.

This policy applies to all of our enforcement activities. The figure to the right illustrates the range of the enforcement activities that form part of our overall regulatory model. We will work collaboratively with those we regulate to ensure there is clarity about how to comply with applicable aviation requirements, but we will deploy a range of scaled responses to actual, suspected or potential breaches.



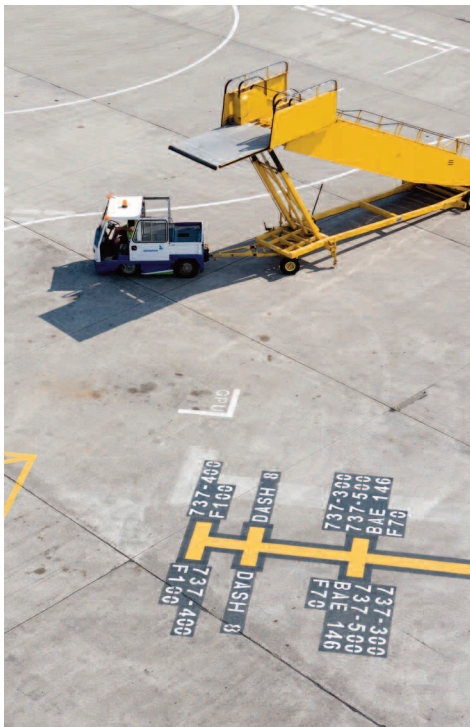
* We recognise that publicity on enforcement-related matters can have significant effects on stakeholders. The CAA's approach to publicity of such matters is covered on page five of this document.

Our policy

Our policy is designed to use enforcement to secure the behaviours that we want to encourage and monitor, in a cost effective way. Its primary purpose is to protect consumers and the public by:

- encouraging compliance with the rules, both by the aviation community generally and in individual cases; and
- deterring non-compliance.

For the purposes of this policy, a “consumer” is an end-user of an aviation service who does not himself



provide an aviation service, such as a passenger, a freight customer, a student pilot or buyer of flying lessons.

Establishing and implementing our policy across our enforcement activities will require us to recognise where there may be trade-offs to prevent unintended consequences. The policy will also require us to prioritise our resources to ensure effective and efficient implementation. Setting priorities will not necessarily be a straightforward process, but we will provide as much information as possible on our priorities in the guidance that will accompany the policy.

The policy is complementary to our commitment to a “just culture” approach to safety regulation but will ensure that we proactively take action where necessary to address non-compliance with the regulations. Further information on this will be found in the safety regulation specific guidance.

Our policy provides the direction we need to carry out our enforcement responsibilities, based on better regulation principles. Three principles characterise our approach to enforcement:

- we will use a proportionate and risk-based approach;

- we will take independent, evidence-based decisions;
- we will publicise our enforcement action where publication is in the interests of the consumer or the public.

Where we identify that non-compliance falls under the enforcement remit of another organisation we will seek a commitment from that organisation that appropriate action will be taken.

Where rules and regulations prove to be ambiguous or confusing, we will take what steps we can to improve these rules and regulations, recognising that this may require us to influence others given that much of the regulatory framework we enforce under is derived from European legislation. Where ambiguity is a consideration we will review the role it has played when deciding on the type of enforcement action to take. Generally, though, we expect those we regulate to be aware of their obligations and to respect them. Where they do not, we will:

- use a proportionate and risk-based approach

This means that we will react proportionately to evidence of actual, suspected or potential breaches. We will act rapidly in cases where there is evidence of immediate harm to the

consumer or the public. In some cases we may have identified a concern but have insufficient evidence to trigger enforcement action; here we will actively monitor the situation and be ready to take action as soon as it is appropriate.

We will work collaboratively with industry to achieve compliance by prioritising our resources to address areas of greatest harm to consumers or the public. We will therefore identify key areas of risk and escalate the nature and degree of our action as rapidly as necessary to secure satisfactory compliance. For more serious breaches, we will not hesitate to take immediate, robust action with the aim of stopping the activity which is causing the harm and ensuring that legal obligations are met.

We will explain clearly how our action will escalate if compliance is not achieved.

We aim always to treat those subject to enforcement action (whether individuals and organisations) in a consistent manner. However, where there is widespread non-compliance, we may initially focus enforcement action on a subset of these individuals or organisations where we reasonably believe that it will achieve the maximum deterrent effect. Our aim in

doing this would be to secure compliance but also to send a clear signal to deter any further breaches.

- take independent, evidence-based decisions

We will listen to our stakeholders to inform our enforcement decisions, but will always ensure that our decisions are robust, independent and objective. We will also ensure that our enforcement actions will be suitably documented and based on our statutory responsibilities.

We have enforcement responsibilities across a number of different regulatory functions and we will be consistent in the action we take within each of those functions. At the same time, we will broadly calibrate our enforcement actions across our different regulatory areas.

We are an independent regulator and we will not be swayed by political considerations.

We will not alter our course just because we have been challenged, whether through a legal case or other action.

We accept that, in some instances, our enforcement actions may be overruled. This risk of challenge will not deter us from pursuing a course of action which we believe is lawful and

will benefit consumers, the public or both. This is particularly so where enforcement action may ensure that any uncertainties or ambiguities in the applicable law are fully tested to the ultimate benefit of consumers, the public and the aviation community as a whole.

We will support our people at all levels of the organisation in taking enforcement action. This means giving them the right resources and authority.

We will review our enforcement activities regularly and will make improvements as and when necessary. This may involve comparing methods, outcomes and behaviours across our regulatory functions and will take into consideration stakeholder views and experience.

- publicise our enforcement action in the interests of the consumer and the public

Publicising our enforcement actions primarily serves to provide a transparent mechanism by which we can inform consumers and the public about the actions we have taken. It can also provide a wider deterrent for non-compliance.

We will normally publish information about our enforcement action against organisations, which

will include naming those organisations. We may also publish details of our enforcement action against individuals where we believe it is justified in the interests of protecting consumers or the public.

We will publish guidance on the different stages of our enforcement approach (which may vary across our different functions) and in particular set out when we would expect to escalate matters. Appended to this policy are the principles that will guide whether or not we publish enforcement actions. These principles will ensure we are acting consistently with a 'just and

learning culture'.

We will normally publish enforcement action on our website but may seek to publicise it more widely or share details with other organisations as necessary.

Where we have published enforcement actions and the regulated person or organisation has returned to compliance we will publicise this also.

Our review of enforcement action will also consider the consistency and effectiveness of enforcement action publication.



Appendix - Publishing Enforcement Actions and Disclosing Enforcement Information

As highlighted in the policy, the primary objective of publishing information about enforcement action we have taken is to inform consumers and the public. Greater transparency over the actions taken can also provide a wider deterrent effect to others. In order to provide further guidance on how this will be implemented, this appendix sets out our general principles for publishing enforcement actions, together with more specific information on the approach we will take.

We will publish the outcomes of the following actions:

- Successful prosecutions
- Revoked or varied licences or approvals
- Court orders
- Formal undertakings

The amount of information published will depend on the specific case but we will apply the following **general principles** for publishing enforcement actions:

- We will always inform the organisation or an individual of our intent to publish.
- We will seek to ensure consistency with previous actions when we are making a decision to publish.

- The extent and prominence of publication will be dependent on the need to deter others.
- In terms of the level of detail provided, we will publish the name of the organisation or individual, the action taken and a brief description of the breach.
- We will, where possible, seek to identify any unintended consequences and take these into consideration, including the impact of publication on the 'just culture' approach for safety regulation.
- In the case of prosecutions, we will normally only publish details when the relevant appeal period has expired unless the information is already in the public domain.
- Where we have published enforcement actions, and the regulated person or organisation has returned to compliance we will publicise this also.

Publishing enforcement actions that are not complete

We will not normally publish information about any enforcement action where the process is still in progress or where the matter was concluded voluntarily.

However, there may be instances where it is appropriate for us publicly to comment whilst a process is underway, for example:

- Risk of immediate harm to consumers

and the public

- Where the subject matter of an investigation is of public concern

In such cases, we will always acknowledge that an enforcement action is in progress and will normally publish information about next steps, timescales and, where necessary, any information to protect the consumer and the public from harm.

Publishing enforcement actions against an organisation

We will typically publish the enforcement action we have taken against an organisation, but will take into account if:

- There are particular human rights issues.
- There would be a risk of disproportionate negative impact on the organisation's customers or the public.
- We have identified any other unintended negative consequences that would outweigh the benefits of publication, which are to protect the consumer and the public, and deter non-compliance.

Publishing enforcement actions against an individual

We will only publish enforcement action against an individual if there is a strong rationale to do so, i.e. making others aware of the risk posed by the

individual in terms of immediate harm to consumers and the public and therefore reducing opportunities of further breaches.

We will take into account applicable Human Rights Act considerations when making a decision to publish enforcement actions against an individual.

Disclosure of Information

We will protect Information that is provided to us in line with legal disclosure constraints. These include:

- Section 23 of the Civil Aviation Act 1982 governs the disclosure by the CAA of any information provided to it under certain provision of the Act or of an Air Navigation Order without the consent of the person concerned; and
- The Freedom of Information Act 2000 and Data Protection Act 1998.

Information on how we handle requests for information under FOI and DPA can be found on our website at www.caa.co.uk/informationrights.

In addition, we will also take into account specific disclosure constraints such as Part 9 of the Enterprise Act which does not allow enforcement bodies to share information obtained from businesses without their consent, apart from some limited exceptions to share information with other designated enforcement bodies.