

# CAA consultation on proposals for a revised airspace change process



## Response from the Aviation Environment Federation

15<sup>th</sup> June 2016

### CHAPTER 4: How the CAA is considering revising the airspace change process

#### Question 1: Will the new process gateways improve the airspace change process?

Yes  No  Don't know

Please give reasons for your answer.

Don't know.

The gateways would allow for interim periodic checks and help to build confidence that the process has been satisfactorily followed, helping to improve both transparency and the opportunity for community engagement. AEF supports the conclusion of the Helios report that there have, in the past, been significant problems in relation to both these issues in terms of how airspace changes have been handled with many communities feeling that airspace decisions have been made in secret and without any opportunity for their involvement at the formative stages.

Academic research has similarly concluded that non-acoustic factors can contribute to the annoyance response associated with environmental noise, including mistrust between the community and airport and beliefs about whether noise could be reduced by those responsible. A 2012 paper recommended that discussion between planners and residents, good information provision about planned changes, and a consideration of what benefits affected residents will get from a change can all help to reduce noise annoyance ratings and could potentially reduce the health burden of aircraft noise (Laszlo et al, *Annoyance and other reaction measures to changes in noise exposure — A review*, Science of The Total Environment, Volumes 435–436, 1 October 2012

<http://www.sciencedirect.com/science/article/pii/S0048969712009539>)

However:

1. Keeping communities better informed and inviting their engagement more formally does not necessarily mean that their interests, and those of the public more generally, are any better protected. Communities are ultimately interested in outcomes, not process, and it remains unclear whether these will improve as a result of the CAA's proposals. We return to this point in response to question 29.

2. Inaccuracies or other flaws might only become apparent down the line. Gateway sign-off should therefore be considered provisional, and should be open to challenge as the process progresses. For example, the ‘develop and assess’ or ‘consultation’ stages could bring to light evidence that the original justification for the change does not in fact stand up to scrutiny. The ‘post-implementation’ review could meanwhile show that the impacts were in fact different from those anticipated, in which case the application may need to be returned to an earlier stage in the process – potentially even to stage 1.
3. The changes that will be subject to the ‘gateways’ review process outlined in the consultation will be limited, with some impacts that communities consider to be significant changes falling outside the formal definition of an ‘airspace change’. These include trials, vectoring practices in relation to arrivals, incremental increases in concentration, changes to the number and type of aircraft using a given flight path, and changes to landing and take-off procedures. The extent to which the new process is effective in addressing community concerns will by definition be limited therefore.
4. The CAA should clarify who it anticipates acting as ‘airspace change sponsors’ in the context of applications under the new process. In particular, the proposals appear aimed at discrete airspace changes being planned by airports. Presumably any changes affecting the airspace of more than one airport (such as LAMP or its successor, about which communities currently feel in the dark) would need to be brought forward by NATS, and would then follow the same process, but this is not made clear. The interaction between the process outlined here and that associated with an approval of airport expansion, including the publication of a National Policy Statement and Development Consent Order, for example, is similarly not discussed.
5. None of the gateways specify any clear environmental limits against which proposals will be tested. Consequently there is no clarity over whether the CAA would ever refuse change on the basis of environmental impact. The CAA has no powers meanwhile to impose limits on how flightpaths are used – a key flaw in the current arrangements which is not addressed by the proposals. In contrast local planning authorities have the ability to specify how a development will be used and to impose conditions to limit the impact to achieve a specific outcome, for example by limiting numbers of aircraft movements or the times of day that a runway can be used. This can also ensure consistency with the predicted environmental impacts during the assessment stage. Many of our members consider ‘less noise’ to be an important outcome, and are unlikely to have trust in the process for as long as no certainty is being provided about future noise impacts.

## Proposals for Stage 1: Define

**Question 2: Should the sponsor engage local stakeholders to agree design principles for the airspace change?**

Yes     No     Don't know

**Please give reasons for your answer.**

Yes.

Stakeholders should certainly have the opportunity to engage and many of our members, including in particular parish council associations, have indicated their keenness to do so. A large swathe of stakeholders may potentially be either directly or indirectly affected, not just those who are 'local' to the airport in question.

But it should be borne in mind that this may be both demanding in terms of time and difficult in terms of technical detail (such as whether certain flight paths can feasibly be operated or not, or how much dispersal can be achieved in practice). Asking people to engage in their spare time in discussing abstract principles on future airspace change proposals should not be regarded as a replacement for the CAA's duty to protect community interests under Section 70 of the Transport Act (as discussed below). Communities should be offered technical support where appropriate to better equip them to engage effectively.

It is also unclear how the CAA and the sponsor would proceed in cases where it is impossible to agree on the right principles. Different industry sectors will want to stake a claim to airspace, and local communities may not meanwhile be able to agree among themselves how noise is best distributed. Guiding principles, including appropriate prioritisation, will therefore be required from the CAA, as well as from the Government, and many of our members consider that those principles are at present unsatisfactory and weighted towards the interests of the aviation industry.

In addition, we note with concern the absence in this stage of any statutory role for local planning authorities. Since local authorities have responsibility both for considering applications for changes to airport infrastructure where the associated environmental impact is dependent on the location of flight paths and for local planning more generally (such as future policies for land use and housing, and protection of AONBs and Green Belt from development pressures), they would seem to have a critical voice in the context of the CAA's Stage 1 proposals.

**Question 3: What types of data would you find it useful for the sponsor to provide when engaging local stakeholders about design principles? How should this data be presented?**

It would be essential to set out clearly what communities can realistically ask for – what flight paths can in fact be flown for example. In general we hope that the data would be provided in response to community input on design principles (with reference to an existing neighbourhood plan for example and how it can be accommodated) so is difficult to specify in advance.

Many of our members nevertheless suggested detailed lists of information they would want to see included from sponsors. It is unclear to us whether the CAA would regard the 'design principles' stage as being the right place for this, but the feedback we have received underlines the importance for communities of knowing exactly what is being proposed and why right from the start. One member identified "the need for an accurate forecast of the

range of outcomes expected from the proposed change” as being as important as better community engagement and improved transparency in terms of necessary improvements to the airspace change process.

In general the point was made strongly by our members that the way in which flight paths are used, and when they are flown, is at least as important as the position of those flight paths on a map in terms of noise impacts. These factors – such as numbers and type of aircraft and, to a lesser extent perhaps, the use of the use of continuous climb and continuous descent operations – are largely outside the CAA’s control. We are concerned that a flight path change could be approved on the basis of a particular forecast in terms of traffic movements being considered acceptable in terms of noise impact without any clear mechanism for the CAA to enforce such usage (in contrast to the way planning conditions on aircraft infrastructure operate), or to repeal approval of a flight path if, for example, usage is more intensive than originally anticipated.

Data identified by our members as necessary for sponsors to provide includes:

#### General

- What environmental objectives and guidance have been applied, including, trade-offs and weighting factors.
- Description of change.
- Description of modelling assumptions together with levels of uncertainty and information gaps.
- Range of forecasts allowing for different possible future traffic levels and patterns.
- Population growth in the areas impacted and any restrictions applied to land use; any other relevant development plans for the area under scrutiny.
- Map showing the area being consulted and the area in which airspace changes are proposed.
- The length of the route to or from 20,000 feet.
- Map showing existing tracks and how they are flown in practice.
- Impact of traffic at other airports, including anticipated flight path changes.
- Any other changes that are being introduced at the same time, for example time based separation.

#### Economic

- Quantified forecast of impacts in a form that permits assessment in the post implementation review phase.
- Any offers of compensation for communities .

#### Intensity and nature of flightpath use

- Anticipated numbers of aircraft under a range of possible scenarios.
- Height of aircraft.
- An indication where the aircraft are going to fly within the boundaries of the route.

- Runway and flight path respite; any runway alternation (with information where relevant on historical alternation patterns).
- Anticipated aircraft types.
- Operational procedures assumed (continuous climb/descent for example); any non-standard procedures being considered eg curved approaches.
- Impact of different weather conditions (notably wind direction) on how a route is likely to be flown.

#### Noise impacts

- The results of any trials, including actual noise measurements.
- Day/night and summer/winter noise impacts, in measures allowing assessment against WHO-recommended noise limits.
- Equivalent continuous sound levels (LAeq) including levels measured over several hours or even hourly to give an indication of noise levels at different times of day and night – not only over 16 hours or 8 hours.
- Supplementary noise indicators  $L_{Amax}$  and SEL (particularly important in areas where there are peak periods of intensive flights every minute or two, and other times of day when traffic is at much lower levels). Background noise levels need to be taken into account, for example by mapping N(10 above L90) to give an indication of the number of flights with noise levels more than 10 dB above the L90 level.
- Noise footprint data for different climb rates/cruise levels and not just the ‘full power’ take off phase.
- Impacts on specific communities/specific noise problems; impacts on residential dwellings, schools, places of worship etc.
- Projections of the future noise climate over 10-20 years.
- Impacts on quiet areas identified under the Environmental Noise Directive (2002/49/EC) (which includes a requirement to preserve environmental noise quality where it is good) and on quiet times, identified as worthy of protection under the Noise policy Statement for England (Defra 2010).

#### Other environmental impacts

- Air pollution impact
- Climate impacts

#### **Question 4: In addition to specific detail, what general background information would you find it useful for the sponsor to provide as context for its proposals?**

Sponsors should set out a very clear statement of objectives, including the extent to which the proposal relates to future plans (for traffic growth, or a change in traffic mix for example) rather than solving an immediate problem. Please see our answer to question 5. To the extent that ‘safety’ is given as a reason for making a change, the specific safety objective should be clearly defined.

**Question 5: Overall, will Stage 1 improve the airspace change process?**

Yes  No  Don't know

**Please give your reasons and any other views on Stage 1.**

Don't know.

We welcome the proposed requirement for clear explanation of why the change is requested, as the lack of quantified information and evidence to support claimed benefits of an airspace change has been identified by members as a key issue in the current airspace change process. We are aware of more than one recent example of an airspace change being requested on the basis of assumed fuel efficiency improvements, but in fact of having the effect of elongating the route. 'Reduced delay' has similarly on occasion been cited as a reason to support change without any evidence being provided that this will be the outcome. Hopefully any such anomalies could be flushed out under the revised process.

But there should also be an opportunity for stakeholders to engage with and comment on this aspect of Stage 1 and not just on the 'design principles', to ensure that any claims stand up to scrutiny. Clear and quantitative evidence must be presented from the start when an airspace change is proposed. Some of our members expressed the view that this data should be independently verified outside the CAA given the current trust deficit in some communities.

In relation to the 'design principles', while we support the opportunity for local factors to be taken into account, environmental principles underpinning all change proposals should also be established at a national level, taking into account evidence on health and other impacts. This should include guidance on how 'local stakeholders' will be selected, to ensure that a fair balance of opinion is achieved. As argued elsewhere in our response, communities should not be expected to fight their own corner at each stage of the process but should have their interests fairly and transparently accounted for as a matter of course by the CAA.

## Proposals for Stage 2: develop and assess

**Question 6: Will introducing the options appraisal we propose improve the airspace change process?**

Yes  No  Don't know

**If so, should this initially be a 'full' or 'indicative' options appraisal? Please give your reasons and any other views on options appraisal.**

Don't know.

An early and full appraisal of environmental impacts seems a useful step in theory. As

indicated in our response to question 3, providing as much information as possible as early as possible about the anticipated impacts of a proposal, whether positive or negative, is very important to our members. We consider that noise should be the primary consideration in terms of lower airspace change. However, we are aware of cases where airspace changes have been proposed that appear to increase route length and therefore emissions, while also having unwanted noise impacts. Since airspace change is generally assumed to be justified on the basis of efficiency improvements, a formal assessment of CO<sub>2</sub> as well as noise impacts should be made right from the start.

We have three significant areas of concern about this stage however:

1. We do not consider an options appraisal and assessment to be an adequate substitute for better Government policy in relation to aviation noise for which acceptable limits and objectives should be defined. We note that in relation to air quality, the methodology exists for inclusion of air pollution costs in cost benefit analysis, but that alongside this absolute limits are determined in law and must be achieved. Planning and policy proposals can then be assessed for compatibility with these limits and objectives. We would support a similar approach being taken for noise. While we recognize that this falls outside the scope of the CAA's duties, the CAA could help to support this approach, for example by advocating for Government policy to make reference to noise metrics better suited to assessing health impacts than Leq (based on the evidence highlighted in the ERCD's recent review of the evidence on night noise, for example), and by adopting its own noise thresholds and noise principles in the context of airspace change, based on engagement with communities (including through this consultation) as well as its own noise expertise. Where evidence gaps exist (for example in relation to the health and annoyance impacts of concentration; the impact of night flights in the shoulder periods; additional disturbance in areas of low background noise; additional disturbance for people newly exposed) the CAA could proactively seek to address them by way of its research department.
2. Getting the template right for the options appraisal will be critical. For any noise assessment to be useful, for example, it would need to make use of the right noise metrics. We understand that the CAA adopts a principle of assuming an airspace change to be significant in noise terms only if is a 3dB change in noise – equivalent in Leq to a doubling or halving of movements. The 57dB Leq contour meanwhile has been discredited in our view as an indication of the onset of significant community annoyance. Research on people's response to aircraft noise, meanwhile, indicates that the absolute noise level is not the only relevant factor; some studies have identified a 'change effect' with additional annoyance and sleep disturbance responses than would be predicted by standard dose-response curves in cases where there is a step change in noise exposure (see for example Van Kamp, I. Brown, A.L. (2013) Response to change in noise exposure: an update *Proceedings of Acoustics 2013 – Victor Harbor* [http://www.acoustics.asn.au/conference\\_proceedings/AAS2013/papers/p9.pdf](http://www.acoustics.asn.au/conference_proceedings/AAS2013/papers/p9.pdf)).

We are particularly concerned about the widely varying results that can arise from assessment of economic benefits in relation to aviation depending on which 'direct' and 'indirect' benefits are counted. If 'Webtag' were to be adopted for producing cost benefit assessments for airspace change, the CAA could very usefully, perhaps together with DfT, help to bring communities and other stakeholders up to speed with how the model works and what is and is not counted. The fact that Webtag assesses marginal changes rather than absolute values, for example, causes us some concern.

3. The use of cost benefit analysis in any form is highly controversial among communities. Some of our members are able to cite instances where a cost benefit analysis has for example shed light on the scale of noise impacts in a way that has proved very helpful to them. Others consider firmly that the approach is unjust even in principle, arguing that people's health and quality of life should not be 'reduced' to monetary values. An important question arises therefore around whether or not the introduction of this approach would support the CAA's aim to increase community trust, or whether it could create even more suspicion. Relatedly, how would the introduction of such an approach sit alongside the thrust of the CAA's proposals to improve community engagement? Could the introduction of CBA could in theory render the entire consultation process void?

Our view is that cost benefit analysis could serve a useful role in highlighting all relevant impacts, both positive and negative, in the context of an options appraisal, and of ensuring that environmental impacts are given serious consideration. But it does not provide a shortcut to finding the right answers, and should not be the only evidence to be considered to the exclusion of qualitative assessments. The CAA would therefore need to be clear about the weighting that should be given by sponsors to the results of this analysis, alongside both the direct feedback from local communities and the impact of a proposal on environmental and other objectives and principles. In particular, the CAA must set out in clear terms the environmental conditions under which an airspace change proposal would be refused.

**Question 7: Overall, will Stage 2 improve the airspace change process?**

Yes  No  Don't know

**Please give your reasons and any other views on Stage 2.**

Don't know.

This depends very much on the detail of the proposals once operational. Please see our response to question 6.



## Proposals for Stage 3: consultation

**Question 8: Would an independent third-party facilitator make a sponsor's consultation more effective?**

Yes  No  Don't know

**If so, should a facilitator be a mandatory requirement for certain types of airspace change? Please give your reasons and any other views (including benefits and disbenefits) on facilitators.**

Don't know.

We found it difficult to envisage exactly how this would work. In general our members are supportive of the principle of independent external input to the airspace change process but the precise form that it should and could take is unlikely to be limited to the role of a facilitator.

Many people are distrustful of their local airport's capacity to consult fairly and NATS too has been described as being poorly equipped for effective local engagement. There may be a role of an independent facilitator in helping to address such problems through improved co-ordination and communication, and some of our members went as far as to argue that consultations should be undertaken entirely by third parties, rather than by sponsors who cannot be considered independent. In particular the view was expressed that it would not be appropriate to view community representatives, whether elected or unelected, as a proxy for consultation with the public (with examples being cited of airports, for example, changing their plans at the last minute on the basis of private meetings with one particular community and failing to run a full public consultation on these).

Equally, some of our members took the view that these problems should be addressed by the CAA directly (perhaps drawing on external expertise to ensure that health and community impacts are fairly treated) and that bringing in third parties could create confusion and a lack of consistency. At worst, such third party could create additional distrust, particularly if appointed and paid for by change sponsors. An IANA if created has been mooted as an alternative source of independent scrutiny.

Finally, there are a number of areas where communities would value external input but which probably fall outside the scope of a facilitator's role. These include:

- A rigorous assessment of the accuracy and adequacy of information provided by sponsors as part of the consultation process
- Arbitration regarding any need for compensation associated with the proposal
- Independent expertise, and support for communities (and potentially local authorities) in understanding and interpreting technical data presented by sponsors

**Question 9: Should the CAA publish all consultation responses in full, except to moderate them for unacceptable content?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes. This would reflect standard practice and improve transparency. Only offensive content should be removed before publication.

**Question 10: Should the CAA publish airspace change consultation responses as they are submitted, rather than at the end of the consultation period?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes.

Our members were supportive of early publication, as a means of enriching debate and helping those who are inexperienced to formulate their own responses. The CAA should consider however the potential disadvantage of this approach to people who submit early. To mitigate this, respondents should have the opportunity to submit supplementary evidence at a later date, for example in response to the submissions made by others.

**Question 11: Should consultation responses be made solely through the online portal?**

Yes  No  Don't know

**Please give reasons for your answer.**

No.

Respondents should be encouraged to use the portal and it should be designed in such a way as to allow various kinds of response, from unstructured comments to detailed feedback on consultation questions. But provision should also be made for people to respond through other means, even if this creates an extra demand on sponsors, to allow for feedback from those without internet, with a slow connection, or those who are unable to respond online due to age or disability. Provision must also be allowed for respondents to upload attachments such as graphs, charts, maps and large data files. The proposed independent facilitator and/or CAA community engagement managers could have a role in recording and translating informal feedback in a form that allows it to be added to the portal.

**Question 12: Do you think that the consultation process proposed in Stage 3 achieves the right balance between fairness, transparency and proportionality?**

Yes  No  Don't know

**Please give reasons for your answer.**

Don't know.

In order to restore trust, transparency should not be compromised. It is unclear to us what is meant by 'fairness'. It remains to be seen whether, having been received, community input will be taken seriously (and plans amended for example). Policy change is likely to be necessary to ensure that the needs and interests of the public are fairly balanced against those of the industry.

**Question 13: Overall, will Stage 3 improve the airspace change process?**

Yes  No  Don't know

**Please give your reasons and any other views on Stage 3.**

Don't know.

The answer will depend very much on how the proposals are applied. Consultation may need to be supplemented with other measures to ensure that communities have a good understanding of what is proposed. For more significant changes, for example, a simulation, for example using the Arup soundlab, may be helpful.

**Proposals for Stage 4: update and submit**

**Question 14: Should sponsors be required to adhere to a standard template for their airspace change submissions?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes.

This should help to make the process more accessible and ensure that sponsors do not overlook any essential information or assessments. Some flexibility should of course be provided for however.

**Question 15: Is it reasonable for the CAA to publish a redacted version of the submission, with commercially sensitive details removed, as soon as we receive it, before we have assessed and decided upon it?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes.

This would help to demonstrate whether or not sponsors have taken account of consultation responses. Redactions should be kept to an absolute minimum, with stakeholders able to

see and comment on the original submission as soon as possible. Refusal (including among NATS and the CAA) to publish sponsors' original proposals has been identified as a significant source of community distrust in the airspace change process.

**Question 16: Overall, will Stage 4 improve the airspace change process?**

Yes  No  Don't know

**Please give your reasons and any other views on Stage 4.**

Yes.

It should help to improve transparency.

### Proposals for Stages 5 and 6 (including Public Evidence Session and Appeal discussions)

**Question 17: Will introduction of a new Public Evidence Session improve the airspace change process?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes.

Allowing communities (including the general public as well as active campaigners) an opportunity to engage directly with the CAA decision-maker, who would otherwise be a remote figure, would be a worthwhile improvement, and reflects longstanding practice in the planning system. Giving people a final opportunity to respond to other perspectives as evidenced throughout the process would be helpful.

It should not however be regarded as a substitute:

- (i) for making the CAA more accessible to the public throughout the process, or
- (ii) for ensuring that submissions are appropriately re-consulted on if significant changes are made; some external scrutiny (outside the CAA) of what counts as 'significant' change may be required. Please see our comments also on the proposed post-implementation review stage, which we regard as weak.

**Question 18: Is Step 5B (CAA decision) a clear and transparent way of making an airspace change decision?**

Yes  No  Don't know

**Please give reasons for your answer.**

Don't know.

Again it remains to be seen whether the proposals are implemented in a fair and transparent way. In particular, the CAA's decision-making criteria remain unclear and Government policy is at present inadequate to fill the gap.

**Question 19: Overall, will Stage 5 improve the airspace change process?**

Yes  No  Don't know

**Please give your reasons and any other views on Stage 5.**

Don't know.

The proposals should make the process more transparent and provide a better opportunity for community views to be represented in the late stages, but we are reluctant to express a strong view until we have a clearer idea about how different factors will be weighted in the decision-making process.

**Question 20: What are your views on our proposal not to introduce an appeal against process irregularities into the airspace change process?**

We agree with the CAA that an appeal mechanism that ended with the CAA's Board is unlikely to be effective, since identifying individuals who could be seen as sufficiently independent of the decision would be very difficult. We disagree however with the conclusion that the leaving it to people to bring a judicial review provides an adequate alternative, since this is (a) likely to be prohibitively expensive for most communities and (b) unable to consider the substance of the decision, only whether correct process was followed. The lack of any appeal mechanism is regarded by many of our members as a critical flaw in the CAA's proposals for addressing the trust deficit with communities. Since the CAA is funded by the industry it is supposed to regulate, some communities regard it as inherently biased towards industry interests.

Possible approaches for allowing an appeal mechanism include the following:

1. Just as the Secretary of State has responsibility for approving airspace change applications with significant environmental effects, he or she should also be available to be called upon to consider intervening in cases where stakeholders wish to appeal a CAA decision on airspace change. It is our understanding that the Secretary of State's existing right to overrule a CAA judgment has never in fact been implemented. Bearing this in mind, the criteria for such an appeal to be considered should be clearly set out, in order to provide the public with sufficient confidence that the Government was offering genuine opportunity for democratic oversight of the process.

We are aware that the Government is considering removing this power of intervention by the Secretary of State – a proposal we strongly oppose in the

absence of any other democratic backstop. We note that in the planning process, while recommendations are made by staff on the basis of technical analysis, it is ultimately for a planning committee of elected individuals to reach a decision. No comparable democratic process exists for airspace.

2. Some of our members have advocated the formation of a dedicated body or panel to arbitrate on airspace change proposals, in order to ensure that decisions are seen to have been considered fairly from all angles including health and environment. An IANA, properly constituted, could perhaps serve such a function.

Some of our members consider that there should be a different appeal process for communities than for other users of airspace, and that a role for the Planning Inspectorate should be considered.

### Proposals for Stage 7 (including Oversight Committee discussion)

#### **Question 21: What types of data would you find it useful for the sponsor to provide, and in what form, when seeking feedback for its post-implementation review?**

We would expect to see all data that was necessary to assess whether the objectives behind the change and the design criteria have been met, and whether the environmental modeling undertaken throughout the process has proved to be in line with real-world impacts. Please see our response to question 3 for an indication of the kind of data that communities would want to see. It should include independently verified measurements of: noise levels in a range of relevant metrics; any anticipated improvements in efficiency and reductions in delays; and any anticipated changes in CO2 emissions.

The data should be published and comments from communities and others should be invited, with the CAA ready to take appropriate action in response.

#### **Question 22: Overall, will Stage 7 improve the airspace change process?**

Yes     No     Don't know

**Please give your reasons and any other views on Stage 7.**

Don't know.

We welcome the proposed enhancements to transparency. But we are concerned that the power to modify the proposal appears to rest entirely with the CAA in this stage of the process, without any reference to re-consultation or stakeholder engagement on any revisions that are put in place. The CAA should have the power to revoke the change if the outcomes differ significantly from those anticipated.

#### **Question 23: Overall, will the airspace change process proposed in Chapter 4 achieve the**

**right balance between fairness, transparency and proportionality?**

Yes  No  Don't know

**Please give reasons for your answer.**

Don't know.

The process as outlined will, we believe, make significant improvements in relation to transparency. We don't consider the process to be fair in every respect, particularly in relation to the post-implementation review phase, which offers minimal stakeholder engagement and appears to give CAA powers to make significant modifications unilaterally. The lack of any option for the CAA to reverse the change if the impacts are not as were described in the submission and/or consultation phase could in fact create a perverse incentive for the change sponsor to play down the impacts at the start, in the hope that once they get through the early 'gateways' they can do as they wish.

**Question 24: Should the CAA set up an Oversight Committee?**

Yes  No  Don't know

**Please give reasons for your answer, including what benefits or drawbacks it would deliver compared with the proposed process.**

Don't know.

The oversight committee as envisaged would have input only in relation to whether proper process had been followed, for example that all reasonable options had been considered. A similar role has been considered for an IANA if created. We can see value in there being some external oversight of the CAA's decision-making in future but would prefer this to come from a body also charged with responsibility for considering whether Government policy and the CAA's approach are consistent with appropriate objectives in relation to noise. To have neither an oversight committee nor an appeal mechanism is not acceptable in our view.

## Summary of guidance for the proposed process

**Question 25: Are there any other areas where the CAA should provide guidance?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes.

Guidance is necessary in relation to the data to be prepared by sponsors to inform the Post Implementation Review process. An assessment should be made against the project's

objectives, and against all forecasts prepared as part of the design principles, options appraisal, 'develop and assess' and consultation phases.

A clear explanation is required of how different considerations are weighed against each other and of any decision-making principles. We hope that this would be addressed in the 'grading matrix'. This should include a clear statement of what objectives and thresholds are applied in relation to safety (bearing in mind that the CAA must constantly be making judgments in which safety considerations are balanced against other factors that are likely to pull in the opposite direction, such as traffic growth).

## CHAPTER 5: Scaling the airspace change process

**Question 26: Does Table 5.1 give sufficient clarity and detail of how the process will be scaled?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes.

The approach is clear although we do not consider the means of determining the levels to be appropriate, as set out below. One exception where we consider the guidance to be inadequate regards the provision that "if any airspace change is deemed as fast-track by the CAA's Group Director Safety and Airspace Regulation, the matrix is dis-applied". The situations in which such determination would be made should be clearly set out, to ensure community confidence that these will be applied only in exceptional circumstances.

**Question 27: Do you have (i) any views on the way the Levels are categorised in Table 5.1, (ii) alternative suggestions as to how we might categorise different airspace changes, or (iii) other views about the proposed scaling of the process generally?**

We believe that the principle of scaling is reasonable and should help to ensure that communities do not waste time and energy responding to proposals that will in fact have little if any effect on them. We also welcome the CAA's proposal to base its scaling at least in principle on the basis of environmental impacts rather than other factors such as the size or capability of a sponsor.

But we do not regard the height-based threshold of 7000 feet as providing an adequate cut-off point for community engagement. As the CAA itself notes in this consultation: "some proposals to modernise airspace around Heathrow and Gatwick at altitudes higher than those typically thought to cause significant community concern have been vigorously opposed by some local community groups resistant to changes that they consider could impact their living environments." This supports the view of many of our members that



noise impacts can be significant at higher altitudes, not least as the altitude determination, being based on mean sea level, is insensitive to whether those overflown are on high ground.

Our preference would be for an evidence-based noise threshold to be used to determine what 'level' an airspace change falls under. Background noise levels, and the location of existing flight paths should be taken into account. If this were not to be possible the height threshold should be raised. We can see no reason why the CAA cannot decide to implement its own cut-off criteria in this context regardless of whether or not the Government's policy on how the CAA should balance noise and CO2 considerations were to be similarly revised.

We note in addition that there remain a number of issues relevant to the airspace change process but outside the scope of this consultation. In particular, while it was airspace change trials that prompted much of the opposition that has led to this review and consultation, the CAA notes that "Temporary airspace changes (which are defined in the Government's Air Navigation Guidance to the CAA as usually less than 90 days) will continue to sit outside of this process." Incremental increases in concentration and vectoring changes similarly fall outside the process but cause considerable concern. We suggest that the CAA should consider extending its categorisation of 'Level 1' change proposals to include changes experienced as significant by communities but currently falling outside the process, though we accept that it may not make sense to implement the full Level 1 process for airspace change trials. Any change in Government policy concerning these issues could of course, in any case, require a change in the CAA's approach to grading.

There may also need to be revision of the grading criteria to take account of the fact that some changes may only become significant for communities when introduced at the same time as changes at other airports.

**Question 28: Do you agree that the number of airspace change proposals put forward to the CAA is likely to increase in the future?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes.

If the Future Airspace Strategy is delivered it seems likely that the number of proposals will increase.

## **CHAPTER 6: CAA duties when carrying out our airspace functions under section 70 of the Transport Act 2000**

**Question 29: Do you have any views about the CAA's interpretation of section 70 of the**

## **Transport Act 2000, as set out in Chapter 6?**

Our members in general have the impression that the CAA gives more weight to the demands and interests of the aviation industry than to the public, and for example have told us that “a formal recognition of the need to balance the interests of the ‘overflown’ with those of the passengers and the industries that gain from the use of airspace” would be the most important change that the CAA could make to its airspace change process.

The CAA’s explanation of its interpretation of Section 70 gives the impression that it is seeking Government endorsement of this approach in the context of its airspace functions. In fact, while the CAA now has a primary duty to consumers in the exercise of its economic regulation functions, the wording of Section 70 of the Transport Act does not appear to us to determine any clear prioritisation or scaling of interests with the exception that safety should be prioritised. As indicated above, the CAA should set out the criteria it uses to judge the weighting it gives to safety considerations, for example against the desire to facilitate traffic growth.

We are aware that some communities are particularly concerned about the CAA’s interpretation of its ‘efficiency duty’. We consider that the CAA should place little weight on its duty to secure the efficient use of airspace. This is for 2 reasons:

- (i) The definition in terms of maximising the number of aircraft seems inadequate. Efficiency can only be judged in relation to a given objective and minimising environmental impacts (noise in particular) could be an equally valid objective against which efficiency could be judged. Indeed such objectives should be actively pursued by the CAA. Increasing traffic to the point where congestion occurs and aircraft have to stack not only conflicts with ‘expeditious flow’ but also potentially with such a wider definition of efficiency since stacking has unwanted impacts in terms of both noise and emissions.
- (ii) As the CAA acknowledges, issues such as environmental impacts or other impacts on local communities may rank above this efficiency duty depending on the scale of the impact as judged by the CAA.

To determine what weighting should be given to competing factors, we argue, either the Government needs to provide more explicit guidance to the CAA on how to resolve conflicts in the context of Section 70 duties or the CAA should accept that there can be no shortcut to it making its own judgments including setting out an appropriate ranking of impacts.

A critical point in relation to the airspace change process in general, in our view, is that the CAA should be actively considering the public interest in relation to noise without relying on communities to have to fight their own corner. Meeting the requirement “to take account of the interests of an person (other than an operator or owner of an aircraft in relation to the use of an particular airspace or the use of airspace generally” needs the CAA to take the initiative in assessing community impacts through objective research, and in representing these interests in a way that doesn’t rely on local communities having to do this for themselves. Not only does this place an unfair burden on those communities, but it expects

too much much, in some cases, of their capacity to be able to accurately predict the impact of a change, especially if newly overflowed. The proposals as a whole undoubtedly allow more engagement by communities, but whether or not they do in fact engage, and have the resources to engage effectively, is moot.

## CHAPTER 7: CAA cost recovery for administering the airspace change process

**Question 30: Do you have a preference for either of the options for recovering the CAA's airspace change costs that are set out in Chapter 7?**

**Please give your reasons and any other views on how the CAA recovers its airspace change costs.**

Option 2.

We see change to the current system as an urgent challenge that should begin as soon as possible and while the momentum within CAA exists. We would therefore support the raising of necessary funds prior to 2020.

**Question 31: In the short term the CAA will still have to set up a new statutory charge. On which entity would it be most appropriate to levy this charge? Please give your reasons.**

No preference.

We don't have a strong view in terms of how best to levy funds from the industry. Our concern is only that local communities, whose interests are not well represented in the current process, should not suffer from any industry reluctance to pay. The levying of necessary funds from industry is consistent with the 'polluter pays' principle. The industry, which stands to benefit from the changes, should be willing to contribute as necessary.

## CHAPTER 8: Transition to a new process

**Question 32: Are our proposed transition arrangements between the old process and the new process reasonable?**

Yes  No  Don't know

**Please provide any further comments or evidence that would inform our proposed transition arrangements.**

Don't know.

We are concerned that some sponsors may try to push through applications quickly and before the new process is introduced, given the additional demands it will place on sponsors. The CAA should therefore provide a tighter definition of when proposals are deemed to enter 'the pipeline' given that sponsors do at present consult the CAA informally, and therefore arguably trigger Stage 1, and that they may carry out a limited consultation with local planning authorities and consultative committees before making any formal submission.

For the CAA to agree transition arrangements on a case by case basis with sponsors would lack the appropriate transparency.

## CHAPTER 9: Next steps

**Question 33: Are our timescales for introducing the new process reasonable?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes.

The deadlines seem reasonable on the assumption that the EASA guidance in 2017 is not likely to conflict with the proposals in any way. It must be noted that the perceived effectiveness of the changes in terms of building community trust and confidence is also dependent on the DfT introducing appropriate policies defining environmental objectives and taking account of the latest evidence such as WHO recommendations on noise and health.

## Appendix B: A portal for airspace change proposals

**Question 34: Do you agree with the concept of an online portal?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes.

**Question 35: Should the online portal contain any functionality beyond what we describe, or documentation other than that shown in Table B1?**

Yes.

All CAA guidance material, including weighting criteria, should be included. The 'options appraisal' documentation should include the results of environmental assessments and the

'post implementation review report' should include a re-evaluation against these assessments. All documents should be retained in an archive to inform both the post-implementation review and to provide historic illustrations to those engaging with the process for the first time.

**Question 36: What are your views on locating the sponsor's consultation on a CAA portal where the sponsor administers the documentation and responses?**

We consider it important to have all materials on a single website to make it as easy as possible to find, so this seems a reasonable solution.

**Question 37: Is it essential that the online portal is a single website or could different websites (CAA, sponsor, consultation portal) be used for different aspects of the process?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes – everything should be on one, easy to locate, and easy to use website.

**Question 38: Do you have any views on the CAA's analysis of the three options for an online portal, bearing in mind that the CAA will need to recover its costs through charges on those it regulates?**

Yes  No  Don't know

**Please give reasons for your answer.**

Yes.

There is currently a lack of clarity for the public over who is in charge of the airspace change process. Emphasis should be on making things easy for stakeholders to participate, not least as the proposal creates significant new burdens on communities. We support development of a bespoke site designed with this objective, with the possibility for updates in future if new features become necessary, for example, any changes triggered by the forthcoming review of the Aviation Policy Framework.

## Appendix D: The impact of the CAA's proposals

**Question 39: Is our assessment of the effects of the new process in Table D1 reasonable?**

Yes  No  Don't know

**Please provide evidence of what you believe the effect will be on you, your organisation or on other stakeholders involved in the airspace change process, including estimates of the monetary costs and benefits where possible.**

No.

Impacts on communities, who are likely to have the least resource to participate, must also be considered. Most of our members consider participation in a longer, more demanding process to be a price worth paying for the improvements to transparency and community engagement that are anticipated. One commented for example that “the CAA has shown itself to be remarkably unsympathetic to the needs of people outside the aviation industry, e.g. communities on the ground, environmental considerations, climate change. Time consuming ‘supervision’ by communities and the general public through consultation is now necessary in order for there to be effective consultation on what ordinary people would call a ‘change’ in the use of airspace.”

We are concerned however that some communities will be much better placed than others to engage. To quote another of our members “the duel between proposer and potential sufferers is woefully imbalanced when it comes to resources of any kind, as well as access to information.” Resources may therefore need to be available to support communities in some cases, as discussed in our response to question 8. There may also be a case for local authorities being given financial support to make the case for their communities when considering airspace changes, particularly if a more formal statutory role was to be created for them as we have suggested. They provide a local democratic representation of community interests in addition to those provided by amenity and campaign groups that is otherwise absent from the process. Neither AEF nor any of our members has felt able to estimate the monetary costs and benefits of the new process for us.

**Question 40: We are interested in your views on the additional costs in terms of time and resources that the proposed process will create for all parties. We are particularly interested in estimates of the monetary costs and benefits to sponsors of previous airspace changes and how these would have been affected by the CAA’s proposed process.**

Please see our response to question 39.