

Gwyn Carwardine
request-734373-ec5bf1ac@whatdotheyknow.com

7 April 2021
Reference: F0005186

Dear Mr Carwardine

Thank you for your request of 8 March 2021, for the release of information held by the Civil Aviation Authority (CAA). We have considered your request in line with the provisions of the Freedom of Information Act 2000 (FOIA).

Recently I submitted this FOI request.

[https://urldefense.com/v3/__https://www.whatdotheyknow.com/request/caa_document_authentication*incoming-1723389__;lw!!LYoxqgdACpl!a015F-CiiBDJTc9rAdiKlwDgKm-qq2ySBI4_3k2WrT7lh3HCmp6VASLMSWsMDswU--q4\\$](https://urldefense.com/v3/__https://www.whatdotheyknow.com/request/caa_document_authentication*incoming-1723389__;lw!!LYoxqgdACpl!a015F-CiiBDJTc9rAdiKlwDgKm-qq2ySBI4_3k2WrT7lh3HCmp6VASLMSWsMDswU--q4$)

You did not fully answer my questions and so I would like to give you a further opportunity, plus I seek clarification of a few items. I would appreciate if you will respond clearly to each numbered question below:

In my previous request I asked in respect of two documents:

A. SARG authorisation 2019.pdf

B. SARGTempAuthorisation.pdf

how each was signed. You replied with a copy of a heavily redacted email in case of document A that did not show who had approved it. You provided nothing in respect of document B.

In your response you stated that

"Schedule 1, Paragraph 15(1). of the Civil Aviation Act 1982 states that:

Subject to section 7(1) of this Act, the CAA may authorise any member or employee of the CAA..."

In that same legislation it defines "the CAA":

"The CAA is to consist of at least seven but not more than sixteen members."

"The CAA" refers to the board, which currently is documented here:

<https://www.caa.co.uk/Our-work/About-us/CAA-board-and-staff/>

It is therefore the board, or a board member, who provides the authorisation specified in Schedule 1, Paragraph 15(1)

Civil Aviation Authority

Aviation House, Beehive Ring Road, Crawley, West Sussex RH6 0YR. www.caa.co.uk

Email: foi.requests@caa.co.uk

Q1: Which member of the board authorised document A: "SARG authorisation 2019.pdf "

Mark Swan, who at the time was Group Director of Safety and Airspace Regulation.

Q2: What evidence exists that the board member authorised this? Please provide documentary evidence of this authorisation such as in the form of an unredacted email or other clearly showing the intent to authorise

The authorisation bears his signature, and we have provided all the recorded information we hold in our previous response. The request for signature was submitted to Mark Swan directly and his Executive Assistant, who handled all his correspondence and ensured that his instructions were carried out, returned the signed document advising his decision. Mark Swan, and his Executive Assistant, have both since left the CAA and we no longer have access to their email accounts.

Q3: Which member of the board authorised document B: "SARGTempAuthorisation.pdf "

Mark Swan, who at the time was Group Director of Safety and Airspace Regulation.

Q4: What evidence exists that a board member authorised this? Please provide documentary evidence of this authorisation such as in the form of an unredacted email or other clearly showing the intent to authorise

The authorisation bears his signature, and we do not hold any further recorded information. As advised above, Mark Swan, and his Executive Assistant, have both since left the CAA and we no longer have access to their email accounts.

Q5: What is the internal procedure that is followed that covers this authorisation process?

Q6: Are there any internal procedure documents that cover this authorisation process?

Q7: If answer to Q6 is yes then please provide a copy of the procedure

Please find attached a copy of the relevant procedure.

We have redacted personal information from the information disclosed where disclosure of such personal information would be unfair. The individuals concerned would not have had an expectation that their personal data would be disclosed, and the CAA can identify no legitimate interest that would be served by disclosing this personal information. Disclosure would therefore be a breach of one of the data protection principles contained in Article 5 of the General Data Protection Regulation, specifically Article 5(1)(a), which states that personal data shall be 'processed lawfully, fairly and in a transparent manner in relation to the data subject ...' Section 40(2) of the FOIA provides an exemption from the duty to disclose for information that would contravene any of the data protection principles.

If you are not satisfied with how we have dealt with your request in the first instance you should approach the CAA in writing at:-

caroline.chalk@caa.co.uk

The CAA has a formal internal review process for dealing with appeals or complaints in connection with Freedom of Information requests. The key steps in this process are set out in the attachment. A request for an internal review should be submitted within 40 working days of the date of this letter.

Should you remain dissatisfied with the outcome you have a right under Section 50 of the FOIA to appeal against the decision by contacting the Information Commissioner at:-

Information Commissioner's Office
FOI/EIR Complaints Resolution
Wycliffe House
Water Lane
Wilmslow
SK9 5AF
<https://ico.org.uk/concerns/>

If you wish to request further information from the CAA, please use the form on the CAA website at <http://publicapps.caa.co.uk/modalapplication.aspx?appid=24>.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Stevens'.

Mark Stevens
External Response Manager

CAA INTERNAL REVIEW & COMPLAINTS PROCEDURE

- The original case to which the appeal or complaint relates is identified and the case file is made available;
- The appeal or complaint is allocated to an Appeal Manager, the appeal is acknowledged and the details of the Appeal Manager are provided to the applicant;
- The Appeal Manager reviews the case to understand the nature of the appeal or complaint, reviews the actions and decisions taken in connection with the original case and takes account of any new information that may have been received. This will typically require contact with those persons involved in the original case and consultation with the CAA Legal Department;
- The Appeal Manager concludes the review and, after consultation with those involved with the case, and with the CAA Legal Department, agrees on the course of action to be taken;
- The Appeal Manager prepares the necessary response and collates any information to be provided to the applicant;
- The response and any necessary information is sent to the applicant, together with information about further rights of appeal to the Information Commissioners Office, including full contact details.

Freedom of Information Act: Section 40

- (1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.
- (2) Any information to which a request for information relates is also exempt information if
 - (a) it constitutes personal data which does not fall within subsection (1), and
 - (b) the first, second or third condition below is satisfied.

(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—

- (a) would contravene any of the data protection principles, or
- (b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

(3B) The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).

(4A) The third condition is that—

- (a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018, or
- (b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.

(5A) The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).

(5B) The duty to confirm or deny does not arise in relation to other information if or to the extent that any of the following applies—

(a) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a)—

- (i) would (apart from this Act) contravene any of the data protection principles, or
- (ii) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded;

(b) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene Article 21 of the GDPR (general processing: right to object to processing);

(c) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for confirmation of whether personal data is being processed, the information would be withheld in reliance on a provision listed in subsection (4A)(a);

(d) on a request under section 45(1)(a) of the Data Protection Act 2018 (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.

(6).

(7) In this section—

“the data protection principles” means the principles set out in—

- (a) Article 5(1) of the GDPR, and
- (b) section 34(1) of the Data Protection Act 2018

“data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“the GDPR”, “personal data”, “processing” and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(2), (4), (10), (11) and (14) of that Act).

(8) In determining for the purposes of this section whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.