

<b>Title:</b> Conferring certain aviation security functions, including regulation and compliance on the Civil Aviation Authority.  <b>IA No:</b> DFT00037  <b>Lead department or agency:</b> Department for Transport  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 06/02/2013
	<b>Stage:</b> Enactment
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
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**Summary: Intervention and Options** **RPC: AMBER**

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-out?	Measure qualifies as
£-4.3m	£0	£0	No	NA

**What is the problem under consideration? Why is government intervention necessary?**  
Aviation security regulation (i.e. rule-writing) and the inspection and enforcement of European and domestic regulations (i.e. compliance) are currently undertaken by the DfT, with the cost being met by the taxpayer. As a result, the costs of aviation security functions to be conferred on the CAA, including regulation and compliance, are not reflected in the price the passenger pays. This is in contrast to aviation safety regulation and compliance, as well as economic regulation, which is undertaken by the Civil Aviation Authority (CAA), and funded by industry, who subsequently pass on the costs to passengers. Government intervention is necessary to bring forward the necessary legislation to confer certain aviation security functions, including regulation and compliance on the CAA.

**What are the policy objectives and the intended effects?**

1. Reduce the costs to the taxpayer in line with Spending Review commitments by introducing the user pays principle.
2. Remove price distortions associated with aviation security functions, including regulation and compliance, being funded via general taxation. Making passengers pay for these costs should help ensure prices better reflect the costs of air travel. It should remove any distortions created from funding this through general taxation.
3. Offer efficiency savings for industry by having a single regulator for aviation security, safety and economic regulation, for example synergies could result in joint inspections, thereby reducing industry resources deployed to working with compliance visits.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 0 (Do nothing): Aviation security compliance and regulation functions continue to be provided by DfT and funded through general taxation.

Option 1: Confer certain aviation security functions, including regulation and compliance, on the CAA. This is the preferred option because it meets the Comprehensive Spending Review and DfT's business plan commitments, should cost less than option 2 yet deliver at least the same level of benefits than option 2.

Option 2: Create a new arms-length government agency to undertake certain aviation security functions, including regulation and compliance, with the powers to recover costs from industry.

**Will the policy be reviewed? It will be reviewed. If applicable, set review date: 10/2015**

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> Nil	<b>Non-traded:</b> Nil	

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.*

Signed by the responsible Minister:  Date: 7 2 13

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Preferred option: Confer certain aviation security functions, including, regulation and compliance, on the CAA through primary legislation.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -5.3	High: -4.4	Best Estimate: -4.9

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	2.98	3	4.7	28.3
High	1.98		6.5	39.1
Best Estimate	2.16		4.7	28.8

### Description and scale of key monetised costs by 'main affected groups'

There are transitional costs of £2.16m to confer certain aviation security functions, including compliance and regulation, on the CAA.

These relate to upgrading the CAA's IT system, £2m, and office costs incurred in physical relocation of £0.160m.

There are average annual costs of £4.7m (running costs that will be incurred by the CAA in taking on these functions).

### Other key non-monetised costs by 'main affected groups'

None.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	n/a	4.2	23.9
High	0		6.0	33.7
Best Estimate	0		4.2	23.9

### Description and scale of key monetised benefits by 'main affected groups'

The benefits relate to savings to the taxpayer from no longer funding certain aviation security functions, including regulation and compliance, which are currently provided free to airports and airlines. The benefits to DfT match the costs incurred, excluding the employer's liability and third party liability insurance cost brought about by the CAA taking on additional members of staff and transition costs.

### Other key non-monetised benefits by 'main affected groups'

Having a single regulator for aviation safety and security regulation. Initial discussions with industry suggest that some industry operators could restructure accordingly, leading to savings, as they would be able to combine certain members of staff who currently have similar safety and security roles. The CAA may be able to make efficiency savings through synergies of aviation security and safety regulation and compliance, such as joint inspections.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

ASSUMPTIONS: That the posts transferred would be subject to the current terms and conditions. That the cost of upgrading the security of the CAA's IT system falls to this project. That this transfer would take place in April 2014 in line with legislative timetables.

SENSITIVITIES: That the number of posts transferred would change prior to the transfer, although we do not expect any significant changes.

RISK: That CAA lacks sufficient security expertise, although DfT and the CAA are working to mitigate this.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: NA	Benefits: NA	Net: NA	No	NA

# Summary: Analysis & Evidence

# Policy Option 2

**Description:** Use primary legislation to create an arms length organisation to undertake certain aviation security functions, including regulation and compliance, and to be able to recover costs from industry.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -5.3	High: -4.4	Best Estimate: -4.9

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	2.98	4.7	28.3
High	1.98	6.5	39.1
Best Estimate	2.16	4.7	28.8

### Description and scale of key monetised costs by 'main affected groups'

There would be at least annual costs of £4.7m. There would be transitional costs of at least £2.16m. These relate to ensuring that the new organisation's IT system operates at the required security level totalling at least £2m, and office costs incurred in physical relocation of at least £0.160m. It is likely that the transition costs incurred in creating a new body to undertake aviation security functions would exceed those in option 1.

### Other key non-monetised costs by 'main affected groups'

Whilst this has at least the same monetised costs as option 1, there are significant other costs (e.g. management and support) that have not been monetised that would be incurred by creating an arms length organisation to take on certain aviation security functions, including regulation and compliance. Due to the scale of such an undertaking it is very difficult to monetise such costs with any degree of accuracy.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	n/a	4.2	23.9
High	n/a	6.0	33.7
Best Estimate		4.2	23.9

### Description and scale of key monetised benefits by 'main affected groups'

The benefits relate to savings to the taxpayer from no longer funding certain aviation security functions, including regulation and compliance, which are currently provided free to airports and airlines. The benefits to DfT match the costs incurred, excluding the employer's liability and third party liability insurance cost and transition costs.

### Other key non-monetised benefits by 'main affected groups'

None.

### Key assumptions/sensitivities/risks

Same as for option 1.

### Discount rate (%)

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: n/a	Benefits: n/a	Net: n/a	No	NA

## Evidence Base (for summary sheets)

### References

No.	Legislation or publication
1	<a href="#">Better Regulation for Aviation Security - Consultation outcome</a>
2	<a href="#">Better Regulation for Aviation Security - Consultation</a>
3	<a href="http://www.parliament.uk/business/news/2010/10/strategic-defence-and-security-review/">http://www.parliament.uk/business/news/2010/10/strategic-defence-and-security-review/</a>
4	<a href="http://www.fas.org/irp/crs/RL31617.pdf">http://www.fas.org/irp/crs/RL31617.pdf</a> ).
5	<a href="http://research.dwp.gov.uk/asd/asd5/WP86.pdf">http://research.dwp.gov.uk/asd/asd5/WP86.pdf</a>

### Evidence Base

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>	0.0	0.0	2.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>Annual recurring cost</b>	0.0	0.0	0.0	4.0	5.0	5.0	5.0	5.0	5.0	5.0
<b>Total annual costs</b>	0.0	0.0	2.1	4.1	5.0	5.0	5.0	5.0	5.0	5.0
<b>Transition benefits</b>	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>Annual recurring benefits</b>	0.0	0.0	0.0	3.5	4.5	4.5	4.5	4.5	4.5	4.5
<b>Total annual benefits</b>	0.0	0.0	0.0	3.5	4.5	4.5	4.5	4.5	4.5	4.5

\* For non-monetised benefits please see summary pages and main evidence base section

## Issue

1. Aviation is subject to two different regulators: the CAA for safety, economic and consumer protection regulation<sup>1</sup> and the DfT for security regulation. The Government believes that there are efficiencies to be gained through having a single regulator for all aviation specific issues. Currently, the industry pays for safety, economic and consumer protection regulation, in line with the user pays principle, as the costs are passed to passengers<sup>2</sup>. Inconsistently, certain aviation security functions, including regulation (i.e. rule-writing) and the inspection and enforcement of international, European and domestic aviation security regulations (i.e. compliance) - are currently undertaken by the DfT, with the cost being met through general taxation. As a result the costs of aviation security regulation are not reflected in the price the passenger pays. Government intervention is necessary to bring forward the necessary legislation to confer certain aviation security functions, including regulation and compliance on the CAA.

## Rationale for intervention

2. The Government is committed to deficit reduction, and conferring certain aviation security functions on the CAA, which is funded by the aviation industry, forms part of the Government's wider deficit reduction plans. Conferring certain aviation security functions, including aviation security regulation and compliance is expected to deliver savings to the taxpayer estimated at £23.9m in present value terms over the appraisal period ( analysis of the monetised costs and benefits can be found from paragraph 33). This cost would be transferred to the passenger at approximately £0.02 per passenger movement.<sup>3</sup>
3. The demand for aviation security is derived from the demand for air travel. The regulation of aviation security provides both private benefits to passengers (reduced risk of a terrorist attack) but will also benefit wider society. For example, the regulation of aviation security means there is a lower risk of a terrorist attack and hence the costs to society associated with an attack (such as reduced trade, less investment and physical harm on non-passengers). Because of these 'positive externalities' – i.e. the wider benefits to society of aviation security - the market, if left to its own, would under-provide aviation security. The degree of under-provision would depend on the size of the positive externality. The aim of this policy is not to address this market failure (i.e. the policy does not look to change the level of aviation security or seek to achieve a socially optimal level of aviation security) the aim of the policy is to address the question of who should pay for the regulation of aviation security.
4. The question of who should pay for the regulation of aviation security, in economic theory, depends on who should own the property rights for a secure society. The group who own the property rights could be either the users of air travel or wider society. For the former, this would require wider society compensating passengers for aviation security (this is what occurs currently as taxpayers compensate passengers by paying for aviation security regulation) or for the latter, this would require passengers compensating wider society (passengers should pay for aviation security regulation – the policy proposal). However, and in response to a comment from the Regulatory Policy Committee (RPC) the Government believes that because the need for aviation security is derived from the demand for air travel that, in line with the 'user pays' principle<sup>4</sup>, there should be a better balance between the costs that fall on taxpayers and those that fall on the users who benefit most directly. There would be aviation security costs remaining on taxpayers in respect of threat assessment, policy making, international engagement and oversight of the regulator. Given that the costs of the regulation of aviation security per passenger are small (£0.02 per passenger) these are clearly going to be outweighed by the private benefits realised by the passenger (for example a lower risk of loss of their life) from the reduced risk of a terrorist attack due to the regulation of aviation security.

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<sup>1</sup> Within the aviation sector certain airports are subject to economic regulation. Airspace is also subject to economic regulation.

<sup>2</sup> We refer to passengers as a short hand for all end users of air transport services (including users of cargo which is shipped via air).

<sup>3</sup> This is based on dividing the best estimate annual average cost (£4.8m) by the total number of passenger movements per annum based on 2010 figures (210,000,000).

<sup>4</sup> The user pays principle is equivalent to the more commonly used 'polluter pays' principle. The polluter pays principle is used in environmental economics to justify society owning the property rights to a clean environment and hence the polluter is required to compensate society.

5. Furthermore, the current method of funding certain aviation security functions, including regulation and compliance - via general taxation – is also likely to create distortions which should be addressed if industry (and therefore passengers) were to fund these functions instead. Currently, the taxpayer meets the costs of certain aviation security functions, including regulation and compliance, so these costs are not reflected in the price the passenger pays. This could lead to inefficiencies in the air travel market and an over-consumption of air travel<sup>5</sup>. In addition to this, conferring certain aviation functions, including regulation and compliance should also remove any distortions created from funding certain aviation security functions, including regulation and compliance, through general taxation<sup>6</sup>. Aviation security regulatory activity has had to grow relatively quickly in response to threats, attacks and attempted attacks. This activity has fallen to central Government, and the RPC queried why this situation has persisted. It has been the case that the resources and knowledge needed to be able to respond quickly were only available in central Government. All of this regulatory activity is founded on threat assessments. However, now that the machinery for producing security threat assessments for the various sectors (through the Joint Terrorism Analysis Centre) is well established, it is possible to site the certain aviation security functions closer to the relevant sector, and therefore address the aforementioned market distortions, whereas previously this would not have been possible.

## Background

6. The UK is legally obliged as a contracting state of the International Civil Aviation Organisation, and a Member State of the EU, to ensure that security measures are in place to protect civil aviation against acts of unlawful interference that jeopardise the security of civil aviation. Unlike some EU countries and the US, aviation security in the UK is delivered by the aviation industry, not the state. In the US for example, aviation security is delivered by a Government Agency – the Transport Security Administration. In the UK the Secretary of State is responsible for regulating aviation security in the UK, as set out in Part 2 of the Aviation Security Act 1982.
7. A thriving aviation industry is an integral part of the UK economy. In 2010, UK airports handled 211 million passengers and served nearly 400 international destinations. The air transport sector's turnover in 2009 was around £26 billion and the sector directly generated around £9 billion of economic output. It provides about 150,000 jobs in the UK and supports many more indirectly. Goods worth £95 billion were shipped by air freight between the UK and non-EU countries, representing 38 per cent of the UK's extra-EU trade by value<sup>7</sup>.
8. However, the UK faces a continuing threat from international and domestic terrorism. The Government's 2010 strategic review of defence and security set out its proposals for securing Britain in an age of uncertainty<sup>8</sup> and included a commitment to improve aviation security. The aviation industry carries millions of business and leisure passengers each year, directly employing tens of thousands of people, and carries over two million tonnes of freight, including fresh food, medical supplies, business mail and consumer goods. The consequences of an incident occurring, both in terms of potential loss of life and the economic cost, have been deemed by successive governments as sufficiently serious to warrant security (and safety) regulation.
9. It is difficult to quantify the benefits to industry that security provides. There is no simple way to measure the effectiveness of aviation security other than through covert testing and disrupting terrorist attacks, but this only covers a small portion of the aviation security effort. It is impossible to know how many attacks have been deterred by the presence of aviation security measures. Estimates can be made on the impact that a terrorist attack on aviation would have. 9/11 demonstrated that when aviation security measures are insufficient to mitigate the risk posed by terrorist methodologies, the consequences can be on a par with a major natural disaster. This

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<sup>5</sup> Although given the scale of this distortion (£0.02 on average per passenger movement) we expect this efficiency to be small.

<sup>6</sup> This concept is known as the social cost of exchequer finance (SOCEF). For further information on SOCEF see section 3.4 of "The Department for Work and Pensions Social Cost-Benefit Analysis framework" available at <http://research.dwp.gov.uk/asd/asd5/WP86.pdf>

<sup>7</sup> <http://www2.dft.gov.uk/consultations/open/2011-09/consultationdocument.pdf>

<sup>8</sup> <http://www.parliament.uk/business/news/2010/10/strategic-defence-and-security-review/>

## The aviation security functions - currently

10. Threat and risk analysis - The DfT engages with the Joint Terrorism Analysis Centre (JTAC) to understand and analyse the terrorist threats to aviation.
11. Policy - The Secretary of State is responsible for aviation security policy. Policy is developed from first principles or in response to events, intelligence or trends, to give direction to security activities and inform priorities. The policy function is also responsible for conducting negotiations to influence the international framework that determines some of the security priorities (for example, negotiating EU common basic standards for aviation security), and liaises with the other agencies such as the Home office, security service and police.
12. Regulation - In addition to European Union common basic standards for aviation security, DfT develops and maintains the UK's more stringent measures. These aviation security requirements are set out in directions which the Secretary of State gives to industry in exercise of his powers under Part 2 of the Aviation Security Act 1982. The regulation function communicates the requirements to the regulated industries and, where necessary, provides advice and assistance on meeting their regulatory responsibilities.
13. Compliance – Inspections are carried out by DfT to ensure compliance with aviation security directions. Inspectors, who, under Part 2 of the Aviation Security Act 1982 are described as “authorised persons”, are supported by a team of administrative and management staff. The inspectors monitor the UK airports, airlines, cargo installations and in-flight suppliers to ensure that they are complying with aviation security requirements as specified in both directly applicable EU legislation and UK directions. Where an authorised person is of the opinion that any person has failed to comply with their regulatory requirements, a “stepped approach” to enforcement is taken, ranging from words of warning, enforcement procedures and, if appropriate, prosecution.
14. Vetting – The Secretary of State specifies in directions (served on industry) certain aviation security activities that can only be carried out by individuals who have been vetted. DfT operates arrangements for the national security vetting of such individuals. This involves the making of vetting decisions (e.g. to grant/not to grant clearance) and the handling of any appeals.
15. International negotiations - DfT represents the UK on international forums and, with partner countries, helps deliver the UK's aviation security objectives on the global stage. DfT negotiates EU common basic standards for aviation security and encourages international co-operation in the sharing of research.
16. Overseas capacity building - DfT assists in the management of the threat from aircraft bound for the UK by providing assistance (training, equipment, advice etc.) to certain countries where particular threats and vulnerabilities have been identified.
17. Incident management - As well as playing a full part in the Government response to aviation security incidents, the DfT provides an “on the ground” presence at incidents and potential incidents which may have an impact on aviation security or where immediate security advice, or a decision on a variation from normal security practice to meet the immediate circumstances, may be needed. Such incidents range from demonstrations, diplomatic conferences through to actual terrorist incidents.
18. Research - DfT not only commissions but also plays an active part in research to understand, among other things, the consequences of terrorist attacks, vulnerabilities in aviation, assessment of new detection and screening technology or processes with the aim of delivering enhanced capability and encouraging innovation.

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<sup>9</sup> (<http://www.fas.org/irp/crs/RL31617.pdf> ).

19. Advice and guidance - DfT provides advice and guidance to the aviation industry to assist compliance with EU and UK aviation security requirements and to improve aviation security more generally.

## **The aviation security functions - after certain aviation security functions have been conferred on the CAA or a new body**

20. Policy – The Secretary of State would remain responsible for aviation security policy and for giving aviation security directions. Therefore responsibility for the overall security policy framework, together with risk and threat analysis and international representation, would remain with the Secretary of State.
21. Regulation – The CAA or new body, would have a duty to review aviation security directions that are currently in force and make recommendations to the Secretary of State about those directions and about the giving of further directions, which may, for example, follow from a change in the security threats to civil aviation. The Secretary of State may specify the form of the recommendations. Aviation security directions would continue to be made by the Secretary of State. The role of the CAA or new body would be, for example, to prepare directions for the Secretary of State to make or to prepare guidance on directions.
22. Inspection and enforcement - The CAA or new body would have the power to appoint authorised persons (i.e. inspectors) to carry out inspections and, if necessary, enforcement. The inspection and enforcement powers of CAA (or new body) appointed inspectors would be the same as currently exist for DfT-appointed inspectors. Inspectors and support staff would transfer to the CAA or new body.
23. Advice and assistance to the Secretary of State – The CAA or new body would have a duty to provide advice and assistance to the Secretary of State, as the Secretary of State requires, in connection with matters relevant to the purposes of Part 2 of the Aviation Security Act 1982 (the protection of civil aviation against acts of violence). This may include, for example, assisting with work relating to the International Civil Aviation Organisation and the European Union on aviation security, or with incident management.
24. Advice and guidance to industry – The CAA or new body would have a duty to provide such advice and assistance to industry as it considers appropriate having regard to the purposes to which Part 2 of the Aviation Security Act 1982 applies (the protection of civil aviation against acts of violence).
25. Vetting – The CAA or new body would be required to make arrangements for the national security vetting of individuals carrying on or wishing to carry on certain aviation security functions, as specified in directions, including arrangements for renewing and withdrawing clearance and handling appeals.

## **Policy objectives**

26. The overall policy objectives are:
  - To exploit any synergies resulting from a single body (the CAA) developing and enforcing aviation security, safety and economic regulations.
  - To reduce the costs to the taxpayer in line with Comprehensive Spending Review commitments and the DfT's business plan.
  - To remove price distortions associated with aviation security functions, including regulation and compliance, being funded via general taxation. Making industry (and therefore passengers) pay for these aviation security functions, including regulation and compliance, should help ensure prices better reflect the costs of air travel.



- 27 Conferring aviation security functions on the CAA would also bring aviation security regulation into line with the approach taken to aviation safety and economic regulation.

## Description of options considered

### Option 0: Do nothing

28. Business as usual would see the aviation security functions, including regulation and compliance, remain with the DfT. The taxpayer would continue to meet the cost of regulating aviation security, estimated at £23.9m in present value. This option meets none of the policy objectives set out in paragraph 27 above.

### Option 1: Confer certain aviation security functions, including regulation and compliance, on the CAA

29. Relevant DfT aviation security staff and property would be transferred to the CAA. This would be done by a transfer scheme made by the Secretary of State, enabled by primary legislation, which is the only way to enable a transfer.
30. The total benefits (both monetised and non monetised) associated with option 1 are expected to outweigh the total costs; as a result option 1 is preferred to option 0 (do nothing). In addition option 1 would cost less than option 2 and is expected to deliver at least the same level (if not more) of benefits. As a result **option 1 is the preferred option**.

### Option 2: Create a new body to undertake the role of aviation security regulator with the powers to recover costs from industry.

31. This option is the same as option 1 except for the fact that the aviation security functions would be conferred on a new non-departmental public body (NDPB) rather than on the CAA. The monetised costs and benefits of this option are the same as option 1, as the same functions, would be conferred. However there would be additional (non monetised) costs associated with setting up an entirely new body (e.g. additional fixed costs associated with overheads which are spread over a much smaller workforce). In addition it is likely that a certain level of recruitment would be necessary when setting up a new NDPB, that would not be necessary in option 1. Some of the non monetised benefits associated with option 1 would also not be realised under this option. For example this option would prevent the industry from creating efficiencies brought about by having a single regulator for aviation safety and security.

## Options appraisal

### OPTION 0 (DO NOTHING)

32. This the option against which all other options are assessed. As a result there are no costs or benefits associated with this option.

### OPTION 1 (CONFER CERTAIN AVIATION SECURITY FUNCTIONS, INCLUDING REGULATION AND COMPLIANCE, ON CAA)

#### Costs

33. In total we estimate CAA would incur costs of £5.0m per annum to take on certain aviation security functions, including regulation and compliance. This is the combined cost of Staff (£3.577m), employer's liability and third party liability insurance (£0.500m), office costs (£0.214m), vetting costs (£0.315) and travel and subsistence costs for the 47 inspectors

(£0.235m). A previously included cost in respect of advice and assistance to the Overseas Territories has now been removed from this Impact Assessment following a decision not to seek to pass this onto CAA at this time. We also estimate one-off transitional costs of around £2.16m, which has been revised slightly upwards as the transferring staff are to be located in CAA's central London office, which will necessitate some building work, and not the Gatwick office as previously assumed. The detailed assumptions underpinning these estimates are explained in the following paragraphs. All costs detailed within this Impact Assessment have been discussed with the CAA.

## **Staff costs**

34. Under Option 1 we estimate that 84 posts would be transferred from the DfT to the CAA, under a transfer scheme. The post holders would become employees of the CAA, who would be responsible for salaries and all associated staff costs.

These 84 posts consist of 68 compliance posts, 14 regulation posts, 2 vetting posts and the associated staff costs:

### Compliance posts

*Note: these figures are an average cost for the role (incl. pay, superannuation & NI).*

• 1 Aviation security compliance lead	£84,000
• 1 Head of airports security compliance	£78,675
• 1 Airlines, cargo & inflight supplies	£78,675
• 1 Compliance improvement	£78,675
• 1 Training	£47,856
• 7 Senior inspectors	£334,992
• 47 Inspectors	£1,878,120
• 1 Aviation security compliance data mgt	£47,856
• 2 Compliance support	£79,920
• 3 Compliance support	£100,920
• 3 Compliance support	£82,906
<b>68 Compliance posts total:</b>	<b>£2,892,595</b>

### Regulation posts

*[Note: these figures are an average cost for the role (incl. pay, superannuation & NI).*

• 1 Regulation	£84,000
• 2 Regulation	£78,675
• 2 Airports and airlines	£95,712
• 2 Airports and airlines	£79,920
• 1 Airports and airlines	£33,640
• 1 Training and personnel	£47,856
• 1 Training and personnel	£39,960

• 1 Training and personnel	£27,635
• 1 Cargo and IFS	£47,856
• 1 Cargo and IFS	£39,960
• 1 Regulatory Improvement	£47,856
<b>14 Regulation posts total:</b>	<b>£623,070</b>

#### Vetting posts:

[Note: these figures are an average cost for the role (incl. pay, superannuation & NI).

• Vetting Function Overseer	£27,635
• Vetting Function Overseer	£33,640
<b>2 Vetting posts total:</b>	<b>£61,275</b>

**Total cost of Aviation Compliance, Regulation and vetting posts: £3,576,940**

35. The estimates for the associated staff costs are the DfT HR Department's recommended figures for estimated pay and non-pay costs for the relevant pay grades for staff. These costs are estimated at £3,576,940.

#### ***Employer's liability and third party liability insurance***

36. After discussions with the CAA they have calculated that there would be further costs to the CAA of extending their employer's liability and third party liability insurance to cover the additional 84 staff and the transferred functions. This is estimated to be approximately £0.5m per annum, and is calculated at £5,952 per inspector.

#### ***Office costs***

37. The CAA would require office space in order to accommodate the extra members of staff. This is estimated to be £0.209m, based on current estimates for price and office space. These costs have been estimated by calculating the costs of office space per person, at the current location (where the posts are currently based) and then multiplying that to cover all the posts that would be transferred. The DfT's transport security operation occupied 1,487sqm of the 5th floor at Southside on Victoria Street. This represents 65.88% of the total 5th floor area of 2,257m<sup>2</sup>. There are 185 workstations so the space occupied per person is approximately 8m<sup>2</sup>. The rental cost for the 5th floor in total is £1,336,749 (inc VAT) so the DfT's security share of this would be £880,650. The service charge cost for the 5th floor in total (which includes the provision of utilities) is £251,755 of which the DfT's security operations would be £165,856. This creates a total of £1,046,569 for the office space which is occupied by 185 members of staff. In order to work out a cost per person for this office space we can divide these figures (£1,046,569 ÷ 185) to give us a figure of £5,657 per member of staff. We can then multiply this figure by the number of posts to be transferred in order to establish the ongoing costs the CAA would incur in office space. The posts would be relocated to the CAA's offices in central London, so it is likely that a similar rent would be paid and hence for the purposes of this impact assessment we assume the same rental costs. Whilst these posts were within the DfT, only 37 were provided with permanent desk space (this is because the inspectors spend a considerable amount of time away from the office due to the nature of the role). It is our working assumption that the same number of posts would still require desk space and we have calculated it accordingly:

$$\mathbf{£5,657 \times 37 = £209,313}$$

**Total cost of office space that would be incurred by the CAA: £209,313**

***Vetting Costs***

38. There would also be annual costs to CAA in undertaking the aviation security vetting function. A shared vetting service provider has now been put in place and this provides the basis of cost estimates. Assuming a similar vetting demand for aviation security clearances of 6,560 (the figure for year 2010) the monetised cost of paying the shared vetting service at the current fee charged by the operator of £48, inclusive of VAT, is £314,880

**Cost per year of undertaking the Vetting function: £314,880**

***Travel and subsistence costs***

39. There would be a cost incurred in providing travel and subsistence allowances to the 47 inspectors that are envisaged to be transferred. These costs relate to the necessity for inspectors to be accommodated overnight and the amount of travelling inherent within their roles. This cost has been calculated as totalling £5000 per inspector. This is an average based on current costs.

$$£5000 \times 47 = £235,000$$

**Cost per year of travel and subsistence costs for the inspectors: £235,000**

***Transitional costs***

40. This one-off cost includes the cost of upgrading the CAA's IT system so that it is approved for handling security sensitive information and can link to both DfT and CAA systems, which has been estimated by CAA to cost between £1.5m to £2.5m. Our best estimate is the midpoint (£2m) of this range.
41. This one-off cost also includes office space costs. Of the 84 posts currently identified for the transfer, 37 posts would require permanent desk space, as these 37 posts currently require desk space and we assume that this would not change. These would be accommodated at the CAA's central London office, which is being re-modelled to accommodate the aviation security staff. This results in a transition cost of £0.160m being incurred
42. **Transitional costs: £2.16m**

**Benefits**

***Ongoing cost savings***

43. The DfT would no longer be responsible for the aviation security functions that have been conferred on the CAA. As a result the ongoing costs imposed on the CAA estimated above (£5.0m) would be almost matched by an on-going saving to the DfT and therefore the taxpayer. Barring the employer's liability and third party liability insurance cost, which whilst this would not incur an equivalent saving for the DfT, the DfT would reduce its liability from employee and third party claims, we have not seen any evidence to suggest that the breakdown of these savings should be any different to the breakdown of costs as described in paragraphs 34 to 42 above. Therefore our best estimate is that option 1 would result in an ongoing saving to DfT of £4.5m per annum. This option would therefore reduce the costs to the taxpayer in line with Comprehensive Spending Review commitments and the DfT's business plan.

## **Removal of distortions**

44. The current method of funding aviation security functions, including regulation and compliance, - via general taxation – is also likely to create distortions which should be addressed if industry (and therefore passengers) were to fund these functions instead. It is not possible to estimate the scale of these potential benefits so we refer to them as non monetised benefits for the purpose of this impact assessment.
45. The need for aviation security functions, including regulation and compliance, is derived from the demand for air travel. Currently, the taxpayer pays for regulating aviation security so these costs are not reflected in the price the passenger pays. In theory this could lead to inefficiencies in the air travel market and an over-consumption of air travel. Making industry (and therefore passengers) pay for aviation security functions, including regulation and compliance, should therefore help ensure prices better reflect the costs of air travel. This is in line with the user pays principle which currently applies to both aviation safety and economic regulation. Although society more generally is likely to benefit from the avoidance of an aviation-related security incident they should not be expected to pay for this as the original threat only exists because of the demand for air transport (i.e. if there was no demand for air transport then the prospect of an aviation-related security incident would not exist). Insofar as air transport leads to positive spillovers which benefit the wider economy, then it would be economically efficient for tax-payers to subsidise air transport. However this impact assessment is concerned with the internalisation of costs associated with regulating aviation security, not the internalisation of wider benefits associated with air transport (which are very difficult to quantify).
46. In addition, the proposal to confer certain aviation security functions, including regulation and compliance, on the CAA should also remove any distortions created from funding these through general taxation. The expected reduction in economic efficiency that arises from the transfer of resources from the private to public sector (which includes the distortionary effect of most forms of taxation) is known as the social cost of exchequer funds (SOCEF). The 2010 Department for Work and Pensions Social Cost-Benefit Analysis framework<sup>10</sup> discusses the concept of SOCEF and draws on a number of studies which have sought to estimate its value (which range from 9% to 43%). However this framework also notes that the Green Book does not include guidance on SOCEF. As a result we include the potential benefits of removing the distortionary effects (of funding aviation security via general taxation) as a qualitative benefit only.

## **Synergies from a single aviation regulator**

47. Having a single regulator for all aviation specific issues could deliver additional benefits. Responses garnered from industry through our 'Request for Evidence' exercise on regulatory reform suggest they could restructure their organisations accordingly, leading to savings, as they would be able to combine certain members of staff who currently have disparate safety and security roles. This is obviously a difficult saving to accurately monetise. Given that there are approximately 1343 entities which would be subject to security regulation by the CAA, were 5% of these able to combine two members of staff costing £40,000 per annum this would lead to an annual saving of £2.7m which over the ten year period would ensure that monetised and non-monetised benefits exceed the costs of the transfer. Reporting and communications between the regulator and the industry could become more efficient as the industry would only have to report to one body concerning both security and safety. The CAA may be able to make efficiency savings through synergies of aviation security and safety regulation and compliance, for example by making use of joint inspections.

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<sup>10</sup> This concept is known as the social cost of exchequer finance (SOCEF). For further information on SOCEF see section 3.4 of "The Department for Work and Pensions Social Cost-Benefit Analysis framework" available at <http://research.dwp.gov.uk/asd/asd5/WP86.pdf>

## Risks and assumptions

48. There is a risk that the CAA currently lacks sufficient levels of security expertise; however the DfT and the CAA would work closely with each other to improve the CAA's corporate knowledge of aviation security.
49. We have assumed that the posts transferred from DfT to CAA would be subject to the same terms and conditions that they are currently. It is our working assumption that this transfer would take place in April 2014.
50. There is a sensitivity that the number of posts transferred would change prior to the transfer, resulting in an alteration to the cost estimates outlined in this IA. However we do not expect the numbers to change significantly.

## OPTION 2: CONFER AVIATION SECURITY FUNCTIONS ON A NEW BODY

### Costs

51. We expect the ongoing annual costs (£5.0m) and one-off costs (£2.16m) incurred by the CAA under option 1 would be at least those incurred by the new body.
52. However, we would also expect a new body to incur additional costs arising from the fact that a new smaller body would have to spread its fixed costs (e.g. accommodation, support staff, management) over a smaller number of employees. Evidence from the National Audit Office (NAO)<sup>11</sup> suggests that the merging of five previous regulators<sup>12</sup> into a single regulator – Ofcom – resulted in efficiency gains of around 13%. It is not clear whether inefficiencies similar in scale to those that would have prevailed in the absence of the Ofcom merger would arise if the aviation security functions were conferred on a new body. Furthermore a new NDPB would have to establish a charging mechanism in order to recover costs, something which the CAA already has in place. **As a result we conclude that the costs associated with option 2 are greater** than those for option 1; however the difference in the scale of the costs is very difficult to predict.
53. Creating a new NDPB to take on certain aviation security functions, including regulation and compliance, is also in direct contrast to the coalition Government's stated desire to limit the number of new arms length bodies.

### Benefits

54. The ongoing cost savings and removal of distortions would be the same as under option 1. However any synergies resulting from having a single aviation regulator (as described in paragraph 37 above) would not be realised under this option.

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<sup>11</sup> "The creation of Ofcom: wider lessons for public sector mergers of regulatory agencies" available at [http://www.nao.org.uk/publications/0506/the\\_creation\\_of\\_ofcom\\_wider\\_l.aspx](http://www.nao.org.uk/publications/0506/the_creation_of_ofcom_wider_l.aspx)

<sup>12</sup> The five previous regulators comprised the: Broadcasting Standards Commission; Independent Television Commission; Office of Telecommunications; Radio Communications Agency; and Radio Authority.

## Risks and assumptions

55. There is a risk that the new organisation would lack sufficient levels of security expertise; however the DfT and the new organisation would work closely with each other to improve the new body's corporate knowledge of aviation security.
56. We have assumed that the posts transferred from DfT to the new organisation would be subject to the same terms and conditions that they are currently. It is our working assumption that this transfer would take place in April 2014.
57. There is a sensitivity that the number of posts transferred would change prior to the transfer, resulting in an alteration to the cost estimates outlined in this IA. However we do not expect the numbers to change significantly.

## SUMMARY

58. Option 1 (which involves conferring certain aviation security functions, including regulation and compliance, on the CAA) is estimated to result in costs of around £28.8m (present value over 10 years) and monetised benefits of around £23.9m (present value over 10 years). It is also estimated to deliver non monetised benefits resulting from the removal of distortions and potential synergies from having a single aviation regulator looking after security, safety and economic regulation. Overall the total benefits (monetised plus non monetised) associated with option 1 are expected to exceed the total costs; as a result option 1 is preferred to option 0 (do nothing).
59. The costs associated with option 2 (which involve conferring certain aviation security functions, including regulation and compliance, to a new body) are estimated to be at least as high as option 1 and it is very likely that they exceed those of option 1; however the benefits are estimated to be lower. Furthermore, option 1 meets all of our policy objectives whereas option 2 only meets the first 2 and not the objective to exploit any synergies resulting from a single body (the CAA) undertaking security, safety and economic regulation. As a result option 1 is preferred to option 2.

**Therefore option 1 is the preferred option.**

## One-in, Two-out

60. The policy is out of the scope of One-in, Two-out (OITO) because the CAA's costs incurred as a result of this policy would be through an increase in CAA's charges to industry without a change in the level of regulatory activity. **It has been confirmed by the Regulatory Policy Committee that this policy is out of the scope of OITO for this reason.**
61. The costs of regulating aviation security would transfer from DfT to the CAA (and eventually be passed on to passengers via airports and airlines as described below).
  - The CAA derives its funding from industry through charges and so would be able to pass on all additional costs incurred as a result of the proposed aviation security functions to be conferred on it to airports and airlines.
  - Airports are either "designated" for economic regulation (if the airport has substantial market power and the benefits of economic regulation outweigh the costs)<sup>13</sup> or where there is sufficient competition the airport is not subject to economic regulation. For the former, any increase in the airport's costs would be reflected in an equivalent change in the airport's price control<sup>14</sup> set by the CAA. For the latter, there should be sufficient competition between airports such that any increase in an airport's costs is passed on to airlines through higher charges<sup>15</sup>.

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<sup>13</sup> Heathrow, Gatwick and Stansted are currently designated airports. 54% of UK passengers travelled through these airports in 2009.

<sup>14</sup> The maximum price the airport can charge the airline for using airport services.

<sup>15</sup> In economic theory, there is 100% cost pass through when a market is perfectly competitive.

- Given the airline sector is generally competitive, these costs would subsequently be passed on to the passenger or the owner of cargo<sup>16</sup>.

Therefore, we expect that the majority (if not all) of the indirect costs to business to be passed on to end users (i.e. passengers and those shipping cargo by air).

62. The bearing of the cost on ends users is considered to be in line with the 'user pays' principle. This principle states that it is appropriate for users (passengers and cargo owners) to pay for aviation security functions, including regulation and compliance. Currently the taxpayer pays for aviation security functions, including regulation and compliance, so these costs are not reflected in the price the passenger pays for air travel. In theory this could lead to inefficiencies in the air travel market and an over-consumption of air travel. We do not attempt to quantify this inefficiency but recognise that the removal of this inefficiency is an indirect benefit.

## Micro-Businesses

63. The Government aims to ensure that, as far as possible, micro-businesses<sup>17</sup> and new start-ups should be subject to no new regulation during a growth period which starts from 1<sup>st</sup> April 2011 to the 1<sup>st</sup> April 2014. As our working assumption is that this transfer would take place in April 2014, no micro businesses would be subject to new regulation during this period.

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<sup>16</sup> A report produced by Vivid Economics on behalf of Defra and DfT (see <http://www.vivideconomics.com/docs/Vivid%20Econ%20Aviation%20Tickets.pdf>) provides evidence to support that this is the case for the airline industry. In particular, the report states "*When modelled, the theoretical range of cost pass-through is found to be 80–150%, with few exceptions*".

<sup>17</sup> A micro-business is any *business or civil society organisation* with fewer than 10 employees (or their full time equivalents).



# Annex 1: Post Implementation Review (PIR) Plan

<p><b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review , or there could be a political commitment to review (PIR)];</p>
<p><b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p>
<p><b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p>
<p><b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]</p>
<p><b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p>
<p><b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p>
<p><b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here]</p> <p>We do not propose to have a formal PIR, but we propose a lessons learned exercise 18 months after the aviation security functions are conferred on the CAA (Oct 2015). Following the transfer the CAA would share the results of compliance inspections and other compliance data with the Department, giving an insight into the effectiveness of the transferred regime on an ongoing basis. The Department would continue to work closely with the CAA, not least by providing the latest threat and risk analysis to enable the CAA to focus their compliance function appropriately. The CAA would continue to report to the DfT on the performance of its functions.</p>

## ANNEX 2

The following specific impact tests apply to both policy options.

### Statutory equality duties

#### Race

1. The proposals relate to all passengers, therefore we do not anticipate that these reforms would lead to:
  - Different consequences according to people's racial group;
  - People being affected differently according to their racial group in terms of access to a service, or the ability to take advantage of proposed opportunities;
  - Discrimination unlawfully, directly or indirectly, against people from some racial groups;
  - Different expectations of the policy from some racial groups;
  - Harmed relations between certain racial groups, for example because it is seen as favouring a particular group or denying opportunities to another; or
  - Damaged relations between any particular racial group (or groups) and the DfT.

#### Disability

2. The Disability Discrimination Act (DDA) 1995 now gives rights to disabled people in the area of access to goods, facilities and services. The proposals apply equally to all passengers, and so we do not anticipate any disadvantages or discrimination for disabled people, in line with this Act.

#### Gender

3. The proposals would apply to all passengers. Therefore, we do not anticipate that these reforms would lead to:
  - Different consequences according to people's gender;
  - People being affected differently according to their gender in terms of access to a service, or the ability to take advantage of proposed opportunities;
  - Discrimination unlawfully, directly or indirectly, against genders; or
  - Different expectations of the policy from between genders.

#### Competition

4. This Impact Assessment demonstrates the costs envisioned to be transferred from the taxpayer to the end-user. Costs would be passed on proportionately.

#### Small firms

5. Small businesses that currently fall under the auspices of the National Aviation Security Programme who are currently subject to inspection would continue to be inspected. It would be for the CAA to determine and specify how they would charge airports and airlines proportionately in accordance with

the regulators' compliance code<sup>1</sup>. Regulators have a duty to have a regard to the need to be proportionate in their approach.

6. Costs – It would be for the CAA to ensure that industry is charged proportionately for the regulatory service provided.

### **Greenhouse gas assessment**

7. The aviation sector already has targets and policies in place to ensure it plays its part in helping to reduce greenhouse gas emissions and thus achieve the UK's climate change targets. These proposals do not affect such policies or targets, and more generally are not expected to affect the amount of greenhouse gas producing activity in the industry. We therefore do not anticipate any direct impact of these proposals on greenhouse gas emissions.

### **Wider environmental issues**

8. There are two wider environmental issues relevant to the aviation sector as a whole: noise pollution and air quality. None of the proposals directly influences the overall level of activity in the industry, however, and so we do not anticipate any direct impact in these areas.

### **Social impacts**

#### **Health and well-being**

9. None of the proposals are expected to have a direct impact on health. There is no potential for any of the proposals directly to affect wider determinants of health such as income or the environment, nor is there any potential for the proposals to affect relevant lifestyle related factors such as physical activity or diet. There is no anticipated impact on the demand for health and social care services.

#### **Human rights**

10. The Government considers that the proposals are compatible with the European Convention on Human Rights.

#### **Justice system**

11. The proposed transfer would not create any new criminal offences and Ministry of Justice has assessed the impact of the proposal and considers that it would have a minimal impact on the justice system.

#### **Rural proofing**

12. We do not believe that any of the proposals would have a different impact on people in rural areas because of their particular circumstances or needs.

### **Sustainable development**

11. Sustainable development entails the current generation satisfying its basic needs and enjoying an improving quality of life without compromising the position of future generations. The proposals do

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<sup>1</sup> <http://www.berr.gov.uk/files/file45019.pdf>

not affect the resources available to future generations, and are therefore compatible with sustainable development.