



Australian Government
Australian Transport Safety Bureau



Australian Government
Civil Aviation Safety Authority



Memorandum of Understanding between the Australian Transport Safety Bureau and the Civil Aviation Safety Authority

March 2015

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE AUSTRALIAN TRANSPORT SAFETY BUREAU

AND

THE CIVIL AVIATION SAFETY AUTHORITY

1 THE PARTIES

1.1 Civil Aviation Safety Authority

Under section 9 of the *Civil Aviation Act 1988* (the CA Act), the Civil Aviation Safety Authority (CASA) is responsible for, amongst other things, the safety regulation of civil air operations in Australian territory and the operation of Australian aircraft outside Australian territory, and for the promotion of high standards of aviation safety.

1.2 Australian Transport Safety Bureau

Under the *Transport Safety Investigation Act 2003* (TSI Act), the Australian Transport Safety Bureau (ATSB) has functions including the independent investigation of aviation, marine and rail accident and incidents and communicating the results for the purpose of improving transport safety.

2 OBJECTIVE AND STATUS

- 2.1 The purpose of this MOU is to enhance aviation safety by facilitating cooperation between the agencies while maintaining their independence and capacity to perform their separate but complementary functions.
- 2.2 In pursuing this objective, both agencies agree to uphold the values of cooperation, honesty, trust, mutual respect, openness and professionalism.
- 2.3 While this MOU is not legally binding, both agencies will endeavour to perform their respective functions in a manner consistent with the values and principles it embraces.

3 STATE SAFETY PROGRAMME

- 3.1 ATSB and CASA are committed to ensure the effective implementation of the State Aviation Safety Programme, as published by the Department of Infrastructure and Regional Development. Cooperative priorities for improving implementation of the Programme during the period of this MOU include, but are not limited to:
 - (a) Improving information collection and sharing processes, having regard to the standards and recommended practices in Annexes 13 and 19 to the Convention on International Civil Aviation, done at Chicago 7 December 1944
 - (b) Cooperative research and analysis to review safety trends and identify areas for safety improvement
 - (c) Public communication and education on aviation safety matters.

4 COMMUNICATION

- 4.1 ATSB and CASA management will take appropriate steps to ensure their staff understand and act in accordance with the complementary roles and responsibilities of each agency in the aviation safety system.
- 4.2 ATSB and CASA management will encourage open dialogue between the two agencies on matters of mutual interest and concern.

- 4.3 In addition to regular meetings between the Director of Aviation Safety and the Chief Commissioner, meetings will be held at least bi-annually between nominated representatives of the ATSB and CASA to discuss matters including:
- business and operational plans;
 - recommendations and findings from ATSB investigations;
 - safety issues arising from CASA audit, surveillance and investigations;
 - areas of shared risk;
 - research programs;
 - industry trends relevant to aviation safety;
 - operational policies and procedures; and
 - mutual staff training & development opportunities.
- 4.4 Where officers of the respective agencies communicate about the particulars of a given aviation investigation, they will ensure appropriate records are kept to provide a faithful and accurate account of those communications.
- 4.5 Key contact points are at Attachment 1

5 NOTIFICATIONS

- 5.1 Information from notifications of aviation accidents, incidents and safety concerns will be shared and used in a manner consistent with relevant legislation and the Safety Information Policy Statement, published by the ATSB and CASA, as in force from time to time.

CASA Notifications to the ATSB:

- 5.2 CASA will use its best endeavours to ensure CASA officers fulfil their statutory obligations under the TSI Act to report aviation immediately reportable matters and routine reportable matters to the ATSB.
- 5.3 CASA will provide the ATSB with copies of safety defect reports every 3 months.

ATSB Notifications to CASA:

Mandatory Reporting

- 5.4 The ATSB will provide CASA with details of notifications of aviation immediately reportable matters as soon as reasonably practicable. The ATSB will provide CASA, weekly, with details of notifications from aviation routine reportable matters and other occurrences received through its mandatory reporting scheme.

Confidential Reporting

- 5.5 The ATSB will forward de-identified aviation information from the Aviation Self Reporting Scheme (ASRS) and the REPCON voluntary and confidential reporting scheme to CASA, in accordance with the governing legislation for the confidential reporting schemes.

- 5.6 Unless otherwise agreed by the Parties, CASA will advise the ATSB of its response to any safety concern raised within 14 days, which the ATSB may publish in part or in full.

6 COOPERATION IN RELATION TO COMMENCING AND CONDUCTING INVESTIGATIONS

- 6.1 If the ATSB commences an investigation into an aviation transport safety matter under the TSI Act, with an investigation classification of major, level 1, level 2 or level 3, it will notify CASA as soon as practicable.
- 6.2 If the ATSB commences an investigation into an aviation transport safety matter under the TSI Act, with an investigation classification of level 4 or 5, it will notify CASA in a weekly report.
- 6.3 If CASA commences an audit, surveillance operation or investigation that relates directly to a matter the ATSB is known to be investigating or an unresolved safety issue identified by the ATSB in an investigation and notified to CASA, CASA will inform the ATSB as soon as reasonably practicable.
- 6.4 Where CASA is aware of a matter that has the potential to require compliance or enforcement action, it will seek to initiate audit, surveillance and investigation activities under the CA Act to obtain evidence without waiting for the findings from the ATSB's investigation into the same matter.
- 6.5 Both agencies will seek to accommodate requests for assistance from one another involving the exchange of expert personnel. An agency seeking to accommodate such a request will take into account the matters in Attachment 2, as well as matters involving the safety benefit, legislative requirements, available resourcing, internal policies and the manageability of potential conflicts of interest arising from the exchange of personnel.
- 6.6 Where assistance of the kind mentioned in 6.5 is provided, each agency will seek to ensure it does not impose an unreasonable financial impediment on the other agency providing the assistance.
- 6.7 Each agency will consult with the other on the development of its policies for engaging staff from the other agency to provide assistance in the performance of their statutory functions.

7 ONSITE EVIDENCE

- 7.1 In order to ensure cooperation and coordination in relation to the collection of evidence where both agencies attend an accident site, the agencies agree:
 - (a) the ATSB will make any physical evidence available for inspection to CASA, where practicable and as authorised by the ATSB Investigator In Charge;
 - (b) the ATSB has priority with respect to the removal and custody of evidence but will consult with CASA where CASA has a need for the evidence with a view to meeting each agency's interests;
 - (c) to ensure that the removal and retention of evidence is conducted in line with appropriate chain-of-evidence protocols.

8 DISCLOSURE OF INFORMATION RELATING TO INVESTIGATIONS

- 8.1 It is understood that the provision of all information will be subject to the legal obligations and policies applicable to both organisations. Information will be disclosed and used in accordance with the Safety Information Policy Statement, published by ATSB and CASA, as in force from time to time.

Disclosure of Information to the ATSB

- 8.1 Unless otherwise agreed by the parties, the ATSB will issue the proper officer within CASA a notice under section 32 of the TSI Act where it requires information from CASA or a CASA officer for the purpose of an ATSB investigation.
- 8.2 Unless otherwise agreed by the parties, a section 32 notice will provide a minimum of 10 business days for CASA to respond. CASA acknowledges that there may be exceptional circumstances where shorter time frames are required and will seek to cooperate in meeting those time frames.
- 8.3 CASA agrees that if a CASA officer is known to have information which CASA reasonably believes could assist the ATSB in the performance of its investigative functions in relation to a particular matter, CASA will undertake to advise the ATSB of the existence of that information as soon as reasonably practicable.

Disclosure of Information to CASA

- 8.4 Subject to the provisions of 8.7, the ATSB agrees that, if an ATSB officer is known to have information which the ATSB reasonably believes to be information which CASA may require to take action in the demonstrable interests of safety in relation to a particular matter, the ATSB will advise CASA of the existence of that information as soon as reasonably practicable.
- 8.5 Subject to the provisions of 8.6 and 8.7, CASA may seek information from the ATSB which CASA believes it requires in the demonstrable interests of safety.
- 8.6 In determining whether information will be provided pursuant to 8.4 or 8.5, the ATSB will have regard to:
- (a) the demonstrable interests of safety in respect of the particular matter;
 - (b) whether the information can, in all the circumstances, practicably be obtained by CASA from an alternate source; and
 - (c) the safety information protection framework in the TSI Act for on-board recording (OBR) information and for restricted information.
- 8.7 When seeking information from the ATSB pursuant to 8.5 above, CASA agrees to set out the reasons why the information is required in the demonstrable interests of safety.
- 8.8 Where it is necessary to limit the disclosure of restricted information to a limited number of individuals in CASA under statutory protection, section 62 of the TSI Act may be used.

9 INVESTIGATION REPORTS

- 9.1 The ATSB will provide CASA with a copy of every aviation-related investigation report it publishes.
- 9.2 CASA will be deemed a Directly Involved Party (DIP) by the ATSB and invited to respond on the content of aviation draft reports (released for comment) for:
 - (a) each major, level 1, level 2 and level 3 investigation;
 - (b) each level 4 and level 5 investigation where CASA meets the ATSB's criteria for designation as a DIP, or where CASA has specifically requested to be treated as a DIP.
- 9.3 CASA will submit all its comments in writing with supporting evidence.
- 9.4 Unless otherwise notified by the ATSB, all comments from CASA as a DIP will be made within the following time periods from when the ATSB provided CASA with the draft report:
 - (a) 28 days for major, level 1, level 2 and level 3 investigations;
 - (b) 14 days for level 4 investigations
 - (c) 5 days for level 5 investigations.
- 9.5 Comments from CASA will be considered by the ATSB and may be incorporated into the final report if the ATSB considers it appropriate. CASA will be consulted on the content of the comments to be published.
- 9.6 Where the ATSB proposes to release an aviation draft report to give advance notice of the likely form of the final report, CASA will receive a copy at the same time as the other relevant parties.

10 SAFETY ACTION

- 10.1 Where CASA takes safety action in relation to an aviation transport safety issue under investigation by the ATSB, CASA will notify the ATSB as soon as practicable. The ATSB will use its best endeavours to acknowledge in its final report the safety action taken by CASA, where the ATSB is advised at least 20 days prior to publication.
- 10.2 Where the ATSB has identified a safety issue indicating the need for persons or organisations within the aviation industry to take safety action, to the extent it is authorised to do so, and subject to operational requirements and priorities, CASA will monitor action taken in relation to the safety issue. Where CASA has information indicating action or inaction by the person or organisation, CASA will advise the ATSB as soon as practicable.

ATSB Safety recommendations

- 10.3 The ATSB will consult with CASA should any safety issues be identified that affect CASA, and before making any formal recommendations for safety action by CASA.
- 10.4 CASA will respond to any formal safety recommendations issued, in accordance with section 25A of the TSI Act. Where consideration and implementation of the recommendation may be protracted, CASA will provide the ATSB with updates on its progress at least every 3 months from the date when the

recommendation was first issued, or otherwise as frequently as the parties agree.

- 10.5 CASA acknowledges that the ATSB may publish some, or all, of CASA's response to a safety issue or recommendation.

11 RESEARCH AND DATA ANALYSIS

- 11.1 Before either the ATSB or CASA commences a general research or data analysis aviation investigation, the organisations will consult with each other to identify the opportunity for input from the other organisation and mutual cooperation.
- 11.2 General aviation research and data analysis reports will be provided to CASA by the ATSB in accordance with the ATSB's normal DIP process identified in section 9 of this MOU.

12 SHARED TRAINING OPPORTUNITIES:

- 12.1 The ATSB and CASA will share their in-house training calendars with each other. To the extent there is capacity and available resources, each agency will seek to accommodate the requests of the other agency to have staff attend relevant training courses.
- 12.2 The ATSB and CASA will seek to identify opportunities for efficiency in the delivery of training from external providers by having their interested staff attend together.

13 BRIEFING AND CONTACT WITH THE MEDIA

- 13.1 **Executive briefing** – The ATSB will advise the Minister, through his or her office, and appropriate members of the Department of Infrastructure and Regional Development and CASA of serious and high profile aviation accidents or incidents. The ATSB will also provide relevant advance briefings to the Minister, the Departmental Executive and CASA whenever it makes safety recommendations, circulates final reports in relation to aviation investigations of serious and high profile occurrences or proposes to release a significant media statement.
- 13.2 **CASA agrees that it will inform the ATSB and provide advance briefings** before it makes any comments pertaining to any serious or high profile aviation transport safety matters that the ATSB is investigating.
- 13.3 **Contact with the media - During the course of an investigation by the ATSB.** The ATSB will be responsible for initial contact with the media and any subsequent briefing on information concerning an ATSB investigation. Any media inquiries specific to the ATSB's investigation should immediately be referred by CASA to the contact officer nominated by the ATSB. CASA is, however, at liberty to comment on such matters arising from its own parallel regulatory investigations or, if there is a particular reason to comment on an occurrence, CASA will make it clear that the ATSB is undertaking an independent investigation which should not be prejudiced.

14 DURATION, VARIATIONS & DISPUTE RESOLUTION

- 14.1 This Memorandum will apply for 3 years from the date of signing and may be extended, varied or terminated by exchange of letters between the ATSB and CASA.
- 14.2 In the absence of extension or termination in accordance with 14.1, this Memorandum will continue to apply.
- 14.3 The memorandum is subject to annual review.
- 14.4 In the event that any disagreements or disputes arise in respect to any of the provisions of this MoU, then the dispute/disagreement will initially be referred to the General Manager Aviation Safety Investigation (ATSB) and the General Manager ALIU (CASA). Should resolution not be forthcoming, the issue will be referred to the Director of Aviation Safety (CASA) and Chief Commissioner (ATSB) for resolution. If unresolved at that level, the matter should be jointly raised with the Secretary of the Department of Infrastructure and Regional Development.

Dated at Canberra this *thirtieth* day of *March* 2015



MARK SKIDMORE AM
Director of Aviation Safety
Civil Aviation Safety Authority



MARTIN DOLAN
Chief Commissioner
Australian Transport Safety Bureau

ATTACHMENT 1 – CONTACTS

Investigations

ATSB: General Manager – Aviation Safety Investigations

CASA: General Manager – Accident Liaison & Investigation Unit

Research and Data

ATSB: Manager – Reporting and Analysis

CASA: General Manager – Accident Liaison & Investigation Unit

Confidential Reporting

ATSB: Team Leader – Confidential Reporting

CASA: Team Leader ALIU - Accident Liaison & Investigation Unit

Safety Education

ATSB: Manager – Communications

CASA: General Manager - Accident Liaison & Investigation Unit

Training

ATSB: Training Manager

CASA: Manager Learning and Development – Safety Analysis and Education.

ATTACHMENT 2 – PARTICIPATION IN INVESTIGATIONS

1. Participation in investigations will be co-ordinated through the Manager ALIU, CASA and the General Manager Aviation Safety Investigations, ATSB.
2. The Agencies may agree that a CASA officer will act as an observer or an external investigator for the purposes of an ATSB safety investigation under the direction of the Investigator-in-Charge (IIC). The CASA officer will be required to sign an agreement acknowledging his or her obligations and duties, appropriate to their level of involvement in a transport safety investigation.
3. The CASA officer will be given access to evidence to the extent necessary to enable the IIC to effectively complete the investigation.
4. Given the nature of its mandate, the ATSB will not normally seek to have to have its officers participate in CASA regulatory processes. However, if the Agencies agree that participation by an ATSB officer in a CASA regulatory process is appropriate, the ATSB officer must comply with any lawful direction given to them by the CASA officer in charge of the investigation.

Safety equipment for on-site

5. If CASA officers attend an ATSB controlled accident site, they must ensure they meet the ATSB minimum training, occupational health and safety, and personal protective equipment requirements.
6. Where the ATSB has requested that a CASA officer attend an accident site to assist in an ATSB investigation, the ATSB will provide the CASA officer with any required disposable protective equipment (i.e. overalls, face masks, gloves and safety glasses).