



**ASSOCIATION OF
CHIEF POLICE OFFICERS**

**Reference
Material**

Memorandum of Understanding between the Air Accident Investigation Branch (AAIB) and ACPO

The Association of Chief Police Officers has agreed to this Memorandum of Understanding being circulated to, and adopted by, Police Forces in England, Wales & Northern Ireland.

It is NOT PROTECTIVELY MARKED under the Government Protective Marking Scheme and it is disclosable under the Freedom of Information Act 2000.

ACPO © 2012

Document information

| | |
|------------------------|--------------------------------|
| Protective marking | NOT PROTECTIVELY MARKED |
| Author | CC Alex Marshall |
| Force/Organisation | Hampshire Constabulary |
| ACPO Business Area | Uniformed Operations |
| APP/Reference Material | Reference Material |
| Contact details | 01953 424 055 |
| Review date | September 2014 |
| Version | 1.0 |

This MoU has been produced and approved by the ACPO Uniformed Operations Business Area. This document was considered and approved by the Professional Practice Gateway Group on the 13th September 2012. The purpose of this document is to ensure effective investigation of aircraft accidents and crimes involving aircraft, while maintaining the independence of all parties, and reinforcing the importance of effective cooperation between the AAIB and the Police in all aspects of such an investigation. It will be updated and re-published as necessary.

Any queries relating to this document should be directed to either the author detailed above or the ACPO Programme Support Office on 020 7084 8959/8958.

Contents

| Section | | Page |
|----------------|-----------------------------------|-------------|
| 1 | Framework of Understanding | 4 |
| 2 | Parties of Agreement | 4 |
| 3 | Investigations | 5 |
| 4 | Coroners | 7 |
| 5 | Monitoring of Memorandum | 8 |
| | Glossary/Contact Details | 9 |

1. SECTION 1 – FRAMEWORK OF UNDERSTANDING

1.1 INTRODUCTION

- 1.1.1 This Memorandum of Understanding (MoU), on the subject of UK air accidents investigation, is established between the Chief Inspector Air Accidents, Air Accidents Investigation Branch (AAIB), and the Chair of the Association of Chief Police Officers on behalf of ACPO. The MoU is produced as part of the specific “prior arrangements” to be introduced under the requirements of *EU Regulation 996/2010 (The Investigation and Prevention of Accidents)*.
- 1.1.2 The aim of this MoU is to ensure effective investigation of aircraft accidents and crimes involving aircraft, while maintaining the independence of all parties, and reinforcing the importance of effective cooperation between the AAIB and the police in all aspects of such an investigation.
- 1.1.3 The parties signed up to this MoU are the AAIB and ACPO. On signing this MoU, ACPO will recommend and advise the police forces of England and Wales of the operating principles herein.
- 1.1.4 The underlying principles of this Memorandum of Understanding are:
- The AAIB and Police investigations will be independent, but can also proceed in parallel;
 - The public interest requires that safety considerations are of paramount importance, which on occasions means that the interests of an AAIB technical investigation may take priority over a criminal investigation;
 - The interests of the criminal justice system will be protected by a statutory duty placed upon the AAIB to notify the Police if it identifies activities of a criminal nature;
 - There is a critical need for early contact and close co-operation between the AAIB Investigator-in-Charge and the Police Senior Investigating Officer to ensure that strategic decisions on investigation procedures are made;
 - Where possible, there should be a continual exchange of factual information concerning the details of an accident or serious incident as both forms of investigation proceed.

2. SECTION 2 – PARTIES TO THE AGREEMENT

2.1 THE AIR ACCIDENT INVESTIGATION BRANCH (AAIB)

- 2.1.1 The Air Accident Investigation Branch (AAIB) is responsible for investigation of civil aircraft accidents as detailed in *EU Regulation 996/2010 (The Investigation and Prevention of Accidents)*, *The Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996* (the Regulations) and as part of the investigation of military aircraft accidents as detailed in *The Civil Aviation (Investigation of Military Air Accidents at Civil Aerodromes) Regulations 2005*. *The AAIB is independent of the Civil Aviation Authority (CAA)*.
- 2.1.2 The Regulations define accidents, lay down the requirements for reporting accidents, set out the purpose of investigations, impose duties upon the AAIB and grant powers to an Inspector of Air Accidents. They make provision for the ordering, notification, and conduct of investigations.
- 2.1.3 The Chief Inspector of Air Accidents reports directly to the Secretary of State for Transport on Safety matters. The AAIB will normally appoint a team of investigators headed by a Principal Inspector nominated as the Investigator-in-Charge. The team will usually consist of Operations Inspectors, Engineering Inspectors and Inspectors responsible for recovery and analysis of recorded data. AAIB support personnel assist inspectors throughout all stages of the investigation.
- 2.1.4 Information on the processes undertaken by the AAIB to respond to and investigate aircraft accidents is detailed in the AAIB Guidance for the Police, Emergency Services and Airfield Operators.

2.2 THE ASSOCIATION OF CHIEF POLICE OFFICERS (ACPO)

2.2.1 ACPO, a private limited company established in 1948 and leading the development of policing practice in England, Wales and Northern Ireland, is made up of senior police officers holding the rank of Chief Constable, Deputy Chief Constable or Assistant Chief Constable, or their equivalents. They represent the forty-three forces of England, Wales and Northern Ireland, national police agencies and certain other forces in the UK, the Isle of Man and the Channel Islands. Certain senior non-police staff may also be members of ACPO. ACPO coordinates national police operations, major investigations, cross border policing and joint law enforcement task forces. ACPO designates Senior Investigative Officers for major investigations and appoints officers to head ACPO units specialising in various areas of policing and crime reduction.

3. SECTION 3 – INVESTIGATIONS

3.1 AAIB INSPECTORS

- 3.1.1 AAIB inspectors are authorised by air accident investigation Regulations (and where appropriate in co-operation with the authorities responsible for a judicial inquiry) to have unrestricted access to evidence in the form of accident sites, debris, flight recorders, witnesses, etc. to facilitate their investigations. Inspectors are also accorded a wide range of statutory powers under their Regulations (See AAIB Guidance for the Police, Emergency Services and Airfield Operators).
- 3.1.2 **AAIB Investigations:** The AAIB inspectors conduct technical investigations into aircraft accidents. *'The sole objective of any AAIB investigation of an accident or incident shall be the prevention of accidents and incidents'. It shall not be the purpose of such an investigation to apportion blame or liability'*. AAIB inspectors will also conduct technical investigations during incidents involving criminality to ensure that lessons may be learned involving aviation safety and survivability. Their continued involvement during this phase would provide much of the technical assistance required by the Police during a criminal investigation.
- 3.1.3 After receiving notification of an accident, the AAIB will take a decision on what level of response is required (see AAIB Guidance for the Police, Emergency Services and Airfield Operators).

3.2 POLICE OFFICERS

- 3.2.1 Police powers are extensive, and are contained in a number of Acts and secondary legislation. In particular, in England and Wales, key powers of arrest, interview, evidence gathering and use are outlined in the *Police and Criminal Evidence Act 1984 (PACE)*. Where injury or serious damage has occurred, the Police usually attend the scene of the incident and commence preliminary enquiries. Where foul play or criminal offences are suspected, a more thorough police investigation will ensue. When there has been a fatality, it is most likely that the police will carry out a major investigation, supervised by an SIO (Senior Investigating Officer).
- 3.2.2 **Police Investigations:** The Police conduct police investigations where suspicion of a criminal offence arises or where the public interest dictates. The police responsibility is to protect life and property, prevent and investigate offences, and prosecute offenders. They also have an immediate role at the scene of an incident to maintain public order and restore normality as soon as practicable, and to secure and preserve evidence, and identify victims. Their activities when fulfilling these duties, provides valuable assistance to the technical investigation. The police also conduct enquiries on behalf of and as directed by H.M. Coroner.

3.3 INVESTIGATION PHASES

- 3.3.1 With regard to AAIB and Police cooperation, it can be considered that there are three phases in an investigation into an aircraft accident of serious incident:

- **Uncertainty Phase** – A period at the commencement of an investigation where it is uncertain if the event has been brought about by a technical malfunction of a criminal offence;
- **Technical Investigation Phase** – A period after the uncertainty stage where it has been determined beyond doubt and agreed between the police and the AAIB that there is no evidence to support a criminal investigation and that the technical investigation continues under the control of the AAIB;
- **Criminal Investigation Phase** – A period after the uncertainty phase where it has been determined that a criminal offence has taken place and the police will conduct a criminal investigation as well as the AAIB continuing to conduct a technical investigation to determine any safety related issues.

3.4 UNCERTAINTY PHASE

3.4.1 During the early response to certain aircraft accidents, there is often a period of uncertainty as to which authority should be the lead investigation authority. To ensure that the most appropriate response is established, the Police and the AAIB will wish to determine whether criminality is involved at the earliest opportunity. No set guidance is published to assist in making this determination, but Investigators-in-Charge may wish to take into account the following:

1. Is there intelligence to suggest a criminal or terrorist attack against the UK, airlines, airports or other infrastructure?
2. Does the accident scenario generate an obvious indication of foul play?
3. Is the profile of the event so different from the norm to cause concern e.g. an unexplained mid-air explosion?
4. Is there immediate evidence available from the survivors or witnesses, particularly the crew?

3.4.2 The nature of air travel and the potential for a single event to have implications for safety internationally, and on a major scale, generates a need for technical investigation to be the lead investigation authority in almost all cases. In addition, the Lord Chancellor has provided guidance on the relationship between Police inquiries and technical investigations conducted by organisations such as the AAIB. This guidance is entitled *"Disasters and the Law – Deciding the form of Inquiry" (16 May 1991)*. In this Memorandum, the Lord Chancellor states that:

"It would require firm indications of serious criminality to justify a criminal investigation taking precedence over an inquiry held in public (or at least whose results are to be made public) where otherwise the public interest requires that such an inquiry be held. Colleagues will wish to bear in mind that the holding of such an inquiry in advance of criminal proceedings may adversely affect the ultimate prospects of a successful prosecution, but nevertheless, unless the criterion mentioned in the previous sentence is met, this is likely to be justified."

3.4.3 The period of uncertainty will vary in length depending on the complexity of the investigation. Through this period however, the Police and the AAIB will cooperate fully taking into account the needs of each organisation.

3.5 TECHNICAL INVESTIGATION PHASE

3.5.1 Technical investigations will be conducted following the general principles detailed at Annex A. The AAIB will deploy appropriate resources to conduct investigation at site and recover evidence. Representatives of international technical and investigation bodies are likely to be involved in certain accidents. Evidence will be recovered to investigation facilities, usually to the AAIB HQ at Farnborough. Police will have access to conduct victim identification and recovery, and will assist with securing the site. The release of factual information including photographs will be under the authority of the AAIB.

3.5.2 The AAIB will advise the Police during the technical investigation if evidence is uncovered suggesting increased police involvement. This may be due to the late discovery of evidence suggesting a

criminal act and could typically relate to questionable corporate activity of an airline, maintenance organisation or manufacturer.

3.6 CRIMINAL INVESTIGATION PHASE

3.6.1 Criminal investigations will be conducted IAW the requirements of the Senior Investigating Officer. On request, the AAIB will offer guidance and advice on recovery and investigation techniques. The Police will deploy appropriate resources to conduct the investigation and recover evidence. Evidence will be recovered to facilities selected by the Police. The AAIB will have access to the accident site/evidence to assist with identifying benefits for survivability and aviation safety.

3.7 COORDINATION AND COOPERATION

3.7.1 The AAIB and Police should establish and maintain good liaison and cooperation throughout their respective technical and criminal investigations. Where required, both investigations should proceed in parallel, without obstruction. The following areas of mutual interest have been identified:

- The notification of incidents and accidents, and 'first contact' between the AAIB and the investigating police force;
- Interviews and statements;
- Evidence gathering and interpretation, including forensic examination and use;
- The operation, removal and interpretation of Flight Data Recorder's, Cockpit Voice Recorders and other electronic equipment's information;
- The timing of AAIB publications in the event of possible prosecutions;
- Maintaining an effective dialogue with families; and
- The process in the event of a major accident.

3.7.2 In keeping with the underlying principles set out in paragraph 1.1, the following objectives are agreed. Each organisation will:

- Ensure effective co-operation and contact between the AAIB Investigator in Charge (IIC) and the Police Senior Investigating Officer (SIO) as soon as is practicable after an incident or accident has been reported;
- At the earliest opportunity, share such information that is available to assist in determining whether the incident should be investigated under accident investigation regulations, criminal law or both;
- Maintain contact throughout the conduct of the investigations by holding regular meetings between the AAIB IIC and the Police SIO;
- Exchange any factual information that is considered important to both investigations;
- Maintain a regular dialogue after the on-scene investigation has been completed;
- Continue to exchange information on the progress of proceedings, and provide timings on potential report publications or potential criminal proceedings;
- Where possible, co-operate to establish a joint media strategy.

4. SECTION 4 – CORONERS

4.1 A Coroner makes enquiries into all circumstances of sudden, violent or unnatural death, including aviation related fatalities. When a death occurs and is reported to the coroner, the body falls under his/her jurisdiction until released to relatives for funeral purposes. In each case, the coroner will consider the particulars provided, and give directions for a post mortem examination or such other form of investigation as may be considered appropriate under the circumstances. Where circumstances of a suspicious nature occur, or suspicion of criminal circumstances surrounds the death, the coroner will consult with the senior police officers concerned regarding action to be taken. Where no evidence of criminal intent is discovered, the AAIB will conduct an investigation, maintaining contact with the coroner through the coroner's officer, and on completion will make the report available to the coroner. Where required, the AAIB investigation team will provide detailed information and interpretation of the reports contents to assist the coroner in his/her considerations.

5. SECTION 5 – MONITORING OF THE MEMORANDUM

- 5.1 The working of the agreement, and the need for changes to the text, will be reviewed at least every five years or as circumstances dictate by both parties to this Memorandum. Meetings may be held periodically between the Chief Inspector of Air Accidents and the Chair of ACPO to review the Memorandum. Other persons may be invited to attend as appropriate. Any amendments proposed will be agreed by all parties. For the purposes of monitoring and updating the memorandum, a single point of contact has been identified within each signatory party. At the AAIB, this point of contact is the Deputy Chief Inspector of Air Accidents. At the ACPO, this contact is the Secretary to the Chair of ACPO. Any issues or problems arising with the implementation of this Memorandum during the conduct of investigations will be resolved by the Deputy Chief Inspector at the AAIB, and the Chair of ACPO.

| | |
|--|---|
| <p>Signed </p> <p>for and on behalf of ACPO</p> <p>Date 19 October 2012</p> | <p>Signed </p> <p>Chief Inspector of Air Accidents</p> <p>Date 2 October 2012</p> |
|--|---|

Glossary

ACPO - Association of Chief Police Officers
ARI - Accident, Reporting and Investigation
CIAA - Chief Inspector of Air Accidents
CPIA - Criminal Procedures and Investigation Act
CPS - Crown Prosecution Service
CVR - Cockpit Voice Recorder
DCI - Detective Chief Inspector (POLICE)
DCIAA- Deputy Chief Inspector (AAIB)
DC - Duty Co-Ordinator
DfT - Department for Transport
FDR - Flight Data Recorder
LI - Lead Inspector – (AAIB)
IIC – Investigator-in-Charge (AAIB)
FLO - Family Liaison Officer
AAIB - Air Accident Investigation Branch
PACE - Police and Criminal Evidence (Act/Codes)
SIO - Senior Investigating Officer (POLICE)
UK - United Kingdom

The Air Accidents Investigation Branch

The Air Accident Investigation Branch
Farnborough House
Berkshire Copse Road
Aldershot
Hampshire
GU11 2HH

Contact Numbers

Accident Reporting Line (24 hr) 01252 512299
General Use: 01252 510300
DfT Duty Officer (out of hours) 020 7944 5999
Fax: 01252 376999
Telex: 858119 ACCINV G

Website and E-Mail

E-mail: enquiries@aaib.gov.uk
Website: investigations@aaib.gov.uk

Association of Chief Police Officers

25 Victoria Street
London
SW1H 0EX

Contact Numbers

020 7227 3434
Fax 020 7227 3400

Website and E-Mail

E-mail: info@acpo.police.uk
Website: www.acpo.police.uk