



House of Commons
Transport Committee

**Flight time limitations:
follow up: Government
Response to the
Committee's Sixth
Report of Session
2013–14**

**Ninth Special Report of Session 2013–
14**

*Ordered by the House of Commons
to be printed 4 November 2013*

HC 795
Published on 11 November 2013
by authority of the House of Commons
London: The Stationery Office Limited
£3.50

The Transport Committee

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Committee staff

The current staff of the Committee are Mark Egan (Clerk), Farrah Bhatti (Second Clerk), Richard Jeremy (Committee Specialist), Adrian Hitchins (Senior Committee Assistant), Stewart McIlvenna (Committee Assistant) and Hannah Pearce (Media Officer)

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Ninth Special Report

On 30 October 2013 we received a response from the Government to the Transport Committee's Sixth Report of 2013-14, *Flight time limitations: follow up*, which we publish with this Special Report.¹

In addition to our recommendations to the Government on this subject we also provided in our Report the following Opinion to the European Scrutiny Committee:

We continue to have concerns on the proposed changes to the regulations. We recommend that the European Scrutiny Committee request that the European Commission address the matters we have raised in this report, including ensuring effective monitoring of the new flight time regulation. We also recommend that the European Scrutiny Committee requests the European Commission provide an assessment of the regulation two years after its implementation.²

The European Scrutiny Committee subsequently recommended that the draft regulation be debated in European Committee A to allow Members of the House of Commons to examine the issues with the Minister. The Committee has also written to the Commission as we suggested.³

1 HC 641, published on 11 September 2013.

2 Transport Committee, Sixth Report of 2013-14, *Flight time limitations: follow up*, HC 641, para 24

3 European Scrutiny Committee, Fourteenth Report of 2013-14, HC 83-xiv, paras 2.6-2.7

Government Response

Introduction

This paper sets out the Government response to the Committee's report, Flight time limitations: follow up, published on 11 September 2013.

The Government welcomes the Committee's interest in this subject.

This response incorporates contributions provided by the Civil Aviation Authority (CAA). In each case the Committee's recommendation is reproduced followed by the Government's response.

General

The Government believes that the proposals will not lead to a diminution of safety in the UK. The proposals are more conservative than current EU rules which were introduced in 2008 and will result in a significant improvement in safety across the EU as a whole.

Crew member fatigue has multiple causes, and must be managed in a practical, hands-on way, not simply by requiring airlines and crew members to comply with a set of timetables. Responsibility for managing fatigue is three-fold: effective regulation, proactive management by airlines and professional crew behaviour and full and effective reporting by crew members. All parties must work together to ensure that safety remains paramount. The Government and the CAA are committed to effective implementation of the new requirements and are disappointed that a consensus with crew representatives has not been reached. The Government and the CAA support the Committee's desire for a constructive working relationship with operators and crew members to ensure that the requirements effectively manage fatigue related performance to improve flight safety.

Managing fatigue

Operator responsibilities

1. The Government should continue to press for a limitation of the number of flights exceeding the maximum flight duty period that is below the proposed level of 33%. The Civil Aviation Authority should set out in detail how it will enforce active management by operators of the programmed flight duty period.

The CAA approach to fatigue management oversight will be enhanced under the new EU requirements and it will be proactive in ensuring operators understand their responsibilities and commitments. Once the Flight Time Limitation (FTL) requirements and associated certification specifications are published the CAA will produce guidance material on the active management of fatigue. The CAA will detail a transition process that operators will be required to follow in order to gain approval to operate under the new EU requirements and hold seminars for operators to further explain their operator responsibilities. The CAA will use the safety management system requirements of the Air

Operations Regulation,⁴ which come into force in October 2014, as the basis for the oversight of the ‘Operator Responsibilities’. The CAA has trained its staff in Safety Management System Oversight techniques.

The CAA ensures that operators carry out regular trend analyses of the use of Commander’s Discretion which are monitored and reviewed to verify that any actions required by the operator are taken. In addition the CAA regularly checks the operator’s system for capturing the use of discretion and samples the discretion reports for accurate completion in order to verify that its use is acceptable. This applies to operators of all sizes. The new EU requirements will strengthen the position of the CAA to question the use of discretion and seek levels below the set limit.

Reporting fatigue

2. The potential under-reporting of pilot fatigue must be properly recognised if it is to be effectively tackled. We note the continuing concerns regarding the CAA’s ineffectiveness in this regard. We recommend that the Government set out what steps it has taken to implement our 2012 recommendation on pilot fatigue since it accepted that recommendation as well as the steps to plans to take to ensure proper recognition of and action to combat pilot fatigue in the future.

The responsibility for reporting fatigue clearly lies with the operators and crew members. To achieve effective reporting it is essential that operators seek every opportunity to encourage reporting and for crew members to recognise fully their personal responsibilities. The CAA’s role is to establish an environment that supports full and open reporting.

A key element to achieving full and open reporting is the operator’s organisational safety culture. To measure the maturity of an operator’s safety culture, and to provide guidance on areas for improvement, the CAA is implementing an organisational culture assessment process it has jointly developed with the Swiss Federal Office of Civil Aviation (FOCA). CAA inspectors have been trained in the use of this process and a number of organisations have been assessed. However, it is too early in the implementation of this approach to reach any conclusions on the development of this oversight tool.

In addition to this enhancement of the oversight process, the CAA is engaging with the London School of Economics and BALPA to consider what other actions could be undertaken to better understand any underreporting by pilots, including the area of crew fatigue, and to identify any corresponding improvement initiatives.

It should also be noted that the importance of a “Just Culture”⁵ in reporting aviation occurrences has been recognised by the European Commission and incorporated into the draft Occurrence Reporting Regulation currently being debated. The reporting of fatigue has also been specifically discussed in relation to this new Occurrence Reporting

4 Commission Regulation 965/2012 of the 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) 216/2008 of the European Parliament and the Council.

5 “Just Culture” means a culture in which front line operators or others are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training, but where gross negligence, wilful violations and destructive acts are not tolerated.

Regulation and all EU Member States recognise the importance, and challenge, of open pilot fatigue reporting.

The CAA will assess the reporting culture for each operator as part of its oversight of the operator's Safety Management System. The additional oversight tools that the new EU requirements provide will assist the operator with the detection of fatigue or fatigue inducing patterns of work so that it can be proactively managed rather than reactively treated. These requirements also provide the CAA with greater oversight of how the operator actively manages the work patterns to prevent fatigue. In addition, the fatigue management training requirements will provide a valuable tool to help ensure that both crew members and operations staff understand the causes and impact of fatigue.

Flight duty period at night

3. We are disappointed that the Government chose not to press for a lower limit for the flight duty period at night in accordance with the scientific evidence on this matter. However, we welcome the new requirement for fatigue management of night duties over 10 hours that encroach or overlap the period 2200-0400. We recommend that the Government presses for national and EU-wide monitoring to examine whether the 11 hour limit is at least as safe as the current regime.

Article 9a of the Air Operations Regulation requires that the European Aviation Safety Agency conducts a continuous review of the effectiveness of the provisions. That review will involve scientific expertise and shall be based on operational data gathered with the assistance of EU Member States. The review is specifically required to cover duties of more than 10 hours at less favourable times of the day.

The CAA will work with EASA in the development of this review. It is important to note that the current EU requirements permit crew to commence flight duty periods (FDPs) of up to 12 hours until 2159 and 11 hour 45 minute between 2200 and 0459. The new regulations will reduce the allowable basic FDP to 11 hours from 1700 and no extension on the limits is permitted after 1900.

Commander's discretion

4. We recommend that the Government provide a progress report on the CAA's review of its position on the publication of information on the use of Commander's discretion. A regular, periodic pattern of publication should be established, together with an assessment of the impact of the use of discretion.

The CAA has reviewed the possibility of establishing an effective format to publish information on the use of Commander's Discretion. As raised in the response to the Transport Select Committee's first report, the use of Commander's Discretion is a standard element of the operator's FTL Scheme and only the Commander can make the decision to continue a flight. Understanding the reasons for the use of discretion is essential however the number of Commanders' Discretions raised by an operator is dependent on a variety of factors. The scope of operation (scheduled/charter), the types/numbers of aircraft operated and the routes flown (long haul/short haul) would make comparisons almost meaningless. The provision of such figures to the public would be ineffectual, as it would

not be possible to provide the level of detail needed to make an informed judgement. Comparisons made on the basis of the figures are likely to be misleading.

As previously stated, the CAA ensures that operators carry out regular trend analyses of the use of discretion which are monitored and reviewed to verify that any actions required by the operator are taken.

Maximum flight duty period

5. While we remain concerned about the length of the duty that is theoretically possible, we note the Government's assurances that this will be monitored. We recommend that the Government ensures that the Civil Aviation Authority has the power to act if very long periods of duty become anything but an exception.

Operators' FTL schemes will need approval by the CAA. The CAA will audit all operators to ensure that they are complying with all the requirements of their approved FTL scheme. If an audit identifies non-compliances these will need to be rectified by the operator. Where necessary the CAA can suspend, revoke or vary the approval. The CAA has the power to prosecute operators that breach the conditions of their approval.

The Civil Aviation Act 2012 laid the foundations for a power for the CAA to impose civil sanctions. We will be considering giving the CAA the power to impose such sanctions for breaches of the Air Operations Regulation in due course.

6. We reiterate our earlier conclusion that the Government should seek to ensure that scientists have a more central role in further work by EASA as it finalises its flight time limitations proposals and in its assessments for the future.

As previously stated, Article 9a of the Air Operations Regulation requires the Agency to conduct a continuous review of the effectiveness of the provisions. That review will involve scientific expertise and shall be based on operational data gathered with the assistance of Member States.

The CAA Fatigue Steering Group has initiated a research programme, a major element of which is a study to review neurophysiological techniques to measure fatigue with the purpose of providing more objective information than the current state-of-the-art approach which is primarily self-assessment. Commercially available measurement systems are now becoming available and the research will consider appropriate measurement techniques. The research has the long-term aim of validating fatigue measurement techniques in relation to the performance of critical flying tasks. This is a challenging target and will not be achieved within the present project, but the aim is to make substantial progress and to better understand the limitations of likely methodologies.

The research process was initiated on 14 March 2013 with a world-wide call for expressions of interest, managed through the procurement process of the European Commission. This rigorous process has resulted in a number of potential Proposals, with the winning bid due to be selected by the beginning of November 2013. The first deliverables are due in 2014.

The CAA will share the outcomes of this work with the Government and EASA to support the required review of the regulations and future work on FTL.