



## BRIEFING PAPER

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# Nuisance from helicopters and light aircraft

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## Summary

This short paper summarises the law in respect of helicopter and light aircraft noise; safety when flying low over built up areas; permitted development for landing sites and routes of complaint if an aircraft breaches those rules.

MPs are often contacted by constituents who want action taken against noisy and/or low flying aircraft or helicopters. The CAA is the relevant enforcement authority; details on how to make a report are given in section 4 of the paper.

Aircraft noise is generally exempted from the general noise nuisance controls. This is the case, irrespective of whether an airfield in question is small and unlicensed or a major UK airport.

Generally, so long as the *Rules of the Air Regulations 2015* are being observed, aircraft are protected from action in respect of trespass or nuisance. The Rules of the Air set out low flying rules in accordance with EU Regulation (EU) 923/2012 on the standardised European rules of the air. All helicopters flying in the London (Heathrow) and London City Control Zones are subject to an Air Traffic Control clearance and visibility minima.

Maximum penalties for a breach of the rules vary depending on the offence from a £2,500 fine to two years' imprisonment.

Information on other aviation issues including aircraft noise more generally and noise limits for night flights, can be found on the [Aviation Topical Page](#) of the Parliament website.

# 1. Noise

Section 79(6) of the [Environmental Protection Act 1990](#), as amended, specifically exempts aircraft noise from the general noise nuisance controls which exist under that legislation. This is the case, irrespective of whether an airfield in question is small and unlicensed or a major UK airport.

The Secretary of State for Transport is responsible for policy generally on the control of civil aircraft noise under section 78 of the [Civil Aviation Act 1982](#), as amended. These powers are devolved in Scotland to Scottish Ministers.<sup>1</sup> Under section 78(3) the relevant authority may “specify the maximum number of occasions on which aircraft of descriptions so specified may be permitted to take off or land” at airports so designated under section 80 of the same Act.

At present these controls apply only to **London Heathrow, Gatwick and Stansted** (the ‘designated airports’).

Generally, it should be noted that so long as the *Rules of the Air Regulations 2015* ([SI 2015/840](#)), as amended, are being observed, aircraft are protected from action in respect of trespass or nuisance under the 1982 Act.<sup>2</sup> Within controlled airspace, aircraft need air traffic control clearance, which gives the [Civil Aviation Authority \(CAA\)](#) some scope for exercising controls. However, such controls are usually concerned only with safety, and in any case controlled airspace only extends around airports and along air routes, which are usually 10,000 to 12,000 feet up. Outside controlled airspace, aircraft can go anywhere so long as they abide by the Rules of the Air. The Government has powers under the 1982 Act to designate areas where aircraft are not allowed to fly, but this is usually done only on safety or security grounds, for instance over high security prisons or sensitive installations.

Except for the designated airports, the view of consecutive governments has been that noise at airports is essentially a local matter and best dealt with at local level. Most large airports have consultative committees and any changes in the rules are likely to be discussed with them.<sup>3</sup> In its March 2013 *Aviation Policy Framework* the Government said:

... airports not currently designated for noise management purposes have powers to set noise controls ... and the Government would like appropriate controls to be agreed locally. For example, local authorities will want to consider whether to set such controls as a planning condition on new airport development. Noise controls at the designated airports will provide examples for other airports to consider as appropriate.

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<sup>1</sup> via [section 12](#) of the *Civil Aviation Act 2006*

<sup>2</sup> the *Rules of the Air* are made under Part 10 (Article 249) of the *Air Navigation Order 2016* ([SI 2016/765](#)), and are similar to a Highway Code for the airspace over the UK; the most recent version derives from the EU Regulation on the standardised European rules of the air (SERA): [Regulation \(EU\) 923/2012](#)

<sup>3</sup> the DfT published an updated industry Code of Practice in November 2006, designed to limit noise impacts on local areas, see: DfT, [Noise from Arriving Aircraft: An Industry Code of Practice](#) (2<sup>nd</sup> ed.), November 2006

Airports should ensure that the effectiveness of their measures to tackle noise is reviewed on a regular basis. For airports required to produce Noise Action Plans under EU legislation, this should be done at least as often as the five-yearly review of these plans. Noise Action Plans and any other noise measures agreed locally should be proportionate to actual noise impacts.<sup>4</sup>

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<sup>4</sup> DfT, [Aviation Policy Framework](#), Cm 8584, 22 March 2013, para 3.11

## 2. Safety and 'low flying'

The Rules of the Air changed considerably between 2007 (the last version) and 2015 due to the latter having to take account of EU Regulation (EU) 923/2012 on the standardised European rules of the air (SERA).

As a result the low flying prohibitions that used to be in Rule 5 of Schedule 1 to the 2007 Regulations<sup>5</sup> have been replaced by a new Rule 5 in the 2015 Regulations which provides that:

- (1) An aircraft must not take off or land within a congested area of any city, town or settlement except—
  - (a) at an aerodrome in accordance with procedures notified by the CAA; or
  - (b) at a landing site which is not an aerodrome in accordance with the permission of the CAA.
- (2) An aircraft must not land or take-off within 1,000 metres of an open-air assembly of more than 1,000 persons except—
  - (a) at an aerodrome in accordance with procedures notified by the CAA; or
  - (b) at a landing site which is not an aerodrome in accordance with procedures notified by the CAA and with the written permission of the organiser of the assembly.

However, there are a number of exemptions to this Rule, as set out by the CAA. Generally, an aircraft may fly at a height of less than 150 metres (500 feet) above the ground or water; or less than 150 metres above the highest obstacle within a radius of 150 metres from the aircraft. However, it must not be flown closer than 150 metres to any person, vessel, vehicle or structure except with the permission of the CAA.<sup>6</sup>

Specifically on **helicopters**, it states that a helicopter may fly below 150 metres (500 feet) above the ground or water or closer than 150 metres to any person, vessel, vehicle or structure if it is conducting manoeuvres, in accordance with normal aviation practice, within the boundaries of an aerodrome, a permitted site, if the operator or pilot-in-command of the aircraft has the written permission of the CAA. However, when flying in accordance with this permission the helicopter must not be operated closer than 60 metres to any persons, vessels, vehicles or structures located outside the aerodrome or site.<sup>7</sup>

For the purposes of the above, 'permitted sites' are:

- Great Yarmouth;
- Any helicopter landing site which is the main operating base of a PAOC or AOC operator;

Military low flying is a separate issue, for information see: MoD, [Military low flying](#), updated 18 June 2014

<sup>5</sup> *Rules of the Air Regulations 2007* (SI 2007/734)

<sup>6</sup> CAA, [Standardised European Rules of the Air – Exceptions to the Minimum Height Requirements](#), ORS 4 no. 1174, 6 June 2016, p1

<sup>7</sup> *ibid.*, p2

- Any helicopter landing site used by an AOC operator for a helicopter A-to-A operation in accordance with the provisions of the operator's operations manual; and
- Any helicopter landing site located at the premises of a CAA-approved aircraft maintenance organisation.<sup>8</sup>

## 2.1 London

All helicopters flying in the London (Heathrow) and London City Control Zones (CTRs) are subject to an Air Traffic Control (ATC) clearance and particular visibility minima.<sup>9</sup> In the main, pilots navigate by visual reference to ground features with only limited ATC Radar assistance.

Single-engined helicopters are required to fly along designated helicopter routes. These routes have been selected to provide maximum safety by avoiding flying over built up areas as much as possible. However, it should be noted that multi-engine helicopters can be provided with an ATC clearance to transit on more direct routes through the CTRs.

The Police and the Helicopter Emergency Medical Services (HEMS) operate multi-engined helicopters, but their operations are subject to special requirements associated with the nature of the tasks they are performing. Therefore, Police and HEMS helicopters may need to operate at lower altitudes or hold over specific locations.<sup>10</sup>

A map of the London CTR routes and data going back to 2007 is available on the [CAA website](#).

## 2.2 Offences

It is an offence under Article 241 of the *Air Navigation Order 2016* ([SI 2016/765](#)) to recklessly or negligently cause or permit an aircraft to endanger any person or property. Under Article 265 and Schedule 13 the maximum penalty for contravening Article 241 is an unlimited fine and two years' imprisonment.

Under Article 249 it is an offence to contravene, to permit the contravention of, or to fail to comply with, the Rules of the Air.<sup>11</sup> Under Article 265 and Schedule 13 the maximum penalty is a fine of £2,500.

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<sup>8</sup> *ibid.*, pp2-3; AOC means air operators certificate; PAOC is a police AOC and A-to-A means a commercial air transport or public transport helicopter operation starting and ending at the same place

<sup>9</sup> see, *Air Navigation (Restriction of Flying) (Specified Area) Regulations 2005* ([SI 2005/964](#)), as amended

<sup>10</sup> CAA, [London helicopter operations](#) [accessed 22 February 2017]

<sup>11</sup> there are a limited number of exemptions to this, set out in Article 249(3) and (4)

### 3. Permitted development

Helicopters and small aircraft may use temporary sites for landing and taking off provided safety standards are observed. Such sites can include large back gardens, hotel grounds, or open fields (provided the owner consents) or open wasteland. Such sites do not need to be approved by the CAA: their safety for use is judged by the pilot.

Under [Schedule 2, Part 4, Class B](#) of the *Town and Country Planning (General Permitted Development) (England) Order 2015* (SI 2015/596)<sup>12</sup> helicopters and small aircraft are given permitted development rights to use temporary sites for up to 28 days in a calendar year without the need to make a specific planning application. The days can be consecutive and there is no restriction on the number of movements. The temporary sites, however, must not be buildings or within the curtilage of a building. Clearly there is scope for interpretation of what constitutes the 'curtilage of a building' and this is a matter for case law.

In addition, under Article 4 of the Order local authorities can make what is known as an "Article 4 Direction". Article 4 Directions can withdraw specified permitted development rights across a defined area. If permitted development rights have been removed then a full planning application needs to be approved before the land can be used in this way, or there will be a risk of planning enforcement action.

The 28 day rule dates back decades and has long been of concern to MPs. For example, when introducing a Ten Minute Rule Bill to amend the law relating to the control of helicopters back in 1991, Kate Hoey, the Labour MP for Vauxhall, said that no-one was responsible for monitoring the ad-hoc use of helicopters and the 28-day rule was easily breached.<sup>13</sup>

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<sup>12</sup> planning is devolved across the UK, this refers to England only

<sup>13</sup> [HC Deb 16 July 1991, c230](#)



## 4. What can someone affected do?

MPs are often contacted by constituents who want action taken against noisy and/or low flying aircraft or helicopters.

In some cases, if it is possible to work out where the nuisance is coming from, one could make representations to the relevant airport, aerodrome, airfield, or heliport which is being used by the aircraft. As indicated in section 1, above, they have powers to deal with noise and to change departure schedules. But what action they might take is a matter for them.

If one has reason to suspect that an aircraft or helicopter is in breach of the Rules of the Air, breaking the law or posing a safety risk, one can raise this with the CAA as the relevant enforcement authority. It states that it can investigate two matters, low flying and unsafe flying:

### **Low flying**

In general, unless they are landing or taking off, an aircraft should be 1,000 ft over a built up area or otherwise 500ft from people, buildings etc. It's extremely difficult to judge aircraft height above the ground and distance from objects but if you have evidence of the height/distance, such as photographs, we can investigate. To enable us to trace the aircraft concerned you would ideally have its registration. For UK aircraft this is normally G- followed by four letters and is on the side and wing of the aircraft.

### **Unsafe flying**

We can investigate incidents of unsafe flying. You need to provide evidence of the incident and to enable us to track the aircraft concerned you would ideally have its registration. For UK aircraft this is normally G- followed by four letters and is on the side and wing of the aircraft. Examples include unapproved and dangerous low aerobatics or a helicopter landing in a place that puts people or property in danger (helicopters are allowed to land away from airfields providing they can do so safely and they have the landowners' permission).<sup>14</sup>

If you think you have witnessed a breach of aviation law, the CAA advises reporting the incident using its [online tool](#).

CAA advises that in order to investigate it requires sufficient evidence (such as the aircraft registration). Once it has conducted an initial review it will contact the complainant to explain what action it intends to take. Normally this will be within 20 working days.

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<sup>14</sup> CAA, [Report a potential breach of aviation law](#) [accessed 22 February 2017]

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