



US Forces in the UK: legal agreements

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This note briefly examines the legal agreements governing the United States Visiting Force in the United Kingdom. The legal basis for the US Visiting Force in the United Kingdom is primarily the North Atlantic Treaty Organisation (NATO) [Status of Forces Agreement](#) of 1951 (SOFA) and the [Visiting Forces Act](#) of 1952.

Status of Forces Agreement and the Visiting Forces Act

In order to regulate the extent to which foreign military personnel have exemption from local jurisdiction, it has become the practice, particularly since the Second World War, to regulate these issues through Status of Forces Agreements (SOFAs), which are negotiated between the sending and host state.¹

Status of Forces Agreements allow a sending State's military forces to operate within, and at the consent of, the host state. They also provide for the status of military headquarters established in other countries.² They may be bilateral or multilateral and there are no formal requirements as to the form, content, length, or title that a SOFA should take.

In their most basic form they establish the legal jurisdiction over military personnel and related civilians; define the exemptions of such personnel from passport and visa regulations and customs and excise duties; set out the legal right for military personnel to patrol bases, transit the host state, wear uniform and bear arms in the host nation and set out the cost arrangements for establishing and maintaining military facilities.

In 1951 NATO agreed a [Status of Forces Agreement](#) to govern hosting arrangements between the Alliance's member states. From the UK's perspective, it applies equally to visiting forces in the UK and to British forces based in NATO countries, for example in Germany.

The [Visiting Forces Act](#) 1952 incorporates the NATO SOFA into UK law. Together, they provide the overarching framework for the stationing of US forces in the UK.

The provisions of the *VFA* were extended to NATO military headquarters in the UK by the [International Headquarters and Defence Organisations Act 1964](#).

The Visiting Forces Agreement was extended in 1995 by the [Partnership for Peace Status of Forces Agreement](#) to cover the forces of states who not members of NATO but had agreed to participate in NATO's Partnership for Peace plan.³

¹ John P Grant and J Craig Barker, "Parry and Grant Encyclopaedic Dictionary of International Law", Oceana Publications, second edition, p485

² HL Deb 27 January 2009 cGC62

³ John P Grant and J Craig Barker, *Parry and Grant Encyclopaedic Dictionary of International Law*, 2nd edition, p485

The [Armed Forces Act 1996](#) extended the Visiting Forces Act to third countries (i.e. neither members of NATO nor members of the Partnership for Peace plan) by Order in Council. It might also be applied to Service personnel from other countries undertaking training at UK military establishments. Algeria, for example, was added to the list of countries by Visiting Forces (Designation) Order 2010 ([SI 2010/2970](#)). The EU Status of Forces Agreement applies in circumstances in which forces are not regulated by either the NATO or the Partnership for Peace Status of Forces agreement.⁴

US Visiting Forces in the UK

The United States has had military forces permanently stationed in the UK since the Second World War. The United States Visiting Force (USVF) is in the United Kingdom at the invitation of the UK Government. The 1951 NATO SOFA and the 1952 *Visiting Forces Act* (VFA), along with supplemental bilateral acts between the two countries, establish the legal status of the USVF and its personnel in the UK. US Visiting Forces are subject to both US and UK law.⁵

The overarching agreement setting out this relationship is the Churchill-Truman Communiqué of 1952 which states:

Under arrangements made for the common defence, the United States has the use of certain bases in the United Kingdom. We reaffirm the understanding that the use of these bases in an emergency would be a matter for joint decision by HM Government and the US Government in light of the circumstances prevailing at the time.⁶

The communiqué provides no definition of an ‘emergency’. However, the Government has said that the operational use of UK bases by US Visiting Forces is subject to a joint decision by the UK and US governments.⁷ This includes the use of UK bases for combat operations by United States Air Force aircraft.⁸

Bases and personnel

A number of UK military bases are made available to US Visiting Forces under the terms of the NATO SOFA 1951, and other arrangements.⁹ The scale and geographical spread of US Visiting Forces (USVF) in the UK has reduced in the last few years.¹⁰

At present there are approximately 9,600 US military personnel and their supporting civilian component permanently based at various locations throughout the UK.¹¹ The US Air Force’s two main operating bases in the UK are [Lakenheath](#) (Suffolk)¹² and [Mildenhall](#) (Suffolk). RAF Croughton (Northants) and RAF Alconbury (Cambridgeshire) are the next largest bases.¹³ RAF Fairford (Gloucestershire) is used as a standby deployment base.¹⁴ RAF [Menwith Hill](#) is

⁴ HL Deb 27 January 2009 cGC62

⁵ HC Deb 21 May 2013 c728W

⁶ *Keesing’s Contemporary Archives*, 12-19 January 1952

⁷ HC Deb 29 June 2005, c1568W

⁸ HC Deb 24 March 2003 c18W and HC Deb 11 September 2012 c171W

⁹ HC Deb 15 January 2008 c1137W

¹⁰ The US Air Force has produced a short pamphlet providing a short history of [US Visiting Forces in the UK between 1942-2011](#) which is available online.

¹¹ “[USAFE Economic Impact Analysis Fiscal Year 2012](#)”, *RAF Mildenhall website*, April 2013;

¹² Lakenheath is home to the U.S. Air Forces in Europe’s only F-15 fighter wing, comprising F-15 Eagle and F-15E Strike Eagle

¹³ US Department of Defence, [Base Structure Report Fiscal Year 2012 Baseline](#), p96

¹⁴ The USAF withdrew from RAF Fairford by September 2010, although the base will still remain a NATO designated standby base and US forward operating location, albeit run on a “care and maintenance”

used by the US National Security Agency.¹⁵ There are no US Visiting Force bases in Scotland, Wales or Northern Ireland.¹⁶

The US Department of Defense announced its intention to withdraw from RAF Mildenhall, RAF Alconbury and RAF Molesworth. The activities currently undertaken at Alconbury and Molesworth will be moved to RAF Croughton. The decision was made as part of a review of the US presence in Europe, *European Infrastructure Consolidation*, announced on 8 January 2015. The withdrawal from RAF Mildenhall is not expected to begin until 2019. The Pentagon also announced the selection of RAF Lakenheath to host the first squadrons of F-35 aircraft in Europe. Michael Fallon, the Secretary of State for Defence, said the decision was disappointing but pointed to the F-35 basing decision as reflecting the “strength” of the bilateral defence relationship. The Department for Business, Innovation and Skills will convene a Mildenhall, Alconbury and Molesworth working group to manage the impact.¹⁷

An US Air Force officer, usually of the rank of Colonel, commands US bases in England. An RAF commander is present at the main USVF sites and is normally of the rank of squadron leader. The role of the RAF commander is to liaise with the US base commander and act as head of establishment for Ministry of Defence employee. Not all sites will have an RAF commander.¹⁸

Financial arrangements

The 1973 Cost Sharing Arrangement (CSA) outlines the financial arrangements for the use of bases. When asked who owns the buildings, fixed assets, site and infrastructure at each US military base in the UK, then Defence Minister Sir Nick Harvey said:

All sites comprising United States Visiting Forces bases in the UK are owned by the Ministry of Defence (MOD), although some small areas may be held on a leasehold basis. All buildings, fixed assets and infrastructure are owned by the MOD, with the exception of some utilities infrastructure, which are the property of the relevant utilities companies.¹⁹

The US authorities are responsible for bearing the cost of any development “unless that development is a requirement of UK legislation or Ministry of Defence policy and there is no equivalent United States legal or policy requirement, in which case the costs fall to the Department.”²⁰

Security and munitions

The provision of security and policing arrangements at US bases in the UK has been a longstanding issue, in particular the right of US forces to police their bases in the UK and take all appropriate measures to enhance security *on base*. External security (i.e. outside the perimeter fence) to RAF bases hosting US forces is the responsibility of the UK. The USVF is responsible for internal security.²¹ Policing and security arrangements are covered by *the*

¹⁵ A full list of bases is available in the US Department of Defence, [Base Structure Report Fiscal Year 2012 Baseline](#), p96

¹⁶ HC Deb 23 October 2008 c478W

¹⁷ [HC WS178](#), 8 January 2015

¹⁸ HC Deb 16 December 2009 c1215W

¹⁹ HC Deb 4 February 2011 c990W

²⁰ HC Deb 28 February 2011 c84W

²¹ HC Deb 21 May 2013 c728W

*Memorandum of Understanding between the Ministry of Defence Police and Guarding Agency and the United States Visiting Force.*²²

In terms of weapons storage, the USVF declares its inventory of weapons in the UK annually to the MOD who ensure all weapons are appropriately licensed and stored.²³ The MOD says “for operational and security reasons, and to ensure relations between the UK and US are not prejudiced, it would be inappropriate to disclose the numbers, types and locations of such weapons.”²⁴ The storage of US munitions on bases in the UK is governed by a UK/US Memorandum of Agreement dated October 1997, entitled “*The Import, Export, Transportation, Safety, Security, Storage and Disposal of US Explosives and Weapons in the UK and the Approval, Use and Safety of Ground Ranges.*”²⁵

US contribution to local economy

A study by the US Air Force in 2012 ([US Air Force Europe Economic Impact Analysis 2012](#)) suggested that the benefit to the British economy of US forces being stationed in the UK was in the region of US\$1.3 billion. The USAF estimates \$602 million is put into the local economy as a result of the USAF at RAF Lakenheath, \$362 million at RAF Mildenhall and over \$377 million at the rest of its bases in the UK.

The same study suggests the US Air Force employs 2,746 local nationals across the UK and estimates 4,588 indirect jobs are created in the local community because of the USAF presence, of which 2,193 are at RAF Lakenheath and 1,324 at RAF Mildenhall. Altogether, it estimates the value of indirect jobs in England at US\$204.3 million. It estimates total expenditures on the local economy in the UK as \$457.1 million.²⁶

US Air Force personnel make up approximately 20% of the population in Forest Heath District Council, which hosts the two largest US bases, Lakenheath and Mildenhall. The Council estimates the two bases spend around £33 million per year on procurement of goods and services locally.²⁷

²² HC Deb 21 May 2013 c728W

²³ HC Deb 6 March 2012 c677W

²⁴ HC Deb 8 December 2009 c206W

²⁵ HC Deb 25 March 2010 c414W

²⁶ “[USAFE Economic Impact Analysis Fiscal Year 2012](#)”, *RAF Mildenhall website*, April 2013

²⁷ “[Economic Development and Tourism Strategy 2009 – 2026](#)”, *Forest Heath District Council*, p5