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20 October 2020

FOIA reference: F0004891

Dear Mr Cole

FREEDOM OF INFORMATION APPEAL

Further to my letter of 17/09/2020, I am writing to provide you with the outcome of my review of the CAA's response to your request for information under the FOIA regarding applications to fly unmanned aerial vehicles (UAVs) beyond visual line of sight.

Your request for information

Your request for information of 6 August 2020 sought disclosure of the following:

"...details of all applications to the CAA to fly UAVs beyond visual line of sight since 1 January 2019."

The CAA's original response to your request

In our response dated 4 September 2020, we stated that although we hold information in scope of your request, we were unable to provide it to you, as it is exempt from disclosure under Section 44(1)(a) of the FOIA.

We explained that:

- details contained in applications for exemption or permission for the operation of UAVs in UK Airspace, including applications to operate UAVs beyond visual line of sight, are provided to the CAA pursuant to an Air Navigation order, namely Articles 94 and 95 of the Air Navigation Order 2016 (ANO 2016);
- Section 23 of the Civil Aviation Act 1982 (CAA 1982) provides that information which relates to a particular individual or organisation and which has been supplied to the CAA pursuant to an Air Navigation Order, is prohibited from disclosure by the CAA;
- Section 44(1)(a) of the FOIA provides that information is exempt if its disclosure is prohibited by, or under, any enactment and Section 23 of the CAA 1982 is such a statutory prohibition.

As a result of the above, we concluded that the CAA is prohibited from disclosing the requested information to you because such information is exempt from disclosure under Section 44(1)(a) of the FOIA.

We informed you that, in total, 29 UAV operators have been granted permission to operate beyond visual line of sight since 1 January 2019. We also noted that not all of those permissions remain current or active.

Your request for an internal review

By email on 7 September 2020, you requested an internal review of our decision to refuse to provide information in response to your request of 6 August 2020.

You suggested that while Section 23 CAA1982 means that names of individuals may not be disclosed, such details may be redacted from applications. You indicated that this was the approach taken by the CAA in its response of 24 November 2011 to your request of 28 October 2011 (ref F0001244).

My internal review

Applications to fly UAVs beyond visual line of sight (BVLOS Applications) generally contain the following information:

- the application form (SRG1320);
- an Operating Safety Case, split into 3 volumes:
 - Volume 1 covering operations and administration;
 - Volume 2 covering technical aspects of the unmanned aircraft systems (UAS);
 - Volume 3 covering safety and risk management;
- proof of pilot competence for all named pilots;
- confirmation of pilot currency (2hrs flying in previous 90 days);
- insurance details;
- supporting documents for any additional permissions, such as;
 - OFCOM licences for radio use, radar, etc;
 - airspace approvals for TDAs, NOTAM requests, etc.

I have considered whether any of the information provided in a BVLOS Application should be withheld on the basis of the provisions of the FOIA.

For the reasons set out below, I have concluded that the details contained in the application form and the accompanying documents should be withheld from disclosure.

ANO 2016 provides that applications must be made to the CAA for:

- permission to fly small unmanned aircraft for commercial operations (Article 95(5));
- permission to fly a small unmanned surveillance/data acquisition aircraft in various circumstances, such as over or within 150m of a congested area or open-air assemblies, close to people or property (Article 95(1)); and
- an exemption from the requirement that a remote pilot must maintain direct, unaided visual contact with the aircraft sufficient to monitor its flight path in relation to other aircraft, persons, vehicles, vessels and structures for the purpose of avoiding collisions (Article 94(3)).

In order to apply for an exemption or permission, certain information needs to be provided by an applicant, as explained in CAP 722¹ and as set out in application form SRF1320².

As noted above, Section 23(1) of the CAA 1982 provides that no information which relates to a particular person and which has been furnished to the CAA in pursuance of any provision of an Air Navigation Order shall be disclosed by the CAA, subject to certain exemptions.

In relation to this, I note that:

- information provided as part of the BVLOS Applications is provided pursuant to a provision (Articles 94 and 95) of an Air Navigation Order (ANO 2016);
- the “*particular person*” referred to in Section 23(1) can be an individual or a body corporate;
- there is no requirement that the “*particular person*” to whom the information relates must be the same person who has provided the information to the CAA for the prohibition to apply;
- as noted above, BVLOS Applications generally contain information which relate to several “*persons*”, including for example the applicant and the remote pilot(s);

¹ CAP 722: http://publicapps.caa.co.uk/docs/33/CAP722_Edition7_A3_SEP2019_20190903.pdf; CAP 722A: <https://publicapps.caa.co.uk/docs/33/CAP722A-UASOSC.pdf>; CAP 722B: [https://publicapps.caa.co.uk/docs/33/CAP722B\(E2\)-20191204.pdf](https://publicapps.caa.co.uk/docs/33/CAP722B(E2)-20191204.pdf)

² <https://publicapps.caa.co.uk/docs/33/SRG1320Issue08Enabled.pdf>

- none of the exemptions in Section 23 of the CAA1982 apply in this case.

As such, I have concluded that the CAA is prohibited from disclosing the requested information, i.e. details of all applications to the CAA to fly UAVs beyond visual line of sight since 1 January 2019, because such information is exempt from disclosure under Section 44(1)(a) of the FOIA. Section 44 is an absolute exemption and is not subject to the public interest test.

I note your comment, in your email of 7 September 2020, regarding the approach taken by CAA in its response of 24 November 2011 to your request of 28 October 2011 (ref F0001244). I am not able to account for the basis on which the decision was taken in 2011 but, as set out above, I consider that the CAA is prohibited from disclosing the information you requested on 6 August 2020.

Rights of Appeal

I should advise you that, under the FOIA, you have further rights of appeal to the ICO. Should you have any reason to complain about any aspects of the processing of your request and of your subsequent appeal, you should contact the ICO at:

FOI/EIR Complaints Resolution
Wycliffe House
Water Lane
Wilmslow
SK9 5AF
<https://ico.org.uk/concerns/>

Should you wish to make further requests please use the e-form at: <http://www.caa.co.uk/foi>.

Yours sincerely



Sean Parker
Appeal Manager