

SUBMISSION TO THE MINISTRY OF TRANSPORT

ON

CONFIDENTIAL INCIDENT REPORTING SCHEMES IN AVIATION

The Aviation Industry Association has reviewed the paper entitled 'Confidential Incident Reporting Schemes in Aviation' and wishes to make the following comments:

1. A clear distinction is required between the purposes of the reporting systems related to in the discussion document. Recommendations 578 and 581 from the Coroner refer to matters which must be directed to and dealt with by the CAA. Recommendation 575 which asks for consideration to be given to the establishment of a confidential air safety reporting system is a separate matter entirely and therefore should be addressed independently in its own right.
2. Recommendation 578 relates to a mandatory reporting system for passengers who have concerns regarding general aviation operations. We support the need for there to be better publication of existing procedures available to the traveling public should they wish to lodge a complaint with the CAA. As mentioned in the Coroner's Report, we agree with the promotion of a system in which perceivable barriers to the public (such as time and cost) are minimal. A 24 hour free-phone message service or a free-post form with audited targets for response could be an example. For example, the ASRS (United States) programme has recently introduced a facility for reporting via secure email which is obviously a convenient method for the majority of the population. The discussion paper indicates that the CAA has established such a system and we look forward to increased promotion of this facility.

3. We support the need for improved education on a mandatory reporting system for aviation document holders to relate safety concerns to the regulator as outlined in Recommendation 581 in the Coroner's Report. CAA has indicated a level of frustration that certain pilots and operators are still reluctant to report safety concerns despite the protection of offered by Rule Part 12. We feel this matter arises due to two reasons. The first is a certain degree of ignorance that incident reporting is optional as opposed to mandatory. This can be addressed by increased education and publicity of the obligations of Rule Part 12 as well as its associated benefits. This education should aim to cover a wide audience of industry participants, much like the Broadcasting Standards Authority's education on public complaints. Feedback to the reporter is essential regardless of whether the complaint or concern is investigated further. The second reason is CAA's obligations (barring the specific exceptions to the Rule) not to prosecute under Part 12. Within Industry there is a view (perceived or otherwise), that the regulator tends to prosecute first and ask questions later. Regardless of whether this opinion of the CAA's culture is correct or not, people's perceptions are their reality and they will act accordingly. It is the responsibility of CAA to address this prevailing culture in an appropriate manner and ensure their own conduct is fitting to the Rule Part.

4. While we support the need for improved and better publicized CAA reporting systems, they can never be the complete answer from a safety systems point of view. This is verified by ICAO's recommendation that Contracting States should establish a confidential incident reporting programme to complement the required mandatory reporting systems. While increased publicity regarding Rule Part 12 should raise reporting numbers through the mandatory systems in place, there will likely be others who, for reasons surrounding their confidence in forwarding safety information to the regulator or their employer, will still not participate in mandatory reporting. This is illustrated by example in point 5 below. The aim then for a confidential reporting system is to 'tap' into this channel.

Confidential Information Reporting Systems

5. The discussion document indicates that while under-reporting is a recognizable concern, there is no firm data on how many incidents do go unreported. This should be an incentive as opposed to a deterrent against the establishment of a CIRS. Despite the lack of so-called 'hard evidence', CAA has acknowledged, for example, that fatigue related incidents are unrealistically low. A recent study¹ funded by the Australian Transport Safety Bureau on fatigue management in the New Zealand aviation industry states that, according to the CAA, 0.2% of New Zealand incidents have fatigue as a contributing factor. In contrast, the United States has identified fatigue as a factor in 21% of aviation incidents that have been reported through ASRS, the confidential and non-punitive reporting programme facilitated through NASA.
6. CAA's assertion that NZ does not need a confidential reporting is at odds with the established practice in many ICAO States: Australia, US, Canada, UK, Russia, Japan, Korea, Taiwan, Singapore and China. No robust evidence was produced in the discussion paper to support this assertion; rather the contrary. It was disappointing that potential barriers to establishing such a system were high-lighted while very little was presented on the potential benefits. The resulting impression therefore is very one-sided in favour of not establishing a CIRS additional to mandatory reporting systems.
7. While CIRS can be difficult to get right, many of the general requirements have been ascertained by other countries that have developed programmes and have published the important criteria throughout international forums. An example of one such forum is the International Confidential Aviation Safety Systems Group (ICASS Group). The ten countries listed in point 7 above are all members of this group. The principle objectives of the ICASS Group are:
 - . To provide advice and assistance in the start up and operation of a confidential reporting system.
 - . To facilitate the exchange of safety related information between independent confidential aviation reporting systems.

To identify solutions to common problems in the operation of such systems.

Observer status to the ICASS Group is by invitation which is offered to representatives of emerging confidential reporting systems. While researching our submission to the discussion paper, a senior investigator from the Transport Safety Board of Canada's SECURITAS programme extended this invitation for us to join the ICASS Group 2007 meeting early next year. This would be an invaluable opportunity for suitable representatives from New Zealand to not only gain an extensive view of different confidential reporting systems around the world, but also be offered excellent high-level guidance. It would also be a fitting forum to further explore the possible merger into the Australian REPCON programme. If MOT/CAA have not yet contacted the ICASS Group, they should do so.

8. Long-term, stable government support and funding is critical to the success of any confidential reporting system. The failure of ICARUS and ISAS due to funding problems is an example of this. For this reason we agree that it would not be desirable for industry to financially support such a scheme.
9. Feasibility of a new CIRS based on past, unsuccessful programmes is unhelpful and discriminatory. The ICARUS scheme was designed over ten years ago; ISAS over twenty. Focus on why the programmes failed should be used in the capacity of avoiding future problems, not as excuses as to why a future system would not work. Any cost-benefit analysis carried out in New Zealand should focus on current successful schemes operating elsewhere in the world and be adjusted to suit New Zealand conditions. This will avoid theoretical assumptions such as the (in)frequency of people reporting into the system. Again, with the resource availability through the ICASS Group this should be achievable.
10. Given the current links and growing harmonization between New Zealand and Australia, the benefits and difficulties of collaboration should be re-examined in detail. The discussion paper simply reports that joining in with the old CAIR scheme two years ago was not an option according to TAIC and the ATSB. There is no mention as to

what these ‘inefficiencies’ and ‘questions over legal protections’ are. Our recent correspondence with the ATSB Manager of Notifications and Confidential Reporting during our submission research provided positive feedback regarding the option of working with Australia.

11. We agree that it is unviable to have a confidential reporting scheme run by the CAA. TAIC is an attractive option although, being a government agency and in light of the point made by the Canadian Working Group on Voluntary and Non-Punitive Reporting Programs², discussion with industry would be warranted.
12. We agree that there is somewhat of a shortage of investigator capability in New Zealand. The problem however does not appear to be a lack of personnel who can competently analyse incident reports, but rather attracting and retaining participants for a suitable length of time. Solutions to this, as to all aspects of CIRS require on-going government, regulator and industry collaboration.

Aviation Ombudsman

13. While the traditional role of an ombudsman does not particularly lend itself to a CIRS concept, we believe the matter could be worth exploring further in different capacities. An example could be similar to that suggested in Australia with the Ombudsman handling complaints against CASA. There would however, need to be careful control over such a system as the potential for confusion over the purpose and use of such a facility is high.

¹ Signal, L., Ratieta, D., Gander, P. (2006). *Fatigue Management in the New Zealand Aviation Industry*. Australia: Australian Transport Safety Bureau.

² Canadian Aviation Regulation Advisory Council (CARAC) General Technical Committee Part 1, *Working Group on Voluntary and Non-Punitive Reporting Programs – Final Report June 2002*.