



Aviation: nuisance from helicopters and light aircraft

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

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.

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1 Noise

Section 79(6) of the [Environmental Protection Act 1990](#) 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. Instead, aircraft are covered by the [Civil Aviation Act 1982](#), as amended, which gives the Secretary of State for Transport wide powers to apply operational controls and restrictions. It should be noted that so long as the [Rules of the Air Regulations 2007 \(SI 2007/734\)](#) are being observed, aircraft are protected from action in respect of trespass or nuisance under the 1982 Act.

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The *Rules of the Air* are made under Part 22 (Article 160) of the *Air Navigation Order 2009* (SI 2009/3015), and are similar to a Highway Code for the airspace over the UK. They provide rules for low flying, avoiding aerial collisions, order of precedence for taking off, landing and converging etc. 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.

2 Safety

Rule 5 of Schedule 1 to the *Rules of the Air* contains the rules for low flying. Although these rules are primarily concerned with safety the height restrictions do offer some benefits in terms of noise reduction.

An aircraft must comply with the low flying prohibitions set out in paragraph (3) of Rule 5 subject to the exemptions in Rule 6. If an aircraft is flying in circumstances such that more than one of the low flying prohibitions apply, it shall fly at the greatest height required by any of the applicable prohibitions. The prohibitions are as follows:

(a) Failure of power unit

An aircraft shall not be flown below such height as would enable it to make an emergency landing without causing danger to persons or property on the surface in the event of a power unit failure.

(b) The 500 feet rule

Except with the written permission of the CAA, an aircraft shall not be flown closer than 500 feet to any person, vessel, vehicle or structure.

(c) The 1,000 feet rule

Except with the written permission of the CAA, an aircraft flying over a congested area of a city town or settlement shall not fly below a height of 1,000 feet above the highest fixed obstacle within a horizontal radius of 600 metres of the aircraft.

(d) The land clear rule

An aircraft flying over a congested area of a city, town or settlement shall not fly below such height as would permit the aircraft to land clear of the congested area in the event of a power unit failure.

(e) Flying over open air assemblies

Except with the written permission of the CAA, an aircraft shall not fly over an organised open-air assembly of more than 1,000 persons below the higher of the following heights—

(i) 1,000 feet; or

(ii) such height as would permit the aircraft to land clear of the assembly in the event of a power unit failure.

(f) Landing and taking off near open air assemblies

An aircraft shall not land or take-off within 1,000 metres of an organised, open-air assembly of more than 1,000 persons except—

(i) at an aerodrome, in accordance with procedures notified by the CAA; or

(ii) 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.

In Rule 5(3)(c), the term ‘congested area of a city town or settlement’ is defined in Article 255 of the *Air Navigation Order* as being “any area which is substantially used for residential, industrial, commercial or recreational purposes”. There are also some special restrictions on flying by single engine helicopters over central London which are set out in the *Air Navigation (Restriction of Flying) (Specified Area) Regulations 2005 (SI 2005/964)*. The CAA has also produced a [map of helicopter routes over London](#) – which although there is no legal onus on pilots to obey them, are generally followed. Police helicopters are exempted from both the 500 feet and 1,000 feet rules.

It is also an offence under section 138 of the *Air Navigation Order* to allow an aircraft to endanger any person or property.

3 Planning

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 Article 3 and Schedule 2, Part 4 of the *Town and Country Planning (General Permitted Development Order) 1995 (SI 1995/418)*, as amended, 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. When introducing a Ten Minute Rule Bill to amend the law relating to the control of helicopters, Kate Hoey MP said that no-one was responsible for monitoring the ad-hoc use of helicopters and the 28-day rule was easily breached.¹

4 Military aircraft

The legislation dealing with the environment and noise emissions, including the *Environmental Protection Act 1990*, the *Noise and Statutory Nuisance Act 1993* and the *Noise Act 1996*, do not apply to the military. In regard to any legislation the Ministry of Defence (MoD) is entitled to invoke Crown or Defence exemptions to the effect that whatever they are doing is in the interests of national security or essential to maintain operational effectiveness. Operational policy and guidelines on the use of military aircraft and the levels of noise permitted are therefore the responsibility of the MoD. A ‘safety sense’ leaflet from the CAA explains the United Kingdom Military Low Flying System (UK LFS) as follows:

¹ [HC Deb 16 July 1991, c230](#)

The United Kingdom Low Flying System (UK LFS) covers the whole of the UK and surrounding over-sea areas, from the surface to 2,000 ft. This permits wide distribution of the activity in order to reduce the impact on the environment. Military pilots must avoid major built-up areas, Controlled Airspace, Aerodrome Traffic Zones (ATZ) and other sensitive locations. Inevitably, the protection given to these areas creates unavoidable concentrations of military low flying activity where traffic is constrained between sensitive locations. Where necessary, military pilots, except those of helicopters flying below 200 ft MSD, follow established uni-directional flows when flying below 2,000 ft to reduce the risk of conflict. These flow arrangements, which apply in daylight hours only, over areas and through 'choke' points, are published on CAA chart UK AIP ENR 6-5-2-1. 'Areas of Intense Aerial Activity, Aerial Tactical Areas and Military Low Flying System'. However, the published markings only indicate the general direction of flow, not specific tracks.²

Further information on the UK LFS scheme including maps, is available on the [MoD website](#).

5 Enforcement

If an aircraft breaches the rules, the CAA will investigate if a member of the public gathers evidence, including the type of aircraft involved. The section of the CAA which can investigate is:

The Head of Aviation Regulation Enforcement and Investigation Branch
CAA House, 45-59 Kingsway
London
WC2B 6TE

A written answer from 1998 provided details of the action taken by the CAA, when there is a complaint which might involve a breach of aviation regulations:

On receipt of a complaint, a preliminary investigation is carried out to determine if the complaint indicates a breach of legislation or is about noise and nuisance. If it is the latter, then the immunity granted by Section 76 of the Civil Aviation Act 1982 precludes any further action.

Section 76 says that if the aircraft was being flown in accordance with the regulations governing aircraft flight, then no prosecution can be made for trespass or nuisance. However, if there appears to be a breach of aviation legislation, steps are taken to identify the machine and the pilot responsible and to ascertain if there are any exemptions or permissions in issue which would account for the observed activity. If it then appears that the flight was in breach of the rules and also that there is a reasonable prospect of obtaining sufficient evidence suitable for presentation to a court, a full criminal investigation is carried out and evidence is taken by a CAA Investigation Officer in accordance with the Police and Criminal Evidence Act, 1984.

When the investigation is complete, a report is raised which is examined against the guidelines given in the Code for Crown Prosecutors. If it meets these guidelines, the Authority may dispose of the matter by means of a Warning Letter, by administering a formal caution under the Attorney-General's guidelines, or, for the most serious breaches, by prosecuting. The Authority also has the power to take licensing action against any pilot found to be in breach of the legislation.³

² CAA, *Military Low Flying* (Safety Sense Leaflet 18), January 2008, section 2a

³ [HC Deb 21 July 1998, cc467-468W](#)

The then Labour Government stated in a written answer in July 2005 that there were no plans to introduced further controls on helicopter noise.⁴

⁴ [HC Deb 4 July 2005, c23W](#)