

PROTOCOL

THE ROLE OF AIR, MARINE AND RAIL ACCIDENT INVESTIGATION BRANCHES AND THEIR RELATIONSHIP WITH THE DEPARTMENT FOR TRANSPORT

2012

CONTENTS

Section A: ROLE OF ACCIDENT INVESTIGATION BRANCHES	3
1. Introduction	3
2. Investigations and Reports.....	3
Section B: RELATIONSHIP WITH DfT.....	4
3. Governance	4
4. Policy Advice and Support	5
6. Legal	7
7. Media and Communications	7
8. Administrative Support.....	8
Annex A - Board of Accident Investigation Branches (BAIB).....	9

Section A: ROLE OF ACCIDENT INVESTIGATION BRANCHES

1. INTRODUCTION

1.1. The Air, Marine and Rail Accident Investigation Branches (AAIB, MAIB and RAIB) are stand-alone branches of the Department for Transport (DfT). Their general aims are to improve the safety of their respective sectors and to prevent accidents and incidents¹.

1.2. The three Accident Investigation Branches (AIBs) also fulfill the UK's duty under the respective EU Safety Directives to establish permanent bodies to undertake independent investigation of rail, maritime and air accidents. For all three Branches, the sole objective of investigating an accident is to determine its circumstances and causes, with the aims of improving safety and avoiding future accidents. It is not the purpose to apportion liability, nor to apportion blame.

1.3. It is essential that the three AIBs are, and are seen to be, entirely independent, including from their parent Department, in carrying out their prime purposes of investigating accidents and making recommendations to improve safety in their respective sectors. This protocol explains how this independence is safeguarded and in particular sets out clearly the relationship between the AIBs and the wider DfT.

2. INVESTIGATIONS AND REPORTS

2.1. The AIB Chief Inspectors are appointed by the Secretary of State for Transport. They have legal responsibility for, and functional independence in relation to, the ordering and conduct of investigations into accident and incidents, and for producing reports and making recommendations as a result of investigations. It is also the responsibility of the Chief Inspectors to ensure investigations are free from interference or influence.

2.2. The AIBs do not enforce laws or carry out prosecutions and they are quite separate from the safety regulators for their respective sectors (the Civil Aviation Authority, the Maritime and Coastguard Agency and the Office of Rail Regulation, the Inter Governmental

¹ There is also a Military Air Accident Investigation Branch, which is part of the Ministry of Defence

Commission and the Department for Regional Affairs for Northern Ireland). The powers of AIB inspectors, and the framework for reporting and investigating accidents, are set out in the relevant EU Regulations and Directives and in UK legislation.

2.3. In accordance with the terms of the relevant EU and UK legislation², the respective Chief Inspectors are responsible for:

- deciding whether or not an investigation should be carried out;
- the conduct and depth of the investigation;
- submitting a report to the Secretary of State and making this publicly available in the shortest time possible;
- disclosure of evidence as set out in the respective legislation; and,
- Chief Inspectors' reports will set out:

(a) their conclusions relating to the facts of the accident;

(b) any recommendations for future safety

2.4. Before publishing a report, the Chief Inspectors will provide a draft, in confidence, to any person or organisation which they consider may be adversely affected by the report. The Chief Inspectors will consider any representations relating to the facts or analysis which may be made to them within 30 days for MAIB and AAIB and 14 days for RAIB and amend the report in such manner as they think fit.

Section B: RELATIONSHIP WITH DfT

3. GOVERNANCE

3.1. The Department for Transport has ultimate responsibility for the AIBs as part of its aim to strengthen the safety and security of UK transport. In particular, it is responsible for ensuring that the Branches have the funding and capability needed to fulfil their purpose and meet the UK's legal obligations with regard to transport accident investigations, while delivering value for money. The DfT therefore sets appropriate objectives and indicators to

² The principal relevant national regulations are: For AAIB - The Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996; For MAIB - The Merchant Shipping Act (Accident Reporting and Investigation) Regulations 2005; For RAIB - Railway Transport Safety Act 2005, Railways (Accident Investigation and Reporting) Regulations 2005.

monitor administrative performance against Departmental policies and objectives.

- 3.2. Within DfT, the Director General International, Strategy and Environment is responsible for oversight and management of the AIBs . In discharging these responsibilities, the Director General is assisted by the Board of Accident Investigation Branches (BAIB), which comprises the three Chief Inspectors and relevant officials from the parent Department. The Board provides an opportunity for collective consideration of financial and other management issues as well as a forum for collective discussion for common issues between the three AIBs and their respective policy divisions. The Board's Terms of Reference can be found at Annex A.
- 3.3. The governance role of the BAIB does not affect the functional independence of the AIBs and it has no role in accident investigations. The respective Chief Inspectors, supported by their senior management team in their Branch, will set operational objectives for their Branch, which will be included in its corporate plan as appropriate.
- 3.4. The Chief Inspectors report directly to the Secretary of State for Transport on the conduct and outcome of investigations. The Chief Inspectors will, when sending reports to the Secretary of State, copy reports to staff in DfT as they deem appropriate.
- 3.5. The Chief Inspectors are also responsible more generally for deciding when it is necessary or appropriate to brief the Secretary of State, and other Ministers, on accident investigations. If the Chief Inspector considers that the Secretary of State may require urgent related policy advice, he/she will ensure that appropriate officials are informed. Other briefings of DfT personnel will be determined by the Chief Inspector in the same way as for all other interested parties in an investigation.
- 3.6. **Annual Report.** The Chief Inspectors are responsible for publishing an Annual Report, providing an overview of the activity of their Branch during the year, information about accident investigations, and reports on recommendations, statistics and finance over the course of the year.

4. POLICY ADVICE AND SUPPORT

- 4.1. Chief Inspectors may seek information or advice from officials in the relevant DfT Directorates on matters of national or international policy that may be relevant to an investigation or the development

of recommendations flowing from an investigation. In providing any such advice, DfT officials will endeavour to ensure that Chief Inspectors or their staff are aware of all the factors relevant to their investigation but will not seek to influence the investigation or the recommendations that the Chief Inspector might make. As noted, the Chief Inspectors will however consult with DfT officials on any recommendation that might be made directly to the Department in the same way as with other parties to whom recommendations might be made.

- 4.2. DfT will seek advice from and, where appropriate, liaise with AIBs with regard to the formulation of policy where they can offer valuable expertise, particularly where such issues may have implications for AIB operations.
- 4.3. DfT will keep the Chief Inspectors informed of any issues that may affect the general operation, investigation work or reputation of the Branches.
- 4.4. Within the overall policy set by DfT, the AIBs are responsible for, and take the lead on, any specific matters that concern accident investigation and directly related issues. They will routinely represent the UK at meetings on accident investigation, but will liaise closely with DfT on wider policy aspects. Where such meetings or presentations may involve political concerns or sensitivities or policy development, the Branches will consult DfT.
- 4.5. In respects of specific investigations DfT will have the same responsibilities to co operate with the AIB as any other parties subject of that investigation. The DfT similarly will report to the AIB its response to any recommendations made to it.

5. FINANCE

- 5.1. The Chief Inspectors, as budget holders for their Branch, are accountable to the Director General International, Strategy and Environment in DfT for ensuring that the AIBs maintain a high standard of corporate governance, exercise effective controls over the management of the resources allocated to the AIBs, and maintain accounting records.
- 5.2. The Branches are funded on an annual basis to meet anticipated levels of accident investigation. The Chief Inspector will seek to operate efficiently whilst discharging his/her responsibilities. The demand-led, reactive nature of the work are taken into account

when agreeing the annual budget and the Chief Inspectors have delegated freedom to re-allocate resources as priorities change, provided total expenditure remains within the agreed budgets for the year and is consistent with the purposes set out in the business plan agreed with DfT.

- 5.3. On occasion, there may be a need to investigate an accident of unusual scale or complexity, which is particularly costly to investigate effectively. The Department for Transport expects the Branch concerned to absorb as much as possible of such costs in the first instance but will consider requests for additional contingency funding. The Department will not unreasonably refuse such requests for additional funding.
- 5.4. The AIBs carry out most of their own procurement activity within the government and DfT procurement policies. They will, where necessary, seek advice and support from DfT Procurement with regard to contracts and any other procurement issues.

6. LEGAL

- 6.1. The DfT General Counsel's Office is responsible to the respective Chief Inspectors for providing legal support on accident investigations and on relevant legal issues, maintaining appropriate separation from any legal advice provided to the parent department. For litigation issues the General Counsel's Office will instruct Treasury Solicitors or barristers as appropriate on behalf of the AIBs.

7. MEDIA AND COMMUNICATIONS

- 7.1. The AIBs conduct their communications activities in accordance with the Cabinet Office's Propriety Guidance, and conform to relevant Government standards and guidelines on quality, clarity, accessibility, legality and sustainability, as advised by the DfT's Director of Communications.
- 7.2. As an independent investigative body, AIB communications are separate from those of the Department for Transport. The DfT Communication Directorate, in supporting and facilitating AIB communications, is therefore responsible to the relevant Chief Inspector, and acts and speaks on behalf of the AIB, rather than DfT.

7.3. As part of this, the DfT Press Office provides support in issuing press releases, directly briefing the media and, exceptionally, if necessary, deploying to the site of investigations to provide communications support to inspectors on site.

7.4. The AIBs run their own websites, independent from that of the Department for Transport. This ensures that they maintain their own online mechanism to provide reports and other safety-related information direct to industry and other stakeholders as effectively as possible.

8. ADMINISTRATIVE SUPPORT

8.1. The parent Department also provides some administrative and service support functions, notably in relation to accommodation, HR and IT.

Annex A - Board of Accident Investigation Branches (BAIB)

Role

The Board is responsible for assisting the DG in exercising his responsibilities for oversight and management of the AIBs. This governance role of the Board does not affect the functional independence of the three AIBs which reflects the legal requirement to conduct independent and impartial investigations and extends to how they undertake their investigations, how they promulgate lessons learned to the industry and public, and their operational policies and practices.

The Board may also provide a forum for discussion for common issues between the three AIBs and their respective policy divisions.

Activities

- Financial planning: budgets and forward planning, in-year financial management, monitoring delivery of Spending Review plans
- Developing and maintaining a consistent framework for monitoring of AIBs' outputs (such as number of reports, time to produce reports) with a view to improving transparency and visibility
- Identification and discussion of any common policy issues arising between the AIBs and DfT- e.g. safety recommendations which might be facilitated by action by a DfT policy branch; responding to EU or other international initiatives.
- Annual review of main themes emerging from each AIB, focussing on any common areas of interest where DfT has a locus.
- Resolution of any shared issues with central support eg HR, legal, comms and identification of opportunities to streamline and improve central support
- Risk management

Frequency

Quarterly, although additional meetings can be arranged if required.

Membership

DG ISE (Chair)
Chief Inspector AAIB
Chief Inspector MAIB
Chief Inspector RAIB
Director, Aviation
Director, Maritime
Director, Rail
General Counsel DfT (Independent member)

Secretariat provided by DG ISE.

Additional attendees as required including: Business/finance support.