



Australian Government
Civil Aviation Safety Authority

OFFICE OF THE DIRECTOR OF AVIATION SAFETY

MINUTE

DATE: 27 July 2011

TO: All Executive Managers

cc: Director of Aviation Safety
Deputy Director of Aviation Safety

**Protocol Governing Requests for,
Receipt and Use of 'Safety-Related' Data and Information**

*This protocol will be included in the CASA Governance Manual.
It is effective from the date shown above.*

Pending the development and introduction of relevant legislation, and in the absence of an authoritative policy determination by the Director of Aviation Safety allowing for such action—

IN NO CIRCUMSTANCES MAY ANY CASA MANAGER, OFFICER, DELEGATE OR AUTHORISED PERSON, OR ANY PERSON OTHERWISE ACTING FOR AND ON BEHALF OF CASA, REQUEST, RECEIVE, ACCEPT OR OTHERWISE OBTAIN DATA OR INFORMATION OF ANY KIND, IN ANY FORM, FROM ANY PERSON (CORPORATE OR INDIVIDUAL, PUBLIC OR PRIVATE, INCLUDING THE AUSTRALIAN TRANSPORT SAFETY BUREAU) SUBJECT TO ANY AGREEMENT, UNDERSTANDING OR UNDERTAKING, EXPRESS OR IMPLIED, THAT CASA WILL NOT OR MAY NOT USE THOSE DATA OR THAT INFORMATION FOR ANY LEGITIMATE REGULATORY PURPOSE PURSUANT TO CASA'S FUNCTIONS UNDER THE CIVIL AVIATION ACT.

In appropriate cases, consistent with applicable laws and policies, CASA may, in the exercise of its discretion, determine whether and to what extent it might exercise its enforcement-related powers in relation to any particular matter. Such determinations, however, may only be made on an informed, case-by-case basis, by an authorised senior manager, and in all cases subject to, and in accordance with, the provisions of subsection 9A(1) of the *Civil Aviation Act 1988*.*

* Subsection 9A(1) of the Act provides: 'In exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration.'

In accordance with CASA's Coordinated Enforcement Process,[†] and pending contemplated amendments to CASA's *Enforcement Manual* reflecting this process more fully, any determination by a CASA manager that CASA should refrain from taking enforcement action[‡] of any kind, and any recommendation to a manager to the same effect, must be supported by a written statement explaining the reasons for that recommendation or determination, and specifying the basis on which the interests of safety were given paramount consideration in relation to any other matters considered in the balancing process on the basis of which that recommendation or determination rests.

Any questions concerning the application of this advice should be referred to Jonathan Aleck, Associate Director of Aviation Safety.



Jonathan Aleck
Associate Director of Aviation Safety

27 July 2011

[†] See section 3.6 of the *CASA Enforcement Manual*, version 4.0 (November 2009).

[‡] *Enforcement action* means (a) the initiation of action to vary, suspend or cancel a civil aviation authorisation; (b) a recommendation to vary or revoke a delegation or other authorisation given under the civil aviation legislation; (c) referral of a matter for investigation by a CASA Part IIIA Investigator, with a view to the issuance of an infringement notice and/or the preparation of brief of evidence with a recommendation to the Commonwealth Director of Public Prosecutions that a person be prosecuted for an offence under the civil aviation legislation.