

**GOVERNMENT RESPONSE TO THE RECOMMENDATIONS OF THE  
SENATE RURAL AND REGIONAL AFFAIRS AND TRANSPORT  
LEGISLATION COMMITTEE REPORT**

*ADMINISTRATION OF THE CIVIL AVIATION SAFETY AUTHORITY  
MATTERS RELATED TO ARCAS AIRWAYS*

THE HON JOHN ANDERSON MP, DEPUTY PRIME MINISTER,  
MINISTER FOR TRANSPORT AND REGIONAL SERVICES

*May 2002*

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In October 2000 the Senate Rural and Regional Affairs and Transport Legislation Committee tabled its report to Parliament with four recommendations.

The conclusions and the recommendations of the Committee following its inquiry into events occurring in 1998 need to be considered in the context of the Government's ongoing reform agenda for aviation safety. In October 1999 I issued a major policy statement 'A Measured Approach to Aviation Safety Reform.' I devoted a great deal of time to developing the policy statement, and I concluded that the main challenge facing the Civil Aviation Safety Authority was that it could not cope with the pace of aviation safety reform and needed a period of management stability. The top level of the organisation was devoting too much time to issues like airspace reform and not enough time to the day to day tasks that are necessary to maintain air safety. Aviation reform is important, and will have enormous long-term benefits, but it needs to be carried out in a sensible and disciplined way.

There is still important work to do and I meet regularly with CASA as progress is made. I am more certain than ever, however, that the Government's measured approach to aviation safety policy is the right one. Throughout this reform process, the Government expects CASA to take whatever action is necessary against operators who threaten Australia's aviation safety record.

The Committee itself has acknowledged that CASA has recently undertaken significant reform of its investigative and enforcement processes since early 1999 when Air Facilities was first investigated for the recording of its maintenance defects.

CASA has embarked on a major re-organisation of its internal processes to ensure better quality and consistency in its decision-making and more effective management of its compliance functions.

In particular CASA has introduced a number of changes to reform and strengthen its investigative and enforcement processes. In May 1999, CASA appointed a new Manager of Enforcement and Investigations to oversee the Authority's actions in this regard. After his appointment, he undertook a review and restructure of the Investigative and Enforcement process resulting in a centralized enforcement and investigative structure with national uniformity of investigative processes and functions.

CASA is committed to taking strong enforcement action when it may be conclusively proven that action is required. Its investigation and referral process has resulted in increased matters referred for prosecution. In addition to matters that have been referred to the DPP, CASA is committed to taking strong Administrative action against operators who act in contravention of the Act, Orders and Regulations.

A response to each of the recommendations is attached.

## Response to Recommendation 1

### Recommendation 1

The Committee recommends that the actions of Mr Sears and employees and staff of ARCAS in apparently acting in deliberate breach of airworthiness safety rules (notably CAR 50) be referred to the Director of Public Prosecutions for examination of all the circumstances of the case and for appropriate action.

Section 12(2) of the Civil Aviation Act states that the Minister can only issue directions to CASA in general terms - he cannot lawfully tell the authority to refer a specific company to the DPP.

In its response to the Committee's report issued on 12 October 2000, the CASA Board indicated that it had accepted this recommendation and that CASA was in the process of collecting all relevant papers relating to this recommendation.

On 19 October 2000, the Director of Aviation Safety Mr Mick Toller notified Mr Damien Bugg, the Director of Public Prosecutions, of this recommendation, and advised Mr Bugg that the relevant papers would be forwarded to the DPP as soon as possible.

These papers were provided to the Office of the Director of Public Prosecution on 22 November 2000.

Since that time, there have been ongoing discussions with the DPP on this matter, and further investigations have been undertaken.

The Director of Aviation Safety wrote to the Australian Federal Police in February 2001 seeking assistance with this matter to ensure objectivity and openness in the investigative process. The Australian Federal Police agreed to work with CASA on this matter, and officers from the two agencies worked co-operatively on the investigation. A number of meetings have been held between CASA and the AFP to review and discuss the evidence and investigation.

On 25 May 2001, a brief of evidence was provided to the DPP for its assessment. On 7 August 2001, the DPP advised CASA that due to a lack of evidence, the DPP could not initiate a prosecution.

## Response to Recommendation 2

### Recommendation 2

The Committee recommends that CASA, having regard to this Committee's findings in relation to Mr Foley's administration of the ARCAS matter, consider whether any appropriate action should be taken against any CASA officers, including Mr Foley, as the senior CASA officer involved in the case.

The Government expects CASA staff to act with complete probity and to take vigorous action against companies breaching the air safety laws.

On 19 October 2000, the Director wrote to the Chairman of the Committee advising that following the release of the Committee's report into matters relating to ARCAS Airways, Mr Laurie Foley had agreed to step down from the position of Assistant Director, Aviation Safety Compliance and would no longer be a member of the Authority's Executive. A copy of the letter is at **Attachment 1**.

On 2 December 2000, the Civil Aviation Safety Authority advertised the position of Executive Manager, Aviation Safety Compliance.

The Executive Manager of Aviation Safety Compliance, according to CASA's job statement, is 'ultimately accountable to the Chief Executive (Director of Aviation Safety) for compliance to the Chief Executive (Director of Aviation Safety) for compliance of all Air Operator's Certificate (AOC) holders, or equivalent in all fields for which standards have been prescribed, including entry control, surveillance and enforcement of the application of these standards.'

On 22 December 2000, Mr Foley resigned from the Authority.

On 14 March 2001, the Director of Aviation Safety announced the appointment of Mr Mike Williams as Executive Manager, Aviation Safety Compliance Division. Mr Williams commenced with CASA in May 2001.

### Response to Recommendation 3

#### Recommendation 3

The Committee recommends that CASA take steps to recommit itself to strong action through prosecution or suspension of those operators who deliberately breach maintenance, airworthiness and reporting and recording requirements, thereby compromising air safety. The Committee notes the advice from CASA, following a request from the Committee Chairman, Senator Crane, that it has recently undertaken significant reform of its investigative and enforcement processes.

On 22 November 2000, the then Chairman, Dr Paul Scully-Power DSM wrote to all holders of Air Operators' Certificates, Certificates of Approval, Licensed Aircraft Maintenance Engineers and licensed pilots re-iterating CASA's strong stance against deliberate breaches of aviation safety regulations. A copy of this letter is at **Attachment 2**.

#### Response to Recommendation 4

##### **Recommendation 4**

The Committee recommends the creation of a new position of Deputy Director of Aviation Safety within CASA with special responsibility for the administration of investigative and enforcement processes as they relate to regional airlines, low-capacity RPT operators and charter service providers in rural and regional Australia.

On 9 November 2000, the Director announced a change in the reporting arrangements for CASA's Investigations and Enforcement Branch.

In order to provide a consistent approach to all legal activities involving CASA, and to provide sensible checks and balances between legal and administrative action, the Manager, Investigations and Enforcement Branch is now reporting to the General Counsel, Office of Legal Counsel, instead of to the Executive Manager, Aviation Safety Compliance.

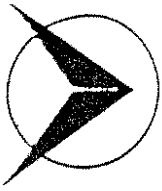
On 2 December 2000, the Civil Aviation Safety Authority advertised the position of Deputy Chief Executive Officer (Deputy Director of Aviation Safety).

The position of Deputy Chief Executive (Deputy Director of Aviation Safety) is a newly created role within CASA. The broad objectives of this role are to support the Director of Aviation Safety by playing a significant role in the leadership, management and strategic direction of the Authority and assume responsibility for a combination of areas including Regulatory Compliance.

On 14 March 2001, the Director of Aviation Safety announced the appointment of Mr Bruce Gemmill, as Deputy Director of Aviation Safety. Mr Gemmill commenced with CASA in April 2001.

In addition, the Deputy Prime Minister and Minister for Transport and Regional Services announced on 5 June 2001 the appointment of Mr Ted Anson AM, as the new Chairman of the CASA Board.

The Deputy Prime Minister and Minister for Transport and Regional Services asked Mr Anson to co-ordinate a series of field visits with representatives of the General Aviation sector. These have been undertaken.



CIVIL AVIATION  
SAFETY AUTHORITY  
AUSTRALIA  
OFFICE OF THE DIRECTOR

ATTACHMENT 1

Trim: C00/28524

19 October 2000

Senator Winston Crane  
Chairman  
Senate Rural and Regional Affairs  
and Transport Legislation Committee  
Parliament House  
CANBERRA ACT 2600

*Winston*  
Dear Senator Crane

I am writing to formally advise that, following the release of the Committee's report into Matters Relating to ARCAS Airways, Mr Laurie Foley has agreed to step down from the position of Assistant Director, Aviation Safety Compliance, and will no longer be a member of the Authority's Executive.

In the interim, Mr John Leaversuch will act as Assistant Director, Aviation Safety Compliance and Mr Foley will act in the position of General Manager Airline Operations.

The Chairman and I would welcome an opportunity to meet with you and your colleagues. We are advising all staff who work with the Committee that the organisation's objectives can only be met by providing the highest level of transparency and openness to the Committee. We would like to provide this assurance in person and respond to any residual concerns.

I will arrange for my office to contact the Secretary of the Committee to make arrangements for a meeting with you.

Yours sincerely

*Mick Toller*

Mick Toller  
Director



CIVIL AVIATION  
SAFETY AUTHORITY  
AUSTRALIA

**OFFICE OF THE CHAIRMAN**

CASA REF : C00/33752

22 November 2000

**TO: Air Operator's Certificate Holders  
Certificate of Approval Holders  
Licensed Aircraft Maintenance Engineers  
Licensed Pilots**

**Deliberate breaches of aviation safety regulations**

I am sure you are aware that aviation safety is again at the centre of public and political attention. The public is demanding Australia's high aviation safety standards are maintained and improved. This letter is a reminder to you that the Civil Aviation Safety Authority (CASA) is committed to putting safety first at all times and to providing safe skies for all.

CASA seeks to work closely with the aviation industry to deliver the safety the travelling public expects and deserves. We are developing new rules, with the help of the industry, that are simpler and easier to meet. But at the same time CASA must enforce the existing rules in a fair and appropriate way.

**Enforcement action for serious breaches**

The CASA Board has made it very clear that taking a strong stand against organisations and people who deliberately and continuously break the rules and put the travelling public at risk is a high priority. There is no change to this policy.

Where people in the aviation industry deliberately and repeatedly break the rules there will be swift and firm action from CASA. This will include prosecution and/or suspension or cancellation action for serious and deliberate breaches of safety regulatory requirements.



This policy is strongly supported by the Senate Rural and Regional Affairs and Transport Committee, which recently made recommendations in relation to air safety. One recommendation said CASA should:

*"...take steps to recommit itself to strong action through prosecution or suspension of those operators who deliberately breach maintenance, airworthiness and reporting and recording requirements, thereby compromising air safety."*

CASA supports that statement and continues to commit itself to tough action.

### **CASA's commitment to safety**

CASA's duty is to ensure that everyone in aviation has the skills and commitment to deliver safety outcomes every day in their normal operations. That is the responsibility you accept as someone working in the aviation industry.

But if CASA believes an organisation or individual is no longer living up to their safety obligations then we will take action. CASA will always err on the side of safety.

Once action has been taken it is up to the organisation or individual concerned to satisfy CASA that their operations can continue safely. This is entirely consistent with the requirements of the Civil Aviation Act and Regulations which place responsibility for safety compliance with the licence/certificate holder. In the case of corporate holders of Air Operator's Certificates the Act places a corresponding responsibility on each director of the corporation.

CASA wants a vibrant and dynamic aviation industry in Australia, central to economic growth and development. But we will ensure it is safe by enforcing the rules to protect the travelling public. People who deliberately and consistently break the rules cannot expect to stay a part of the Australian aviation community.



Dr Paul Scully-Power DSM  
Chairman