



Australian Government

Australian Transport Safety Bureau



AIRSERVICES AUSTRALIA



**Memorandum of Understanding  
between the  
Australian Transport Safety Bureau  
and  
Airservices Australia**

September 2010

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE AUSTRALIAN TRANSPORT SAFETY BUREAU**

**AND**

**AIRSERVICES AUSTRALIA**

## 1 THE ORGANISATIONS

### Airservices Australia

- 1.1 Airservices Australia (Airservices) is a government-owned corporation established under the *Air Services Act 1995* (AS Act). Airservices' primary function is to provide services and facilities for a number of reasons, including for purposes relating to the safety, regularity or efficiency of air navigation. It is acknowledged that Airservices also has regulatory and associated internal investigatory roles in relation to its safety functions.
- 1.2 One of Airservices' safety-related functions specified in Subsection 8(1)(c) of the AS Act is to cooperate with the Executive Director of Transport Safety Investigation in relation to investigations under the *Transport Safety Investigation Act 2003* (TSI Act) that relate to aircraft.

### Australian Transport Safety Bureau

- 1.3 The Australian Transport Safety Bureau (ATSB) is established under the TSI Act as an independent Commonwealth statutory agency. The ATSB is governed by a Chief Commissioner and two or more Commissioners. The ATSB is not subject to direction from anyone in relation to the performance of its functions or the exercise of its powers.
- 1.4 The ATSB's function is to improve safety and public confidence in the aviation, marine and rail modes of transport through:
  - a) investigation of transport accidents and other safety occurrences;
  - b) safety data recording, analysis and research; and
  - c) fostering safety awareness, knowledge and action.
- 1.5 Under the TSI Act, it is not a function of the ATSB to:
  - a) apportion blame or provide a means for determining liability for transport safety matters;
  - b) except as provided by the TSI Act, assist in court proceedings between parties; or
  - c) allow any adverse inference to be drawn from the fact that a person was involved in a transport safety matter.
- 1.6 One of the ATSB's functions is to cooperate with organisations such as Airservices that have functions or powers relating to transport safety.

## 2 PURPOSE AND STATUS OF THIS MOU

- 2.1 With respect to each organisation's separate but complementary safety functions, this MoU through its provisions, addresses the following objectives:
  - a) maximisation of beneficial aviation safety outcomes;
  - b) enhancement of public confidence in aviation safety;
  - c) support for the adoption of systemic approaches to aviation safety;
  - d) development of knowledge of the operations and the safety impact of each organisation's actions;

- e) promotion and conduct of ATSB independent no-blame safety investigations and Airservices' safety-related activities in a manner that assures a clear and publicly perceived distinction is drawn between each agency's complementary safety-related objectives;
  - f) to the extent practicable, the avoidance of any impediments in the performance of each other's functions;
  - g) acknowledgement of any errors and a commitment to seeking constant improvement; and
  - h) fostering strategic discussion between both organisations.
- 2.2 In pursuing the objectives outlined in 2.1, both organisations agree to give effect to the following values:
- a) Cooperation;
  - b) Honesty;
  - c) Trust;
  - d) mutual respect;
  - e) openness; and
  - f) professionalism.
- 2.3 **Attachment A** forms part of this MoU. Where there is an inconsistency between a clause in the body of the MoU and a clause in attachment A, the clause in the body of the MoU takes precedence.
- 2.4 **Attachments B and C** do not form part of this MoU and are provided for guidance only. Each may be updated at any time by the organisation responsible for the information.
- 2.5 The ATSB and Airservices will seek to uphold the values of this MoU. However, both organisations acknowledge that this MoU is not legally binding and that nothing in this MoU can legally restrict the statutory duties, discretions and powers of either organisation under relevant legislation.

### **3 MEETINGS, SAFETY EDUCATION AND TRAINING**

#### **3.1 Executive meetings**

- 3.1.1 The Chief Executive Officer (Airservices) and/or General Manager Safety and Environment Group (GMSEG) (Airservices) and the Chief Commissioner (CC) and/or the Deputy Chief Executive Officer (DCEO) (ATSB) and/or Director Aviation Safety Investigation (DASI)(ATSB) and/or their nominated representatives, will endeavour to meet regularly to discuss matters including but not limited to:
- a) each organisation's strategic direction and corporate/operational plans;
  - b) relevant operating protocols of each organisation and any associated necessary or desirable interaction between the two organisations;
  - c) a review of each organisation's individual and joint research programs (if relevant);

- d) ATSB identified Safety Issues and Safety Recommendations and Airservices' responses to these where they relate to Airservices' functions;
- e) outcomes of Airservices parallel investigations (Note: refer to 4.1 for definition of 'parallel investigations');
- f) issues related to existing and proposed legislation;
- g) trends and other developments bearing on aviation safety;
- h) mutual staff training and development opportunities; and
- i) annual review of the MoU.

### 3.2 **Communication co-ordination and contact points**

- 3.2.1. During the course of an ATSB investigation, ATSB research or the handling of REPCON reports, the ATSB will liaise in the first instance with the GMSEG Airservices and thereafter in accordance with agreed protocols.
- 3.2.2 The formal communication of Airservices' position in response to matters raised by the ATSB, for inclusion in an ATSB investigation report, will normally be made by the CEO Airservices or his or her designee.
- 3.2.3 The processes specified in 3.2.1 and 3.2.2 are not intended to impede communication between the CC (ATSB), DCEO (ATSB) and the CEO (Airservices) or GMSEG (Airservices).
- 3.2.4 Subject to the foregoing, interagency contact points for routine communications are set out in **Attachment C**.

### 3.3 **Safety education**

- 3.3.1 Before either the ATSB or Airservices commences a safety education program, the organisations will endeavour to consult with each other to identify any opportunities for mutual cooperation.

### 3.4 **Shared training opportunities**

- 3.4.1 The ATSB will advise Airservices of its program of training for a calendar period when it becomes available. Airservices, as soon as practicable, will advise the ATSB if there are any training opportunities in the program that it wishes to place Airservices staff members on. To the extent that resources are available the ATSB will consider the capacity to accommodate the request and advise Airservices.
- 3.4.2 Airservices will advise the ATSB of its program of training (including new technologies, procedures etc.) for a calendar period when it becomes available. The ATSB, as soon as practicable, will advise Airservices if there are any training opportunities in the program that it wishes to place ATSB staff on. To the extent that resources are available, Airservices will consider the capacity to accommodate the request and advise the ATSB.
- 3.4.3 Airservices and the ATSB will endeavour to advise one another of any changes to their respective annual training schedules as soon as practicable.
- 3.4.4 Airservices and the ATSB will explore opportunities for staff exchanges for professional development and experience enhancement.

## **4 COOPERATION IN RELATION TO INVESTIGATIONS**

### **4.1 Parallel investigations**

- 4.1.1 The ATSB may undertake 'no-blame' safety investigations in accordance with the TSI Act and Airservices may separately undertake internal investigations with a view to possible safety-related action pursuant to its functions.
- 4.1.2 As soon as reasonably practicable after either the ATSB decides to conduct an investigation, or Airservices decides to conduct an investigation in relation to a matter that would be a reportable matter to the ATSB, each organisation will notify the other organisation.
- 4.1.3 If either organisation considers an investigation conducted by the other organisation is creating an unreasonable impediment to the performance of their functions, they will raise the matter with the other organisation.

### **4.2 Protection and integrity of evidence**

- 4.2.1 When the ATSB notifies Airservices of its decision to investigate a transport safety matter, the ATSB will also advise Airservices whether or not a Protection Order, with its associated requirements, has been issued over evidential material that Airservices may have possession or control of, or contact with.
- 4.2.2 A Protection Order issued by the ATSB may authorise Airservices to make copies of recorded or stored data where such access or copying does not affect the integrity of the primary record. The ATSB will normally grant such permission; however, it may refuse in its absolute discretion.
- 4.2.3 Prior to the ATSB's issuing a Protection Order, the ATSB acknowledges that Airservices will make decisions about the handling of evidence for its own purposes. In doing so, Airservices agrees it will be mindful of the potential effects of its decisions on ATSB investigations, including the need to preserve the integrity of evidence, and will liaise with the ATSB as necessary to ensure the integrity of evidence is maintained.
- 4.2.4 When the ATSB notifies Airservices of its decision to conduct an investigation, or as soon as practicable after that notification, the ATSB will inform Airservices whether or not the ATSB will need to interview Airservices staff members. At that time, the parties agree to discuss whether it is preferential that the Airservices staff members are interviewed by the ATSB before they are interviewed by Airservices (for Airservices' investigation purposes).
- 4.2.5 The parties agree that Airservices staff who are to be interviewed by the ATSB will not be given access to audio or radar data associated with the investigation, prior to being interviewed by the ATSB.
- 4.2.6 Refer also to section 4.4 of this MOU for additional guidance in relation to physical evidence.

### **4.3 Request for assistance or involvement**

- 4.3.1 Airservices and the ATSB may request assistance from each other in the performance of their respective functions. Resources permitting, and after

consideration of any internal policies and legal requirements, as well as any conflicts of interest, each organisation will seek to accommodate a request from the other.

- 4.3.2 Where assistance is provided, each party will normally bear its own costs. However, if the party providing assistance at the request of the other party does so primarily or exclusively for the benefit of the requesting party, some or all of the costs of the party providing that assistance may be borne by the party to whom that assistance is provided and a formal agreement may be entered into for this purpose.
- 4.3.3 **Attachment A** to this MoU provides guidance where the assistance provided involves participation in an investigation or where one organisation seeks to be involved in the other organisation's investigation.

#### 4.4 **Physical evidence**

- 4.4.1 In order to facilitate cooperation and coordination in relation to physical evidence (including documents) relating to an investigation, each organisation agrees to the following:
- a) When both the ATSB and Airservices seek to remove and/or retain the same physical evidence, the organisations will consult with each other with a view to the achievement of each organisation's objectives. However, where considered necessary, the ATSB may exercise priority over the removal and custody of evidence.
  - b) Each organisation will ensure that the removal and/or retention of evidence is conducted in accordance with appropriate chain-of-evidence protocols.
  - c) ATSB requests to Airservices for physical evidence will normally be made through a Notice to Produce, issued under Section 32 of the TSI Act.

#### 4.5 **Disclosure of information relating to investigations**

- 4.5.1 It is understood that the provision of all information will be subject to the legal obligations and policies applicable to both organisations.
- 4.5.2 Airservices and the ATSB will consult with each other in the development of their policies and procedures regarding the disclosure and use of safety information, including the mechanisms for disclosure and protections to be applied to information received from the other agency.
- 4.5.3 If the ATSB requests information from Airservices, including interviews with Airservices staff, such requests will normally be directed to and through the GM S&E Airservices in the first instance. Thereafter, further and/or related communications may be directed to another relevant officer or group within Airservices.
- 4.5.4 Airservices agrees to assist the ATSB in relation to the provision of documents and other evidence or specialist participation concerning transport safety matters that the ATSB is investigating. Normally, the request will be made pursuant a Section 32 notice to ensure that information provided is protected as restricted information under Division 2 of Part 6 of the TSI Act. When a request for information is not directed to

Airservices by a Section 32 notice, Airservices may request the issue of a notice prior to the release of the requested information.

*Note: Airservices and the ATSB recognise and acknowledge their respective obligations under the Privacy Act 1988.*

- 4.5.5 The ATSB will inform Airservices at the time of a request as to whether or not 'originals' of any documents or data are required. However, the ATSB recognises there may be limitations on the availability of original data dependent on the recording medium utilised by Airservices. In circumstances where retrieval of original data is not possible or extensively not practical, Airservices shall inform the ATSB accordingly. Airservices will seek concurrence from the ATSB in such circumstances, permitting copies of data to be made in such a manner where copying does not affect the integrity of the original record.
- 4.5.6 Unless otherwise agreed, a notice issued under Section 32 will allow Airservices ten (10) working days (as applicable in the ACT) to respond. Airservices acknowledges that there may be exceptional circumstances where shorter time frames may be required and will seek to cooperate in meeting those time frames.
- 4.5.7 Airservices agrees that if an Airservices Officer is known to have information that could assist the ATSB in the performance of its investigative functions, Airservices will undertake to advise the ATSB of the existence of the information.
- 4.5.8 The ATSB recognises that Airservices needs to be advised as soon as practicable where an investigation reveals information that indicates a need to take urgent safety-related action. In such cases, the ATSB will release such information to Airservices, normally via the GMSEG Airservices, who will disseminate the information in the most appropriate manner.
- 4.5.9 ATSB may disclose restricted information to Airservices under section 61 of the TSI Act or authorise Airservices' access to such information under section 62 of the TSI Act. If information is disclosed to Airservices under section 61, and if Airservices decides to take safety-related action on the basis, in whole or in part, of that information, Airservices will advise the ATSB accordingly.
- 4.5.10 Where the ATSB, in consultation with Airservices, agrees that the information released under section 62 discloses a need for Airservices to take safety action, and Airservices cannot obtain it from an alternative source in a timely fashion, the ATSB agrees to consider alternative means of releasing the information.
- 4.5.11 Airservices agrees that, whenever it conducts a parallel investigation into a transport safety matter the ATSB is also investigating, Airservices will, subject to any legal or other applicable requirements, provide the ATSB with a copy of the Airservices final investigation report or other compilation of relevant details as soon as it is practicable to do so
- 4.5.12 **Attachment B** to this MoU lists the types of restricted information that the ATSB may obtain during an investigation and the circumstances where that information may be considered for release. While acknowledging the need to protect sensitive, restricted and on-board recording (OBR) information, the occasional need for destructive testing, and the practical constraints in

ensuring proof of chain of evidence, the guidance seeks to ensure that the investigations of both the ATSB and Airservices can proceed in parallel.

## 5 OCCURRENCE NOTIFICATION AND INVESTIGATION REPORTS

### 5.1 Notification of Transport Safety Matters and provision of reports

#### 5.1.1 Notification to ATSB:

Airservices Officers, in fulfilling their reporting requirements for immediately reportable matters (IRMs) and routine reportable matters (RRMs) under the TSI Act should normally use the contacts identified in Attachment C.

It is acknowledged that a written report from Airservices, either as a follow up to an IRM or the submission of a RRM, will normally be in the form of an ESIR<sup>1</sup>.

#### 5.1.2 Notification and reports to Airservices:

- a) The ATSB will notify the GM S&E Airservices as soon as reasonably practicable of an IRM that appears to relate to Airservices' functions.
- b) In addition to providing the initial notification, where the ATSB conducts an investigation, reports released to Airservices will include:
  - i. preliminary factual reports released approximately 30 days after the occurrence (if issued);
  - ii. interim factual reports, released approximately every six months after the release of the preliminary factual report until the draft report is ready for release to Directly Involved Parties (DIPs) (if issued);
  - iii. draft reports; and
  - iv. final reports.
- c) **Attachment C** contains the relevant contact points.

### 5.2 Directly Involved Party process

- 5.2.1 Airservices will be deemed to be a Directly Involved Party (DIP) in relation to ATSB aviation investigations that involve or relate to Airservices functions. In the case of a Level 4 investigation, there may be no DIP response required by Airservices. However, if Airservices does wish to respond, it must respond within the notified time frames outlined in 5.2.4.
- 5.2.2 In the case of a Level 5 investigation, there may be no DIP response required by Airservices. However, unless otherwise agreed, if Airservices wishes to respond, it will do so within five (5) working days (as applicable in the ACT) of receipt of the ATSB's covering letter/email.
- 5.2.3 The ATSB will provide a copy of the Draft report to Airservices and other DIPs for the purpose of making a submission to the ATSB on the report or to address any factual inaccuracies or analytical or safety issue incongruities identified in the report's findings. Airservices is encouraged to make

---

<sup>1</sup> *Electronic Safety Incident Reports* (ESIRs) are an electronically submitted air safety occurrence report, which forms part of the Electronic Safety Incident Report system (ESIR), maintained by Airservices, which permits systemic analysis and trend monitoring.

comment and where possible Airservices is expected to support any comments with relevant evidence.

- 5.2.4 Unless otherwise agreed, and with the exception of Level 5 investigations as detailed above in 5.2.2, all submissions from Airservices as a DIP are expected to be made in writing within 28 working days (as applicable in the ACT) of the date of the ATSB's covering letter.
- 5.2.5 Submissions from Airservices will be considered by the ATSB and, where considered appropriate, the ATSB report will be amended accordingly.
- 5.2.6 Where the ATSB seeks to publish an Airservices submission in whole or in part, the ATSB will consult with Airservices before doing so.
- 5.2.7 The ATSB acknowledges that nothing prevents Airservices from commenting publicly on the final version of the report.
- 5.2.8 The ATSB will normally provide Airservices with a copy of the final report eight (8) working days (as applicable in the ACT) prior to the date on which that report is to be publicly released.

### 5.3 **Safety action**

- 5.3.1 The ATSB understands actions may be taken by Airservices in response to safety issues during the course of an ATSB or Airservices investigation, and the ATSB will include this information in the investigation report to the extent it is practicable to do so. The ATSB encourages safety action that obviates the need to make safety recommendations.
- 5.3.2 In order to ensure that any safety action is properly acknowledged by the ATSB, Airservices will advise the ATSB of any safety action taken or intended to be taken by Airservices.
- 5.3.3 In making recommendations for safety action by Airservices, the ATSB will clearly and explicitly identify the safety issue(s) involved. The ATSB will consult with Airservices prior to a recommendation being made.
- 5.3.4 Airservices' response to safety recommendations- In accordance with section 25A of the TSI Act, Airservices will respond to the ATSB in writing within 90 days of the date on which the report is published, and include in that response the information required under section 25A. The Airservices response should clearly identify which part of the written response is intended for publication on the ATSB website and/or in the final report.
- 5.3.5 Where consideration and implementation by Airservices of an ATSB recommendation is or may be protracted, Airservices will inform the ATSB of progress at regular intervals as agreed between the organisations.
- 5.3.6 The ATSB will seek to ensure that information posted about the status of ATSB recommendations on its website is accurate and current.

## **6 COOPERATING IN THE CONDUCT OF RESEARCH AND DATA ANALYSIS AND SHARING SAFETY-RELATED INFORMATION**

- 6.1 Before either the ATSB or Airservices commences general research, data analysis or related investigations, the organisations will endeavour to consult with each other to identify the opportunity for input and mutual cooperation.

- 6.2 General research and data analysis reports will be provided to Airservices in accordance with the ATSB's normal DIP process where that research or data analysis relates to Airservices' functions or as otherwise agreed between the organisations (having regard to applicable requirements and constraints).
- 6.3 Airservices and the ATSB will, where relevant, explore ways to access and make constructive use of the safety-related data each organisation collects.
- 6.4 Where appropriate and practicable, Airservices and the ATSB will enter into discrete arrangements for sharing and providing reciprocal access to data and other safety-related information. Such arrangements may be included as appendices to this MoU.

## 7 CONFIDENTIAL REPORTING SCHEMES

- 7.1 The Air Navigation (Confidential Reporting) Regulations 2006 establish an aviation confidential reporting scheme (REPCON) which allows any person who has an aviation safety concern to report it to the ATSB confidentially. Under the REPCON scheme, personal information (as defined in the *Privacy Act 1988* (Cth)) will not be disclosed to Airservices unless permission is granted by the individual concerned. Only de-identified information will be used for safety action.
- 7.2 The ATSB will forward relevant de-identified REPCON information to Airservices in cases where the REPCON reports relate to Airservices' functions.
- 7.3 As soon as practicable, but within 28 working days (as applicable in the ACT) or as otherwise agreed, Airservices will advise the ATSB of its response to any safety concerns raised in relation to information provided to Airservices pursuant to 7.1 above. Airservices' written response will indicate whether Airservices considers the matter a valid safety concern and, if so, any proposed safety action Airservices intends to take on the matter.
- 7.4 It is recognised that, due to the de-identification necessary to protect the identity of the reporter or a person referred to in a confidential report, there may be cases when Airservices has a limited capacity to offer a view on the matter or to take any targeted safety action. In such cases, Airservices may seek to discuss the matter further with the ATSB to determine whether additional information can be made available to Airservices.
- 7.5 Airservices may use information supplied in a REPCON report in appropriate educational and safety promotion materials.
- 7.6 The ATSB acknowledges that Airservices manages an internal confidential safety reporting system using the title, 'A Confidential Word'. Airservices may make available to the ATSB relevant de-identified reports about IRMs and RRM. Other de-identified reports may be made available to the ATSB at Airservices' discretion.

## 8 BRIEFING AND CONTACT WITH THE MEDIA

- 8.1 **Executive briefing** – In addition to any advice about such matters the ATSB may provide to the Minister and/or the Department of Infrastructure, Transport, Regional Development and Local Government, the ATSB will advise Airservices of serious and high profile aviation accidents and other aviation-related safety occurrences that relate to Airservices' functions.

- 8.2 The ATSB will advise Airservices whenever it makes recommendations, circulates final reports in relation to investigations of serious and high profile occurrences or proposes to release a significant media statement in relation to any aviation safety matter that also relates to Airservices' safety functions.
- 8.3 Airservices will endeavour to inform the ATSB and provide advance briefings before it makes any comments pertaining to any serious or high profile transport safety matters the ATSB is known to be investigating.

**Contact with the media** – All media inquiries received by the ATSB in relation to Airservices functions should be referred to Airservices. Likewise, all media inquiries received by Airservices relating to the initiation or conduct of ATSB investigations should be referred to the ATSB. Airservices is, however, at liberty to comment on such matters arising from its own internal investigations or, if there is a particular reason to comment on an occurrence, Airservices will make it clear that the ATSB is undertaking an independent investigation which should not be prejudiced by any comment Airservices may make.

## 9 DURATION, VARIATIONS & DISPUTE RESOLUTION

- 9.1 This MoU will remain in effect for three years from the date of its execution.
- 9.2 This MOU may be extended, varied or terminated by exchange of letters between the ATSB and Airservices.
- 9.3 In the event that any disagreements or disputes arise in respect to any of the provisions of this MoU, the dispute/disagreement will initially be referred to the DASI, ATSB and the GM S&E, Airservices. Should a mutually satisfactory resolution not be forthcoming, the issue will be referred to the CEO, Airservices and CC, for resolution. If unresolved at that level, the matter should be raised jointly by the CEO, Airservices and the CC, ATSB with the Secretary of Department of Infrastructure, Transport, Regional Development and Local Government.

Dated at Canberra this

20<sup>th</sup> day of September 2010



GREGORY PETER RUSSELL  
Chief Executive Officer  
Airservices Australia



MARTIN NICHOLAS DOLAN  
Chief Commissioner  
Australian Transport Safety Bureau

## **ATTACHMENT A - Participation in investigations**

1. Participation in investigations will be co-ordinated through the GMSEG Airservices and the DASI ATSB.
2. The organisations may agree that an Airservices Officer may act as an observer or an external investigator for the purposes of an ATSB safety investigation under the direction of the Investigator In Charge (IIC). The Airservices Officer will be required to sign an agreement acknowledging his or her obligations and duties, appropriate to the level of their involvement in a transport safety investigation.
3. The Airservices Officer will be given access to evidence to the extent necessary to enable the IIC to effectively complete the investigation.
4. The ATSB will not normally seek to participate in Airservices internal investigations, but may request participation in, or information from, any investigation undertaken by Airservices. ATSB Officers who participate in an Airservices investigation must comply with any lawful direction given to them by the Airservices Officer-in-charge of the investigation.

### ***Safety equipment for on-site***

5. If Airservices Officers attend an ATSB controlled accident site, they must ensure, where relevant, they meet the ATSB minimum training, occupational health and safety, and personal protective equipment requirements as specified by the ATSB Investigator-In-Charge.
6. Where the ATSB has requested that an Airservices Officer attend an accident site to assist in an ATSB investigation, the ATSB will, where relevant, provide the Airservices Officer with any required disposable protective equipment.

## **ATTACHMENT B - Restricted information categories**

Subject to the applicable provisions of the *Transportation Safety Investigation Act 2003* (TSI Act), the following guidelines apply to the release of various types of Restricted Information by the ATSB:

**(a) Statements (whether oral or in writing) obtained from persons by a Commissioner, staff member or consultant in the course of an investigation (including any record of such a statement) under the TSI Act**

- Statements will not be released to Airservices or to any other organisations seeking access because of the importance the ATSB places on encouraging the free flow of this information for safety purposes on the basis that it will be protected.
- Subject to any concerns raised by witnesses, the ATSB will seek, if requested, to provide Airservices with a list of all witnesses that have been interviewed by the ATSB during the course of the ATSB investigation.

**(b) Information recorded by a Commissioner, staff member or consultant in the course of an investigation under the TSI Act**

- This category of restricted information will most often contain personal information, opinions and analysis and will not generally be released. However, where it represents simple factual information, for example, a wreckage plot, such information would be considered for release after it has been verified by the ATSB. The Chief Commissioner would need to be convinced on a case-by-case basis that the circumstances warranted the release of any other type of restricted information recorded by a staff member.

**(c) Communications with persons involved in the operation of a transport vehicle that was or is the subject of an investigation under the TSI Act**

- This category of restricted information does not include OBR information. It would normally cover recordings such as Air Traffic Control and AVDATA tapes. The ATSB will advise Airservices to obtain this evidence from the original source.
- Where advised in writing that it is not possible to obtain this evidence from the original source, including relevant justification, the ATSB will reconsider the request from Airservices.

**(d) Medical or private information regarding persons (including deceased persons) involved in a transport safety matter that is or has been investigated under the TSI Act**

- Other than advised elsewhere in Attachment B, the ATSB will advise Airservices to obtain other medical and private information from the original source.

**(e) In relation to a transport vehicle that is or was the subject of an investigation under the TSI Act – information recorded for the purpose of directing or monitoring the progress of a vehicle from one place to another or information recorded in relation to the operation of the vehicle**

- This category of restricted information includes a variety of recorded information such as radar plots and flight recordings.
- The ATSB will advise Airservices to obtain this information from the original source, acknowledging that in some cases, Airservices itself may have been the original source of some types of information in this category as a result of carrying out its statutory functions.
- Where advised in writing that it is not possible to obtain this evidence from the original source, including relevant justification, the ATSB will reconsider the request from Airservices.

**(f) Records of any analysis of information or evidential material acquired in the course of an investigation (including opinions expressed in that analysis)**

- This category of restricted information would include analysis carried out by ATSB personnel as well as external personnel assisting the ATSB either under contract or by other agreed arrangements, for example, technical analysis of components or human factors analysis.
- The Chief Commissioner would need to be convinced on a case by case basis that the circumstances warranted the release of this type of restricted information. It is likely that if the information is released to Airservices it will be in the form of a section 25 report to ensure that the information is not admissible in evidence in any civil or criminal proceedings (except in the case of a coronial inquiry).

**(g) Information contained in a document that is produced to the ATSB under paragraph 32(1)(b) of the TSI Act.**

- This category of restricted information has been obtained under compulsion powers where self-incrimination is not an excuse for not providing the information. Consequently, it attracts self-incrimination immunity and, as such, will not be released to Airservices but may be obtained from the original source.

**(h) Information contained in a document that is produced to the ATSB under paragraph 36(3)(a) or 4(a)**

- This category of restricted information has been obtained under compulsion powers where self-incrimination is not an excuse for not providing the information. Consequently, it attracts self-incrimination

immunity and, as such, will not be released to Airservices but may be obtained from the original source.

**(i) Information contained in a report made under a voluntary reporting scheme**

- Voluntary reporting schemes are not currently established under section 20A of the TSI Act. Refer to the confidentiality arrangements that apply to voluntary reporting schemes administered by the ATSB in relevant legislation.

**(j) Information obtained or generated by the ATSB in the course of considering a report made under a voluntary reporting scheme**

- Voluntary reporting schemes are not currently established under section 20A of the TSI Act. Refer to the confidentiality arrangements that apply to voluntary reporting schemes administered by the ATSB in relevant legislation.

**(k) Records of analysis of information contained in a report made under a voluntary reporting scheme (including opinions expressed by a person in that analysis)**

- Voluntary reporting schemes are not currently established under section 20A of the TSI Act. Refer to the confidentiality arrangements that apply to voluntary reporting schemes administered by the ATSB in relevant legislation.

## **ATTACHMENT C: Contact points**

### **Immediately Reportable Matters (IRMs) and decision to investigate**

ATSB: 1800 011 034

Airservices: General Manager Safety and Environment Group

### **Notice to produce under Section 32 of the TSI Act**

Airservices: General Manager Safety and Environment Group

### **Investigations**

ATSB: Team Leader for investigation advised by ATSB

Airservices: General Manager Safety and Environment Group

### **Research and Data Analysis**

ATSB: Team Leader – Research, Investigations and Analysis

Airservices: Rob Butcher - [Operational Analysis Manager](#)

### **Data Requests**

ATSB: Team Leader – Notifications and Confidential Reporting (for urgent requests), otherwise [atsbinfo@atsb.gov.au](mailto:atsbinfo@atsb.gov.au) for routine requests

Airservices: General Manager Safety and Environment Group

### **Confidential Reporting**

ATSB: Team Leader – Notifications and Confidential Reporting

Airservices: General Manager Safety and Environment Group

### **Safety Education**

ATSB: Team Leader – Research Investigations and Analysis

Airservices: Max Bice – Manager Safety Services.

### **Training**

ATSB: Manager – Personnel Services

Airservices: Max Bice – Manager Safety Services.