

# You must advise the CAA

## Medical conditions may interfere with aviation safety

This Medical Information Sheet (MIS) describes the obligations of pilots and air traffic controllers to report certain medical situations to the CAA, and to stop flying or controlling until the matter is fully sorted out.

Others, including operators and medical practitioners, also have similar obligations to report to the CAA concerning the medical condition of pilots and air traffic controllers.

The main section of the legislation that is relevant to this discussion is section 27C(1) of the Civil Aviation Act 1990<sup>1</sup> (the Act). For further information about the relevant law please see the ‘Looking at the Law’ section at the end of this MIS.

### Why do I have to report anything medical to the CAA?

This reporting obligation is contained in the Act. Under section 27C(1) of the Act all licence holders<sup>2</sup> have an obligation to advise the CAA if they are aware of, or have reasonable grounds to suspect, any change in their medical condition or any previously undetected medical condition that “... may interfere with the safe exercise of the privileges to which his or her medical certificate relates”.

Also when this occurs, the pilot or air traffic controller may not fly or undertake air traffic control activities.

### What do I have to report?

As a pilot or air traffic controller you have a number of reporting obligations. This MIS is only about your obligation, under s27C(1) of the Act. Under that provision the things that you are required to report are any changes in your medical condition and any previously undetected medical conditions that “may interfere with the safe exercise” of your licence<sup>3</sup>.

The use of the word ‘may’ in this piece of legislation places a relatively low threshold for something to need to be reported. When you think of this in terms of being a public safety requirement that will make a little more sense.

### Doesn't that cover pretty well everything?

While some medical conditions are not likely to impact aviation safety it is very difficult to define or describe any that can be relied upon to never impact aviation safety. You might be tempted to suggest that a ‘cold’ is trivial and so does not warrant reporting, until you realise just how incapacitating the acute sinus pain from barotrauma can be during the descent phase of a flight — even from relatively low altitude. Similarly some medications might seem relatively safe in their own rights, until you stop to think about the underlying condition that requires you to be taking those medications.

As a medical lay person you should interpret this obligation in a very conservative way. Unless you have good reason to believe your medical condition does not trigger the s27C(1) threshold then you should either seek expert advice (more on that later) or make a

1. <http://www.legislation.govt.nz/act/public/1990/0098/latest/DLM214687.html>
2. In this context a ‘licence holder’ is defined as a person who “holds an aviation document or is a pilot; and holds, or is required under the rules to hold, a medical certificate.” (Section 27A(1) of the Civil Aviation Act 1990)
3. The Act actually says “safe exercise of the privileges to which [your] medical certificate relates” which mostly means your licence ... but also applies to the ability of a student pilot, who does not hold any licence yet, to be able to fly solo.

report to the CAA.

### **How bad does it have to be for me to need to report to the CAA?**

Medical conditions, or their treatment, have the potential to interfere with aviation safety in a variety of ways. They may:

1. result in behavioural changes;
2. lead to an increased risk of incapacitation (sudden, gradual, profound, subtle, partial etc);
3. result in a reduction or impairment in functional capacity (physical, cognitive etc);
4. lead to a reduction in the capacity for decision-making, attention, or concentration.

The difficulty you face in interpreting your obligation under s27C(1) is that virtually every medical condition or situation has the potential to cause one or more of these sorts of problems. Given that this is a public safety requirement you should always place public safety at the highest priority when interpreting such an obligation, certainly higher than your own desire to keep flying or controlling.

Without the benefit of formal aviation medical expertise you should interpret this obligation in a very conservative way. Unless you have good reason to believe your medical condition does not trigger the s27C(1) threshold then you should either seek expert advice or make a report to the CAA.

### **I am not sure. Who can I ask?**

The best person to seek further advice from is an aviation medicine expert. The most readily available aviation medicine practitioner is your regular Medical Examiner (ME), and discussing your situation with them has the potential to *'kill two birds with one stone'*.

In the first instance your ME can advise you whether your situation triggers the s27C(1) reporting threshold, or they can readily liaise directly with the CAA if they are uncertain. Secondly your ME can also be the 'Director' for the purpose of your reporting. So if you advise them then you will have also fulfilled that part of your s27C(1) obligation.

Similarly if you discuss the matter with your ME they will make a file note that, for example, they have advised you that the matter is not of aeromedical concern. That way if any question is raised in the future you will have a clear trail documenting your having done the right thing.

### **What about sick-leave or stress-leave?**

If you are too sick or too stressed to attend work then the reporting thresholds of s27C(1) of the Act will almost certainly have been met. You should advise the CAA as required under the legislation.

### **Will my ME notify the CAA?**

Almost certainly. Unless the ME considers the matter to be entirely trivial, and therefore able to wait until your next certificate application, they will pass the information on to be placed on your CAA medical file.

When you think of how mobile some pilots and air traffic controllers are this makes sense. If the information was not stored centrally, with CAA, then it may not be available to your next ME if you were to move.

### **How do I notify the CAA directly?**

Notifying the CAA directly, rather than via your ME, is best done either via telephone (+64-4-560 9466) or email (med@caa.govt.nz).

### **What will the CAA do?**

The CAA will review your medical situation in light of the information received, and what is already held on your medical file. Further information may be sought, and a decision

will be made as to whether, or not, further action is appropriate.

The nature of any CAA response to this information will depend on the individual circumstances of your case, and you will be kept fully informed throughout the review.

A very wide range of regulatory options are available to the CAA, extending from simply acknowledging and filing the information, through seeking further information from you or your medical advisers, to suspension or disqualification of your medical certificate.

### **Will the CAA tell anyone else about my Medical Condition?**

Information about your medical condition will be available to your Medical Examiner, and may be made available to others for safety reasons or if required under other legislation. Otherwise the CAA will not release medical information about you to your employer or any other person or organisation without your specific signed consent. In this respect the CAA is careful to comply with our obligations under the Privacy Act 1993<sup>4</sup>.

The CAA may advise your employer if any action is taken concerning your medical certificate, along with the general nature of that action (e.g. suspension), but the details concerning your medical condition will not be disclosed without consent. Even if your employer advised the CAA of your medical situation we will not provide them with further medical details about you without your consent.

### **If I thought I was unsafe I would not fly / control.**

Unfortunately individual people are not always good judges of the severity or implications of their medical condition. An example of this can be seen in the chronic fatigue problems that result from sleep disruption, as can be the case with Obstructive Sleep Apnoea (OSA—See MIS 022<sup>5</sup>), where sufferers are often very poor at assessing the degree of fatigue they are suffering.

You should interpret this obligation in a very conservative way. Unless you have good reason to believe your medical condition does not trigger the s27C(1) threshold then you should either seek expert advice (more on that later) or make a report to the CAA.

### **Does this requirement apply only to pilots?**

No, this provision also applies to air traffic controllers.

### **My doctor (or employer) said they would report to CAA. Do I still have to?**

Yes, the s27C(1) obligation applies to you whether or not you believe someone else may have made a report concerning you.

Any doctor involved with your medical care - including your GP, hospital or clinic doctors, and specialists - also has an obligation to report to the CAA. That obligation is similar to your s27C(1) obligation in many ways and is further described in MIS 002<sup>5</sup>, directed towards medical practitioners, and MIS 003<sup>5</sup>, directed towards pilots and air traffic controllers.

### **Surely minor or temporary medical problems do not need to be reported?**

Another section of the legislation, section 27G(1)(c), provides for General Directions to be made describing situations and circumstances that are exceptions to the s27C reporting obligations. To-date no such General Directions have been published.

### **What if I don't report?**

Section 27C(1) of the Act is an obligation under the law for you to report appropriate

4. <http://www.legislation.govt.nz/act/public/1993/0028/latest/DLM296639.html>

5. All CAA Medical Information Sheets can be accessed via the CAA website at [http://www.caa.govt.nz/medical/Med\\_Info\\_Sheets/Med\\_info\\_sheets.htm](http://www.caa.govt.nz/medical/Med_Info_Sheets/Med_info_sheets.htm)

situations. Accordingly it is an offence to fail to make such a report and doing so, “without reasonable excuse”, will place you at risk of prosecution and imprisonment or a fine (Section 46C of the Act—See Looking at the Law section at the end of this MIS).

### **I’m still not sure. Who else can I talk to?**

You are always able to seek further advice from the CAA Aviation Medicine Unit. This is best done either via telephone (+64-4-560 9466) or email (med@caa.govt.nz).

### **I don’t agree with a CAA medical decision. What are my appeal options?**

In some cases a s27C notification concerning your medical condition will result in action being taken concerning your medical certificate—e.g. a suspension or the imposition of conditions while further information is being sought.

If you do not agree with any subsequent decision that the CAA may make, in response to the information provided, you may elect to pursue: review by the Convener; District Court Appeal; and / or Judicial Review. Information concerning these appeal or review options can be obtained from the medical section of the CAA website (www.caa.govt.nz) under the heading of “Review of medical certification decisions”.

Contact details for the CAA Aviation Medicine Unit are provided below.

## **Looking at the law**

### **The Civil Aviation Act 1990**

#### **Section 27C—Changes in medical condition of a licence holder**

**Your obligations** as a licence holder as defined in the Act, are contained within section 27C(1) which states:

- (1) Subject to any directions that the Director may issue under section 27G(1)(b), if a licence holder is aware of, or has reasonable grounds to suspect, any change in his or her medical condition or the existence of any previously undetected medical condition that may interfere with the safe exercise of the privileges to which his or her medical certificate relates, the licence holder—
  - (a) must advise the Director of the change as soon as practicable; and
  - (b) may not exercise the privileges to which the licence holder's medical certificate relates.

#### **Section 27A—Interpretation**

For this purpose a **licence holder** is defined in section 27A of the Act as:

licence holder means a person who—

- (a) holds an aviation document or is a pilot; and
- (b) holds, or is required under the rules to hold, a medical certificate.

#### **Section 46C—Failure to disclose information required by Director**

- (1) Every person commits an offence who fails to disclose, without reasonable excuse, information required by the Director under section 27C(1) or section 27H.
- (2) Every person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$5,000.

### **CAA Medical Help Desk**

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