



## Heathrow Pause: A Response to The Climate and Ecological Emergency

Welcome, this document introduces you to the Heathrow Pause Action at Heathrow Airport. The Action is our response to the Government's lack of constructive progress on the Climate and Environmental Emergency declared by Parliament on May 1st. The omission is aggravated, even further, by the Government's decision to back Heathrow expansion, despite the scientific advice against it.

Throughout the planning process our prime consideration has always been to ensure this is a safe, peaceful and nonviolent Action. We are committed to taking every possible step to ensure nobody is hurt or endangered, and have put stringent safety measures and protocols in place regarding the use of drones, to guarantee the action complies with our objectives and concerns.

### At a glance

Any action we take regarding Heathrow Airport will adhere scrupulously to our total commitment to non-violence and passenger safety, and comply with this statement of intent:

- Our actions are nonviolent and proportionate to the Emergency we are in.
- All drones flown will be small, lightweight, toy drones and will fly no higher than six feet (183cm, head height), in accordance with legislation that prohibits the operation of drones above 400 feet and above 7KG in weight (before fuel).
- Toy drones will NOT be flown within flight paths. Drones will be within the 5km restricted zone around Heathrow, but NOT in flight paths, as indicated on the map below. Flying a, lightweight, toy drone at a maximum height of six feet, outside flight paths, poses no risk to aircraft and complies fully with our principle of non-violence. This is a symbolic action, using a legal loophole and participants' self-sacrifice to draw attention to **the most serious and urgent crisis humanity has ever faced**.
- Airport authorities will always be given adequate advance notice. This could, for example, be notification that a drone might be flown at around head height in a public park in West Drayton. This would give airport authorities sufficient warning to close air space safely for the duration of this action, should they choose to.
- Airport authorities and the public have been given 6 weeks' advance notice of the start date and time of the planned action. Such a notice period gives the authorities an appropriate period to plan the closure of the airport safely for the duration of the Action. We hope it also provides members of the general public with sufficient time to make alternative travel arrangements, if necessary. We note that 70% of UK flights are made by just 30% of people. Globally, the injustice of the few who fly causing suffering to the approx 96% who don't is even starker, particularly as those who've never flown are typically amongst the 1000 children who die due the Climate Emergency every day.



**Map: Heathrow Flight Paths (hatched rectangles) where no drones will be flown, and the remaining 5km exclusion zone in which drones will be flown.**

Even though we realise this action could result in the safe and orderly closure of West London airspace, the honest truth is that we would prefer not to take any action at Heathrow Airport. Sadly, the Government's inaction on climate change, and the looming catastrophe of airport expansion, gives us no choice, and compels us to act. As always, our objective is to focus attention on the Emergency for as long as it takes the Government to face the facts, tell the truth, and respond with appropriate measures in a moral time frame. The current Prime Minister is on record for saying his opposition to Heathrow expansion is so profound that he would "lie down in front of the bulldozers" himself. This is his opportunity to demonstrate the value of his words, and the depth of his understanding. We invite Boris Johnson to join us in flying a drone and showing his commitment to stopping Heathrow expansion and addressing the Climate and Ecological Emergency. Indeed, we invite all MPs and members of the public to join us to save our society, our species and all that we love.



## Context and framing: This Is An Emergency!

For decades scientists have warned of catastrophic climate change. Heathrow expansion is in direct contravention of the Climate and Environmental Emergency declared by Parliament on May 1<sup>st</sup> 2019.

Heathrow emits 18 million tons of CO2 a year. Around the world there are 118 countries whose total emissions are less than Heathrow's. A third runway will produce a further 7.3 million tons of CO2, which will harm us and our children, devastate wildlife, shatter communities, damage the natural environment beyond repair and accelerate the already lethal pace of global heating. Expansion goes against all scientific evidence that we need urgently to cut emissions or face widespread catastrophe and possible extinction on an uninhabitable planet.

### Our 3 Objectives

UK Government must:

- 1) **Tell the Truth** about global heating; comply with Parliament's declaration of a Climate and Environmental Emergency; work with other institutions and influencers to communicate the urgency for radical new policies to halt and even reverse climate change
- 2) **Act Now** to reverse biodiversity loss and reduce CO2 emissions to net zero by 2025.
- 3) Go **Beyond Politics** by creating and be led by the decisions of a competent, well informed and properly resourced Citizens' Assembly on climate and ecological justice.

**In light of current scientific knowledge and quantifiable evidence it is a crime against humanity - and all life on earth - to support carbon intensive infrastructure projects**, and that such a path can only precipitate the collapse of society and international cohesion. As the effects of Climate Change become more severe, food and water supplies will be endangered and restricted. This will lead to famines, mass migrations and conflict as people contest or seek to defend limited resources. Global society will inevitably break down, and whilst this may not lead immediately to humanity's extinction, we will witness deaths on an unimaginable and unprecedented scale, many times worse than all the genocides we have known combined.

We cannot stand by and allow ourselves to sleep-walk into this self-inflicted and wholly avoidable tragedy. However inconvenient our Action may be to some, we enter into it fully conscious of the horrors that await us if humanity doesn't act together immediately. **There is no time left for delay, and no justification.** Our governments must take appropriate and immediate action it is duty bound to this. Our Government's negligence and procrastination in the face of this Emergency borders on the criminal. **The only thing needed for evil to succeed is for good men and women to do nothing.** As good men and women, we cannot stand by and do nothing.

## Safety Measures and Protocols

To ensure no living being is harmed, the action will have strict safety characteristics / protocols:

1. **Head height** - Drones will be flown no higher than at head height. The relevant government legislation, (The Air Navigation Order 2016 SI 2016 No. 765), deems 400ft to be hazardous. A 6-foot (183cm) maximum height is not in breach of this and clearly no risk to aircraft.
2. **Small toy drones** - Drones will be small and lightweight. The relevant government legislation, (Air Navigation Order 2016 SI 2016 No. 765), deems 7kg (excluding fuel) to be hazardous. Our tiny toy drones are clearly no risk to aircraft.
3. **Not within flight paths** - If deployed as part of a planned action, drones may be flown at just above head height in the restricted 5km zone surrounding Heathrow but NOT within flight paths as clearly indicated in the map below. As an example, advance notice could be given that a drone might be flown just above head height in a public park in West Drayton, presenting the airport authorities with the advance decision to safely close air space for the duration of this action.
4. **1 hour's advance notice** - The Heathrow Airport Authority will be given at least 1 hour's advance notice before drones are flown each day.
5. **Early start** - Drone use will start early (3am) before most night flights which run 4.30-6.00am, and scheduled flights, which run from 6am-11.30pm. The airport authority will therefore have the choice of not initiating flights when drones are in the air.
6. **Call the police once completed** - Drone pilots will telephone the police after their drone flight is completed for the day and wait peacefully to be arrested.
7. **Regular intervals** - Drones will fly at regular intervals throughout the day. Continual drone flights during the day will ensure that, to comply with Heathrow's own rules, no aircraft flights take place.
8. **Emergencies** - In the case of a genuine emergency all drone use will stop immediately. A direct communication hotline between the authorities and the action groups will be set up, to ensure fluent communication.
9. **Advance notice** - The authorities and public will have suitable advance notice of the start date and time. We hope this will also give members of the public sufficient time to make alternative travel arrangements if needed.

**If a breach of these protocols should occur we can stop the action immediately, and advise the authorities accordingly through the 'hotline' set up for this purpose.**

Our protocols ensure this will be a nonviolent action. There is nothing violent about flying drones when there are no scheduled flights in the air. Initiating those scheduled flights is the sole responsibility of the airport authorities.

## Likely Legal Consequences

All participants flying drones know they risk arrest and imprisonment, and are prepared to be arrested peacefully. Our readiness and courage are based on the conviction that:

1. **Our actions are a humanitarian act** intended to save millions of innocent lives that will be lost if carbon emissions are not drastically reduced.
2. **This is an act of conscience.** We cannot live in peace with ourselves knowing that inaction will cost us the future. Faced with the prospect of such disaster, no rational, mindful person can live with the thought of having done nothing to prevent it. Our moral code is rooted in the principle of doing unto others as we would have them do unto us. We seek to save the lives of strangers because we believe they would do the same for us. Our conscience dictates that we act, for the good of us all.
3. **This action is proportionate** with the threat we face. If anything, it is comically modest. The death of millions versus flying a drone at an altitude of six feet? Really? It is a citizen's right and duty to bypass a law if not doing so will result in greater harm to life and property. We act out of necessity to protect our children, our fellows, and all the other lives that travel with us on this Earth.

## How will participants be prepared for this action?

Legal, technical and support briefings are mandatory for all those flying drones. The briefings are open to all participants in this Action. It is imperative we ensure that everyone taking part has made a conscious, informed free choice about their role in the Action, and is fully aware of the possible consequences.

All participants take full responsibility for themselves and their actions, and their engagement with the available opportunities for training, preparation and support. Participants recognise their colleagues and contacts and ensure lines of communication with their support networks are open during the action itself and through any possible subsequent arrest and court process.

What risks are involved in this action? What measures are we taking to minimise them?

Safety risks - Injury or harm to passengers and the public is mitigated by the Safety Protocols detailed above.

There is a risk that someone not part of our Network could intrude upon this Action by flying an "unauthorised" drone in a dangerous way.

We minimise this risk by making it clear to the public, the media, all participants and the relevant authorities that everyone participating in this Action is committed to following the Action guidelines and safety protocols. Any individuals who deviate from this specification are, by definition, not part of our Action.

We insist on the same responsible, uncompromising approach to nonviolence that is essential for all successful Actions.

## Political Briefing

***‘There is no more neutrality in the world. You either have to be part of the solution, or you’re going to be part of the problem.’ (Eldridge Cleaver)***

Those of us involved in nonviolent civil disobedience are often equipped with little more than a legal briefing. However, as the popular voice gets louder and our Actions become more dramatic and more powerful, it becomes increasingly likely the authorities will seek – and indeed pursue – a political dimension to what we do. It is therefore wise that, as well as the ethical and legal aspects of our behaviour, we consider the political aspects of our dialogue with Power.

Before we go any further, it’s important we make it absolutely clear that “political” in this context is by no means party political, nor does it imply adherence to any doctrine or ideology. Our Actions are “political” only because they relate to the government or public affairs of our country, and they relate only in the context of one central issue: protecting our planet, our only home, for future generations and all the more-than-human life that travels with us. On May 1<sup>st</sup> Parliament declared a Climate and Environmental Emergency. In line with the Social Contract set out by Thomas Hobbes, John Locke and others, we see it as our duty and our right to hold them to it, and make sure that Declaration wasn’t merely cosmetic. A couple of sweeties and a pat on the head just won’t do.

The interests of Big Business have been given precedence for far too long, at the expense of the wider population. Legislators have been too lazy or too comfortable to take the necessary measures to limit the damage, which is why our home and our survival are now in such serious danger. We’re not seeking to overthrow the government, we just want them to talk to us, honestly and sensibly.

When they consider the sentencing of climate activists, a central and recurring question for the authorities is not whether the act was legal but how it would look to castigate the perpetrator. What effect will it have on their prospects of maintaining power?

However impartial a judge may be, he or she is also an intelligent, rational, considerate human being, usually with a family. Whether they admit to it or not, and however they respond with regard to the letter of the law, judges are very conscious of the motivation behind our illegality. UK judges have consistently recognised the right to protest and the “honourable tradition of Civil Disobedience in this country”. We don’t do it for glory, or for personal gain, or for the joy of vandalism or with any criminal intent. We act because we have to. The world is crying out, and asking us to help. Those who hear the call can no more ignore it than we could ignore the tears of our own children. We can’t stand by, knowing what we know, and let the house burn down.

There is also the matter of degree, and what constitutes proportionate response. We’re absolutely committed to peaceful and considerate action. Yes, we inconvenience people and yes, we embarrass institutions, but we do it all with humanity, humility and love and a great deal of forethought and debate, and we do it for a purpose that benefits everyone equally. A sign of our success is that the public is warming to our message. The press can see the sense and integrity behind our Actions, and even the need for them.

In recent years this has contributed to the courts treating climate activists more leniently than might have been inferred from the letter of the law, so the caution of legal advice has to be balanced against the actual record. Legal advice overstates the risk to activists simply because lawyers have a duty to their clients and by virtue of their profession cannot overlook the law, or ignore the menacing growl of government prosecutors. On the other hand lawyers are not usually political experts and, with little experience in civil disobedience cases, it's understandable they find it hard to predict the official response.

Having said that, it's worth considering recent experiences: During the "Stop Killing Londoners" anti-pollution campaign, a number of people repeatedly spray-chalked messages on the walls of City Hall in London. After doing it for the fourth time in a week, an avowedly "top protest lawyer" from Bindmans LLP told them it was 90% certain they'd go to prison on remand. In reality the magistrate merely re-issued bail, even though they'd broken bail conditions twice. After discussing it with other magistrates, they'd concluded it was better to release the campaigners than weather the storm of bad publicity that would inevitably follow the incarceration of law-abiding citizens for protesting about illegal levels of pollution in their city.

During the King's College Climate Emergency campaign, student Roger Hallam was suspended for his involvement in spray-chalking of Central Hall, allegedly causing £7,000 of damage. There was significant pressure to bring charges against him, but the idea was dropped because "it would look bad for the College to take a climate activist to court". Ten days later, Roger was reinstated.

Over a year later Roger and fellow student David went before a London Crown Court for "criminal damage without lawful excuse". Everything seemed stacked against the defendants. The Judge's pretrial view was that there was "no case to answer", meaning they were 100% certain to be found guilty. A lawyer strongly advised the pair against representing themselves, particularly as they had only an hour of preparation. Immediately prior to their appearance the court offered a significantly lower punishment should they change their plea to guilty, recommending acceptance as there was "no chance" they would win.

Roger and David based their defence on their reasons for campaigning, and the principle of proportionate response. They found themselves stopped fifteen times by the Judge, who insisted that nobody was going to talk about climate change "in his court". The case proceeded uncomfortably for three expensive days. The Judge's four-hour summing up dismissed the climate emergency defence and instructed the jury to view the case as a simple matter of criminal damage, and that the defendants should be found guilty. The jury retired for two hours, the minimum period allowed, and on their return delivered a unanimous verdict of not guilty on all charges.

In November 2016 "the Heathrow 13" were arrested during a demonstration against airport expansion. In February 2019 "the Stanstead 15", who had been convicted of terrorist offences for chaining themselves around an immigration removal flight at Stansted Airport received suspended sentences or community orders. The judge decided not to imprison them after accepting they were motivated by "genuine reasons". In September 2016 "Black Lives Matter" activists broke into and briefly closed down London City Airport, and were duly arrested. In all three cases, legal advice predicted lengthy prison sentences, but apart from a pair of repeat offenders with complex histories, none of the defendants were imprisoned. The authorities were reluctant to invite negative publicity by sending peaceful civil disobedience activists to jail.

When climate activists who mounted lorries in July 2017, during anti-fracking protests in Lancashire were sent to prison, there was a national outcry, with thousands of people taking to the streets to protest. Fracking was propelled into the limelight of national media and public attention. Having been sentenced to 16 months, The Fracking Three were released on appeal after only a few weeks. Giving the panel's decision at the Royal Courts of Justice in London, lord chief justice Lord Burnett of Maldon said: "We have concluded that an immediate custodial sentence in the case of these defendants was manifestly excessive. In our judgment, the appropriate sentence was a community order with a significant requirement of unpaid work." The judge in the original case was also found to have family connections to the oil industry, through JC Altham and Sons, part of the supply chain for energy giant Centrica, which has invested tens of millions of pounds in fracking and was the firm responsible for the Lancashire site.

Whilst a number of the participants in these high-level actions were committed, long term activists, the Heathrow Pause action will be conducted in the main by "ordinary people" new to civil disobedience. Given the recent examples described above, and the significant rise in the public mood about climate change and the planet's future, we have reason to believe the authorities will be reluctant to respond harshly and put "ordinary people" in prison for an act of conscience. The publicity would be considerable, and in the whole, is unlikely to favour the prosecution.

As advised in the companion Legal Briefing, the probability of being charged on a count of terrorism is negligible, not just because this peaceful protest is demonstrably nothing of the sort, but also because of the political dangers of attempting a palpably ridiculous prosecution on zero evidence.

There is a real possibility of a prosecution for causing a public nuisance, which could result in a sentence of imprisonment. It is unusual, however, for peaceful protestors, acting in good conscience, to be sent to prison.

The context is that normal people are acting conscientiously, in response to:

- overwhelming scientific advice about Climate Change
- United Nations directives that we radically cut CO2 emissions or face - in little more than a decade - the collapse of society, widespread extinctions, crop failures, famine, conflict and disaster.
- the British Parliament's May 1<sup>st</sup> declaration of a Climate and Environmental Emergency.
- growing public awareness that "business as usual" is genocide. 67% of the population now agree we are in a Climate and Ecological Emergency, and that this is now firmly established as one of the top three concerns of the British people.

Nevertheless, if the Pause Action achieves its aim, and Heathrow Airport is closed, we will be in uncharted territory. The economic consequences are substantial and a judge may feel the need to, and come under pressure to impose custodial sentences as a deterrent to any future such action. It is important that you and those close to you are prepared for all eventualities both practically and psychologically.

By the time any prosecution comes to trial in a Crown Court, public awareness will have increased exponentially, as we see further dramatic evidence of climate breakdown around the world, which in turn will probably trigger a significant global rise in public protests and acts of civil disobedience. In this context, another possibility following any guilty verdict, would be community service – lasting several months – or a fine. In the case of fines, which could be high (e.g. several thousand pounds), it is entirely reasonable to suppose the international publicity will enable an online crowd-funder to raise sufficient funds to meet them, as happened with the Frack Free Three, for example. Financial supporters in the US have already indicated their readiness to pay the fines of those engaged in peaceful climate activism.

The other possible outcome is that, as in the King's College case, protesters will be found not guilty by a jury of ordinary Londoners. The prospect of a third runway is strongly opposed in London. Most juries will sympathize with ordinary people who take it upon themselves to act out of conscience, for the public good.

It's not all plain sailing, though. There is ample evidence in history, even recent history and even in this country, that those in positions of political or economic power revert into defensive, even "repressive" behaviour when a campaign looks likely to succeed, and disrupt their position or profits. We can take it for granted that any Action that succeeds in closing the UK's principal international airport will provoke a response. They will deploy everything at their disposal, from the law to the darker shores of the media. We need to be fully conscious of the fact that by taking part in this action we are opening ourselves up to levels of pursuit, disruption and harassment that we've never experienced before, up to and including the possibility of a prison sentence. But as Gandhi said: "first they ignore you, then they laugh at you, then they fight you, and then you win".



## Psychological and Spiritual Preparation

***'The decision to act heroically is a choice that many of us will be called upon to make at some point in our lives. It means not being afraid of what others might think. It means not being afraid of the fallout for ourselves. It means not being afraid of putting our necks on the line. The question is: are we going to take that decision?'***

**-Philip Zimbardo.**

As an independent action we do not have the resources to provide support for this process. Instead, we are asking people involved to draw support from those they know. It is important to speak to your families and friends and draw support from those that love you. Secondly, create a group of people from your campaigning friends – any other groups you are involved in. This can include practical support – walking the dog, picking up the kids from school, dealing with the post etc. It can also include emotional and spiritual support – people you can talk to about your hopes and fears. Maybe people can help financially to buy the drones and with your travel.

Much stress and burnout is created because we are so keen to get a result and are frustrated when we fail. Of course we should work hard to design civil disobedience which maximises our chances of success (and this document is part of this process). However paradoxically if we become attached to the outcomes of our collective action we become less effective and more likely to suffer during the process. Therefore, it is important that each person involved goes through a mental/spiritual process whereby they detach themselves from the outcomes of our actions. This may be through some practice of a particular spiritual tradition. Or it can be done through role plays and imagining the prospect of “failure” – i.e. through secular psychological methods. The main aim however is that we are more robust through such a process and less likely to become stressed – which in turn is likely to make us less successful.

Similarly, it is important that each of us becomes self-aware of various egotistic motivations and orientations related to being involved in these actions. We need to let go of ideas of heroism, of getting attention and praise, and being entitled to high levels of support. All these ideas make us vulnerable to getting “bitter and twisted” when our heightened expectations are not realised. We need to see our actions as an act of service or altruism rather than something we undertake in order to get something back. Again, this state of mind can be created via a number of spiritual and philosophical traditions (e.g. Buddhist, Christian, existentialist) and/or can be created by undertaking a number of role plays and conscious imaginings (behavioural psychological methods).

Whichever method we choose the idea is to maintain some lightness and even humour during our actions. It needn't be a big deal! People have an enormous ability to see the same situation in very different lights and we can pro-actively create the reaction we want if we wish to do so. The aim, then, is to come out of the process as calmly and unstressed. It is possible.

All people involved in the Heathrow Pause should form affinity groups of 8-10 people. Attached to these groups can be a support group of family, friends and local supporters. This group can be responsible for these many sorts of support. Through this process we can build a community and through this community we can stay strong in this task we have given ourselves.

In many ways, the coming into community with others is the main learning of doing sacrificial civil disobedience. And this will be the main benefit which will come from stepping up to take joint action on the catastrophe our society faces.

### **Informed Decision-Making Process**

We use the model of Informed Consent and apply it to general decision making to assess, to the best of our ability, whether someone is making an informed decision.

A decision that is:

- Voluntary - not being coerced
- Informed - having received, processed and absorbed all the available information

And taken with the capacity to

- Understand,
- Weigh up,
- Retain,
- And Communicate,

the action and its repercussions.

### **Why is this important?**

We are aware of the world of uncertainty and potential harm that the individuals undertaking this action, their friends, relatives and wider support network may face.

We are also aware of the capacity of the action's group members to support each other. We are volunteering ourselves to carry out an act that we believe is in line with our values and our vision for a regenerative human society. The nature of a sacrificial act is one which causes harm to a group of people for what they believe is a greater good. We do not intend to cause harm, we are certain that this is a non-violent action, proportionate to the catastrophe that -as species- we are facing. We want to mitigate the harm incurred by all involved.

Furthermore we do not want to face criticism that we are being coerced into an act; the informed consent model may be a way to balance these factors. So, we want to make sure that **individuals are given clear information about:**

Possible legal implications including:

- Costs.
- Length of time in court proceedings.
- Range of penalties including time in prison, community service etc.
- Clear explanation of the uncertainty that exists in the legal system - this is

unchartered territory.

- Case studies to draw out examples.

As part of your decision process, ask yourself:

- **Reasons + Motivations:**

- Why have you decided to be arrested for this cause? How does that link to your motivations and values?
- Why do you believe being arrested will help address the problems you see in the world?
- Have you looked in to the specific scenarios that could lead to varying degrees of punishment by the Criminal Justice System and what you feel comfortable with?

- **Impact:**

- What are the likely consequences of your arrest, including charges, fines, time in court, prison?
- What are the worst case scenarios - how likely or unlikely are they?
- Have you thought about the impact your journey through the criminal justice system will have on your life, including your career, relationships, finances?
- How will it impact friends, family and dependants?

- **Support:**

- What existing support networks do you have and are you well connected to them?
- Have you identified an anchor, affinity group, local group?
- What do your friends and family think of your decision?
- Have you told your family that you are planning to be arrested? It can be useful to let them know in advance so that they can prepare themselves and you don't have to worry as much about their reaction after you've been arrested.

GO BACK to your reasons and motivations, drop in to it the destruction of human and non-human life that is being perpetrated and will continue to carry on if we do not act to stop it. Think about a **future with no future**.

Then think about all of the consequences that will unfold, all the social isolation, aggression and alienation.

What does your life look like as someone who has made this sacrifice?

Through all the stress and difficulties that may come, how will you connect to the reasons and motivations, i.e. do you have a grounding technique, spiritual practice?

Please, please, please start practicing it.

## Concerns and Anxieties

- Explore if you have a trait that may disadvantage them on protest and in the criminal justice system (e.g. disability, ethnicity, gender) - any support you may need for this?
- Have you considered the existence of institutional racism and prejudice that exists in the police force and society, as well as the conscious and unconscious biases/prejudices that structurally disadvantaged people with particular traits (including within this group)
- Have you considered how arrestable you are? Vision some scenarios that are beyond your willingness to be arrested and others that fit within it.
- Actions morph and change from the original plan. Police attitudes and responses to actions are also unpredictable. It is important to be clear with yourself what you are prepared to do and where your boundaries lie.

## PREPARATION

- Have you read the legal briefing?
- Have you attended NVDA training and action's briefing?
- Have you got a Bust card, know what the arrest process is like and when to state No Comment?
- Are you prepared to sit with the uncertainty of arrest and the criminal justice system?
- Have you checked your cyber footprint? Consider who you're sharing content with.
- Are you prepared for the financial implications? We can crowdfund ourselves as this action will get global attention.

## MENTAL HEALTH

Even the process of getting arrested can be very stressful and, if you are charged, court cases can add further strain. Take care of your mental and emotional health.

Some of the questions you will be asked when you are booked in at the station will concern your physical and mental health (including whether you have a history of self-harm). The stated purpose of these questions is to ascertain whether you have any disabilities and/or pre-existing health conditions which may put you at risk while you are in custody. It is important to realise that if you tell the officer booking you, in that you do have mental health problems and/or a history of self-harm OR answer no comment to those questions, the police are very likely to regularly check up on you when you are placed in a cell. This can be unpleasant and seriously disrupt any attempts at sleep. On the other hand you will need to declare mental health issues if you want to have access to an appropriate adult. I recommendation is to do whatever makes you feel safest.

## **VISIBLES**

Those of us prepared to sacrifice our privacy to help the general public to understand the importance of this action call ourselves 'visibles'. A separate media briefing and media training is on offer, but as the response of media has an element of unpredictability, we all should prepare for:

- Cyber bullying. How to respond?
- Social media, should you withdraw?
- Media arriving at your home or your families and friends'.
- Media writing articles about you and your family calling you middle class hypocrites, posting photos of you on holiday form, facebook saying 'they go flying whilst stopping hardworking families from flying'
- Family member calling up to state they disagree?

Go through scenarios that might arise and be prepared for it, what more support might you need, how would you go about getting it? Share your thoughts and feelings with other visibles.

**We are all crew, we all look after each other.**

Therefore we shall **VETO**, as an horizontally organised system, any individual or group engaging with words and acts in disaccord with the peaceful nature of the action, including concern of harm to participant/action, lack of adequate engagement with preparation, and the use of alcohol and/or illegal substances. Also to VETO any individual or group engaging for reasons other than Heathrow Pause's:

As for our understanding of the science, the Expansion of Heathrow airport is **ecocide** . Therefore, and according to our conscience and moral values, we will do whatever it takes, peaceful and proportionate, to prevent it from happening.



## LEGAL BRIEFING

**'I urge you in particular to take a stand, so as to not let the full burden of responsibility befall our children. Arm yourself with information of the highest quality, think for yourself, and then exercise your full intellectual and moral capacity to help your nation and our planet survive.'**

**-Dr James Hansen, Godfather of Climate Science, who first alerted the world to the dangers of climate change more than 30 years ago, speaking in April 2019.**

This briefing is not intended to convey approval or disapproval of the legal action proposed. Its purpose is to deepen understanding of the potential legal implications of the proposed actions so as to empower people to reach their own decisions. Anyone considering participation in this legal action should consider carefully the balance of risk involved. Being arrested, charged and prosecuted may have a number of implications for those concerned (including for current and future employment). The briefing was substantially revised on 6-2019 to reflect changes to the action design. Dates of any further revisions will be noted below:

6 June 2019

15 June 2019

6 August 2019

11 August 2019

(The text of Parts A and B below summarise the action proposal as explained by the Actions team.)

### **A. THE CONTEXT FOR THE PROPOSED ACTION**

On 1 May 2019, following the April rebellion, the UK Parliament acknowledged the existence of a state of Climate and Ecological Emergency. The Government, however, failed to act on that emergency. Specifically, the Government's ongoing commitment to the expansion of Heathrow Airport, and to increasing aviation capacity, is inconsistent with the radical action required to avert disaster.

There is an anxiety that with the pressure on the Government relieved, and the political spotlight returning to Brexit, the momentum for decisive action is being lost. In reality there is no time to lose.

It is a challenge to conceive and develop an action capable of increasing the disruption and the political pressure to the scale necessary to realise the demand for a Citizens' Assembly. This action is designed to meet that challenge.

## **B. THE ACTION DESIGN**

### **B.1 The design objectives**

The action has been designed so that it:

- a) Carries neither risk nor any threat to the public; yet still
- b) Creates substantial pressure to close Heathrow Airport; and hence
- c) Applies the necessary political pressure to create a Citizens' Assembly to facilitate the UKs decarbonisation.

This link between action and objective, and the commitment to doing no more than is necessary to realise the objective, is key to the concept of proportionality.

### **B.2 The design features**

It is critical to the action design that is both non-violent and non-threatening. The intention is to subvert the original, negative association of an action based on drones with an action that is playful, creative and safe. Crucially the flying of drones, despite breaching legislation, will not present any risk to air passengers (or to property) because the drones will:

- 1. not be flown over flight-paths
- 2. will be lightweight, and
- 3. will be flown only at head-height.

Additionally, the action will be fully transparent with advance notice of the action given to “the authorities”. Lines of communication will be maintained so that the action can be called off in the event of an emergency.

These limitations on the action will be publicly communicated so that it is clear that the action contains no implied threat. Assuming it is successfully realised the action presents the authorities with a dilemma. They may keep Heathrow open on the basis that there is no actual threat to safety. But that would depend on communicating a message to the public along the following lines:

*“Since Heathrow Pause are flying drones safely, it's safe to keep the Airport open.”*

In other words, Heathrow could only be kept open if the authorities provide public reassurance that the action is safe. The assessment of the design team is that the probability of that occurring is low (particularly following public statements already made by Heathrow Airport and the Government that the action is dangerous.) The aim is to strike a “sweet spot” for action: maximum disruption and political pressure; relatively low resource commitment; and no risk of harm.

In the assessment of the design team, this action could be critical to the ultimate success of the Rebellion.

The text of Parts C and following provides information on the potential legal consequences of the proposed action, and has been prepared independently of the views of the Action Team

## **C. LEGAL RISKS**

Action aimed at closing Heathrow is likely to be regarded (and portrayed) by the authorities as a substantial increase in disruptive activity. If successful, it will cause major economic loss. It would be sensible to expect a corresponding increase in the law enforcement response.

To justify repressive action, the authorities are likely to portray any action as reckless and dangerous (which, in turn, will make it difficult for them to keep Heathrow Airport open if the action proceeds).

It is critical that no action is taken which could be construed as creating a risk to aircraft or their passengers, and that nothing is said which could be construed as a threat to the safety of passengers. The current design of the action meets this test and it is essential that it is adhered to (not only in how the action is implemented, but in how it is publicly described). As long as it is adhered to, and as long as there is no risk created to passengers or to property, the most serious offence potentially applicable to those flying drones is likely to be the offence of public nuisance (which carries a risk of a substantial sentence of imprisonment).

It is only in the event of evidence of a substantial threat to safety that a more serious offence could reasonably be charged.

Those participating in the action are likely to fall into one of three categories:

1. Those attending the action as observers or supporters, including live streaming
2. Those flying drones
3. Those organising the Action.

### **C.1. Legal risks for those attending the Action as observers or supporters**

The Heathrow Bylaws contain the following provisions:

#### **3.19 No demonstrations etc**

No person shall organise or take part in any demonstration, procession or public assembly likely to obstruct or interfere with the proper use of the Airport or obstruct or interfere with the safety of passengers or persons using the Airport.

#### **3.20 No display of flags or banners etc**

No person shall display any flags, banners or emblems likely to cause a breach of the peace on any part of the Airport.

### 3.21 Obstruction

No person shall intentionally obstruct or interfere with the proper use of the Airport or with any person acting in the execution of his duty in relation to the operation of the Airport.

The maximum penalty for a breach of 3.19 or 3.21 is a fine of £2,500. The maximum penalty for a breach of 3.20 is a fine of £1,000.

It is an offence, contrary to the Civil Aviation Act 1982, s. 39, for a person to trespass on any land forming part of an aerodrome licenced under an Air Navigation Order. The maximum punishment is a fine of £1,000. No one may be convicted unless it is proved that, at the relevant time, notices warning trespassers of their liability under s.39 were posted so as to be readily seen by members of the public.

The design team have advised that “the Action is proposed on land outside the airport boundary”. On that basis the Civil Aviation Act provision will not apply. The Heathrow Bylaws, however, will still apply, since they are premised on impact as opposed to the specific location of a protest.

It seems likely that once the police become aware of an intention to stage a protest to disrupt Heathrow a section 14 order will be issued under the Public Order Act 1986, imposing limitations to the protest. There are a number of offences related to breach of a section 14 order:

s.14(4): organising an assembly contrary to a condition imposed, which has a maximum penalty of 3 months imprisonment and / or a fine of £2,500;

s. 14(5): taking part in an assembly and knowingly failing to comply with a condition imposed, which has a maximum penalty of a £1,000 fine; and

s. 14(6): inciting (ie encouraging) someone to commit an offence under s. 14(5), which has a maximum penalty of 3 months imprisonment and / or a fine of £2,500.

In summary, even in the absence of a s. 14 order, the demonstration is likely to breach the Heathrow Bylaws, meaning that the police will have a lawful basis for conducting arrests from the outset. The action design will need to reflect that reality.

It is possible that those attending the action as observers or supporters could be prosecuted under the Heathrow bylaws or section 14. The likely outcome would be a conditional discharge or a fine.

## **C.2. Legal risks for those flying drones**

The Air Navigation Order 2016 (SI 2016 No. 765) and the Rules of Air Regulations 2015 (SI 2015 No. 840) contain a vast number of offences and regulations about air operations, often referred to as the “Rules of the Air”.

Under art. 240, a person must not recklessly or negligently act in a manner likely to endanger an aircraft, or any person in an aircraft; the maximum sentence is 5 years’ imprisonment and an

unlimited fine. As long as the action design is adhered to, this charge would not be appropriate since people would not be acting in a manner “likely to endanger” an aircraft or passenger.

Arts. 94 & 95 contain various offences relating to flying drones in the proximity of an airport. The offences are summary only, and the maximum penalty is a fine of £2,500.

It is worth noting that the Order distinguishes between drones that are over 7kg in weight (excluding fuel), and those that are under that weight. By only including in the session drones that are under 7kg in weight, the risks can be reduced. Further the Order distinguishes between drones being flown at a height of more than 400 feet and less than 400 feet. Again, by restricting any flying to less than 400 feet (and certainly by flying them only at head height), the legal risks may be reduced.

Terrorism is defined in The Terrorism Act 2000 as follows:

- (1) In this Act “terrorism” means the use or threat of action where—
  - (a) the action falls within subsection (2),
  - (b) the use or threat is designed to influence the government ... and
  - (c) the use or threat is made for the purpose of advancing a political, religious [racial] or ideological cause.
- (2) Action falls within this subsection if it—
  - ... (d) creates a serious risk to the health or safety of the public or a section of the public ...

As long as the action design is adhered to, a charge under the Terrorism Act would not be appropriate because the action would not create “a serious risk to the health or safety of the public”.

The Aviation and Maritime Security Act 1990 section 1 establishes various offences of “endangering safety at aerodromes”, which are punishable with sentences of life imprisonment:

- (1) It is an offence for any person by means of any device, substance or weapon intentionally to commit at an aerodrome serving international civil aviation any act of violence which—
  - (a) causes or is likely to cause death or serious personal injury, and
  - (b) endangers or is likely to endanger the safe operation of the aerodrome or the safety of persons at the aerodrome.
- (2) It is also, subject to subsection (4) below, an offence for any person by means of any device, substance or weapon unlawfully and intentionally—
  - (a ) to destroy or seriously to damage—
    - (i) property used for the provision of any facilities at an aerodrome serving international civil aviation (including any apparatus or equipment so used), or
    - (ii) any aircraft which is at such an aerodrome but is not in service, or

(b) to disrupt the services of such an aerodrome,

in such a way as to endanger or be likely to endanger the safe operation of the aerodrome or the safety of persons at the aerodrome.

Again, as long as the action design is adhered to, a charge under the Aviation and Maritime Security Act 1990 section 1 would not be appropriate because the action would not be likely to endanger safety.

As previously set out, it is essential that nothing is said or done either to create a real risk to the safety of aircraft or to imply that there will be such a risk. Specifically it should not be suggested that Heathrow should close the airport out of a “duty of care” to its passengers, since this might imply a threat to those passengers.

A public nuisance is a common law offence, which has no maximum penalty. It can apply to any act which is “not warranted by law” and which endangers “the life, health, property, morals or comfort of the public” or obstructs “the public in the exercise or enjoyment of rights”. Potentially this action meets the test of public nuisance and those flying drones could be charged with public nuisance.

The following cases offer examples of the sentences that may be applied to public nuisance outside the context of a protest action. In *Ong* [2001] offenders arranged to cause the abandonment of a Premiership football match, for gambling purposes, by switching off the floodlights, and were sentenced to 4 years in prison. In *Cleator* [2016], the defendant after drinking alcohol, climbed into a cage over the M56 motorway, distracting passengers, resulting in the imposition of traffic restrictions while the police tried to coax him down. He was sentenced to 2 years imprisonment.

Sentences of such severity would not normally be applied to acts of peaceful protest. The Heathrow 13 were given only suspended prison sentences. The Stanstead 15 received either suspended sentences or community orders. On the other hand, they provide an indication of the potential legal risk if the public, political and media reaction supports an exceptional response.

It is important to note, however, that an action which succeeds in closing Heathrow Airport would cause disruption and economic loss on an unprecedented scale. It is difficult to predict how the courts will respond in these circumstances and a judge may feel the need to impose a deterrent sentence. A sentence of imprisonment should be regarded as a real possibility. Alternatively, a community service order or a substantial fine would be real possibilities.

Those posting on social media about their intentions would increase their exposure to legal action (simply by making their identities known). But in circumstances where the intention is to submit voluntarily to arrest, this may not be an important consideration.

Anyone posting video messages must take great care to avoid saying anything which could be construed as threatening the safety of passengers.

Those who wish to preserve their legal position may wish to avoid including incriminating evidence by making only a general statement, which excludes specific details of the action, eg:

“We are sorry for the disruption that is going to be caused to passengers. We don’t want anyone to miss their holidays. But we consider it our moral duty to highlight the extreme danger the

Government is exposing us to by failing to act on the scientific advice, and believing it can continue with business as usual ....” etc, etc.

### **C.3. Legal Risks for Organisers**

In circumstances where a) there are relatively few organisers of the pause action; and b) the level of disruption is very substantial, law enforcement may consider targeting the organisers for criminal investigation and prosecution.

Those supporting the action in media roles (for example) would not normally be considered to be organisers.

A potential charge would be conspiracy to commit public nuisance. Traditionally this is not an approach that has been taken to the organisers of direct actions, however the contemplated level of disruption is unprecedented, and history is not necessarily a reliable guide. Such an investigation would be complex and expensive, and law enforcement would not undertake it lightly. But the possibility should not be excluded.

If found guilty of conspiracy, sentences of imprisonment would be a real possibility.

It is vital that people are offered good information about the risks of any actions so that their choices are as informed as possible. Research suggests that repressive action by the authorities (including sentences of imprisonment) may serve to bolster a political movement. That is a consideration which individuals taking action may or may not wish to take into account.

### **D. POTENTIAL DEFENCES**

Following the acquittal of Roger Hallam and Dave Durant at Southwark Crown Court, the authorities are presented with a dilemma. Charging a more serious offence (such as public nuisance) implies trial by jury, where the defence of necessity is more likely to succeed than it would in a Magistrates Court.

The basic tests for the defence are as follows:

- (i) the act is needed to avoid inevitable and irreparable evil;
- (ii) no more should be done than is reasonably necessary for the purpose to be achieved;
- (iii) the evil inflicted must not be disproportionate to the evil avoided.

In principle, the defence might be advanced in the context of the Heathrow action. It would be sensible to proceed however, on the assumption that the defence is unlikely to succeed, whether before magistrates or a jury.

### **E. CIVIL ACTION**

In theory, where a party (such as an airline) suffers economic loss as a result of a party's unlawful action, there is potential for them to bring a civil claim against that party. Based on the current design of the action, the risk of a civil claim is low for the following reasons:

- There would be little or no prospect of any party recovering their loss from such an action (hence their incentive to bring the action would be low)
- It would be difficult for the party to prove that their loss was attributable to actions which were inherently safe.

## F. CONCLUSION

Joining the Action is likely to be an offence under the Heathrow Bylaws, punishable with a fine. Assuming they have notice of the protest, the police may also obtain a section 14 order under the Public Order Act.

Creating any risk to aircraft or threatening any such risk must be avoided.

If the action succeeds in closing Heathrow, that could be a major advance for the movement, but would correspondingly imply substantial political pressure for a heightened law enforcement response. On the basis of the action design, which eliminates any risk to aircraft or passengers, the most serious offence which could be charged would appear to be that of public nuisance. Although the precedent from the Heathrow 13 and the Stanstead 15 may suggest that custodial sentences would be avoided for those flying drones. Nevertheless, if the Pause Action achieves its aim, and Heathrow Airport is closed, we will be in uncharted territory. The economic consequences are substantial and a judge may feel the need to, and come under pressure to impose custodial sentences as a deterrent to any future such action.

It is important that you and those close to you are prepared for all eventualities both practically and psychologically.

**The context for this advice is extraordinary and disorientating for all concerned. It is not possible to predict the legal outcomes with any certainty. The risks inherent in collective inaction are exceptionally grave. Individual action entails potentially substantial personal sacrifice.**

**Ultimately the decision on what action to take is a matter of personal conscience.**

