

# 2. Background

## 2.1 The Air Ambulance Sector

### 2.1.1 Overview

HEMS services in the UK continue to evolve. At the time of publication there were 35 rotor wing aircraft, each funded by one of 19 charities.

The first service became operational in 1987 and the latest in 2013. Together the Air Ambulance Services in the UK lease or own 35 aircraft. In May 2013 Scotland's Charitable Air Ambulance was the latest to be launched.

It is estimated that the 19 charities flew some 25,500 missions in 2012 with Primary HEMS accounting for just over 70% of these.

### 2.1.2 Funding Models

There are a number of different funding and operational models of Air Ambulance Services throughout the UK. The most dominant model is where charities are established as "Owner / Operator" charities. These charities provide the Air Ambulance Services within Ambulance Service regions.

#### AIR AMBULANCE SERVICES IN ENGLAND



For a full and accurate list of all air ambulance, ambulance services, aircraft and facilities please visit: [www.aoad.org.uk](http://www.aoad.org.uk)

For this arrangement to work there should be a Service Level or Operational agreement; this can be a formal contract, with penalties, between the charity and the participating NHS Ambulance Service(s). An annual review of the agreement should be undertaken.

### 2.1.3 Services Provided by Air Ambulances

A HEMS flight is a mission carried out by a helicopter operating under a HEMS approval and aims to facilitate emergency medical assistance where immediate and rapid transportation is essential, by carrying:

- medical personnel; and/or
- medical supplies (equipment, blood, organs, drugs); and/or
- ill or injured persons and other persons directly involved.

Response to a HEMS mission is solely based on the clinical condition of the patient(s).

An air ambulance mission is one where the aircraft is used as an extension of the Ambulance Service's land vehicles for the transfer of patients from / to hospital.

Responding on a HEMS mission enables transportation of a clinical team rapidly to the scene of an incident and also convey a patient(s)

to a specialist treatment centre. Advantages of HEMS in this situation include:

- airborne response allows for a rapid and direct approach to the scene
- delivers a highly trained team so providing emergency enhanced care at the scene
- offers the ability for the team to recognise, stabilise and optimise treatment of complex evolving patho-physiological effects across all age ranges (e.g. an agitated child with a severe head injury, a flail chest, ruptured spleen and multiple long-bone fractures or an elderly patient with severe burns to head and body)
- enhances the accurate and appropriate triage of patients and scene management decisions
- continues seamless care from point of injury to the most appropriate receiving hospital
- allows for safe and controlled in-transit care of critically ill patients
- ensures appropriate handover and liaison both before and on arrival at hospital
- rapid turnaround times at hospital
- the ability to rapidly return to normal working geographical area after transfer to a specialist facility.



In secondary transfers, HEMS provides a subsequent transfer for patients who require specialist care, who were delivered initially to a local emergency department by a road crew. The transfer is undertaken in order to expedite their ongoing care to a specialist unit such as a cardiac, stroke, burns, spinal injuries or paediatric centre, whereby time and/or specialist care is required.<sup>26</sup>

Air Ambulance Services do not restrict their activity to solely responding to emergency incidents in the pre-hospital setting. Inter-hospital transfers can also be conducted by transferring time-critical patients from one treatment centre to another.

Ongoing improvements to the systems can only lead to further expansion of activities of the aircraft, such as:

- more appropriate HEMS tasks
- night flying
- patient transfers.

These are subject to individual charity trustee board determination in line with their charity's objects and aims, and also depends on increased income to provide for additional flying time and staff.

#### 2.1.4 Clinical Staffing of Aircraft

Since the first service was established, different staffing models on the helicopters have evolved, reflecting both clinical and financial resources. The main staffing models are:

- **Paramedic Model** - State-registered paramedics operating within Joint Royal Colleges Ambulance Service Liaison Committee (JRCALC) guidelines complemented by local Patient Group Directives (PGDs).<sup>27</sup>
- **the Critical Care Paramedic (CCP) Model** - Enhanced care can be delivered by this model to include advanced analgesia and interventions.
- **the Paramedic/CCP & Physician Model** - this provides further levels of clinical expertise for major trauma and medical patients.

## 2.2 The Legal and Regulatory Environment

### 2.2.1 The Charity Commission

Charities are highly regulated, wholly accountable independent bodies. Governed by the same laws and regulations as companies, charities must also comply with Charity Law. <sup>28,29,30</sup>

Charities are subject to a number of different legal regimes summarised as follows:

- all charities are subject to charity law
- all charities are subject to tax law
- every charity will be subject to the legal regime that applies to its particular legal form
- every charity will also be subject to the legal regimes that apply as a consequence of what it does.

There are many different legal regimes that can apply to a charity as a consequence of what it does; in this sense, a charity is in much the same position as any commercial entity operating in a particular area and it is the responsibility of the trustees to ensure compliance.

For a body to be a charity, it must be **independent**. Independence in this context means that the charity must act to carry out its own charitable purposes, not for the purpose of implementing the policies or directions of a governmental authority, or any other bodies.

A charity is an institution which:

- is established for charitable purposes only, and
- is subject to the control of the High Court in the jurisdiction with respect to charities.

'Charitable purpose' is defined by Section 2 of the Charities Act.<sup>31</sup> It is any purpose that falls within a number of **descriptions of purposes** set out in the Act and is also for '**Public Benefit**'. Both requirements must be met.

The description under which all Air Ambulance charities fall is:

***The advancement of health or the saving of lives (including the prevention or relief of sickness, disease or human suffering).***

Public Benefit is the legal requirement that every charitable organisation must be able to demonstrate that its aims are for the public benefit. There are two key principles, both of which must be met in order to show that an organisation's aims are for the public benefit:

- there must be an identifiable benefit or benefits. It must be clear what the benefits are and the benefits must be related to the aims
- the benefit must be to the public, or a section of the public. The beneficiaries must be appropriate to the aims and where the benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted.



All charities are required by the Charities Act to report on their activities to fulfil their objectives to meet the Public Benefit. Charities not meeting this requirement can be removed from the register.

Public perception of what Government should provide changes over time, as do relative levels of provision by the charitable and public sectors. Public authorities have taken over responsibility for some services in response to changing public expectations, Government policy and statutory duties. More recently, whilst retaining responsibility for the

provision (or funding) of services, public authorities have contracted out delivery of some services to private or voluntary sector organizations.

There is no general legal prohibition on charities delivering public services under a funding agreement with a public authority or using their own funds to do so. This does not alter the trustees' responsibility to comply with charity law and the requirements of the charity's governing document. The following legal rules apply to all charities but are particularly relevant to charities delivering public services:

- charities must only undertake activities that are within their objects and powers
- charities must be independent of Government and other funders
- trustees must act only in the interests of the charity and its beneficiaries
- trustees must make decisions in line with their duty of care and duty to act prudently.

Charities play an increasingly important role in the supply of services on behalf of local (and, to a lesser extent, national) Government. However, for co-operation between charities and the state to be effective, it is important that the framework within which charities operate should be clearly understood.



### 2.2.2 Aviation Regulation

The aviation regulatory authority within the UK is the Civil Aviation Authority (CAA). The CAA is a member of the Joint Aviation Authorities (JAA) which is an associated body of the European Civil Aviation Conference (ECAC), representing the civil aviation regulatory authorities of a number of European States who agreed to co-operate in developing and implementing common safety regulatory standards and procedures. <sup>32,33,34</sup>

In October 2007 an adoption process took place to create the European Aviation Safety Agency (EASA). Many of the JAA's operational requirements are concurrent with the proposed EASA requirements. <sup>35</sup>

The JAA produced regulations called Joint Aviation Requirements (JAR). JAR Operations 3 (JAR-Ops 3) covered Commercial Air Transportation (Helicopters), including the operation of air ambulances. HEMS operations are strictly governed by the Civil Aviation Authority using JAR-Ops. JAR-Ops 3 states that an air ambulance can deploy in one of two manners, "Air Ambulance" or "HEMS" as defined earlier.

### 2.2.3 Care Quality Commission

The Care Quality Commission (CQC) is the independent regulator of health and adult social care in England. It replaced three earlier commissions: the Healthcare Commission, the Commission for Social Care Inspection and the Mental Health Act Commission. Whilst the CQC regulates the NHS Ambulance Services, it does not regulate all air ambulance charities. This means that some air ambulances come under the jurisdiction of the CQC (those where the air ambulance is operated by the charity and where the charity employs the clinical staff) whilst others do not (those where the air ambulance works with clinical governance provided by an NHS Ambulance Service). Where the Air Ambulance Service is operated by the charity, the close partnership between the local NHS Ambulance Service and the charity means that the role of the CQC will impact on the charity. <sup>36</sup>