Investigation and Prosecution Report – Valid for investigations post May 2020

Explanatory Cover Sheet

1. This report template is to be used for recording the findings and outcomes of investigations that are started from step 4 of the ONR Guide *Process for Conducting Investigations ONR-ENF-GD-005.*

2. This explanatory cover sheet does not form part of the report itself.

3. The report template is to be used for investigations carried out in England and Wales, and Scotland.

4. Parts A and B, in conjunction with part C of the relevant Investigation Decision Record are sufficient when there is an early termination of the investigation. In that situation a proportionate approach should be taken regarding completion of the supporting appendices (apart from appendix 6; see point 8 below). All appendices are expected to be completed if the investigating inspector is recommending that legal proceedings are initiated.

5. The report is divided into four parts and a number of appendices.
   - Parts A and B, and also the appendices allow the lead investigator to record the factual information collected/generated through the process of the investigation.
   - Part C allows the lead investigator to record their analysis of compliance with the statutory provisions which are relevant to the investigation.
   - Part D is completed by the Approval Officer to record their considerations and decision on whether duty holders who breach regulatory requirements, and directors or managers who fail in their responsibilities, should be held to account by bringing alleged offenders before the courts in England and Wales, or recommending prosecution in Scotland. Part D should be completed using ONR-ENF-GD-020 – *The Role of the Approval Officer in Enforcement Decisions*.
   - The completed appendices will contain information vital for the Approval Officer to make their decision.

6. The completed form should contain sufficient information to instruct a solicitor agent in England and Wales, or to complete the Standard Prosecution Report

required for recommending prosecutions to the Crown Office Procurator Fiscal Service in Scotland

7. Litigation privilege applies to both parts C and D of the Report. (Litigation privilege applies where litigation is afoot or contemplated. It protects confidential communications which come into existence once litigation is in contemplation or has commenced and which is for the dominant purpose of use in the litigation.) This means that parts C and D are protected against requests for disclosure during the investigation and any subsequent litigation. However, post any proceedings the guidance found in ONR-GEN-GD-017 - *A guide for managing information requests the ONR way* becomes relevant.

8. **You are advised to start populating appendix 6 from the start of the investigation phase. The descriptions used in this appendix should be sufficiently clear that another reader is able to understand what material is being referred to, and its location.**

9. Some boxes within the report are provided with examples (*in italics*) of the type of information which should be recorded within them. However, the examples are not restrictive, and the lead investigator should use their judgment to determine what information should be recorded. It is not necessary to write something in every box if it is not relevant or does not add anything, and it is acceptable to cross-refer to avoid repetition.

10. Where appropriate, dialog boxes are provided to aid completion of the report. To view dialogue boxes, view the report in mark-up view.

11. Occasionally, the lead investigator may need to pursue further lines of enquiry in order to address gaps identified by the Approval Officer during their review. Any such subsequent investigation which takes place should be clearly identified.

Office for Nuclear Regulation

Investigation or Prosecution Report

Legal name(s) of Duty holder(s)	Sellafield Ltd, Enigma Industrial Services Ltd
Address(es) of Duty holder(s)	Sellafield Ltd Hinton House Birchwood Park Avenue Risley Warrington Cheshire WA3 6GR Enigma Industrial Services Ltd Hawthorn House Second Floor Woodlands park Newton-Le-Willows WA12 0HF
Role of Duty holder(s)	Sellafield: Principal Contractor, Enigma Industrial Services Ltd: Contractor
Address/location of incident	[redacted], Sellafield
Dates of incident/event	25/03/21
Investigation Number	ONR-INV-21-002
Key Decision Log Number	ONR-KDL-21-004

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Appendices *(Please tick (✓) when documents included in report)*

1.	ONR Enforcement Decision Record	✓
2.	Witnesses and others interviewed	✓
3.	Exhibits/productions	
4.	Proposed charges(s)	
5.	Points to prove matrix/matrices	
6.	Material (Used/unused)	
7.	Material disclosed prior to interview with suspect	

8. Company search ☐
9. Relevant antecedents ☐
10. Relevant inspection record(s) ☐

Part A – Investigation Details

A1 – Unique ID number

ONR-INV-21-002

A2 - Matter under investigation *(Give a brief summary of the subject of this report)*

IP fell down the steps leading from [redacted] temporary canteen, sustaining broken ankle and two dislocated knees. The steps were tube and fitting scaffold steps erected by Enigma Industrial Services Ltd.

A3 - Date of incident *(where applicable)*

25/03/21

A4 - Name of duty holder(s) *(Give full name of legal entity)*

Sellafield Ltd
Enigma Industrial Services Ltd

A5 - Role of duty holder(s) *(Employer, principal contractor, etc.)*

Sellafield Ltd: Principal Contractor, employer
Enigma Industrial Services Ltd: Contractor, employer

A6 - Address(es) of duty holder(s) *(Include registered office address, Companies House registration number and company search (Annex 11) if a company, or NI number of individual if specifically required for identification purposes. Date of Birth is required for individuals in Scotland)*

Sellafield Ltd
Hinton House
Birchwood Park Avenue
Risley
Warrington
Cheshire
WA3 6GR

Enigma Industrial Services Ltd
Hawthorn House Second Floor
Woodlands Park
Newton-Le-Willows
WA12 0HF

A7 - Location details *(Location of incident or other matter under investigation)*

Scaffold steps outside [redacted] temporary canteen, Sellafield, Seascale, Cumbria CA20 1PG

A8 - Name(s) and address(es) of Injured Person(s) (IP(s)), Deceased Person(s) (DP(s)) *(Where applicable)*

[redacted]

A9 - Name and full office address of ONR lead investigator *(The ONR lead investigator is equivalent to the 'investigator' for the purposes of CPIA in England and Wales)*

[redacted]

A10 - Names of other ONR investigators *(Include the names of ONR colleagues involved in the investigation)*

[redacted]

A11 - Name(s) and contact details for non-ONR investigators *(Include the names of key investigators from other agencies, if a multi-agency investigation)*

N/A

A12 - Date investigation commenced

20/04/21

Lead Investigator	[redacted]	**Approval officer**	[redacted]
Disclosure Officer (for England and Wales) Reviewing Officer (For Scotland)		**Prosecutor (For England and Wales)**	

A13 - Brief Executive Summary
(Provide short summary of facts and any enforcement actions taken to date)

To provide additional canteen facilities for [redacted] during the Covid 19 pandemic Sellafield Ltd Estates arranged for the construction of a temporary overflow canteen. The canteen is an inflatable dome building sited on a scaffold platform.

The installation of the dome, including erection of the scaffolding and electrical work, was a construction project, as defined by the Construction (Design and Management) Regulations (CDM). Where there is more than one contractor working on a project, CDM requires the client to appoint a principal designer (PD) and a principal contractor (PC). There were several contractors working on the project including One FM as mechanical and electrical contractors and Enigma Industrial Services as scaffold contractors. Enigma's contract was to design and build a loading platform for the welfare dome. Sellafield Ltd was client, PD and PC for the project.

The scaffold platform was around 1.6 metres from ground level. Access and egress routes were provided by the permanent steps to/from [redacted] or tube and fitting scaffold steps that were part of the scaffold platform. The scaffold platform is a working platform as defined by the Work at Height Regulations 2005 and access to and egress from the scaffold platform via the scaffold steps is 'work at height' as defined by the Work at Height Regulations 2005 (Regulation 2 – interpretation).

On the day of the incident (25/03/21) the IP went into [redacted] to get a drink, then walked out of the main building towards the dome. He noticed it was full so walked to the scaffolding stairs on the left-hand side as he exited the main [redacted] building (the location of the incident is shown on slide 1 of 2021/49756, where the steps are labelled 'back right steps'). As he was walking down the steps he appeared to stumble and then fall down the steps, breaking an ankle and dislocating both knees.

Sellafield Ltd undertook a Basic Cause Investigation (BCI) and identified a lack of consistency with the rise height of the scaffolding steps. Some steps had a rise height greater than 225mm and others less than 175mm. The BCI also identified that the handrail for the stairs was not of the correct height in all locations. Relevant good practice (RGP) provided by the National Association of Scaffolding Confederation (NASC) Guidance (TG20) states that the rise of scaffolding steps should be within the range of 175 mm – 225 mm, with the length of the going defined by the height of rise adopted. When the ONR investigation commenced, the scaffold stairs had been dismantled and removed so it was not possible to determine first-hand the dimensions of both the going and the rise, the angle of the stairs and the height of the handrail. It is not known whether the lack of consistency in the rise height, as identified by Sellafield Ltd, contributed to or caused the IP to fall. The IP states that he does not know why he fell (statement [redacted]).

An enforcement letter was sent to Sellafield Ltd requiring them to ensure that the scaffolding steps at [redacted] were adjusted to meet RGP in the NASC guidance on going/rise dimensions. The letter also required Sellafield Ltd to confirm that similar steps erected by Enigma on the Sellafield site were compliant with RGP (Ref: ONR-EL-21-001, 2021/49744).

Sellafield Ltd sent a written response confirming that that the scaffolding steps outside building [redacted] had been re-configured and now met RGP. Sellafield Ltd also confirmed that other Enigma erected scaffolding steps met RGP (Ref: 49731). A sample of these was inspected by the site safety inspector during a site visit in May 2021. It was established that the steps met RGP. At the time of that visit, the steps had been removed from the scaffold platform outside [redacted] and the welfare dome was out of use.

No enforcement action has yet been taken against Enigma Industrial Services.

Part B – Factual Report

B1 - Description of the facts and circumstances leading to the accident/event

This section should be confined to factual information, cross-referenced to relevant statements, documents, sketches or photographs. Provide a comprehensive account of the facts. Where conflicts of evidence exist do not comment on the merit of any particular version. Where appropriate, the account should be structured into sub-sections covering, for example:

- *Plant, equipment and substances*
- *Systems of work*
- *Training, instruction and supervision*
- *Risk assessment*
- *Outcome and consequences, e.g. extent of any injury*

Plant and Equipment:

The scaffold platform had been requested by One FM/Mitie, through Sellafield Ltd's scaffold request from. The request to Engima was for them to erect a loading platform to house an inflatable dome building (2021/0069479). The request specified the height of the platform (1.2m) and the loading values. The request did not specify steps/stair towers.

The dome was provided by evolutiondome.com and was installed on the scaffold platform that had been erected by Enigma. Photographs at 2021/49756 show the inflatable welfare dome, the scaffold platform, and the stairs where the incident occurred. The platform was a tube and fitting loading platform, with four scaffold staircases, two to the front of the platform and two to the back. The stairs were constructed from tube and fitting scaffold, each stair consisting of between six and eight steps. The IP fell whilst walking down the back right steps (2021/49756). These stairs consisted of seven steps. Sellafield Ltd measured the rise height of each step and recorded them as follows: 215mm, 229mm, 175mm, 185mm, 160mm, 170mm (2021/49756). When ONR visited the scene of the accident, following the decision to investigate, the scaffold stairs had been dismantled and removed so it was not possible to determine first-hand the dimensions of both the going and the rise, the angle of the stairs, the height of the handrail and other relevant details.

The scaffolding had been designed by Enigma Industrial Services Ltd who produced a drawing of the scaffolding and its dimensions (2021/49756). The drawing was issued to the scaffolding supervisor as part of the work pack. The supervisor stated that he is competent to interpret such drawings (interpretation of scaffold drawings forms part of their training). The drawing shows the dimensions of the scaffold platform and records its height as 1.6 metres. It also shows four sets of scaffolding steps described as internal or external stair access according to their position in relation to the platform. The drawing does not specify the dimensions of the steps.

The platform and steps were erected between Saturday 16th January 2021 and Saturday the 23rd January 2021 (statement [redacted]). A total of eight scaffolders from Enigma were involved in the work, although they were not all on site at the same time. The supervisor on the job was [redacted] (statement [redacted]). The four sets of stairs were erected by [redacted] an 'advanced scaffolder' (statement [redacted]) on Friday 22nd January and Saturday 23rd January.

[redacted] states that he built the stairs in the following order, facing towards [redacted]

1. back right (nearest [redacted])
2. front right (nearest the road)
3. front left
4. back left.

Sellafield has identified that the incident happened on the back right steps. The IP stated that he fell on the steps to the left as he exited [redacted] (facing towards the road).

Training:

The Construction Industry Scaffolding Record Scheme (CSRS) is an industry standard training scheme for scaffolders and provides training and assessment for scaffolder labourers, trainee scaffolder (part 1), scaffolder (part 2) and advanced scaffolder.

The scaffolders involved in the erection of the [redacted] scaffolding platform had the following competences:

Part 2: [redacted]
Advanced: [redacted]

Part 2 and advanced training includes how to construct scaffolds to TG20. Chapter 8 of TG20 sets out the dimensions for tube and fitting stair towers.

The scaffolding supervisor has been a scaffolder for twenty-nine years (statement [redacted]). The chargehand, [redacted] has been an advanced scaffolder for twenty years (statement [redacted]). The other scaffolders who worked on the job have from between five to twenty-five years of experience (various scaffolders statements). However, these scaffolders stated that they had little practical experience of erecting scaffold staircases.

Information/Instruction:

Information about the scaffold requirements was specified by One FM/Mitie in the scaffold request form. The form requested a scaffold loading platform to house an inflatable dome building to be built at 1.2m high but did not specify the access and egress arrangements – ladder/stairs. This was recorded as N/A.

Information for the scaffolders was provided in the scaffold design drawing, produced by Enigma Industrial Services (2021/49756). The drawing contains information about the dimensions of the scaffold platform and indicates where the staircases should be built but does not specify the dimensions of the steps. Guidance on scaffold stair construction is in NASC guidance TG20, chapter 8. The guidance states that the rise should be between 175 – 225 mm and should be consistent. Although scaffolders said they were aware of TG20, there is no evidence that TG 20 was consulted during the scaffold erection.

TG20 states that staircases made from tube and fitting must be designed if the height is greater than 1.5 metres (2021/49756). HSE guidance also states that that scaffold staircases usually require bespoke design. The scaffold platform, as shown on Enigma's drawing, is 1.6 metres.

Schedule 3 to Regulation 8 of the Work at Height Regulations requires an assembly, use and dismantling plan for the scaffold to be drawn up by a competent person. It also requires a copy of the plan, including any instructions, to be kept available for the use of persons concerned in the assembly use, dismantling or alteration of the scaffolding until it has been dismantled.

The scaffold supervisor for the job, [redacted] met with Enigma's contract's manager, [redacted] the day before work was to begin to walk the site and discuss the location of the scaffold. [redacted] was provided with the scaffold design drawing (statement [redacted]). The drawing was discussed with the scaffolders working on the job (various statements) as part of the setting to work process. A work pack was issued to the supervisor which included a risk assessment, pre-job brief, scaffold drawing and permit to work (2021/0069483). ONR requested but did not receive a method statement or written safe system of work for the erection of the scaffold.

Supervision:

Supervision was provided by [redacted] an advanced scaffolder employed by Enigma Industrial Services Ltd. His supervisory duties include setting people to work, inspecting scaffolds and issuing 'scaff tags' (statement [redacted]). [redacted] set the scaffolders to work on this job. The process included talking through the scaffold drawing with the scaffolding team and instructing them in what to do throughout the job. The team changed from day to day as the scaffolders assigned to the work came and went according to their work patterns (various scaffolders statements). [redacted] worked on building the scaffold every day, apart from the final day, when the last two sets of stairs were installed.

There is no evidence that the supervisor gave any instruction in the erection of the scaffold stairs or provided any oversight of the erection process. It is my impression that the scaffolders were left to get on with the work on the basis that they were all trained and 'knew what they were doing'.

The supervisor was also responsible for issuing the 'scaff tag' when work was complete and inspected before handing over to the client. A 'scaff tag' is a visual tag system, attached to the scaffold, to indicate that it has been inspected and is safe to use. In and of itself the tag is not a legal requirement. The legal requirement is

for the scaffold to have been inspected by a competent person and is safe to use. The supervisor stated that he signed the scaff tag on the Friday (22nd January) as he was not working on Saturday 23rd. He states that he had been asked to do this by [redacted] When [redacted] 'signed off' the scaffold it was not complete: two sets of scaffold stairs had yet to be built (statement [redacted]). According to scaffolder [redacted] the 'back right' steps (where the incident occurred) were finished on the Friday, so it appears they had been inspected prior to the issuing of the scaff tag.

Risk Assessment:

The task risk assessment to erect, modify and dismantle the scaffold platform is at 2021/49759. The risk assessment identifies the standard generic hazards associated with the erection of scaffolding such as working at height and manual handling.

There is also a design risk assessment for the scaffold platform (2021/49760), put together by Enigma. The assessment identifies risks associated with the incorrect installation of parts of the scaffold, and refers to the information contained in the drawings, such as dimensions/measurements as risk control measures. It does not identify risks from incorrect installation of stair towers and the dimensions of the stairs are not included. It does not consider where the steps were to be built in relation to the actual site and ground formation or consider the space available around the platform for the stairs to be built.

Outcome:

The scaffold stairs were incorrectly installed in that, according to Sellafield Ltd's investigation, the rises were of different heights and the handrail was not of a consistent height.

[redacted] fell down the front right stair tower whilst exiting [redacted]. He broke an ankle and dislocated his knees. [redacted] works as a scaffolder for Kaefer (another scaffolding contractor). He has been unable to work since the injury (statement [redacted]).

It is not known whether the issues with the stairs caused [redacted] to fall. However, it is recognised that uneven steps can cause falls and both UK building regulations and the NASC scaffolding guidance require the stair rises to be of a consistent height. In addition, Regulation 8 of the Work at Height Regulations more generally requires scaffold platforms (including access/egress) to be sufficient to prevent a fall from occurring.

B2 - Preventative measures taken by the duty holder(s) BEFORE the incident *(Describe the health and safety risk control arrangements before the incident)*

The risk control arrangements before the incident were as follows:

- Sellafield Ltd appointed specialist scaffolding contractors to design and build the tube and fitting loading platform
- Enigma designed the scaffolding platform and produced a drawing of the platform for the scaffolders to work from
- Enigma's scaffolding supervisor set the scaffolders to work with a risk assessment and a pre-job brief
- Enigma used trained scaffolders to build the platform.

B3 - Health and safety management *(Where appropriate and to the extent not covered above, describe the health and safety management system before the incident, including any arrangements between duty holders that are relevant to the investigation)*

The installation of the welfare dome was a construction project as defined by CDM; therefore, the project was subject to the requirements of the CDM Regulations. There was more than one contractor working on the project, so the client (Sellafield Ltd) had a legal duty to appoint a principal designer and a principal contractor. The Sellafield Ltd client contact was [redacted] (SL operations manager). [redacted] appointed SL to the PD and PC CDM roles. The named SL individuals were [redacted] as PD and [redacted] as the PC.

The scaffold platform is temporary works as defined by BS 5976-2019. This British Standard provides relevant good practice for the management of temporary works. According to this standard, the PC should appoint a temporary works coordinator (TWC) to take overall responsibility for temporary works on a construction site. In addition, the PD should have overall responsibility for the designers involved in a project, including the temporary works designer (TWD). According to Sellafield Ltd guidance for scaffolding the role of TWC and TWD is provided by the access contractor.

Sellafield Ltd's procedure for obtaining scaffolding services from one of their access providers is to complete a scaffold request form. Sellafield Ltd's temporary works guidance states that to complete the request form the TWC must ensure an adequate design brief is prepared with full consultation and with reference to the actual situation on site. The guidance also states that where the TWC is not appointed, temporary works must still be managed by the contractor and the PC.

The scaffold request form was completed by One FM/Mitie who were contractors that were working on the project. Part B of the form sets out the design aspects of the scaffold. One FM recorded on the form that access and egress, e.g., stairs, are not applicable. The form indicates that there is a temporary works design brief to cover the dimensions and access and egress etc, but there is no reference to any TW designs. There is no evidence to suggest that SL as client, PD or PC had any input into the scaffold request form and the specification of the scaffold.

One of the roles of a PD is to manage the pre-construction phase of a project and ensuring designers comply with their duties. This includes temporary works designers. Sellafield Ltd 's PD indicated that temporary works was 'not applicable' to this project (pre-construction information form). The PD was not involved in overseeing the design of the platform and the stair towers. This was *pushed back to One FM to supply a competent company which would be Enigma* (statement [redacted]).

The construction phase plan (CPP) was completed by Sellafield Ltd's designated individual acting as principal contractor. The plan takes the form of a short template. The CPP does not set out the temporary works arrangements for the project.

Enigma has an in-house design team for designing scaffolds. The [redacted] scaffold was designed by [redacted] in January 2021. A revision to the design was issued shortly after to include the scaffold stair towers. The revision was made by [redacted] The drawing was checked (2021/49753) by Enigma before being issued. Schedule 3 to the Work at Height Regulations states that depending on the complexity of the scaffolding selected, an assembly, use and dismantling plan shall be drawn up by a competent person. This may be in the form of a standard plan, supplemented by items relating to specific details of the scaffolding in question. The drawing appears to be a standard plan but contains insufficient details for the stairs.

The drawings were issued to the scaffolding supervisor, [redacted] to work off whilst erecting the scaffold. [redacted] states that the scaffolding platform was straightforward but involved building steps out of tube and fitting which he was less familiar with as most stair towers they installed were prefabricated assemblies. He states that the drawing did not have the dimensions for the stairs (statement [redacted]). He knew that TG20 has instructions on building scaffold stair towers and that TG20 is available through the Enigma office (statement [redacted] The guidance was not included as part of the work pack and the scaffold supervisor did not obtain a copy during the erection process to assist and inform in the stair installation.

The steps were constructed by the chargehand and advanced scaffolder [redacted] [redacted] confirms that he saw the drawing, but this did not include any written dimensions for the steps. He stated that the space available for installing the stairs was tight but that he did the best that he could within the limitations of the site. He stated that the work was checked by [redacted] (statement [redacted]).

Some of the scaffolders have mentioned that although the building of scaffold steps was included in their training, they have not put up many scaffold steps – e.g., put their training into practice. Schedule 3 to the Work at Height Regulations makes specific reference to training. It states, scaffolding may be assembled, dismantled or significantly altered only under the supervision of a competent person and by persons who have received appropriate and specific training in the operations envisaged which addresses specific risks which the operations may entail and precautions to be taken, and more particularly in…understanding of the plan for the assembly, dismantling or alteration of the scaffolding concerned.

[redacted] worked on the scaffolding for the last time on Friday 22nd January. He was on leave on Saturday 23rd when the scaffolding was finished and handed over to the client. He claims that he was asked to sign the 'scaff tag' on the Friday before he finished work, even though the scaffolding was not complete. By the time two of the scaffold stairs had been installed, including back right where the incident occurred. It appears that he inspected the scaffold on the Friday and signed the 'scaff tag' to say it was complete and safe to use (statement [redacted]).

The incident occurred on the 25th March 2021. Between the scaffold being completed and handed over to Sellafield Ltd in January and the incident in March, the scaffolding and stair towers had undergone seven-day inspections which had been carried out by Enigma. [redacted] did some of these inspections, he estimates seven or eight, but did not identify any issues with the scaffolding or the steps (statement [redacted]).

Some witnesses mention reports being made to the building manager about the stair towers however these did not relate to the dimensions of the steps. SELLAFIELD LTD claim that the issues raised were addressed (statement [redacted]).

B4 - Preventative measures taken by the duty holder(s) AFTER the incident *(Describe the measures taken post event to secure compliance. State where measures taken resulted from ONR intervention (including enforcement action)*

Sellafield Ltd:

Sellafield Ltd carried out a basic cause investigation (BCI) and a management investigation to establish root causes of the incident. Initial findings from the BCI identified the inconsistent rise measurements of the stair towers. Similar anomalies were found on scaffold steps on the [redacted] welfare dome (Vitline). Sellafield Ltd closed the welfare domes and put an embargo on all Enigma scaffold work, until independently verified by a third party.

An enforcement letter was sent to Sellafield Ltd requiring them to ensure that the scaffolding steps at [redacted] were adjusted to meet RGP in the NASC guidance on going/rise dimensions. The letter also required Sellafield Ltd to confirm that similar steps erected by Enigma on the Sellafield site were compliant with RGP (Ref: ONR-EL-21-001, 2021/49744).

Sellafield Ltd sent a written response confirming that that the scaffolding steps outside building [redacted] had been re-configured and now met RGP. Sellafield Ltd also confirmed that other Enigma erected scaffolding steps met RGP (Ref: 2021/49731).

The management investigation concluded that the design for the stairs should have been to building regulations rather than TG20 because it was a welfare area. They also concluded that the plant facing design office (PFDO) should have been involved in the design, rather than relying on the contractor to produce a design without direct involvement of from the Sellafield Ltd PD. Sellafield Ltd has now engaged the PFDO. The PFDO worked with Enigma to design the stairs to building regulations standards. The design has been checked independently.

Enigma Industrial Services Ltd:

The supervisor has been taken off 'tag duties', implying that he no longer undertakes scaffold inspections.

Enigma has worked with Sellafield Ltd to design and build steps for the platform that comply with building regulations.

There has been no formal enforcement action against Enigma to date.

B5 - Health and safety management changes AFTER the incident *(Describe any changes not covered above, stating where they resulted from ONR intervention (including enforcement action)*

Sellafield Ltd:

Sellafield Ltd re-wrote the plant modification proposal for the welfare dome requiring the stairs to be re-built to comply with part K of the building regulations. In effect, identifying that the stairs should be built to standards of a permanent staircase rather than a temporary scaffold tube and fitting staircase. A full design drawing was produced by Enigma which was approved by Sellafield Ltd. The stair treads have been covered by a GRP overlay to ensure it is suitable for all types of shoes. The stairs were inspected by an independent subject matter expert prior to handover.

Enigma Industrial Services Ltd:

At the request of Sellafield Ltd, Enigma produced a full design drawing for a staircase, using part K of the Building Regulations as the standard to achieve rather than TG20. As such, the revised design included a GRP overlay to ensure its suitability for all types of shoes.

Part C – Analysis of Compliance

(A separate analysis should be completed for each duty holder where appropriate)

C1 - Inspector's conclusions as to causation *(Describe the immediate and underlying causes. Give details of any wider learning issues for ONR)*

Immediate Causes:

Enigma Industrial Services Ltd:

Did not take suitable and sufficient measures to prevent, so far as is reasonably practicable, any person falling a distance liable to cause personal injury, through failing to provide suitable work equipment (steps) to prevent a fall occurring. The work equipment provided by Enigma: the scaffold steps, had inconsistent rise heights. It is possible that this contributed to the fall. A full picture of the potential discrepancies in the dimensions of the stairs is not available. The information provided by Sellafield Ltd included the rise heights only and did not include the going or the angle of the stairs. The information available is what was provided by Sellafield Ltd. I have described this in section B1. By the time the Investigation Core Team (ICT) was allocated to the investigation and able to visit site, the stairs had been dismantled.

Sellafield Ltd:

Did not take suitable and sufficient measures to prevent, so far as is reasonably practicable, any person falling a distance liable to cause personal injury, through failing to provide suitable work equipment (steps) to prevent a fall from occurring. They could have ensured that personnel accessing to and egressing from the dome used the permanent steps, thus ensuring that work was carried out using an existing means. The existing means were the permanent steps leading into [redacted], from where the welfare dome could be accessed. However, in addition to these permanent steps, the scaffold steps had been erected which, according to some witnesses, may have been for emergency use only. These scaffold steps were used to access to and egress from the welfare dome and their use was not restricted to emergency use only.

Underlying causes:

Sellafield Ltd:

- The principal designer failed to fulfil the duties of Regulation 11 of CDM in that they did not identify and eliminate or control, so far as is reasonably practicable, foreseeable risks to the health and safety of any person using a structure designed as a workplace. Sellafield Ltd left it to the scaffold contractor to produce a design for the scaffold stairs without direct involvement of the principal designer.
- Sellafield Ltd as client, PD and PC did not adequately specify the scaffold platform or the access and egress requirements to the scaffolding contractor. The specification was undertaken by one of the contractors.
- Scaffolding is temporary works, yet temporary works was considered 'not applicable' in the pre-construction information. As a result, the principal designer did not consider the temporary works aspect of the scaffold design and the principal contractor failed to appoint a temporary works coordinator. A possible reason for this is that the person appointed as principal designer has not received adequate training in temporary works/CDM/Sellafield Ltd CDM processes.
- Temporary works arrangements not included in the construction phase plan (contrary to Sellafield Ltd 's own guidance – CG1.03.10). A possible reason for this is that the designated principal contractor has not received adequate training in temporary works/CDM/Sellafield Ltd CDM processes.
- Sellafield Ltd as PC does not appear to have liaised with Sellafield Ltd as PD and share information relevant to the planning, management and monitoring of the pre-construction phase and the coordination of health and safety matters during the pre-construction phase. There was no consideration of the platform design and stair provision. The design had been left to the scaffold contractor who was working from a scaffold request form that did not specify access/egress requirements onto the scaffold. The design drawings indicated four tube and fitting staircases, without dimensions and without a proper design. This was not picked up by the principal designer or the principal contractor.
- Sellafield Ltd's in-house investigation identified inadequate temporary works controls as a root cause of the incident in that that the stairs were an 'add-on' at the end of the process, that they had not been designed or included in the design brief (the scaffold request form). There had been no consultation

between the various parties and a temporary works design had not been undertaken at the pre-construction phase.

Enigma Industrial Services Ltd:

- The scaffold steps had not been designed and TG20 guidance not followed in regard to the design.
- The assembly plan (drawing) as required by schedule 3 to Regulation 8 of the Work at Height Regulations was not adequate as it did not include sufficient details for the stairs.
- There was no method statement/instruction to the scaffolders on how to build the scaffold steps, for example: dimensions, measurements for the stairs (this could have been included in the assembly plan).
- The scaffold steps had not been properly checked prior to handing the scaffold over to the client and the discrepancies not identified and remedied.
- The scaffold erection was not carried out under the supervision of a competent person and by persons who have received appropriate and specific training in the construction of stairs.

C2 - Legal provisions *(List the relevant key legal provisions, including licence conditions where appropriate)*

Sellafield Ltd:

The Work at Height Regulations 2005, Regulation 6 – Avoidance of risks from work at height –
(3) Where work is carried out at height, every employer shall take suitable and sufficient measures to prevent, so far as is reasonably practicable, any person falling a distance liable to cause personal injury.
(4) The measures required by paragraph (3) shall include—
(a)his ensuring that the work is carried out—
(i)from an existing place of work; or
(ii)(in the case of obtaining access or egress) using an existing means,

The Construction (Design and Management) Regulations 2015:

Regulation 4 - Client duties in relation to managing construction projects:
4(1) A client must make suitable arrangements for managing a project.

Regulation 9 – Duties of designers:
9(2) When preparing or modifying a design the designer must take into account the general principals of prevention and any pre-construction information to eliminate, so far as is reasonably practicable, foreseeable risks to the health and safety of any person…using a structure designed as a workplace.

Regulation 11 – Duties of a principal designer in relation to health and safety at the pre-construction phase:
11(1) The principal designer must plan, manage and monitor the pre-construction phase (of the project)
11(3) In fulfilling the duties in (1), the principal designer must identify and eliminate or control, so far as is reasonably practicable, foreseeable risks to the health or safety of any person ….using a structure designed as a workplace
11(7) The principal designer must liaise with the principal contractor for the duration of the principal designer's appointment and share with the principal contractor information relevant to the planning, management and monitoring of the construction phase and coordination of health and safety matters during the construction phase.

Regulation 13 – Duties of the principal contractor in relation to health and safety at the construction phase:
13(5) The principal contractor must liaise with the principal designer for the duration of the principal designer's appointment and share with the principal designer information relevant to the planning, management and monitoring of the pre-construction phase and the coordination of health and safety matters during the pre-construction phase.

Enigma Industrial Services Ltd:

The Work at Height Regulations 2005, Regulation 8 - Requirements for particular work equipment:
8. *Every employer shall ensure that, in the case of a working platform -*
(i) Part 1 of Schedule 3 is complied with; and
(ii) where scaffolding is provided, Part 2 of Schedule 3 is also complied with.
Part 2 of Schedule 3:
Depending on the complexity of the scaffolding selected, an assembly, use and dismantling plan shall be drawn up by a competent person. This may be in the form of a standard plan, supplemented by items relating to specific details of the scaffolding in question.
Scaffolding may be assembled, dismantled or significantly altered only under the supervision of a competent person and by persons who have received appropriate and specific training in the operations envisaged.

The Work at Height Regulations 2005, Regulation 12 - Inspection of work equipment:
(1) This regulation applies only to work equipment to which regulation 8 and Schedules 2 to 6 apply.
(2) Every employer shall ensure that, where the safety of work equipment depends on how it is installed or assembled, it is not used after installation or assembly in any position unless it has been inspected in that position.
(3) Every employer shall ensure that work equipment exposed to conditions causing deterioration which is liable to result in dangerous situations is inspected at suitable intervals.

C3 - Application of the law *For each of the relevant legal provisions listed above, discuss which have, in your opinion, been breached. Include comment on the following as appropriate:*

- *Foreseeability of the risk and reasonable practicability of effective preventative measures.*
- *Relevant standards and their source (eg ACoP, BS/EN standard, published ONR/HSE or industry guidance).*
- *Relevant case law.*
- *The effectiveness of control measures and management arrangements prior to the incident/investigation.*
- *The nature and extent of the breaches – how far below the expected standard the duty holder fell and whether the breach was an isolated occurrence.*

Fatals

- *Confirm Primacy lies with ONR and has been formally passed by police (refer to any handover document).*
- *When considering the extent of the breach(es), comment on culpability of the duty holder in terms of the death ie whether the breach(es) contributed significantly to, or was a substantial cause of the death (refer to any views of the police/prosecution services).*

Not required to complete this section (GD-005 8.17)

C4 - Evidential sufficiency *(Comment upon the admissibility of prosecution evidence, its weight, any conflicts of evidence, the reliability of witnesses, the results of any Antecedents/Bad character checks completed at this stage(see investigation process on HOW2), an assessment of any expert evidence obtained and any other matters that could affect the strength of prosecution evidence presented in court. Cross refer to the evidence matrix where appropriate.*

Not required – GD-005 8.17

C5 - Possible lines of defence *(Include any relevant case law)*

Not required to complete this section (GD-005 para 8.17)

C6 - Material satisfying the disclosure test *(You must draw attention to all material, whether used or unused, which has the potential to undermine the prosecution case or assist the defence)*

Not required to complete this section (GD-005 para 8.17)

C7 - Relevant previous enforcement and advice by ONR *(Provide details including inspection and enforcement history (letters, notices, prosecutions). Indicate where consideration could be given to using evidence of bad character. Refer to CM9 etc. reports where appropriate)*

Not required to complete this section (GD-005 para 8.17)

C8 - Duty holder's attitude *(Comment on the attitude of the duty holder towards health and safety management, the incident and ONR, including whether the duty holder co-operated with the investigation. Where not stated above, give the duty holder's explanation for any contravention(s).*

Not required to complete this section (GD-005 para 8.17)

C9 - Views of injured persons (IP(s)) or bereaved relative(s), where applicable *(Include reference to any Victim Personal Statements obtained)*

Not required to complete this section (GD-005 para 8.17)

Victim's right to review applies – victim to be informed of this right.

C10 - Any other aggravating, mitigating or other relevant factors *(Indicate any additional aggravating, mitigating or other factors not already identified above. Indicate any further Public Interest factors not identified in the preceding sections. Refer to the relevant parts of the Enforcement Policy Statement , the CPS Code for Crown Prosecutors or the COPFS Prosecution Code as appropriate, and (where relevant) the culpability and harm factors within the Sentencing Council definitive guideline)*

Not required to complete this section (GD-005 para 8.17)

C11. Relevant antecedents *(See investigation process on HOW2)*

Not required to complete this section (GD-005 para 8.17)

Enforcement Policy Statement and Enforcement Management Model

C12 - Application of ONR's Enforcement Policy Statement and the appropriate Enforcement Management Model *Discuss the application of the EPS and the EMM to the circumstances –* ***completed ONR EDR(s) must be attached as Appendix 1***

Sellafield Ltd:

Application of the EPS: The EPS states that ONR will normally prosecute, or recommend prosecution, where, following an investigation or other regulatory contact, one or more of the following circumstances apply (1.48):

- death was a result of a breach of the legislation
- the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it
- there has been reckless disregard of health and safety, security or safeguards requirements
- there have been repeated breaches which give rise to significant risk, or persistent and significant poor compliance
- a dutyholder's standard of managing its legal responsibilities is found to be far below what is required

by the legislation and to be giving rise to significant risk
- there has been a failure to comply with a notice or direction
- false information has been supplied wilfully, or there has been an intent to deceive, in relation to a matter which gives rise to significant risk
- inspectors have been intentionally obstructed in the lawful course of their duties.

In my opinion, none of the circumstances apply to Sellafield Ltd.

I have applied the EMM to the circumstances, see ONR EDR for Sellafield Ltd ONR-EDR-21-036:
The risk level is moderate, and the BEL is enforcement letter. The enforcement letter will ask Sellafield Ltd to review and, if necessary, revise the implementation of CDM arrangements within the Estates Department.

An initial enforcement letter was sent to Sellafield to address any immediate on-going risks related to the scaffold steps. Sellafield Ltd addressed the actions set out in the initial enforcement letter.

Enigma Industrial Services Ltd:

Application of the EPS. As in the case of Sellafield, I am of the opinion that none of the circumstances set out in paragraph 1.48 of the enforcement policy statement apply. In addition, since it was not possible to obtain detailed measurements and dimensions of the scaffold steps first-hand, there would be insufficient evidence to prove that the steps caused the IP to fall. I have applied the EMM as if the injuries were as a consequence of the breach, but I do not believe that this can be proved beyond reasonable doubt. However, even if the view is taken that the breach did cause the injuries, the BEL from the EMM is for an enforcement letter.

The EMM for Enigma Industrial Services is ONR-EDR-21-037.

The enforcement letter will require Enigma Industrial Services to review their arrangements for complying with the Work at Height Regulations 2005, Regulations 6 and 8.

C13 - Recommended action *Describe the action proposed with specific reference to the appropriate EMM (relevant duty holder/strategic factors and the Confirmed Enforcement Expectation), the EPS and the CPS Code for Crown Prosecutors (England and Wales) or COPFS Prosecution Code. Indicate recommended charge(s).*

1. In accordance with ONR-EDR-21-036, I recommend that an enforcement letter is sent to Sellafield Ltd requiring them to review and, if necessary, revise their arrangements for CDM compliance within Estates. This should also include a review of the implementation of the arrangements and the skills, knowledge and experience of personnel within Estates who are involved in managing construction projects.

Although an initial enforcement letter was sent to Sellafield Ltd requiring them to make improvements to scaffold steps and address the immediate causes, a further enforcement letter as described above, will require Sellafield to address the underlying causes that have been identified by the investigation.

2. In accordance with ONR-EDR-21-037, I recommend that an enforcement letter is sent to Enigma Industrial Services requiring them to review and revise their arrangements for complying with the Work at Height Regulations, Regulations 6, 8 and 12. Specifically, Enigma should ensure that they produce a suitable scaffolding assembly plan for scaffold erection work and that employees who assemble scaffolding and those that supervise are competent to do so. They should also ensure that working platforms are adequately inspected after installation and at suitable intervals thereafter. Such measures should help ensure that work at height, including access to and egress from such places, is carried out safely through the provision of safe working platforms and stairs.

Lead Investigator's name	[redacted]		
Lead Investigator's signature	[redacted]	**Date**	26/10/21

Part D - Approval Officer's Considerations and Decision

(Approval Officer's consideration of the evidence, public interest factors, proposed defendants, proposed charge(s) and decision on prosecution. To be completed following guidance in ONR-ENF-GD-020 – The Role of the Approval Officer in Enforcement Decisions.)

Duty holder's name	(1) Sellafield Ltd (2) Enigma Industrial Services Ltd

Note: Separate Parts C and D should be prepared for each defendant.

D1 - Review the application of the Enforcement Policy Statement and Enforcement Management Model to the circumstances presented by the lead investigating inspector:

Fatals: *When reviewing the evidence and the extent of the breaches, consider the likelihood of the breaches being characterised as grossly negligent by a Coroner's Inquest jury.*

Application of the Enforcement Policy Statement (EPS) to Sellafield Ltd and Enigma Industrial Services is covered in Section C12 above. I support the lead investigator's judgement that the EPS circumstances for a prosecution recommendation have not been met for Sellafield Ltd or for Enigma Ltd.

Application of the Enforcement Management Model is covered for Sellafield Ltd in Enforcement Decision Record ONR-EDR-21-036 (CM9 2021/79464) and for Enigma Industrial Services Ltd in ONR-EDR-21-037 (CM9 2021/79462). In both cases, the Baseline Enforcement Level is an enforcement letter which is the lead investigator's enforcement recommendation, with the rationale provided in Sections C12 and C13. I support this recommendation.

As noted by the lead investigator, an initial enforcement letter (ONR-EL-21-001, CM9 2021/49744) was sent to Sellafield Ltd requiring them to make improvements to scaffold steps and address the immediate causes. A further enforcement letter as described in Section C13 will require Sellafield Ltd to address the underlying causes that have been identified by the investigation.

In line with ONR-ENF-GD-005 Rev 4, the lead investigation is a member of the ICT, the investigation report has been reviewed by an independent member of the ICT (CM9 2021/79088) and by the Investigation Resource Group Legal Advisor (CM9 2021/81114). The relevant Professional Lead (Nuclear Internal Hazards and Site Safety (NIHSS)) is content with the ICT peer review and does not wish to review the report himself (CM9 2021/79821).

D2 - Review the application of the CPS Code for Crown Prosecutors/COPFS Prosecution Code in relation to each proposed case presented by the lead investigating inspector, giving reasons:

Evidential Stage:

Not required to be completed since there is no recommendation to prosecute (see ONR-ENF-GD-005 Rev 4, para 8.17).

Public Interest Stage:

Not required to be completed since there is no recommendation to prosecute (see ONR-ENF-GD-005 Rev 4, para 8.17).

D3 - Decision on each of the proposed charges with the reasons for or against approval

I support the recommendations of the lead investigator.

1. Sellafield Ltd

Enforcement letter ONR-EL-21-028 (CM9 2021/79467) in accordance with ONR-EDR-21-036 (CM9 2021/79464) to cover contravention of the Construction (Design and Management) Regulations 2015 (CDM) Regulations 4,11 and 13.

Enforcement letter ONR-EL-21-028 will require Sellafield Ltd to address underlying causes identified by the

investigation. Level 3 Regulatory issue RI 9046 will be used to track progress with actions relating to ONR-EL-21-028.

ONR-EL-21-028 follows on from the initial enforcement letter (ONR-EL-21-001, CM9 2021/49744) sent to Sellafield Ltd requiring them to make improvements to scaffold steps and address the immediate causes.

2. Enigma Industrial Services Ltd.
Enforcement letter ONR-EL-21-029 (CM9 2021/79469) in accordance with ONR-EDR-21-037 (CM9 2021/79462) requiring Enigma Industrial Services to review and revise their arrangements for complying with the Work at Height Regulations, Regulations 8 and 12. Level 3 Regulatory issue RI 9055 will be used to track progress with actions relating to ONR-EL-21-029.

D4 - Preferred venue (Magistrates'/Crown Court) and reasons (England and Wales)

Not required to be completed since there is no recommendation to prosecute (see ONR-ENF-GD-005 Rev 4).

D5 - Post-approval action, including use of solicitor agent
Fatalality(s): *Confirm whether consideration to be given to commencing ONR Prosecution before inquest.*

Not required to be completed since there is no recommendation to prosecute (see ONR-ENF-GD-005 Rev 4).

Approval officer name, signature and date of decision

Name	[redacted]		
Signature	[redacted]	**Date**	08/11/21

Appendices

(where the file is being submitted for consideration by the approval officer , all appendices should be completed/included)

Appendix 1 – Form ONR EDR(s) (mandatory for all reports)

Appendix 2 – Witnesses & others interviewed

All persons providing witness statement

Witness Name		Role/Occupation	Type of statement (V/C)
1	[redacted]	Scaffolder, Kaefer	v
2	[redacted]	Scaffolder, Kaefer	v
3	[redacted]	Scaffolder, Enigma	v
4	[redacted]	Scaffolder, Enigma	v
5	[redacted]	Scaffolder, Enigma	v
6	[redacted]	Scaffolder, Enigma	v
7	[redacted]	Scaffolder, Enigma	v
8	[redacted]	Scaffolder, Enigma	v
9	[redacted]	Scaffolder, Enigma	v
10	[redacted]	Scaffolder, Enigma	v
11	[redacted]	Scaffold Supervisor, Enigma	v
12	[redacted]	Client, Sellafield Ltd	v

Key: V = Voluntary Statement C = Compelled Statement

Others interviewed where witness statement not taken

Witness Name		Role/Occupation	Location of interview record *(Provide the serial and page numbers of the notebook in which the interview is recorded)*
1			
2			
3			
4			
5			
6			
7			
8			
9			

Appendix 3 – Exhibits/productions

Unique Exhibit number and description *(includes any photographic, documentary and physical evidence) Ensure that each exhibit is produced in a witness statement*		**Exhibited by (Witness No)**	**Exhibit Reference** **(Used in Appendix 5)**	**Page/Para of relevant statement** **(which introduces exhibit)**	**Storage location**
A	Photographs – scene of accident				2021/62859
B	Photographs – scene of accident				2021/49761
C	Scaffold design risk assessment and drawing				2021/49760
D	Scaffold erection risk assessment				2021/49759
E	Sellafield Ltd initial information about the accident				2021/49747
F	Enforcement letter to Sellafield Ltd				2021/49747
G	Sellafield Ltd response to enforcement letter				2021/49730
H	Sellafield Ltd pre-construction information and construction phase plan for temporary canteen project				2021/49719
I	Scaffold request form				4.7.19705.
J	Sellafield Ltd guidance for temporary works				4.7.19705.
K					
L					

Appendix 4 Proposed Charge(s)

Charge(s)		
No	**Act, Regulations, etc.**	**Section/Reg No**
1		
2		
3		
4		
5		
6		
7		

Proposed text of Charge (see draft charges below for guidance on structure of text)

The 'particulars' of the proposed charge:

- should identify the accused by giving full details of name and address;
- should state the date and place of the offence to ensure the jurisdiction of the court
- should state the special capacity in which the accused is charged eg 'employer'
- should describe the offence in ordinary language avoiding so far as possible the use of technical terms, although it need not necessarily state all elements of the offence; and
- give sufficient detail of the alleged offence to amount to 'reasonable information' of the nature of the allegation; and
- should refer to the statutory provisions which create the offence

Example Charges

The Health and Safety at Work etc. Act 1974 – section 2(1)

being an employer within the meaning of the Health and Safety at Work etc. Act 1974 (“the Act”), he/she/it failed to discharge the duty imposed on him/her/it by section 2(1) of the Act, in that he/she/it failed to ensure, so far as was reasonably practicable, the health, safety and welfare at work of all his/her/its employees, including [named employee(s)], [depending on the case, can include here details of the relevant work and/or the relevant risk], whereby he/she/it is guilty of an offence contrary to Section 33(1)(a) of the Act.

The Health and Safety at Work etc. Act 1974 – section 3(1)

being an employer within the meaning of the Health and Safety at Work etc. Act 1974 (“the Act”), he/she/it failed to discharge the duty imposed on him/her/it by section 3(1) of the Act, in that he/she/it failed to conduct his/her/its undertaking, namely [details of the undertaking where appropriate], in such a way as to ensure, so far as was reasonably practicable, that persons not in his/her/its employment who may have been affected thereby, including [name(s) of individual(s)], were not thereby exposed to risks to their health or safety, namely [details of the relevant risk where appropriate], whereby he/she/it is guilty of an offence contrary to Section 33(1)(a) of the Act.

The Health and Safety at Work etc. Act 1974 - section 3(2)

being a self-employed person within the meaning of the Health and Safety at Work etc. Act 1974 (“the Act”), he/she failed to discharge the duty imposed on him/her by section 3(2) of the Act, in that he/she failed to conduct his/her undertaking,of a prescribed description namely [details of the type of prescribed undertaking by reference to regulation 2 of The Health and Safety at Work etc. Act 1974 (General Duties of Self-Employed Persons) (Prescribed Undertakings) Regulations 2015 and s 3(2A) HWSA as appropriate], in such a way as to ensure, so far as was reasonably practicable, that he/she and/or other persons not in his/her employment who may have been affected thereby, including [name(s) of individual(s)], were not thereby exposed to risks to their health or safety, namely [details of the relevant risk] whereby he/she is guilty of an offence contrary to section 33(1)(a) of the Act.

The Health and Safety at Work etc. Act 1974 – section 37(1) (section 2(1)

being a [director/manager/secretary/other] of [name of body corporate] of [registered office address], a body corporate which committed an offence, in that it failed to discharge the duty to which it was subject by virtue of section 2(1) of the Health and Safety at Work etc. Act 1974 (“the Act”), namely [describe the offence committed by the body corporate mirroring the description from the relevant s 2 allegation if appropriate], and that offence was committed with his/her consent or connivance or was attributable to his/her neglect, in that he/she [give details of the directors relevant conduct] whereby he/she is guilty of an offence contrary to sections 33(1)(a) by virtue of 37(1) of the Act

The Management of Health and Safety at Work Regulations 1999 - regulation 3(1)(a)

being an employer within the meaning of the Health and Safety at Work etc. Act 1974 ("the Act"), he/she/it contravened regulation 3(1)(a) of the Management of Health and Safety at Work Regulations 1999, in that he/she/it failed to make a suitable and sufficient assessment of the health and safety risks to which his/her/its employees were exposed whilst they were at work, in relation to [list the relevant work activity or risk not adequately assessed] for the purpose of identifying the measures he/she/it needed to take to comply with the requirements and prohibitions imposed upon him/her/it by or under the relevant statutory provisions [specify if necessary], whereby he/she/it is guilty of an offence contrary to section 33(1)(c) of the Act.

The Nuclear Installations Act 1965 – section 4(10)

Being a body corporate holding nuclear site licence number [insert licence number] granted by the Office for Nuclear Regulation (the ONR) have contravened at [insert location] a condition attached to the nuclear site licence by virtue of Section 4(1) of the Nuclear Installations Act 1965 (“the Act”), namely Licence Condition 27 (Safety Mechanisms, devices and circuits) by [insert details], whereby it is guilty of an offence under section 4(10) of the Act.

The Nuclear Industries Security Regulations 2005 Regulation 7

Being the responsible person within the meaning of the Nuclear Industries Security Regulations 2003 (“the Regulations”) for nuclear premises at [site name, location, and nuclear site licence number] failed to discharge the duty imposed on it by Regulation 7 of the Regulations in that on/between [insert date(s)] it did not comply with the standards, procedures and arrangements described in the approved security plan for the premises by [describe the offence committed], there being no notification in writing to it from the Office for Nuclear Regulation (ONR) that that matter is, in the opinion of ONR, unlikely to be prejudicial to the security of the

premises and the material, equipment and information contained within it, whereby it is guilty of an offence contrary to Regulation 25 of the Regulations.

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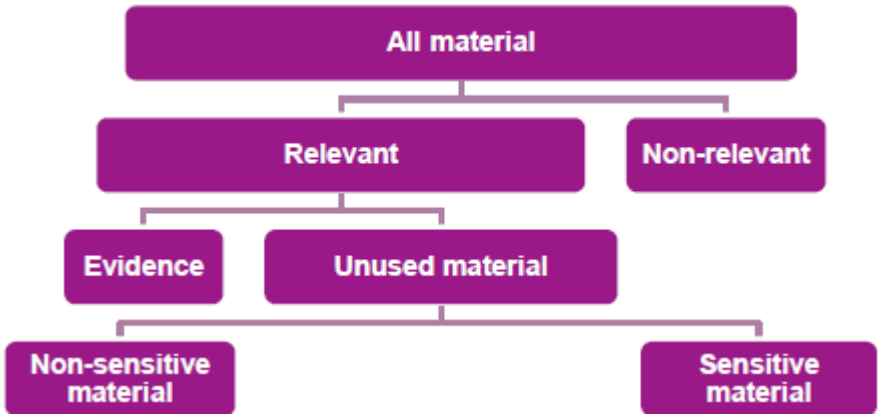
Appendix 5 – Points to Prove Cross Reference Matrix

		Proved by												
		Witness Number							Exhibit/Production Letter					
Item	Points to Prove	1	2	3	4	5	6		A	B	C	D	E	F
1	Application of HSW Act/Energy Act													
2	That ONR is the Enforcing Authority													
3	Who the duty holder is													
4														
5														
6														
7														
8														
9														
10														
11														
12														
13														

Appendix 6 Relevant material (used/unused)

The following diagram illustrates how material that forms part of an investigation may be categorised and consequently treated.



If material has been collected and subsequently found to be non-relevant then there is no requirement to list that material in the table below. However, the material must be retained and listed on the ONR Schedule of Material template, which should accompany this report.

Sensitive material is material that, if disclosed, would give rise to a real risk of serious prejudice to an important public interest. Further guidance on sensitive material is found in the Attorney General's Guidelines on Disclosure and the CPIA Code of practice.

Material that is found to be relevant to the investigation should be categorised and recorded in the table below, using the diagram above.

Admin ref No.	Description	CM9 Ref.	Location	Evidence/Unused	Sensitive/non-sensitive
	Notebook of…				
	Key Decision Log				
	E mails				

Appendix 7 List of material disclosed prior to interview with suspect

Material	Form provided as

Appendix 8 Company Search

Company searches are required to establish:

- That the identity of a duty holder which is a corporate entity is correct, and
- The turnover of that entity

As set out in the Definitive Guideline, “the offender is expected to provide comprehensive accounts for the last three years, to enable the court to make an accurate assessment of its financial status. In the absence of such disclosure, or where the court is not satisfied that it has been given sufficient reliable information, the court will be entitled to draw reasonable inferences as to the offender’s means from evidence it has heard and from all the circumstances of the case, which may include the inference that the offender can pay any fine”.

Copies of accounts are filed at Companies house.

Appendix 9 Relevant antecedents

Appendix 10 – Relevant inspection record (From CM9; mandatory for all reports)