© Office for Nuclear Regulation
UNCONTROLLED WHEN PRINTED
If you wish to reuse this information visit
www.onr.org.uk/copyright for details.

Office for Nuclear Regulation

[redacted]

[redacted]

Telephone: [redacted]
Email:
[redacted]

Our Reference: 2021/81318
Unique Number: SEL77781R
ONR-EL-21-028

Your Reference: [ ]
Unique Number: [ ]

Date: 5th November 2021

For the attention of [redacted] Head of Operations - Estates

ONR ENFORCEMENT LETTER

Dear [redacted]

Subject: ONR Investigation into [redacted] scaffold steps fall

I am writing to inform you of ONR's enforcement decision following the investigation into the [redacted] scaffold steps fall where an employee sustained injuries reportable under RIDDOR Reg 4(1)(a). I refer to the previous enforcement letter: ONR-EL-21-001, regarding the inconsistent rise heights of the steps and acknowledge the action taken by Sellafield Ltd to remedy the matter.

From the evidence gathered during my investigation, I am of the opinion that Sellafield Ltd has contravened the following;

- The Construction (Design and Management) Regulations 2015 (CDM). Regulations 4, 11 and 13.

The investigation concluded that a recommendation to prosecute was not appropriate in this case. Consequently, I have concluded that this Enforcement Letter should be issued to remedy the above contraventions.

The matters that give rise to my opinion are summarised in the investigation findings section of this letter.

1. Regulatory requirements:

- The Construction (Design and Management) Regulations 2015 (CDM). Regulation 4 - Client duties in relation to managing construction projects:
  4(6)A client must take reasonable steps to ensure that –
  (a) the principal designer complies with any (other) principal designer duties in regulations 11 and 12
  (b) the principal contractor complies with any (other) principal contractor duties in regulations 12 to 14.

- The Construction (Design and Management) Regulations 2015, 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.

- The Construction (Design and Management) Regulations 2015 Regulation 13 Duties of a 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.

2. Investigation findings:

2.1 The project to design and build the [redacted] temporary welfare facilities was construction work as defined by the Construction (Design and Management) Regulations 2015 (CDM) and therefore subject to the requirements of those regulations. Sellafield Ltd was the Client, Principal Designer (PD) and Principal Contractor (PC) for the project and had specific CDM duties under those roles.

ONR's investigation into the incident identified significant underlying issues in regard to CDM compliance. These include the following:

- Sellafield Ltd as PD 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. There is no evidence that the PD had effective involvement in overseeing the design of the stairs.

- 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, who indicated in their scaffold request form that access/egress was not required.
- Scaffolding is included within the definition of temporary works, yet temporary works was considered 'not applicable' in the pre-construction information.
- Sellafield Ltd as PC did not appoint a temporary works coordinator and temporary works arrangements were not included in the construction phase plan (contrary to SL guidance – CG1.03.10).
- I judge that Sellafield Ltd, in their role as PC, did not adequately liaise with Sellafield Ltd, in their role as PD, to 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. As a result of this lack of sharing of information and liaison, the design of the steps was not adequately considered until after the incident. The design had been left to Enigma Industrial Services Ltd who was working from a scaffold request form that did not specify access/egress requirements.

To determine the appropriate enforcement decision, I have used the ONR Enforcement Management Model, which for these circumstances has resulted in this enforcement letter.

3. Action required by Sellafield Ltd:

3.1 I require that:

Sellafield Ltd reviews and, if necessary, revises the arrangements for CDM compliance and the management of temporary works within Estates. This should include but is not limited to:

- a review of the effectiveness of the implementation of CDM arrangements
- a review of the arrangements for identifying and managing temporary works
- a review of the skills, knowledge and experience of personnel within Estates who are involved in managing construction projects.

3.2 Please could you provide a response to this letter by the 13th December 2021 detailing a programme and associated timescales to address the action above.

A Level 3 Regulatory Issue relating to this matter has been raised on the ONR Issues Database to track progress with these the actions (Reference RI 9046).

Information for employees

Section 28(8) of the Health and Safety at Work etc. Act 1974 and Paragraph 23 of Schedule 8 of the Energy Act 2013 requires me to give information to your employees about matters affecting their health, safety and/or welfare. I therefore respectfully request that you provide a copy of this letter to a representative of your employees.

Yours sincerely

[redacted]

ONR Inspector – Nuclear Internal Hazards and Site Safety

Distribution (Sellafield Ltd):

[redacted]

Distribution (ONR):

[redacted]