

ONR INSTRUCTION			
DECISION REVIEW PROCESS			
Document Type:	INSTRUCTION		
Unique Document ID and Revision No:	ONR-PER-IN-006 Revision 2		
Date Issued:	July 2013	Review Date:	July 2016
Approved by:	David Senior	Director, Regulatory Standards	
Record Reference:	Trim Folder 1.3.1.130. (2013/280782)		
Revision commentary:	New revision		

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1. INTRODUCTION

- 1.1. This document sets out the process by which ONR resolves disputes concerning its regulatory decisions. The process set out in this document allows for 'preliminary discussions' with relevant inspectors and a formal decision review led by the CEO focusing on the process by which the decision was taken. A diagram of the review process is included in [Annex 1](#). Details of the roles of the key ONR officers in this process are included in [Annex 2](#).

2. PRELIMINARY DISCUSSIONS

- 2.1. To ensure best use of resources and timely resolution of disputes, those wishing to apply for a decision review will be able to, and encouraged to, meet the relevant inspector and Deputy Chief Nuclear Inspector (DCNI), to set out objections and to provide further evidence if available in the first instance. Interactions at this stage will follow standard operational procedures and any additional information or changes to the ONR's position will be recorded (in most cases in a [Project Assessment Report](#)). Inspectors involved in such interactions must have the appropriate level of delegated authority relative to the regulatory decision in question.
- 2.2. Should the dispute not be resolved it can be escalated to the Chief Nuclear Inspector (CNI) to consider. The purpose of the CNI's consideration is to ensure that the CNI, as head of ONR's regulatory functions, is satisfied with the decision ahead of any formal review.
- 2.3. Where the decision being challenged was made by the CNI, the review at this stage will be delegated to the First Deputy Chief Nuclear Inspector. Should the CNI or the First Deputy CNI revise the original decision, the outcome will be recorded with full reasons in writing.

Preliminary discussions are not in themselves a full and formal review of the regulatory decision. The intention of any preliminary discussions is to reach a timely and practical solution to issues. Details of preliminary discussions will be recorded (for example in a [Project Assessment Report](#)).

3. DECISION REVIEW PROCEDURE

Process

- 3.1. The applicant should write to the ONR Chief Executive Officer (CEO) to request a review of any regulatory decision. The applicant's written representations setting out clearly the area in dispute and basis of their case should accompany the request for a review.
- 3.2. The request for a review and written representations should be made within 15 working days beginning the day on which the decision being challenged was made or, if the applicant is not the dutyholder, within 15 working days of ONR publishing the decision. ONR will be sympathetic to prior requests to extend this time, for example if the applicant is engaged in preliminary discussions with ONR to resolve the issues; however, it should not be assumed that an extension will be granted in every case, particularly if the circumstances do not justify an extension.
- 3.3. The applicant will receive written acknowledgement of their request within 2 working days.

- 3.4. The applicant's written representations will be provided to a relevant inspector chosen at ONR's sole discretion, who will prepare a written response explaining the regulatory decision within 5 working days beginning with the day on which the applicant's representations are received by the CEO or as soon as reasonable thereafter.
- 3.5. The inspector's written response will be provided to the applicant, who if they remain unsatisfied may provide a final written reply within 5 working days (beginning with the day on which the inspector's response was sent to the applicant) confirming their wish for the decision review to proceed.
- 3.6. The CEO will appoint expert advisers as he sees fit to provide advice to assist in reviewing the regulatory decision. The CEO will not appoint as an expert adviser any person who participated in the original decision or in preliminary discussions regarding the original decision.
- 3.7. The CEO may ask the applicant or ONR staff for written clarification of any points as necessary, and may request a meeting, at which all the participants will be entitled to attend.
- 3.8. In reviewing the decision, the CEO will focus on the process by which the original decision was made, including both the technical and non-technical approaches taken. Taking into account all the evidence presented by the applicant and the inspector and the advice of the appointed experts, the CEO will weigh up if ONR has made a valid decision or not.
- 3.9. The CEO will, as a result of the review, either:
- Dismiss the application; or
 - Uphold the application on the ground of process.
- 3.10. The CEO will normally conduct the review and make a final decision within 10 working days of receipt of any reply by the applicant. The decision will be in writing with full reasons.

4. MEANING OF A "REGULATORY DECISION"

- 4.1. A regulatory decision means a decision undertaken by ONR as the lead regulator using its statutory regulatory powers. This includes:
- Decisions concerning the granting or otherwise of a nuclear site licence;
 - Decisions relating to the use of powers contained within the licence conditions (directions, approvals, specifications, consents, notifications and agreements);
 - Approval of security plans required under the Nuclear Industries Security Regulations 2000; and
 - Approval of package designs for class 7 material under the Carriage of Dangerous Goods Regulations 2009.
- 4.2. Regulatory decisions however do not include:
- Advice provided by ONR to dutyholders, other regulators or wider government;
 - The awarding of a 'Design Acceptance Conformation' as part of a 'Generic Design Assessment';

- ONR responses to consultations (including where ONR is a statutory consultee); or
- Decisions made by others (for example, Ministers or other regulators) to which ONR has contributed advice.

4.3. Regulatory decisions concerning enforcement action, such as the issuance of improvement or prohibition notices, which have existing appeals systems in place, are not within the scope of the decision review process.

5. OPENNESS AND TRANSPARENCY

5.1. The outcome (with reasons) of each review procedure will be published in full or redacted.

5.2. ONR will publish information about any persons appointed as expert advisers including any conflicts of interest.

5.3. All publication will be subject to any relevant restrictions concerning security, data protection, disclosure of information provisions in the Health and Safety at Work etc Act 1974 and in any other relevant legislation.

6. SUSPENSION OF DECISIONS DURING A REVIEW

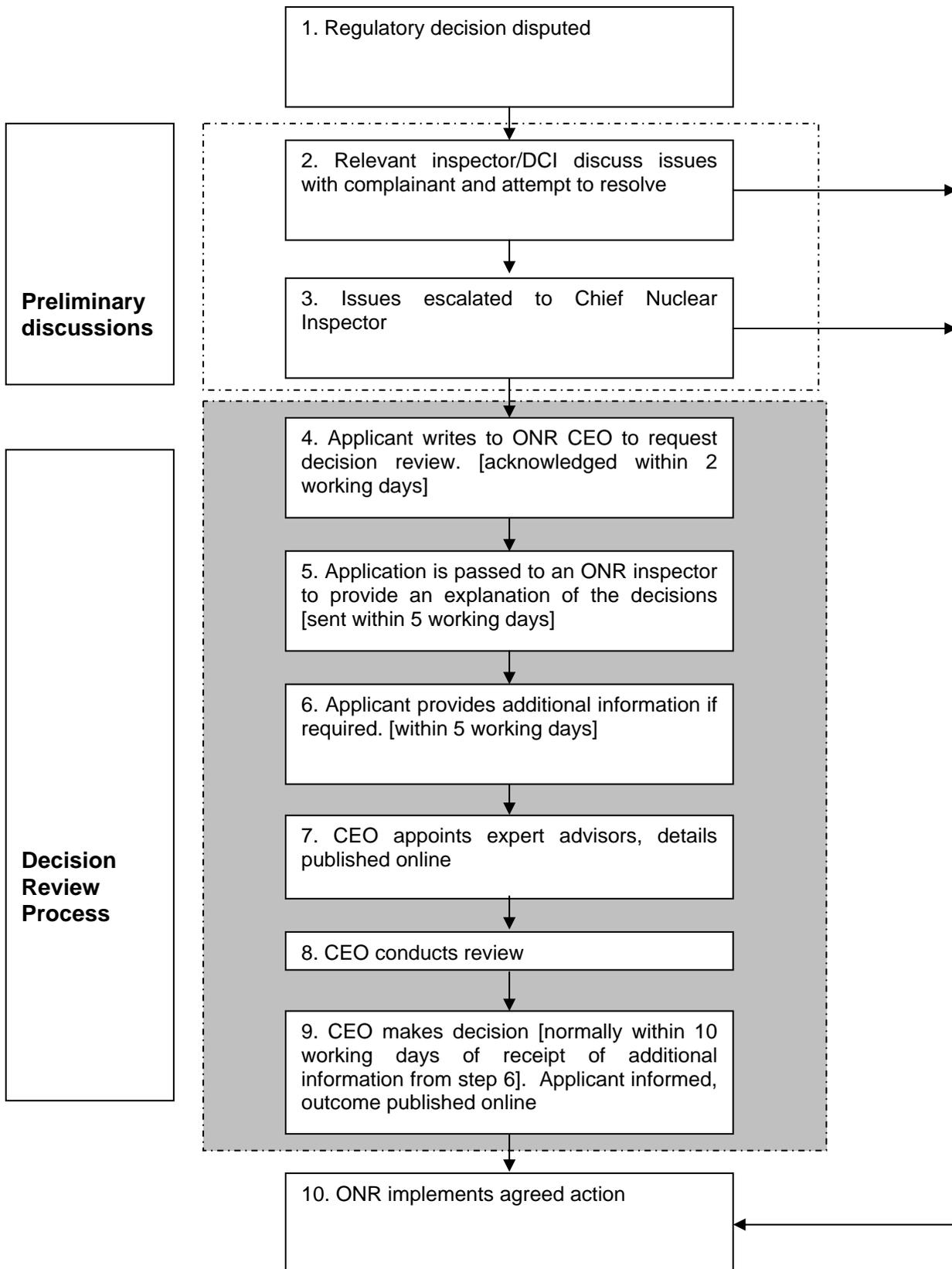
6.1. The Chief Nuclear Inspector may, if appropriate, suspend the regulatory decision and associated enforcement actions at any time during the review process

7. COSTS RECOVERY

7.1. ONR will recover costs, where it has relevant charging powers that arise from a review procedure only when the original decision is upheld. (ONR has powers to charge for the majority of its regulatory functions, primarily through provisions of the Nuclear Installations Act 1965, the Health and Safety (Fees) Regulations 2012 and the Nuclear Industries Security (Fees) Regulations 2005. These fees will be applied where relevant to the costs of decision reviews).

7.2. Costs will be recovered in line with ONR's standard charging model and will include the costs associated with any appointed expert advisers.

Annex 1- Decision Review Process diagram



Annex 2- Key ONR officers involved in decision review process

Deputy Chief Nuclear Inspector (DCNI)

Considers, with inspector who made the decision, issues raised by the potential applicant during '[preliminary discussions](#)' may escalate to the Chief Nuclear Inspector if necessary.

Chief Nuclear Inspector (CNI)

Where preliminary discussions have been escalated for his attention considers evidence presented and if appropriate takes action to uphold or revise the [regulatory decision](#).

First Deputy Chief Nuclear Inspector

Where the Chief Nuclear Inspector has made the original decision (for example the granting of a nuclear site licence), the First Deputy Chief Nuclear Inspector will conduct the [preliminary discussions](#).

Chief Executive Officer (CEO)

The Chief Executive Officer is responsible for the formal decision review process. The CEO will focus on the process by which the original decision was made, including both the technical and non-technical approaches taken. The CEO is responsible for [appointing the experts to assist him in the review](#).

Further details on the [Executive Leadership Team](#) are available online along with information on the DCNI(s) and their [programme responsibilities](#)