



INSTRUCTION			
RESOLVING DIFFERENCES OF PROFESSIONAL OPINION IN ONR			
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1 INTRODUCTION

- 1.1 This procedure describes the process for resolving differences of professional opinion within ONR. It applies in situations where there are differences in professional opinion over regulatory strategies, technical issues or regulatory action to be taken (or not taken) that result from the assessment or inspection processes, which cannot be resolved through the normal discussion process at the lowest level. It supplements the existing ONR process for resolving problems as set out in the Human Resource Guidance.

2 PURPOSE AND SCOPE

- 2.1 ONR employs professional people to use their knowledge, skills, experience and judgement to achieve its mission. In making decisions on regulatory strategies, or the technical issues and regulatory actions that should be taken in any particular case within the existing framework of the law, ONR policy and the system of delegated authority, the aim is to make the appropriate decision at the lowest level through consensus wherever possible.
- 2.2 Consensus does not mean that decisions are made by committee rather than through ONR's system of delegated authority, nor that it is necessary that everyone involved agrees with the final decision. Rather it recognises that people may not agree completely with the decision, but the extent of their disagreement is not such that they object to it taking effect. Where there is an objection then there is a process in place to resolve the disagreement at the lowest appropriate level, with the Chief Inspector acting as the final arbiter within ONR in the most extreme case.
- 2.3 A major strength of ONR is the range of expertise that can be brought to bear in resolving technical and regulatory issues, or setting regulatory strategies. ONR at all levels values the opinions of staff and recognises that people have the right to disagree with colleagues and to challenge proposed decisions. ONR recognises the benefits that well argued challenges can bring when those challenges are made and discussed in accordance with ONR values and behaviours.
- 2.4 In making strategic, technical and regulatory decisions within the system of delegated authority, ONR processes are such that inspectors' professional opinions are considered, and where individuals' opinions are not reflected in the final decision, the reasons are made clear both to them and others affected.
- 2.5 In resolving differences of professional opinion there should be accurate contemporaneous records kept and recorded in TRIM. Where meetings are held, then the purpose and protocol are made clear to all attendees and sufficient time is allowed to enable the issues to be properly addressed.

3 RESPONSIBILITIES

All Professional Staff

- 3.1 Are expected to act at all times in accordance with the Civil Service and ONR values and behaviours and the relevant code of conduct of their professional body. Staff recognise that others may not always share their views on technical and regulatory issues, or strategic factors, and that decisions on such issues that need to be taken within ONR may not accord with their own judgement of the evidence and argument, especially when wider considerations are taken into account.
- 3.2 In forming their own view as to what action needs to be taken in a particular case, inspectors are expected to discuss issues with their peers and Delivery Leads in an open and honest environment. This is particularly important where there are likely to be differing views and inspectors should be alert to such situations so that every

opportunity is taken to resolve areas of disagreement through discussion in the first instance.

- 3.3 Where staff have concerns about regulatory strategies, or technical or regulatory issues that have not been resolved through the normal process of discussion, then they should raise these with their Delivery Lead in the first instance. The aim should be to resolve areas of disagreement at the lowest level wherever possible.

Delivery Leads (DLs)

- 3.4 Delivery Leads are responsible for ensuring that the views of relevant professional staff are considered when decisions are made on technical and regulatory issues, and regulatory strategies are set. Where consensus cannot be reached through discussion the relevant Delivery Lead is responsible for instigating the procedures outlined in this document and ensuring that accurate records are maintained.

Professional Leads (PLs)

- 3.5 PLs are responsible for providing impartial advice on request to Delivery Leads and Programme Directors to aid resolution of areas of disagreement within ONR.

Programme Directors (PDs)

- 3.6 Programme Directors normally have a number of directly reporting Delivery Leads. PDs are responsible for resolving issues of differences in professional opinion that are submitted to them by their DLs. In doing so they should consult PLs and others in ONR as necessary, or from outside ONR where appropriate and use their own professional judgement appropriately.
- 3.7 In reviewing cases submitted to them PDs should ensure that proper processes have been followed and that judgements have been made on a sound basis following proper consultation.
- 3.8 PDs are responsible for ensuring that all those involved in the process are made aware of the final decision and the reasons for it and that this is recorded.

Heads of Specialism (HoS)

- 3.9 Heads of Specialism are responsible for setting direction for the Professional Leads in their specialism. HoS are responsible for resolving issues of differences in professional opinion that are submitted to them. In doing so they should consult PLs and others in ONR as necessary, or from outside ONR where appropriate and use their own professional judgement appropriately.
- 3.10 In reviewing cases submitted to them HoS should ensure that proper processes have been followed and that judgements have been made on a sound basis following proper consultation.
- 3.11 HoS are responsible for ensuring that all those involved in the process are made aware of the final decision and the reasons for it and that this is recorded.

Chief Inspector (CI)

- 3.12 The CI will act as the final arbiter within ONR in resolving differences of professional opinion where these have not been resolved through application of the process described in this document. The Chief Inspector will ensure that the final decision and the reasons for it are recorded and communicated to all staff involved.

4 PROCEDURE

Dealing with Differences of Professional Opinion Within the Assessment Process

- 4.1 Where a Delivery Lead disagrees with the conclusions or recommendations made by an assessor(s) in an assessment report that requires the DLs acceptance and these cannot be resolved by discussion, then the DL should set down in writing the issues on which he/she disagrees together with the reasons why and provide the assessor(s) the opportunity to respond.
- 4.2 If there is still a difference of opinion then the DL should ask the relevant PL to provide, or arrange to provide independent advice. Where the DL happens to be the PL then they should arrange for the Head of Specialism HoS to provide the advice and that person(s) should not have been involved in the original process which is the subject of the differing opinions. If the HoS is also the Programme Director, they should arrange for an alternative HoS to provide the advice.
- 4.3 Any meetings that are convened to inform this advice should be recorded in agreed minutes. The inspector(s) providing the advice should then meet with the DL, the assessor(s) and the PL in an attempt to reach a consensus on the way forward. Where consensus is reached then the basis of the consensus should be recorded in an agreed note.
- 4.4 Where there is a failure to reach consensus on the DLs decision, then agreed notes should be produced which set out the issues and the points on which there remain differences of opinion. The DL should then invite the relevant HoS to review the case to ensure that proper process has been followed and the judgement is sound. The HoS should record the decision and the reasons for making that decision.
- 4.5 If after the process described above has taken place any person(s) involved is still of the opinion that an unsound decision has been made that has the potential to compromise safety or security, or harm ONR's reputation as an effective regulator, then the HoS should offer the person(s) the opportunity to appeal to the Chief Inspector to review the case. The Chief Inspector will act as the final decision maker within ONR.

Dealing With Differences of Professional Opinion in the Regulatory Decision Making Process

- 4.6 ONR has a system of devolved authority in regulatory decision making. The issue of Licence Instruments is supported by the production of project reports and assessment reports.
- 4.7 Where an assessor produces an assessment report that has been approved by the relevant PL and there is a difference of professional opinion with the site inspector/project inspector or between assessment disciplines, on the conclusions or recommendations, then the differences should be resolved by discussion in the first instance. Where resolution is then achieved it should be recorded.
- 4.8 Where the discussion fails to resolve the difference of opinion then the site inspector/project inspector should bring this to the attention of the DL with responsibility for the site, or facility on the site. The DL should then convene a meeting attended by the site inspector/project inspector, the assessor(s) and the PL from the relevant assessment specialism and may invite other inspectors, including other PLs as appropriate, who may be able to contribute. An agreed record of the meeting should be kept and where consensus is achieved then this should be recorded.

- 4.9 Where the meeting fails to result in consensus on the DLs decision, then the DL should invite the relevant Programme Director to review the case. The PD should ensure that proper process has been followed and the judgement made by the DL with responsibility for making the decision, is sound. The PDs decision and the reasons for coming to that decision should be recorded.
- 4.10 If after the process described above has taken place any person(s) involved, is still of the opinion that an unsound decision has been made that has the potential to compromise safety or security, or harm ONR's reputation as an effective regulator then the PD should give the person(s) the opportunity to appeal to the Chief Inspector to review the case. The Chief Inspector will act as the final decision arbiter within ONR. The Chief Inspector will ensure that the final decision and the reasons for it are recorded and communicated to all staff involved.
- 4.11 The process described above should take place as quickly as possible and before a final decision on regulatory action is made.

Dealing With Differences in Professional Opinion on Enforcement Action

- 4.12 ONR inspectors should follow the principles in the ONR Enforcement Policy Statement and use the Enforcement Management Model and the ONR HOW2 procedure and guidance on the use of the EMM, when making enforcement decisions.
- 4.13 Where the EMM's Initial Enforcement Expectation results in consideration of an Improvement Notice, Specification, Direction or Prosecution and the enforcement conclusion is that such action is not taken, then the HOW2 procedure for application of the EMM requires that the reasons for such decisions are recorded.
- 4.14 After the normal process of reaching a decision to take, or not take, a particular course of enforcement action has been undertaken, involving the DL with responsibility for the site; an inspector involved in the process may believe the decision not to be sound. The inspector and DL should seek to resolve the issue through discussion, but where the inspector continues to believe that the decision is unsound and that safety or security, or ONR's reputation as an effective regulator is compromised, then the inspector may write to the Programme Director setting down in writing the reasons for their view.
- 4.15 The PD should respond in writing to the inspector's concerns. If following receipt of the PDs response, the inspector still has concerns then he/she may write to the Chief Inspector to review the enforcement decision.

Dealing With Differences of Professional Opinion in the setting of Regulatory Strategies

- 4.16 Regulatory Strategies are normally developed by Programme Directors or Delivery Leads. Before they are finalised, they are shared with all of the inspectors in the programme or sub-programme.
- 4.17 If during the consultation and sharing of the final draft of a new or revised Regulatory Strategy there is a difference of professional opinion between an inspector and the DL or PD, on the content of the Strategy, then the differences should be resolved by discussion in the first instance. Where resolution is then achieved it should be recorded.
- 4.18 Where the discussion fails to resolve the difference of opinion then the inspector should bring this to the attention of the Programme Director with responsibility for the sub-programme. The PD should then convene a meeting attended by the inspector, the inspector's PL from the relevant specialism and may invite other inspectors, including other PLs as appropriate, who may be able to contribute. An agreed record of

the meeting should be kept and where consensus is achieved then this should be recorded.

- 4.19 If after the process described above has taken place an inspector is still of the opinion that an unsound decision has been made that has the potential to compromise safety or security, or harm ONR's reputation as an effective regulator then the PD should give the person(s) the opportunity to appeal to the Chief Inspector to review the case. The Chief Inspector will act as the final decision arbiter within ONR. The Chief Inspector will ensure that the final decision and the reasons for it are recorded and communicated to all staff involved.

Dealing With Outstanding Issues of Concern

- 4.20 If after following the process described above an inspector should still feel that the issue has not been adequately resolved then he/she is directed to the procedure set out in Human Resource Guidance – "Problems at work".

Review

- 4.21 Where the resolution of differences of professional opinion has required the formal application of this procedure involving a Programme Director or a Head of Specialism, then on completion of the process the relevant DL or PL should undertake a review involving all relevant parties. The aim of the review should be to contribute to ONR's aim of continuous improvement by identifying areas for improvement in ONR's procedures and ways of working. The Professional Leads Forum members should be informed of the review and its conclusion.
- 4.22 In addition to the direct line of review identified in 4.17 above, the Regulatory Assurance teams (either In Programme Assurance or Regulatory Assurance and Regulatory Oversight) are also likely to judge the decision making process a worthy candidate for review.