



ONR GUIDE			
<b>Control of Property Transactions on Licensed Sites</b>			
<b>Document Type:</b>	Nuclear Safety Technical Assessment Guide		
<b>Unique Document ID and Revision No:</b>	NS-TAST-GD-087 Revision 1		
<b>Date Issued:</b>	June 2017	<b>Review Date:</b>	June 2020
<b>Approved by:</b>	Anthony Hart	Director Regulatory Assurance	
<b>Record Reference:</b>	TRIM Folder 1.1.3.776. (2017/244819)		
<b>Revision commentary:</b>	New revision		

**TABLE OF CONTENTS**

<b>1. INTRODUCTION .....</b>	<b>2</b>
<b>2. PURPOSE AND SCOPE .....</b>	<b>2</b>
<b>3. RELATIONSHIP TO OTHER LICENCE CONDITIONS OF PARTICULAR NOTE.....</b>	<b>3</b>
<b>4. PRINCIPLES .....</b>	<b>5</b>
<b>5. ANNEX A: LICENCE CONDITION 3, DEFINITION OF ‘PROPERTY TRANSACTION’ AND SIGNPOST TO GUIDANCE .....</b>	<b>11</b>
<b>6. ANNEX B: OUTLINE PROCESS FLOW FOR LC3 ARRANGEMENTS .....</b>	<b>13</b>
<b>7. ANNEX C: GUIDANCE ON INSPECTING THE IMPLEMENTATION OF LICENSEE ARRANGEMENTS .....</b>	<b>17</b>
<b>8. ANNEX D: BROAD GUIDANCE ON CLASSIFICATION OF PROPERTY TRANSACTIONS .....</b>	<b>20</b>

## 1. INTRODUCTION

1. Nuclear Site Licence Condition 3 (LC3) 'Control of Property Transactions' is shown at Annex A. This LC addresses the requirement that the nuclear site licensee should ensure control of and rights of access to its site(s) commensurate with its duties under the Nuclear Installations Act 1965 (NIA65) and the nuclear site licence conditions. Those rights are required to underpin the licensee's control of the whole site as summarised in the following extract from ONR's *Licensing Nuclear Installations* guidance, [<http://www.hse.gov.uk/nuclear/licensing-nuclear-installations.pdf>.]

*'It is ONR's policy to ensure that a licensee has full rights of access to, and control of, the site so that it can satisfy the demands placed upon it by the licence and NIA65. When granting a licence ONR will require evidence of security of tenure to show that sufficient consideration has been given to such issues.'*

2. ONR expects that the licensee remains in control of the nuclear licensed site and activities that are performed on the site at all times. This includes having adequate management arrangements for all property transactions, commensurate with their nuclear safety<sup>1</sup> significance (including the potential to impact on other activities and potential for loss of licensee control). The term 'property transaction' is used throughout this guidance in line with the following definition: *"property transaction" means any property transaction including a transfer, conveyance, assignment, demise, letting, under-letting, parting with possession, sharing occupation or use, or granting or reserving any property licence, easement or wayleave over or in relation to the site or any part of it, but excluding a right of access or any right of occupation, use or possession to or with a party performing statutory, regulatory or international obligations, or a party delivering contracted services solely to or for the benefit of the licensee, in relation to that nuclear licensed site.*
3. Given that nuclear licensed sites may have different organisations carrying out operations on them, with varying relationships to the licensee, it is essential that there is appropriate management and control of activities with respect to nuclear safety. This requires consideration of the significance of a property transaction with regard to its potential to affect nuclear safety as well as its consequences for the licensee's control of the site.

## 2. PURPOSE AND SCOPE

4. The primary purpose of this guidance is to assist ONR in making consistent judgements. As it sets out ONR's expectations for compliance with LC3, this will also be of use to licensees in implementing their arrangements. Industry involvement has therefore been an important input in developing this guidance.
5. It may also be useful for prospective applicants for a nuclear site licence. Applicants are required to demonstrate their management arrangements for achieving security of tenure and access to and control of their prospective site.
6. Where the owner of the site is not the licensee (e.g. sites that are designated to the Nuclear Decommissioning Authority or owned by MoD) management arrangements should adequately reflect the owner/licensee relationship.
7. Annex A contains LC3 in full and provides a signpost to where each clause is addressed within this guidance. The guidance is presented against 'principles' which encompass ONR's broad expectations for compliance. These set out what ONR considers to be a proportionate approach to managing property transactions taking

---

<sup>1</sup> For the purposes of brevity 'nuclear safety' includes nuclear and radiological safety

account of the significance of the property transaction and its potential impact on nuclear safety.

8. ONR's regulatory powers are set out in *Licensing Nuclear Installations*. Consent is a primary regulatory power and is used sparingly. However, there are some property transactions where the potential consequences for the licensee's control are so significant that they require ONR Consent. This is required under LC3(5) where the licensee's freehold or leasehold interest in the licensed site or any part of it is transferred or assigned.
9. Relicensing is outside the scope of LC3 and this guidance; however it is noted that early consideration of the potential for impact on security of tenure may trigger the relicensing process and this should be considered as appropriate.
10. ONR requires the licensee to "make and implement adequate arrangements..." for the assessment and control of property transactions. These arrangements are the licensee's responsibility but ONR expects that they will include provision for ONR permissioning via licence instruments where appropriate.
11. Assessment of a property transaction should take into account the two aspects of:
  - licensee control; and,
  - nuclear safety significance.

The impact assessment should arrive at an overall category reflecting the aspect of highest significance.

12. Where the impact of the proposed property transaction in either or both of these dimensions is significant, the licensee will need to obtain permission from ONR. It is noted that this impact assessment should not duplicate or replace more detailed risk assessments required under other LCs, e.g. under LC14. This initial assessment is therefore restricted to the LC3 framework; the intent is to ensure LC3 implications are adequately considered to inform implementation after the property transaction has been approved.
13. It is also noted that where there is a statutory right of access under other legislation ONR expects that the nuclear safety implications covered by other LCs e.g. LC14 or LC20 are considered even though consent under LC3 will not be required..
14. ONR expects that on-going assurance that the licensee's arrangements are adequate and functioning correctly will be part of the licensee's self-assessment process. ONR will consider the level of oversight of compliance required as part of its intervention programme as well as assessing property transactions that require formal ONR permission.

### **3. RELATIONSHIP TO OTHER LICENCE CONDITIONS OF PARTICULAR NOTE**

15. The licensee has criminal and financial liability for nuclear hazards at the site. Criminal liability is embodied in section 4(10) of NIA65 which addresses the requirement that in the event of a breach of a licence condition "each of the following is guilty of an offence – (a) the licensee and (b) any person having duties upon the site in question who committed that contravention". The licensee's financial liability for nuclear occurrences on a site arises under sections 7 and 12 of NIA65.
16. Robust LC3 management arrangements contribute to effective delivery of a number of nuclear site licence conditions; the main contributions are listed below along with ONR expectations relevant to LC3:

- **LC2 - Marking of the Site Boundary:** ONR expects arrangements to ensure that any property transactions that affect marking the site boundary are properly dealt with and any changes are approved in an appropriate way in line with the LC2 requirements.
- **LC6 - Documents, Records, Authorities and Certificates:** ONR expects this will include provision for the identification and management of records arising from property transactions.
- **LC9 - Instructions to persons on the site:** ONR expects this will include provision of adequate instructions to tenants on the site as regards risks and hazards and the precautions to be observed in addition to action to be taken in the event of an emergency.
- **LC10 – Training:** ONR expects that tenant management arrangements will include adequate arrangements for training.
- **LC11 - Emergency Arrangements:** ONR expects that the impact assessment of proposed property transactions will include the potential for impact on site emergency arrangements and planning as well as the potential for site activities to impact on the property concerned.
- **LC14 - Safety Documentation:** ONR expects that the licensee will monitor and control the immediate and cumulative potential changes to the character and risk profile of the site due to property transactions through full consideration of LC14 safety case documentation.
- **LC16 - Site Plans, Designs and Specifications:** ONR expects that the licensee will manage and control changes which may affect the boundary of the site or any buildings which may affect safety.
- **LC17 - Management Systems:** ONR expects property transaction arrangements to be an integral part of the licensee's management systems giving due priority to safety.
- **LC26 - Control and Supervision of Operations:** ONR expects that the potential to impact on the control and supervision of operations is fully considered as part of LC3 assessment.
- **LC36 - Organisational Capability:** ONR expects that appropriate resource is available to
  - support the assessment of nuclear safety significance of property transactions; and
  - provide ongoing proportionate oversight in line with the overarching requirement to be in control of the site.

#### 4. PRINCIPLES

17. The following principles underpin the intent of LC3 and will guide ONR Inspectors when assessing implementation of arrangements made by the licensee:

<b>Principle 1</b>	The licensee shall remain in <b>control</b> of the licensed site at all times and of all activities that could <b>impact</b> on nuclear safety.
<b>Principle 2</b>	The licensee shall ensure <b>rights of access</b> are preserved.
<b>Principle 3</b>	The licensee shall put in place <b>adequate management arrangements</b> to ensure proper control of property transactions which should include provision for the submission to ONR, where appropriate, of adequate documentation about those transactions.
<b>Principle 4</b>	The licensee shall ensure a <b>proportionate</b> approach is taken to all property transactions, reflecting their potential to <b>impact</b> both on <b>nuclear safety</b> and on <b>licensee control</b> .

18. The following sections provide guidance on ONR's expectations of licensees against each principle. It is emphasised that this guidance is by nature generic and licensees are expected to be mindful of their individual circumstances and reflect this in their management arrangements.
19. Annex B contains flow charts which set out indicative steps in the production and approval process for property transactions. These flow charts are intended to inform licensee's development of appropriate management arrangements.
20. Annex C provides 'short form' guidance for ONR Inspectors on what to consider when assessing licensee's management arrangements in relation to LC3.
21. Annex D contains guidance on what might constitute property transactions in each of the indicative categories of High, Medium and Low. This is an illustrative list and is not comprehensive.

#### 4.1 CONTROL

**Principle 1:** The licensee shall remain in **control** of the licensed site at all times and of all activities that could **impact** on nuclear safety.

22. Under NIA65 the licensee has a responsibility to remain in control of the licensed site and must retain overall responsibility for nuclear and radiological safety at all times. It is expected that the licensee and its tenants have a clear and shared understanding of their respective duties, rights and responsibilities and that there is no doubt that the licensee remains in overall control of the entire licensed site. The licensee is not able to delegate this responsibility to contractors, service providers or others who do work on its behalf. ONR must have an appropriate degree of involvement in those property transactions where there is a requirement for ONR's formal Agreement or Consent. Example approval routes are described under Section 4.3 and are illustrated in outline in Annex B.
23. ONR expects that the licensee will monitor and control both the incremental and cumulative changes to the character and risk profile of the site due to property transactions. This requires that the licensee implements 'adequate management

arrangements' to ensure that the character of the site is not unduly altered by such transactions and that any proposed additional activities do not present an unacceptable threat to nuclear related operations or emergency arrangements. The expectations of 'adequate management arrangements' are described under Principle 3.

24. Where the licensee grants a lease of the licensed site or part of it to a tenant, the licensee should make sure that the lease contains provisions to ensure that its overall control of the licensed site can be maintained. Specific provisions should ensure that:
  - the tenant does not do anything, or allow anything to be done, which would cause a breach of any of the licence conditions;
  - the licensee will have rights of access to ensure its continued compliance with the site licence; such an access right must also extend to ONR inspectors;
  - structural alterations are controlled where appropriate;
  - the permitted use is clearly defined; and,
  - any alteration to the lease or further property transaction would require assessment and permission from the licensee to the tenant and, if required, permission from ONR to the licensee.
25. Consideration should also be given to ensuring that existing site activities do not present an unacceptable threat to the safety of the activities in the leased area.
26. The licensee should be able to demonstrate how aspects of its management system maintain control of the licensed site. With respect to property transactions under LC3 this includes:
  - Oversight of the tenant's management system arrangements, to confirm that they are aligned with the licensee's management system arrangements. For example, links would be expected to licence condition requirements such as:
    - LC7 Incidents on the site
    - LC11 Emergency Arrangements
    - Provision of adequate information and training for tenants in line with LC9 and LC10 such that they understand the hazards and risk on the site as they may impact on them and the precautions they should take to ensure compliance with the management arrangements.
    - Nuclear safety significant activities which require production and authorisation of a safety case to demonstrate that relevant standards have been met and that risks have been reduced so far as is reasonably practicable.
  - Audit and inspection to confirm that for nuclear safety activities, the tenant is complying with its own management system arrangements and that the interface with the licensee's arrangements is robust.

27. The Inspector should therefore consider the following:

➤ Is there regular review of the cumulative effects of property transactions on the licensee's ability to remain in control of the site?
➤ Is licensee's governance of the LC3 arrangements undertaken by people with appropriate skills and experience to assess significance?
➤ Is there regular review of how property transactions have affected the risk profile of the site? Is there evidence in past property transactions of how the licensee ensured the risk profile remained acceptable?
➤ Are the management arrangements for tenants adequate for control of work under the scope of this LC3 transaction?

#### 4.2 RIGHTS OF ACCESS

**Principle 2:** The licensee shall ensure **rights of access** are preserved.

28. The licence and licence conditions apply at all times throughout the life of a licensed nuclear site and cover design, construction, commissioning, operation, maintenance, modifications and decommissioning. It is ONR's policy to ensure that a licensee has full rights of access to and control of, the site so that it can satisfy the demands placed upon it by the licence and NIA65. This expectation is explained fully in *Licensing Nuclear Installations*.

29. Whilst acknowledging the rights of tenants to carry out their business on a nuclear licensed site the licensee must have rights of access to ensure that nuclear safety is not compromised by any activities on the site. ONR also expects that property transactions should control any structural alterations by the tenant.

30. ONR inspector access to the tenanted area of the site must also be assured and the licensee management arrangements should provide for such access to be maintained.

31. The Inspector should therefore consider the following:

➤ Does the licensee ensure its own and ONR's rights of access to facilities and all areas of the nuclear licensed site?
➤ Is there evidence of licensee assurance that tenants are working within the terms of any lease and its tenant management arrangements?

#### 4.3 EXPECTATIONS OF ADEQUATE LC3 MANAGEMENT ARRANGEMENTS

**Principle 3:** The licensee shall put in place **adequate management arrangements** to ensure proper control in relation to LC3 including provision for the submission to ONR, where appropriate, of adequate documentation about property transactions on the site.

32. As stated above, the nuclear site licence requires the licensee, at all times, to be in control of the site and all activities on the site. In relation to LC3, ONR expects this control to be demonstrated through robust management arrangements that recognise nuclear safety and licensee control implications. These arrangements, which may be approved by ONR under LC3(3), should be part of the licensee's management system. Once approved by ONR, the arrangements cannot be changed without ONR's approval for the change (LC3(4)).

33. The arrangements should provide for routine and early communication of property transaction matters to ONR and access to documentation and records such that ONR can gain confidence that the licensee retains control and that the management of property transactions is in line with the licensee's process.
34. The licensee's arrangements should ensure appropriate licensee internal challenge and ONR oversight is carried out according to the significance of the property transaction. The arrangements should set out the roles and responsibilities for managing the property transaction process, including governance of property transactions and accountabilities for approval.
35. The licensee's arrangements should explicitly identify where ONR's permission is required, in particular that:
  - a) as required by LC3(5) the licensee's freehold or leasehold interest in the licensed site or any part of it, shall not be transferred or assigned without the **consent** of ONR;
  - b) 'High' category property transactions should not proceed without the formal *agreement* of ONR and for such proposals to be submitted by letter to ONR; and
  - c) 'Medium' category proposals be submitted to ONR letter at least 28 days before the proposed implementation date. If ONR identifies issues that cannot be resolved prior to implementation and communicates this by letter to the licensee, the licensee's arrangements should confirm that the property transaction will not proceed without ONR's *agreement*.
36. It is clearly in the licensee's interest to give ONR earlier notice of 'Medium' category changes so that potential issues can be discussed and resolved in good time. Where ONR is satisfied with the proposal and does not intend to intervene, it should communicate this decision by letter to the licensee within 28 days.
37. Where an *agreement*, in accordance with the licensee's own arrangements, is needed from ONR to give permission to a proposed property transaction, the inspector should arrange for the submission to be formally assessed in accordance with ONR's permissioning procedure. Once ONR is satisfied, a Licence Instrument will be issued to the licensee to allow the property transaction to proceed.
38. Annex B shows the indicative logic, through a process flow, which is typically expected within the management arrangements, although it is for the licensee to derive their own proportionate arrangements. The extent of any ONR oversight will depend upon the nature of the property transactions and the evident rigour of the licensee LC3 control and decision making processes.
39. Relicensing and delicensing are outside the scope of LC3, however links to these processes are noted as LC3 considerations may be early triggers for these defined processes. For example, property transactions that transfer the licensee's freehold interest, or assign or surrender the licensee's leasehold interest, in the site, or any part of it, may only be allowable if the site is re-licensed. Re-licensing would also be required if the property transaction were to affect the basis on which the licence was granted, for example the introduction of prescribed nuclear activities not included in the current licence.



40. The Inspector should therefore consider the following:

➤ Is there appropriate due process for all those property transactions which will require Consent from ONR? Are the criteria for those which require Consent clear and consistently applied?
➤ Has the licensee established a set of proportionate management arrangements which recognise that the licensee must remain in control of the site at all times and which reflect the nuclear safety significance of any activities affected by a property transaction?
➤ Do the licensee's management arrangements include provision for ONR to permission a property transaction where this is formally needed for the property transaction to proceed?
➤ Do arrangements provide adequate opportunity for ONR intervention?
➤ Do the licensee's management arrangements include the LC3(3) requirement to submit to ONR for approval such part or parts of the arrangements as ONR may specify?
➤ Do the licensee's management arrangements include the LC3(4) requirement that once approved no alteration or amendment is made to the approved arrangements unless ONR has approved such alteration or amendment?
➤ Is there adequate involvement of appropriately skilled people in the process (both safety and property teams)?
➤ Is the process for management of transactions that do not require Consent robust with effective in house assessment and challenge?
➤ Is there a process for review and improvement of the management arrangements and their implementation, as appropriate?

#### 4.4 IMPACT ASSESSMENT

**Principle 4:** The licensee shall ensure a **proportionate** approach is taken to all property transactions, reflecting their potential to **impact** both on **nuclear safety** and on **licensee control**.

41. ONR expects that, when considering the impact of property transactions on the licensed site, there should be early consideration of the potential to impact both on nuclear safety and on licensee control<sup>2</sup>.
42. To do this, ONR expects that a licensee would use a system of 'classification' of property transactions into 'categories', in a similar way to classification systems used in other Licence Conditions e.g. LC36 Organisational Capability. The classification should lead to a proportionate assessment and the arrangements mandate the appropriate due process for each category. This will provide for the correct level of internal challenge and assessment, and regulatory involvement where required, including the mandatory consent of certain types of property transaction in line with LC3(1) and LC3(2).

<sup>2</sup> Although security is not regulated under the site licence conditions (it is regulated under the Nuclear Industries Security Regulations (NISR) 2003), it would be advantageous for the licensee to include the security aspects of property transaction(s) as part of an integrated assessment.

- 43. The licensee should determine the most appropriate system for their particular needs whilst demonstrating broad compliance with the principles set out in this guidance. Annex D sets out the broad expectations of the type of considerations and attributes of such a classification system.
- 44. If the system has a minor category or equivalent it should only be used for activities which do not fall under the other categories and for which the property transaction has no implications for nuclear safety or licensee control.
- 45. The inspector should therefore consider the following:

➤ If a classification system is used, do the arrangements contain clear criteria for the classification of property transactions which broadly follow ONR's guidelines?
➤ Is a proportionate approach taken to property transactions within the management arrangements? Is this in line with ONR expectations of such a system?
➤ Are appropriate competencies applied to the assessment of property transactions?
➤ Are property transactions properly assigned to an approval route?

## 5. ANNEX A: LICENCE CONDITION 3, DEFINITION OF 'PROPERTY TRANSACTION' AND SIGNPOST TO GUIDANCE

### LC3 Control of Property Transactions

- (1) The licensee shall make and implement adequate arrangements to control all property transactions affecting the site or any part of the site to ensure that the licensee remains in overall control of the site.
- (2) The arrangements shall include provision for the classification of all property transactions according to their safety significance and their impact on the licensee's control of the site. The arrangements shall include a requirement for the provision of adequate documentation to justify the classification of property transactions and shall where appropriate provide for the submission of this documentation to ONR.
- (3) The licensee shall submit to ONR for **approval** such part or parts of the arrangements as ONR may **specify**.
- (4) The licensee shall ensure that once approved no alteration or amendment is made to the approved arrangements unless ONR has **approved** such alteration or amendment.
- (5) The licensee shall not transfer its freehold, or assign its leasehold, interest in the site or any part of the site without the **consent** of ONR. In addition, if ONR so **specifies** the licensee shall not carry out any property transaction, or any property transaction of the description or descriptions specified by ONR, without the **consent** of ONR.
- (6) The licensee, if so **directed** by ONR, shall not complete the property transaction specified in that direction without the **consent** of ONR.

### LC1: Definition of 'Property Transaction'

It is noted that "property transaction" means any property transaction including a transfer, conveyance, assignment, demise, letting, under-letting, parting with possession, sharing occupation or use, or granting or reserving any property licence, easement or wayleave over or in relation to the site or any part of it, but excluding a right of access or any right of occupation, use or possession to or with a party performing statutory, regulatory or international obligations, or a party delivering contracted services solely to or for the benefit of the licensee, in relation to that nuclear licensed site.

### SIGNPOST TO GUIDANCE FOR LC3

- LC3(1) requires that *'The licensee shall make and implement adequate arrangements to control all property transactions affecting the site or any part of the site to ensure that the licensee remains in overall control of the site'*. This embodies the first, second and third principles underpinning Licence Condition 3 set out in the corresponding guidance (see sections 4.1, 4.2 and 4.3). If such arrangements require ONR to permission a proposed property transaction, the inspector should arrange for the property transaction to be formally assessed in accordance with ONR's permissioning procedure. Once ONR is satisfied that the property transaction may proceed, ONR will issue a Licence Instrument to the licensee to permission the transaction.
- LC3(2) requires that *'The arrangements shall include provision for the classification of all property transactions according to their safety significance and their impact on the licensee's control of the site.'* In addition, it requires that *'The arrangements shall include a requirement for the provision of adequate documentation to justify the classification of property transactions and shall where appropriate provide for the submission of this documentation to ONR'*. This embodies Principle 4 (Section 4.4) and is further expanded upon in Annex D. LC3(3) requires that *'the licensee shall*

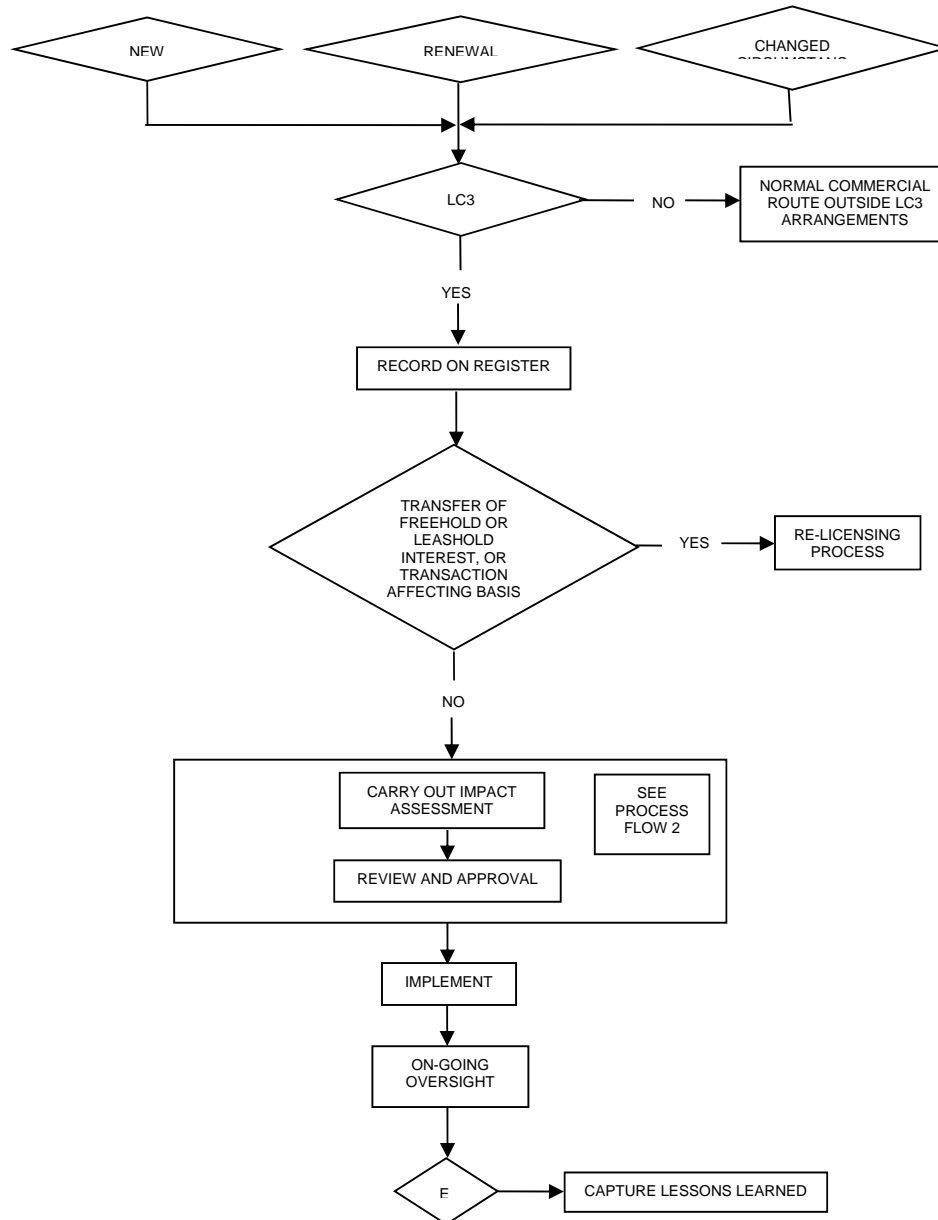
*submit to ONR for approval such part or parts of the arrangements as ONR may specify*. The licensee's arrangements should make appropriate provision for submitting the arrangements as and when specified by ONR. This is included in Principle 3 and the guidance in section 4.3.

3. LC3(4) requires that *'The licensee shall ensure that once approved no alteration or amendment is made to the approved arrangements unless ONR has **approved** such alteration or amendment.'* This requirement should be embedded within the Licensee's management arrangements, as set out in Principle 3 and section 4.3.
4. LC3(5) requires that formal consent from ONR is obtained before a transfer or assignment of the licensee's freehold or leasehold interest in the site or part of the site takes place. ONR may specify further property transactions that also require its formal consent. This is embedded within the requirements of Principles 3 and 4 and further explained in sections 4.3 and 4.4.. An illustrative description of what might constitute a property transaction in each category of high, medium and low is given in Annex D.
5. LC3(6) supplements the powers under LC3(5) and allows ONR to direct that a licensee must not carry out a property transaction in a particular case.

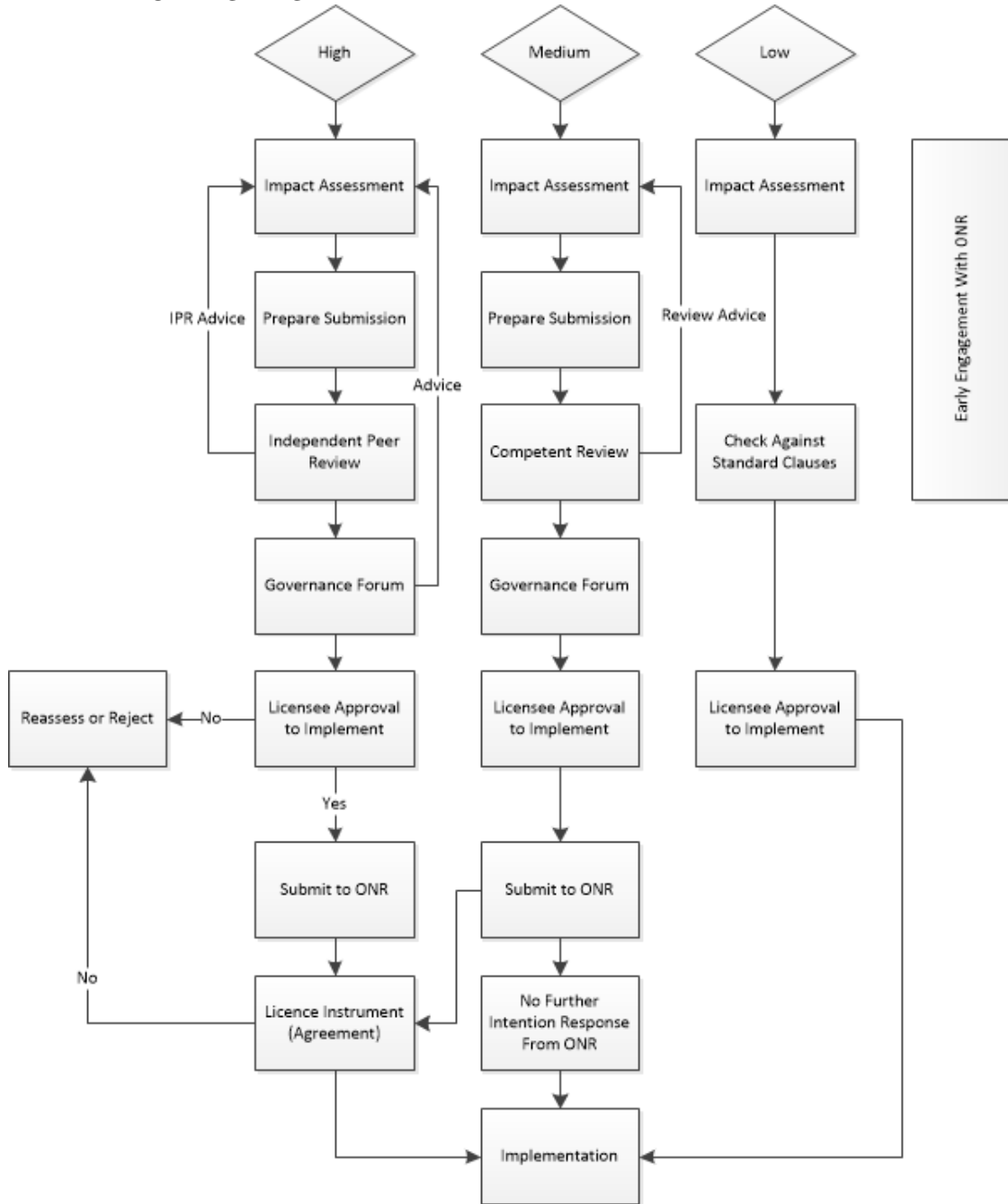
## 6. ANNEX B: OUTLINE PROCESS FLOW FOR LC3 ARRANGEMENTS

The following process flows are indicative only and are intended to illustrate the logic without prescribing a particular approach. They are based on a 'High, Medium and Low' classification system for illustrative purposes as outlined in Annex D.

### B1.1 PROCESS FLOW 1- INDICATIVE OVERARCHING PROCESS FOR LC 3 TRANSACTIONS



### B1.2 PROCESS FLOW 2 – EXPANSION OF IMPACT ASSESSMENT AND REVIEW & APPROVAL STEPS



Three routes are shown for the High, Medium and Low category submissions. The process reflects the expectations for each category with 'High' receiving the greatest challenge and oversight and requiring regulatory permissioning.

ONR involvement will include early engagement; use of primary and derived powers (consent and agreement) and routine inspection. It is expected that licensees will ensure ONR are made aware of potential LC3 submissions through routine communication to enable appropriate and proportionate ONR intervention.

### **Carry Out Impact Assessment**

- Management arrangements should define a standard methodology for undertaking an impact assessment that addresses all aspects of control and nuclear safety impacts within the LC3 scope. This impact assessment should not duplicate or replace any more detailed risk assessments required under other LCs, e.g. under LC14. This initial assessment is therefore constrained to the LC3 framework; the intent is to ensure LC3 implications are adequately considered to inform implementation after the property transaction has been approved.
- All property transactions (whether arising from new requests, a renewal or changed circumstances) should be recorded in some form of register such that they can be tracked; classification should be confirmed through assessment of impact.
- Impact assessments should begin with confirmation of the appropriate category based on standard challenge questions. This will allow the licensee to rate the significance of the property transaction in terms of the potential impact on licensee control and on nuclear safety. This assessment should be mindful of the security implications that may impact on nuclear safety such as security of nuclear materials and information.
- Property transactions categorised as 'High' require the closest scrutiny and challenge. Assessment should be undertaken by competent individuals with specialist nuclear safety advice involved in the risk assessment as appropriate.
- A proportionate interpretation of this approach is required for the 'Medium' and 'Low' categories.
- As a site licence is granted to a particular corporate body to undertake specified prescribed activities in a defined location, re-licensing will be necessary if the proposal could result in a material change to the basis on which the existing nuclear site licence was granted.

### **Prepare Submission**

- Management arrangements should define the content of a submission for each category. The level of detail of each submission should reflect the significance. It is expected that a submission will include evidence of the type of property transaction (for example the lease) and justification of the category assigned to the property transaction. The impact assessment should provide this evidence in a proportionate manner and identify potential impacts, controls and implementation actions. The significance will also reflect whether the activities associated with the property transaction after implementation are already covered under existing safety cases or whether they are new or novel activities potentially outside the existing safety case. Where appropriate it should also provide evidence of (or identify links to) management arrangements for tenant oversight. In the case of submissions categorised as 'High' it is likely that additional supporting information will be required.
- A proportionate interpretation of the format for 'Low' category submissions may include a checklist approach confirming the absence of specific impacts.

- Controls should be identified; it is noted that standard format leases will support this approach.

### **Review Submission**

- The governance route should be defined in the management arrangements. This should identify the 'governance' committee that will consider the submission and licensee approval through the system of delegated authority.
- Category 'High' submissions should be subject to Independent Peer Review (IPR). Category 'Medium' submissions should be reviewed in a proportionate manner by someone other than the author who is suitably qualified and experienced to do so.
- It is expected that the licensee will identify a 'governance' committee for LC3 submissions, in the same way as for management of change submissions under LC36. The terms of reference of this committee should state its role in the LC3 process. It is also expected that the Nuclear Safety Committee will be advised of significant transactions.
- Category 'Low' submissions should be overseen by the identified LC3 governance committee and be approved by the licensee based on the system of delegated authority as defined in the management arrangements.
- If not supported, reassessment is required to address concerns and mitigation controls; if this is not possible the proposal should be rejected.

### **Approve Submission**

- Approval will be undertaken as defined in the system of delegated authority for LC3 approval in the management arrangements.
- Category 'High' submissions require ONR permission before licensee approval for implementation. Submission to ONR should be in line with LC3 management arrangements along with evidence of licensee internal challenge. ONR may permission other category submissions if it is believed that there are other factors that require the permissioning process.
- Licensee support for ONR assessment activities is required to achieve agreed turnaround times.
- Confirmation that a Licence Instrument is in place is required for implementation of category 'High' submissions.
- For submissions in the 'Medium' category, early communication with ONR is recommended to ensure that ONR have the opportunity to permission property transactions where appropriate.



## 7. ANNEX C: GUIDANCE ON INSPECTING THE IMPLEMENTATION OF LICENSEE ARRANGEMENTS

The following “short-form” guidance is provided to assist inspectors in judging the adequacy with which a licensee implements arrangements that enable it to comply with LC3. The Annex complements the more detailed guidance in the main body of this TAG and reference to that material should be made where appropriate.

### **Start of LC3 process (New Request, Renewal or Reassessment)**

- Confirm that all property transactions are captured.
- Confirm that routine discussions are taking place on LC3 requests including anticipated property transactions. This should enable the licensee and the regulator to have a ‘no surprises’ approach and to ensure early regulatory involvement as necessary.

### **Record on Register**

- Obtain a copy of the licensee register of property transactions.
- Check that it includes the nature of the property transaction including its significance in terms of nuclear safety and potential to impact on licensee control of the site.
- Confirm all types of request are captured and there is evidence of progress of property transactions through the approval process.
- Are all property transactions recorded?
- Check register is kept up to date and sample an appropriate number of lower level submissions to gain confidence that the process is being used robustly for property transactions that do not require formal consent.

### **Assign a category**

- Check the categorisation approach to and the definitions of each category are clear and technically appropriate. Confirm there is a defined due process for each category.  

[Note: Licensees may choose to use a categorisation system that includes a simple rating of high, medium and low as given in Annex D. The category assigned must consider the effects of individual and combined aspects as appropriate. In all cases the definitions of each category should be clear and agreed as part of the approval of the LC3 management arrangements]
- Check a sample of transactions which are categorised as low & which do not require ONR’s consent. Confirm appropriate categorisation. Confirm internal review and approval has been undertaken to an appropriate standard and in line with the requirements of the management arrangements.
- Is there evidence of sound decision making for the assessment of the impact (on nuclear safety and licensee control) of the property transaction such that its significance is understood and the correct due process is followed?
- Is the in-house process for approval of transactions that do not require ONR’s consent clear and functioning effectively?

**Carry out Impact assessment**

- Check a sample of impact assessments across different categories (it is noted that all impact assessments that are associated with a property transaction that requires consent will be reviewed by ONR).
- Check that the impact assessments address both the potential risk in terms of nuclear safety and loss of licensee control through the transaction.
- Confirm the assessment has been carried out by competent people.
- Confirm controls identified in the impact assessment are included in the way tenants are managed, for example, in tenant management arrangements or safety requirements.
- Could existing activities on site adversely affect those associated with the proposed submission?
- Do the activities associated with the property transaction alter the nature of activities on the licensed site? Could the activities change the basis on which the licence was granted?
- Do the proposed activities have the potential to increase the risk profile of the site?
- Do the proposed activities have an impact on emergency arrangements? (This may be a direct impact due to the nature of the activities or an indirect impact such as affecting vehicle access routes).

**Review & approval**

- Confirm that the management arrangements have an appropriate review and approval route for each category of property transaction with clearly identified timescales for review and consideration. Approval routes should include appropriate governance committee involvement.
- Confirm that implementation actions are identified for all categories of property transactions that fall within the requirements of LC3.
- For property transactions that require consent by ONR confirm that:
  - independent Peer Review has been undertaken;
  - NSC advice has been given and that where advice was not accepted that the justification for this is clear;
  - there has been appropriate internal approval from the licensee;
  - submission to ONR has taken place in line with the timescales outlined in the management arrangements;
  - the submission to ONR included the necessary documentation;
  - any ONR comments have been acted upon; and,
  - implementation plans are adequate.
- For property transactions where formal consent is not required but a notice period to ONR has been agreed, check a sample of transactions to provide evidence of this process operating properly.
- For all other property transactions, confirm that local review has taken place and that there is evidence that this is working effectively.
- Confirm that the arrangements include consideration of cumulative effects of property transactions on the site. This includes considering cumulative effects both in individual submissions and through review of all property interests.

### **Implement property transaction**

- Confirm that the management arrangements include interactions with other licence compliance arrangements to ensure adequate review and oversight of tenants.
- Check a sample of property transactions to confirm implementation is in line with requirements and that any output from monitoring activities is taken account of.
- Confirm that property transactions, when closed or expired, are recorded in the register of property transactions.
- Confirm that property transactions that are nearing review are identified to ensure that timely consideration was given to renewal or managed closure.

## 8. ANNEX D: BROAD GUIDANCE ON CLASSIFICATION OF PROPERTY TRANSACTIONS

The approach to classification of property transactions may vary according to licensee. The following category attributes are provided for illustrative purposes to guide the Inspector. Furthermore, the examples given are intended to indicate the broad application of a classification system and each property transaction should be considered on its own merit:

- HIGH significance property transactions which involve:
  - facilities with the potential for off-site radiological effects or which have a significant radiological material inventory (regardless of the potential for off-site effects).
  - involve facilities with potential for events which could affect the site as a whole (including non-radiological events such as chemical spills).
  - potential material effects on existing emergency arrangements.
  - potential significant impacts on the safety case for a facility on the site.
  - activities which could alter the risk profile of the site or impact on existing site activities.
  - significant impact in terms of risk to security of the site.
  - significant potential to impact on control of the site through the nature of the property transaction (e.g. a lease of a key part of the site or where the terms of a lease or property licence would hinder the licensee's control).
  - Potential impact on the site due to the term of the lease.

Examples of property transactions likely to be in the High category include a lease of a significant or important part of the site or a property transaction where nuclear material is part of the intended operations (consistent with the bullet points above) or high hazard chemical activities or activities for which a high (or possibly lower) category safety case would be made.

- MEDIUM significance property transactions with:
  - potential for local effects on the site (which do not alter off-site arrangements or the emergency arrangements within the site).
  - significant non-nuclear, high hazard activities or non-nuclear activities that may impact nuclear activities on the site
  - significant numbers of people and hence potential impact on the licensee's ability to remain in control of the site, but not in the High category.
  - impact on local security arrangements by the proposed activities.
  - potential to be impacted by site activities (e.g. due to proximity of offices to facilities handling radioactive materials in normal or emergency situations).
  - potential to impact on control through the nature of the property transaction.

Examples of property transactions likely to be in the Medium category include transactions which permit the use of industrial X-ray equipment, or permit activities involving significant numbers of people or transactions which relate to areas of the site where there is potential for workers to receive a radiation dose in emergency situations. In addition, any property transaction which involves a new lease of any part of the site is likely to be in the medium category. This is because of the exclusive possession which arises with a leasehold interest.

- LOW significance property transactions with:
  - low significance of impact on the site or control of the site;
  - hazardous materials below the criteria for High or Medium classification;
  - no potential to impact on the work of the site; and
  - no potential impact from on-site activities.

Examples of Low category transactions are likely to include licences to occupy office facilities within buildings where there is no potential for an impact on the office area from a neighbouring facility and where the numbers of employees involved do not suggest a higher classification in terms of control. Wayleaves and Easements are likely to fall into this category but this would need licensee assessment to confirm on a case by case basis. Additionally, it is likely that minor variations or extensions to a lease with no material change to site safety or licensee control (see in particular paragraph 24 of this TAG) will fall into this category.