



Office for
Nuclear Regulation

ONR REGULATORS' CODE SELF-ASSESSMENT REPORT 2018

May 2018

ONR Regulators' Code Self-Assessment Report 2018

Contents

Progress against previous actions.....	1
Update on how our current activity aligns with the Regulators' Code.....	5
Regulators should carry out their activities in a way that supports those they regulate to comply and grow.....	5
Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.....	7
Regulators should base their regulatory activities on risk.....	10
Regulators should share information about compliance and risk.....	11
Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.....	13
Regulators should ensure that their approach to their regulatory activities is transparent.....	16

Introduction

The Regulators' Code came into effect in April 2014 and aims to provide a framework for how regulators should engage with those they regulate. In 2015 we published a review of our [compliance with the Regulators' Code](#), which offered an assessment of where we were meeting the requirements of the new Code while also highlighting areas for improvement. This report describes progress against the actions from that review and provides an update on how well our activity currently aligns with the Code based on a self-assessment we have completed. A further update will be published in 2020 to coincide with the end of our current [ONR strategy 2015-2020](#).

In the UK, we have a goal-setting framework for regulation of the nuclear sector which places accountability clearly on dutyholders to achieve the high standards of safety and security required. Reflecting on our experience of regulating in accordance with the Code we have, as in 2015, found our regulatory framework allows us to regulate according to the high standards expected while also operating in accordance with the Code.

Overall, we believe our activity aligns well with the Regulators' Code themes as summarised in Table 1. In particular, our regulatory framework and enabling approach embrace proportionality, our approach with other regulators is highly collaborative, and the publication of our staff guidance for inspection and assessment provides a good basis for openness and transparency. There have also been a number of significant improvements to our regulatory regime in recent years, such as the introduction of the Security Assessment Principles (SyAPs) and publication of our Risk Informed Decision Making guidance, following a review of our risk policy. However, we are not complacent and following this self-assessment exercise we have identified further improvements that we can make to better align our activity with four of the six themes in the Code, while also supporting our broader desire to continuously improve.

Table 1 - Self-Assessment Summary

Theme: Regulators should...	
1. Carry out their activities in a way that supports those they regulate to comply and grow	○
2. Provide simple and straightforward ways to engage with those they regulate and hear their views	○
3. Base their regulatory activities on risk	○
4. Share information about compliance and risk	○
5. Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply	○
6. Ensure that their approach to their regulatory activities is transparent	○
Key: ○ Fully compliant ○ Some change needed ○ Significant change needed	

Progress against previous actions

In 2015 we committed to further embed the Regulators' Code expectations into our everyday working practices by taking forward eight actions. We have made good progress against all actions, completing all but two of them in full.

Our progress against each action is described in table 2 below. The two outstanding actions relate to making sure the growth duty is understood throughout the organisation (1A) and making changes to our website to make it more user-friendly (5A). These are being taken forward with the improvements identified in this self-assessment report.

Table 2: Progress against Recommendations from ONR's compliance with the Regulators' Code 2015

Actions from 2015	How we have progressed	Complete
<p>1A: Ensure that the growth duty is understood throughout the organisation, and is part of any decision-making procedure that may affect a business, for completion by the end of December 2016.</p>	<p>This will be completed as part of the actions responding to this self-assessment report. Progress has been made including:</p> <ul style="list-style-type: none"> • Understanding of cost considerations has been included in our inspector training programme. • The enabling regulation guide published in February 2018 embeds the expectation that ONR will carry out our activities in a way that supports those we regulate to comply and grow. 	<p>X</p>
<p>1B: Undertake a review of its economic impact on dutyholders, for completion by April 2016.</p>	<p>Review complete, published here.</p>	<p>✓</p>
<p>2A: Implement changes in relation to reporting on whistleblowing over the next financial year (2015/16).</p>	<p>The changes were implemented. Our website was updated making it easier to report a concern / complaint or whistle blow.</p>	<p>✓</p>
<p>2B: Seek ways to engage with dutyholders in a more holistic fashion, to ensure that a broader spectrum of dutyholders has the opportunity to comment on our performance.</p>	<p>We undertook our first external stakeholder survey in October 2017 to gain feedback from our stakeholders. A summary of outcomes can be found here. The survey gives us a baseline to improve future engagement on our performance.</p>	<p>✓</p>

Actions from 2015	How we have progressed	Complete
<p>3A: Progress current projects (licence conditions review, update to NORMS and risk policy review) to deliver measureable improvements to the regulatory regime by the end of 2017.</p>	<p>Improvements in the regulatory regime have been delivered:</p> <ul style="list-style-type: none"> • The update to NORMS has been delivered by the publication of our Security Assessment Principles (SyAPs). This aligns our nuclear security regulatory framework with our goal-setting nuclear safety framework, providing dutyholders with a coherent regulatory approach across the civil nuclear industry. • In June 2017 we published our Risk Informed Regulatory Decision Making guidance, delivering our project on risk policy review. • The Licence Conditions Review has looked at potential changes to ONR Licence Conditions, which are currently being considered by ONR Directors. 	<p>✓</p>
<p>4A: Continue to engage with the Better Regulation Delivery Office's (BRDO) project to develop ways in which information can best be shared between our organisation and other regulators.</p>	<p>We engaged with BRDO in the Data Sharing for Non-Economic Regulators project which reported in 2015¹. While there were no specific actions for ONR, we continue to engage with government on Better Regulation.</p>	<p>✓</p>

¹ <https://www.gov.uk/government/consultations/data-sharing-for-non-economic-regulators>

Actions from 2015	How we have progressed	Complete
<p>5A: Review the content and layout of our website to make it more user-friendly, specifically tailoring it to our dutyholders by September 2016.</p>	<p>We haven't fully reviewed the content and layout of the website and will be taking this forward with the actions in this self-assessment report. We are constrained by the need to separate out IT infrastructure and services from HSE in order to modernise our systems and ways of working, which we aim to do in 2018 so that we can review our website by 2019.</p> <p>We have made progress improving the website by:</p> <ul style="list-style-type: none"> • Providing additional signposting to our most popular content • Performing a content audit to check the currency of information on the website, in line with Information Commissioner's Office guidance. • Updating ONR's Publication Scheme to make clear what we publish. 	<p>X</p>
<p>6A: Establish a small business appeals champion as required by future legislation, and report annually on the numbers of whistleblowing disclosures that we have received (by April 2016, subject to legislation).</p>	<p>Legislation has not yet come forward on the small business appeals champion. We report all whistleblowing disclosures both to our Audit and Risk Assurance Committee and in our annual report with regular reviews to consider any lessons learnt.</p>	<p>✓</p>

Update on how our current activity aligns with the Regulators' Code

Theme 1			
<i>Regulators should carry out their activities in a way that supports those they regulate to comply and grow</i>			○
Ref	Requirements	How do we meet the requirements?	
1.1	Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors, including business size and capacity.	As the independent regulator for the nuclear industry we ensure that the industry effectively manages its hazard and maintains the high standards we expect. This remains our overriding priority. However, we are in a strong position in this area because proportionate regulation is promoted by our goal-setting regulatory framework. Our Enabling Regulation Guide describes the constructive approach we take with dutyholders and other relevant stakeholders to enable effective delivery against clear and prioritised safety and security outcomes.	○
1.2	<p>When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, eg by considering how they can best:</p> <ul style="list-style-type: none"> • understand and minimise negative economic impacts of their regulatory activities; • minimising the costs of compliance for those they regulate; • improve confidence in compliance for those they regulate; and • encourage and promote compliance. 	<p>For many years, ONR and its predecessor organisations has taken account of economic factors in its regulatory decision making as long as these factors do not detract from our main focus of maintaining safety and security of the nuclear industry.</p> <p>We are always prepared to consider relevant costs: the goal setting regulatory framework allows for due consideration of the cost of regulation through the use of established relevant good practice. Our non-prescriptive regime allows a greater level of flexibility for dutyholders when determining how they will comply with the law, such that they can consider the most cost effective solutions to problems.</p> <p>Like other regulators in the UK, we have a Business Impact Target assessment process in place to consider the economic impacts of regulatory measures and report to Parliament on these.</p> <p>Action 1 – We will improve our understanding of the growth duty and fully embed our enabling regulation approach.</p>	○

Theme 1			
1.3	<p>Ensure officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches.</p>	<p>We have a good understanding of those we regulate, and well-skilled inspectors:</p> <ul style="list-style-type: none"> • We recruit a wide range of discipline specialists with nuclear and other high hazard industry experience. • Our inspectors are trained, mentored and subject to an assessment of their competency prior to being issued with a full warrant. They are then subject to periodic reassessment every five years to ensure their understanding of the law remains valid. Our warranting process is checked against international expectations by the International Atomic Energy Agency (IAEA). • We have developed the ONR Academy to provide more effective training and development of our inspector team and doubled our capability in this area. 	○
1.4	<p>Ensure staff understand the statutory principles of good regulation and of this Code, and how the regulator delivers its activities in accordance with them.</p>	<p>In our enforcement policy statement we set out five principles of enforcement. These principles align with the Regulators' Code and form a key element of our core inspector training.</p> <p>As indicated above, our inspectors are assessed on their understanding of these principles of the law as part of the warranting and re-warranting process.</p>	○

Theme 2			
<i>Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views</i>			○
Ref	Requirements	How do we meet the requirements?	
2.1	Have mechanisms to engage those they regulate, citizens and others to offer views and contribute to development of policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.	<p>We are committed to openness and transparency. A good example of collaborative engagement and consideration of the impact on business is:</p> <ul style="list-style-type: none"> • Consultation on the development of our Security Assessment Principles (SyAPs), including targeted promotion of consultation with security supply chain dutyholders via industry. <p>Good examples of engagement with those we regulate, interested citizens and others include our participation on a regular basis in Site Stakeholder Groups and Local Liaison Committees, and twice yearly meetings, plus other regular engagements, with nuclear-interest Non-Governmental Organisation (NGO) representatives.</p> <p>Action 2 – We will adopt a more systematic approach to external engagement in development of policies and service standards.</p>	○

Theme 2			
2.2	<p>In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required/decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue with a view to ensuring that they are acting in a way that is proportionate and consistent.</p>	<p>The following examples illustrate that we do this well:</p> <ul style="list-style-type: none"> • Explaining any non-compliance is an integral part of inspector training and work activities. • The conclusions of our site interventions are always shared, discussed and agreed with dutyholders before inspectors leave site to ensure full understanding. • We keep a record of areas of regulatory concern (“Issues”) and share these with dutyholders giving high level of transparency regarding our expectations. • Our dutyholders have regular engagement with inspectors to discuss regulatory action and also have other opportunities to discuss regulatory action at senior levels in ONR. • We publish details of enforcement notices, project assessment reports and intervention records to make our advice about compliance open and transparent. 	○
2.3	<p>Regulators should provide an impartial and clear route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers who took the decision against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.</p>	<p>ONR is positioned well in respect to welcoming challenge on regulatory decisions.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • A formal decision review process is in place. • The process for appealing an Enforcement Notice is made clear to dutyholders. • Regulatory interactions and escalation through regular meetings provide a route for appeal and resolution on ONR decisions before formal channels may be needed. <p>Action 3 – We will review our appeal routes to ensure they are consistently clear and impartial.</p>	○

Theme 2			
2.4	Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved	As described in 2.3, there are good examples of where we have clear routes to appeal including our revised model enforcement letter which improves the description of the appeal route for enforcement action.	○
2.5	Make available clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.	In addition to encouraging challenge through a wide range of routes described in 2.2, we have a formal complaints process. The complaints process is easily accessible on our website.	○
2.6	Have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate.	<p>There are good examples of us having mechanisms to receive and take on board industry feedback such as the Regulatory Nuclear Interface Protocol (RNIP)².</p> <p>We have also recently completed our first stakeholder survey which asked dutyholders and other stakeholders for feedback.</p> <p>Action 4 – We will regularly collate feedback dutyholders have given direct to inspectors and other staff on their experience of regulation.</p>	○

² <http://www.onr.org.uk/rnip/index.htm>

Theme 3			
<i>Regulators should base their regulatory activities on risk</i>			○
Ref	Requirements	How do we meet the requirements?	
3.1	Take an evidence-based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.	<p>Our planning is based on risk through well-embedded processes, as illustrated by the following examples:</p> <ul style="list-style-type: none"> • We have a regulatory 'prioritisation list' for Sellafield (based on hazard and risk) which is used to allocate resources to address the highest risks at the site. • Regulatory Divisions plan against agreed regulatory assumptions (published in the ONR Corporate Plan), but remain agile to changing political priorities (such as supporting the UK Government in establishing a domestic safeguards regime following withdrawal from Euratom). 	○
3.2	Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance; and when taking enforcement action.	We have a well-established regulatory planning function that considers risk well . A key strength in this area is the enabling regulation approach. Our Enforcement Management Model describes the risk-based criteria against which decisions are made.	○
3.3	Regulators designing a risk assessment framework, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected, and to review it regularly.	<p>Examples of good consultation on the design of risk assessment framework include:</p> <ul style="list-style-type: none"> • Consultation with dutyholders on our Security Assessment Principles (SyAPs) and Safety Assessment Principles (SAPs). 	○

Theme 3			
3.4	Regulators, in making their assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.	<p>There are a number of good examples including:</p> <ul style="list-style-type: none"> We consider the previous performance of the dutyholder when making enforcement decisions. We work closely with dutyholders' internal regulators to take account of their views in our decision making. 	○
3.5	Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.	We regularly review the impact of our regulatory strategy by overseeing the performance of all the dutyholders we regulate in our divisions and sub-divisions. We discuss dutyholder performance in our Quarterly Site Reports which are published on our website and discussed with citizens at Site Stakeholder Groups and Local Liaison Committees.	○

Theme 4			
<i>Regulators should share information about compliance and risk</i>			○
Ref	Requirements	How do we meet the requirements?	
4.1	Regulators should share information about compliance and risk	<p>Having regulatory oversight of nuclear safety, nuclear site health and safety, nuclear security, nuclear safeguards and the transport of radioactive material (as defined in The Energy Act 2013) puts us in a good position to target resources and avoid duplication. A good example is:</p> <ul style="list-style-type: none"> Generic Design Assessment (GDA) for new reactors where we work with the Environment Agency (EA) to avoid duplicate requests via the Joint Programme Office. 	○

Theme 4			
4.2	<p>When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.</p>	<p>We regularly work with other regulators to target activities and minimise duplication. We do this well by regularly carrying out joint inspections with other regulators including the UK environmental regulatory bodies and the Health & Safety Executive.</p> <p>We also work with other regulators internationally via membership and participation in international groups and fora.</p> <p>Action 5 – Review the arrangements we have for sharing information with other regulators to ensure they remain effective and fit for purpose.</p>	

Theme 5			
<i>Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply</i>			○
Ref	Requirements	How do we meet the requirements?	
5.1	Provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.	<p>On our website we publish guidance for dutyholders and the guidance we use to decide whether a dutyholder is reducing risks adequately, which provides transparency.</p> <p>Examples of how we describe the relationship of law to guidance can be found in our technical assessment and inspections guides.</p>	○
5.2	Publish guidance and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.	<p>We do this well, with all assessment principles and assessment and inspection guides published on our website and in taking on dutyholder views during consultation (eg SAPs and SyAPs).</p> <p>Action 6 – We will gather feedback from dutyholders on their experience of accessing and using guidance.</p>	○
5.3	Have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.	<p>We do this well using a variety of mechanisms:</p> <ul style="list-style-type: none"> • Consultation on safety assessment principles including explanation of how comments were addressed. • We regularly consult with the Safety Directors' Forum, which includes senior-level representatives responsible for safety from across industry, when developing guidance 	○

Theme 5			
5.4	<p>Seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.</p>	<p>Providing advice is mandatory for us, and all inspectors are trained to recognise the benefits that come from helping the dutyholder to achieve and maintain compliance. We are strong in this area, examples include:</p> <ul style="list-style-type: none"> • Early engagement with dutyholders to clarify our expectations on assessment and permissioning. • Site inspectors are frequently approached by those on site for regulatory advice, illustrating that dutyholders feel able to seek advice without fear. 	○
5.5	<p>In responding to requests for advice, a regulator's primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.</p>	<p>We are in a good position because of the goal setting regulatory regime adopted in the UK, which facilitates early engagement to advise on compliance to meet the high standards required.</p> <p>This has been further supported by the Enabling Regulation guide, which promotes a constructive approach with dutyholders and other relevant stakeholders to enable delivery against clear and prioritised safety and security outcomes.</p>	○

Theme 5			
5.6	<p>Regulators should have mechanisms to work collaboratively to assist those regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.</p>	<p>We do this well:</p> <ul style="list-style-type: none"> • We train our inspectors not to put dutyholders in the position where advice we give conflicts with another regulator; instead we will speak to the other regulator and agree a solution with them. • We conduct joint inspections with other regulators to ensure we minimise regulatory burden, develop a joint coherent approach and provide consistent advice. • We consult with other regulators as part of the permissioning process to ensure there are no conflicts in advice. • We have Memorandums of Understanding (MoUs) with other regulators to ensure effective joint working. 	○

Theme 6			
<i>Regulators should ensure that their approach to their regulatory activities is transparent</i>			○
Ref	Requirements	How do we meet the requirements?	
6.1	Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.	<p>We do this well: At a corporate level we publish annual plans that dutyholders can measure our performance against. In terms of being clear about what dutyholders can expect, good examples include publication of the Chief Nuclear Inspector's Summary Programme Plan. At an ONR Regulatory Divisional level we share strategies and plans with dutyholders so they know what to expect. At a site level, we share intervention strategies and plans.</p> <p>Action 7 – We need to develop clear service standards for what dutyholders can expect from us.</p>	○
6.2	<p>Regulators' published service standards should include clear information on:</p> <p>a) how they communicate with those they regulate and how they can be contacted;</p> <p>b) their approach to providing information, guidance and advice;</p> <p>c) their approach to checks on compliance, including details of the risk assessment framework used to target those checks as well as protocols for their conduct, clearly setting out what those they regulate should expect;</p> <p>d) their enforcement policy, explaining how they respond to non-compliance;</p> <p>e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated, and should include an explanation of whether compliance will affect fees and charges; and</p> <p>f) how to comment or complain about the service provided and routes to appeal.</p>	<p>We publish information on what dutyholders can expect, for example:</p> <ul style="list-style-type: none"> • We have a range of clear and well-established communication routes via site inspectors, delivery leads and Divisional Directors for licensed sites and authorised defence sites to engage with us. • We explain our enforcement policy and regulatory framework in the Enforcement Management Model, Enforcement Policy Statement and SAPs, which are all published on our website. • We have published a raft of other guidance, including Technical Inspection Guides, Technical Assessment Guides and an Applicant Guide for Transport dutyholders on our website. • We have a complaints procedure published on our website. <p>Although we publish a range of information that describes what dutyholders can expect we do not have clear service standards. Action is as per 6.1 above.</p>	○

Theme 6			
6.3	Information published to meet the provisions of this Code should be easily accessible, including being available at a single point on the regulator's website that is clearly signposted, and it should be kept up to date.	In 2015 we published a review of our compliance with the Regulators' Code , which offered an assessment of where we were meeting the requirements of the new Code while also highlighting areas for improvement. This report describes progress against the actions from that review and provides an update on how well our activity currently aligns with the Code based on a self-assessment we have completed. This report will be clearly signposted in the Annual Report and Accounts.	○
6.4	Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.	<p>The assurance mechanisms we have allow us to assess our performance, including reporting against our Key Performance Indicators (KPIs) in the Annual Report and Accounts this year.</p> <p>As part of our continuous improvement activity we are working to enhance the quality of our regulatory effectiveness measures throughout the organisation. This will be a key focus during 2018/19 to inform development of our KPIs for 2019/20.</p> <p>Action 8 – Improve our regulatory KPIs, making them better linked to international standards for nuclear regulators.</p>	○
6.5	Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys, and data relating to complaints about them and appeals against their decisions.	<p>Although our annual reports describe performance against the ONR Corporate Plan, there is room to be more transparent in some instances.</p> <p>International peer reviews, such as the IAEA's International Physical Protection Advisory Service (IPPAS) and International Regulatory Review Service (IRRS) missions assist member states to strengthen their national security and safety regimes. Our regulation is scrutinised against international standards during these regular reviews and the reports of IRRS missions are published.</p> <p>Actions 7 and 8 will provide the basis to publish details of performance against service standards.</p>	○

