|  |
| --- |
|  |
| ONR Technical Assessment Guide  Corporate Governance for Safety |



ONR Technical Assessment Guide (TAG)

Corporate Governance for Safety

Authored by: Principal Inspector

Approved by: Superintending Inspector

Professional Lead: Human and Organisational Capability

Issue No.: 1

Publication Date: Feb-2023

Next Major Review Date: Feb-2025

Doc. Ref.: NS-TAST-GD-104

Record Ref. No.: 2023/12122

Table 1: Revision commentary

|  |  |
| --- | --- |
| Issue No. | Description of Update(s) |
| 1 | New TAG which draws together sources of relevant good practice on corporate governance for safety, to advise and inform ONR staff in the exercise of their regulatory judgment of a licensee’s overall ability to manage its safety risks through a greater understanding of the board’s impact on the organisation’s safety performance. |

Contents

[1. Introduction 4](#_Toc128036981)

[2. Purpose and Scope 5](#_Toc128036982)

[3. Relationship to Licence and other Relevant Legislation 7](#_Toc128036983)

[3.1. Nuclear Installations Act 1965 7](#_Toc128036984)

[3.2. The Health and Safety at Work etc. Act 1974 7](#_Toc128036985)

[3.3. Company Directors Disqualification Act 1986 7](#_Toc128036986)

[3.4. Corporate Manslaughter and Corporate Homicide Act 2007 8](#_Toc128036987)

[3.5. The Management of Health and Safety at Work Regulations 1999 8](#_Toc128036988)

[3.6. Licence Conditions 8](#_Toc128036989)

[4. Relationship to Safety Assessment Principles, WENRA Reference Levels, and IAEA Safety Standards and Guides 10](#_Toc128036990)

[4.1. Safety Assessment Principles 10](#_Toc128036991)

[4.2. Technical Assessment Guides 10](#_Toc128036992)

[4.3. WENRA Safety Reference Levels for Existing Reactors 11](#_Toc128036993)

[4.4. IAEA Safety Standards 11](#_Toc128036994)

[5. Advice to Inspectors 13](#_Toc128036995)

[5.1. Introduction 13](#_Toc128036996)

[5.2. A Framework for Corporate Governance for Safety 14](#_Toc128036997)

[5.3. Guidance on Intervention Planning 20](#_Toc128036998)

[5.4. Reporting 22](#_Toc128036999)

[Glossary and Abbreviations 22](#_Toc128037000)

[Appendix 1 – Governance Question Set 23](#_Toc128037001)

[References 25](#_Toc128037002)

# Introduction

1. ONR has established its Safety Assessment Principles (SAPs) (see ref. [1] for further information) which apply to the assessment by ONR specialist inspectors of safety cases for nuclear facilities that may be operated by potential licensees, existing licensees, or other duty-holders. The principles presented in the SAPs are supported by a suite of guides to further assist ONR’s inspectors in their technical assessment work in support of making regulatory judgements and decisions. This technical assessment guide (TAG) is one of these guides.

# Purpose and Scope

1. The scope of this guidance is Corporate Governance as it relates to nuclear safety, radiation protection and radioactive waste management. The scope also extends to conventional hazards associated with a nuclear facility where they have a direct effect on nuclear safety or radioactive waste management. The use of the word ‘safety’ within the document should therefore be interpreted accordingly.
2. This TAG draws together sources of relevant good practice on corporate governance and its impact on safety into a single document aligned to The Wates Corporate Governance Principles for Large Private Companies (ref. [2]), to advise and inform ONR staff in the exercise of their regulatory judgment of a licensee’s overall ability to manage its safety risks through a greater understanding of the board’s contribution to the organisation’s safety performance. It sets out expectations for the board’s role in providing leadership for safety and these are reflected in the ‘principles’ set out in Section 5: ‘Advice to Inspectors’. It can be used alongside ONR’s TAG on Safety Leadership (ref. [3]) to provide comprehensive insights into a board’s effectiveness in monitoring and controlling safety risks.
3. Corporate governance is described in the UK Corporate Governance Code, as: “…the system by which companies are directed and controlled” (ref. [4]). It goes on to state that: “…Boards of directors are responsible for the governance of their companies”. It follows that corporate governance for safety is the combination of a company’s corporate governance arrangements and the activities undertaken by its board in securing adequate direction and control of safety. Clearly documented corporate governance arrangements which include safety will help ensure that safety is considered during decision making and remains at the forefront of the board’s oversight.
4. Directors, managers, and leaders at all levels should focus the organisation on achieving and sustaining high standards of safety and on delivering the characteristics of a high reliability organisation. The organisation should have the capability to secure and maintain the safety of its undertakings. Decisions made at all levels in the organisation affecting safety should be informed, rational, objective, transparent and prudent. Lessons should be learned from internal and external sources to continually improve leadership, organisational capability, the management system, safety decision making and safety performance.
5. Experience from worldwide events and incidents at UK sites indicates that experienced and otherwise competent directors can be diverted by other matters from giving adequate and proportionate attention to the direction and oversight of the most serious hazards and risks of the business. It is therefore essential to gain insight and have confidence in how a company is governed and whether this is adequate to control the risks associated with operating nuclear installations.
6. In essence, well-structured corporate governance arrangements provide checks and balances in the operations of a company that help ensure adequate attention is given to safety. Having evidence that such arrangements are in place provides the confidence of ‘defence in depth’ at corporate level commensurate with the scale of the nuclear hazard. It is therefore important that ONR gains assurance that licensee boards provide effective governance of safety, can demonstrate the necessary level of competence to understand the safety risks the organisation is managing, and are devoting an adequate amount of time to safety matters.
7. In addition to the ongoing requirement to assess the effective governance for nuclear safety, there are a number of specific occasions that require inspectors to pay particular attention to the functioning of the board in respect to nuclear safety, including: the initial granting of a nuclear site license, significant changes in the operational scope of the licensee, changes in regulatory attention levels, changes to the board or ownership of the licensee, and any need for relicensing.

# Relationship to Licence and other Relevant Legislation

1. The licence conditions and health and safety legislation place specific duties on licensees. As the group leading the organisation, members of the board have both collective and individual responsibility for health and safety and ensuring that these requirements are met. The key requirements relevant to assessing the effectiveness of the board in managing safety are given below.

## Nuclear Installations Act 1965

1. The Nuclear Installations Act 1965 section 3(1) requires that a licence shall not be granted to any person other than a body corporate and shall not be transferable. Thus, the licensee board has ultimate responsibility for ensuring that the requirements of the nuclear site licence are met and that the arrangements for managing safety are appropriate and implemented effectively.

## The Health and Safety at Work etc. Act 1974

1. The Health and Safety at Work Act 1974 section 2(1) places general duties on employers to ensure, so far as is reasonably practicable, the health, safety, and welfare at work of their employees. Section 3(1) also places a duty to ensure that employers do not expose people not in their employment to health and safety risks resulting from their undertakings. Section 2(3) requires every employer to prepare, and as often as may be appropriate, to revise a written statement of the general policy with respect to health and safety and the arrangements for carrying out that policy.
2. If a health and safety offence is committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary, or other similar officer of the organisation, then that person (as well as the organisation) can be prosecuted under section 37. Recent case law has confirmed that directors cannot avoid a charge of neglect under section 37 by arranging their organisation's business to leave them ignorant of circumstances which would trigger their obligation to address health and safety breaches.

## Company Directors Disqualification Act 1986

1. The Company Directors Disqualification Act 1986 section 2(1) empowers the court to disqualify an individual convicted of an offence in connection with the management of a company. This includes health and safety offences. This power is exercised at the discretion of the court; it requires no additional investigation or evidence.

## [Corporate Manslaughter and Corporate Homicide Act 2007](https://www.hse.gov.uk/corpmanslaughter/index.htm)

1. Under the [Corporate Manslaughter and Corporate Homicide Act 2007](https://www.hse.gov.uk/corpmanslaughter/index.htm) an offence will be committed where failings by an organisation's senior management are a substantial element in any gross breach of the duty of care owed to the organisation's employees or members of the public, which results in death.   
   The offence is concerned with corporate liability and does not apply to directors or other individuals who have a senior role in the company or organisation.   
   However, existing health and safety offences and gross negligence manslaughter will continue to apply to individuals. Prosecutions against individuals will continue to be taken where there is sufficient evidence, and it is in the public interest to do so.

## The Management of Health and Safety at Work Regulations 1999

1. These regulations describe an employer’s responsibilities, addressing the requirements for control and co-operation with outside undertakings, together with appropriate arrangements for effective planning, organisation, control and monitoring and review.
2. Regulation 3(1) requires that every employer shall, for the purpose of identifying the measures they need to take, make a suitable and sufficient assessment of the risks to the health and safety of his employees to which they are exposed whilst they are at work and the risks to the health and safety of persons not in his employment arising out of or in connections with the conduct by him of his undertaking.
3. Regulation 5 requires that every employer shall make and give effect to such arrangements as are appropriate, having regard to the nature of activities and the size of undertaking, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures. Where the employer employs five or more employees, the arrangements should be recorded.

## Licence Conditions

1. The following Licence Conditions (LCs) are applicable to this TAG.

* **LC 10: Training**. It should be clear how the arrangements for suitable training apply to board members.
* **LC 12: Duly authorised and other suitably qualified and experienced persons**. It should be clear how the arrangements to ensure that only suitably qualified and experienced persons perform any duties which may affect the safety of operations on the site apply to board members.
* **LC 13: Nuclear safety committee**. It should be clear how the board and / or senior management obtains advice from the Nuclear Safety Committee within the organisation’s arrangements.
* **LC 17: Management systems**. It should be clear how the board ensures that the management system gives due priority to safety and that there are adequate quality management arrangements in respect of all matters which may affect safety.
* **LC 36: Organisational capability**. It should be clear how the board ensures that there are adequate financial and human resources to ensure safe operation of the licensed site, and that changes to organisational structure or resources which may affect safety are adequately controlled.

# Relationship to Safety Assessment Principles, WENRA Reference Levels, and IAEA Safety Standards and Guides

## Safety Assessment Principles

1. ONR’s Safety Assessment Principles (SAPs) for Nuclear Facilities provides a framework to guide regulatory decision making in the nuclear permissioning process (ref. [1]). They are supported by TAGs which further aid the decision-making process. This TAG provides further guidance on the following four SAPs.

* **MS.1: Leadership**. Identifies the need for directors, managers, and leaders to focus the organisation on achieving and sustaining high standards of safety and on delivering the characteristics of a high reliability organisation.
* **MS.2: Capable organisation**. Identifies the need for an organisation to have the capability to secure and maintain the safety of its undertakings.
* **MS.3: Decision making**. Identifies the need for decisions at all levels that affect safety to be rational, objective, transparent and prudent.
* **MS.4: Learning**. Identifies the need to learn lessons from internal and external events to continually improve leadership, organisational capability, safety decision making and safety performance.

## Technical Assessment Guides

1. The following Technical Assessment Guides (TAGs) are applicable to this TAG.

* **NS-TAST-GD-048 – Organisational Capability –** sets out the broad principles which underpin ONR’s expectations of a licensee’s arrangements to provide and maintain adequate financial and human resources and to control changes to its organisational structure or resources which may affect safety (ref. [5]).
* **NS-TAST-GD-065 – Function and Content of the Nuclear Baseline –** addresses how a licensee demonstrates that its organisational structure, staffing, and competencies are, and will remain, suitable and sufficient to manage nuclear safety throughout the full range of the licensee’s business. It provides the foundation from which organisational change can be assessed (ref. [6]).
* **NS-TAST-GD-080 – Nuclear Safety Advice and Challenge –** sets out ONR’s expectations for the way in which licensees design and manage their organisations to provide and promote effective nuclear and radiological safety advice and challenge (ref. [7]).
* **NS-TAST-GD-107 – Safety Leadership –**advises and informs ONR staff in the exercise of their regulatory judgment as to the adequacy of safety leadership. This document also provides guidance on the role of top leadership in setting safety standards and targets, the management system arrangements for encouraging effective safety leadership behaviours and discouraging poor safety leadership behaviours, and the assessment of safety leadership (ref. [3]).
* **Licensing Nuclear Installations –** Paragraphs 49 to 76 set out the general requirements for a licensable organisation including duties of directors and the relationship between a parent company and a licensed subsidiary. Paragraph 60 also specifically sets out that in October 2017 BEIS issued a direction requiring nuclear site licence holders, tenants on nuclear sites, nuclear site developers, requesters of generic design assessments (GDAs) and approved carriers under The Nuclear Industries Security Regulations 2003 (NISR) to supply information to ONR relating to ownership changes.   
  This applies to any transfer or creation of 5% or more of shares in the company concerned (ref. [8]).

## WENRA Safety Reference Levels for Existing Reactors

1. The objective of the Western European Nuclear Regulators Association (WENRA) is to develop a common approach to nuclear safety in Europe by comparing national approaches to the application of IAEA safety standards. The WENRA Safety Reference Levels (SRLs) for existing reactors represent good practices in the WENRA member states (ref. [9]). The following issues have been embodied within this TAG and should be considered by the Inspector.

* **Issue B: Operating Organisation** – Organisation structure, management of safety and quality, sufficiency, and competency of staff – identifies the need for: the organisation structure to be justified and documented; sound decision-making, continuous monitoring of safety performance, use of relevant operating experience, control of activities through a documented management system, and independent review of safety issues by a suitably qualified independent review function; the required number of staff for safe operation to be analysed in a systematic and documented way.
* **Issue C: Management system, management commitment** – identifies the need for: a management system to be established, implemented, assessed, and continually improved; goals, strategies, plans and objectives of the organisation to be developed in an integrated manner so that their collective impact on safety is understood; clarity regarding when, how and by whom decisions are to be made; management at all levels to demonstrate its commitment to the establishment, implementation, assessment, and continual improvement of the management system.

## IAEA Safety Standards

1. The IAEA Safety Standards were the benchmark for the revision of the SAPs in 2006 and further revisions of the SAPs have been updated to reflect subsequent changes in these standards since 2006. As such the IAEA safety standards are recognised by ONR as relevant good practice. The following requirements and guides are applicable:
2. IAEA Fundamental Safety Principles state that the prime responsibility for safety must rest with the person or organisation responsible for facilities and activities that give rise to radiation risks (Principal 1), and that effective leadership and management for safety must be established and sustained in organisations concerned with, and facilities and activities that give rise to, radiation risks (Principal 3) (ref. [10]).
3. The IAEA Safety Standard, ‘Leadership and Management for Safety’, defines the requirements for establishing, implementing, assessing, and continually improving a management system that integrates safety, health, environmental, security, quality, and economic elements to ensure that safety is properly considered in all the activities of an organisation (ref. [11]). Of particular relevance to the operations of the board of licensees are achieving the fundamental safety objective (Requirement 1), demonstration of leadership for safety (Requirement 2), and responsibility of senior management for the management system (Requirement 3).

# Advice to Inspectors

## Introduction

1. Oversight of safety performance, led by the board of the organisation, should provide assurance at all levels, and throughout all stages of the life of the undertaking, that safety is being maintained and improved. It should utilise diverse sources of information, including feedback from independent challenge and reviews, to provide confidence (by means of governance, monitoring and auditing processes) that safety and quality policies, strategies, plans, goals, standards, systems, and procedures are being implemented through the application of an effective management system.
2. Active challenge should be part of decision making throughout the organisation including at board and senior management levels. The organisation should encourage a questioning attitude from all staff and contractors. The form and function of the challenge will vary between different areas, designing-in appropriate active challenge mechanisms should be an inherent part of all decision-making processes affecting safety.
3. Decision making processes should ensure that safety is given a high priority, and this should be evident in all decision making and governance activities. This may affect the structure and nature of meeting agendas. The processes should also ensure that available data and opinions are collected and considered, respecting, and encouraging the contribution of those with divergent views. The process should encompass the means for setting safety priorities to aid decision making.
4. Factors that should be considered in decisions affecting safety include the following aspects:

* Consideration of the quality of the information.
* The questioning of assumptions.
* Exploration of all relevant scenarios that may threaten safety.
* Consideration of health, safety, environmental, security, quality and economic requirements.
* Relative priorities of the range of options to minimise overall risk both in the long and short term.

1. Conflict between safety and other business goals including commercial, schedule pressures and external influences, should be recognised and resolved. Decisions for safety should allow for error, uncertainty and the unexpected, and those taken in the face of uncertainty or the unexpected should be appropriately and demonstrably conservative.
2. Active challenge should be part of decision-making process. This should ensure that active challenge is as follows:

* Occurs by design in all key decision making that may affect safety.
* Does not originate solely from independent safety assessment or peer review.
* Is preoccupied with failure, actively looking for ways that things could go wrong.
* Applies to technical, plant-based and management decisions.
* Applies to normal, abnormal, and emergency conditions.

1. Effective monitoring and control of safety risks at board level cannot usually be achieved at a single meeting but needs to be integrated into the totality of the corporate governance process conducted by the board and its supporting committees.

## A Framework for Corporate Governance for Safety

1. The development of corporate governance codes in the UK has moved significantly in recognising the wide range of risks needing to be addressed by a company and the importance of good stakeholder, as well as shareholder relationships. The current version of the code highlights the need for the board to set and monitor the culture of the organisation, aligned with its purpose, values and strategy (ref. [4]). Principle B states that: “All directors must act with integrity, lead by example and promote the desired culture”. Principle D establishes the need for effective stakeholder engagement, and Principle E establishes the need for workforce procedures and policies to be aligned with company values. These and other principles within the code align closely with ONR’s four Leadership and Management for Safety SAPs and can therefore be expected to support the effective governance of safety risks at board level.
2. The Wates Corporate Governance Principles for Large Private Companies (ref. [2]) were developed in recognition that there are companies of significant size not covered by the UK Code on Corporate Governance. The Wates Principles address similar topics to the UK Code on Corporate Governance, including leadership, risk management and stakeholder engagement.
3. In this TAG, the Wates Principles have been used to structure the guidance to inspectors. These are the corporate governance principles applicable to most licensees and therefore most likely to be applied. They are not a prescriptive set of requirements and should not be interpreted as such. It is however a requirement of The Companies (Miscellaneous Reporting) Regulations 2018 that all companies of a significant size disclose their corporate governance arrangements including which corporate governance code was followed or declare the reasons for not following a code.
4. Using the Wates Corporate Governance Principles as an example of corporate governance good practice may therefore aid inspectors when examining a licensee’s annual report and accounts and in conducting interventions on corporate governance for nuclear safety. **However corporate governance arrangements may vary, and licensees may follow different recognised code other than the Wates Principles and the UK Code on Corporate Governance.** This should be considered when planning and conducting interventions.

### Principle 1: Purpose and Leadership

1. An effective board develops and promotes the purpose of a company, and ensures that it’s values, strategy and culture align with that purpose. Having a well-developed purpose helps companies to clearly articulate their business model, strategy, operating practices, and approach to risk. All directors should promote the success of the company, act with integrity and lead by example, setting the tone from the top, building positive relationships with all stakeholders, particularly the workforce.
2. A company’s purpose and values should inform expected behaviours and practices throughout the organisation. Values should be explained and integrated into the different functions and operations of the business. The Wates Principles define culture as a combination of the values, attitudes and behaviours manifested by a company in its operations and relationships with its stakeholders. The board should make and maintain a commitment to embedding the desired culture throughout the organisation.
3. An effective board develops a strategy and business model to generate long term sustainable value. It is responsible for ensuring its strategy is clearly articulated and implemented throughout the organisation, and that it, along with the company’s values, support appropriate behaviours and practices. The board should lead on establishing transparent policies for raising concerns about misconduct and unethical practices. The board should manage conflicts between short term needs and long-term aspirations.
4. Key questions on **Purpose and Leadership**:

* Has the board established a clearly articulated purpose which encompasses safe nuclear operations?
* Has the board established values which align to behaviours known to positively affect safety outcomes?
* How consistently and frequently are these behaviours observed within the organisation? [Are they espoused values or enacted values[[1]](#footnote-2)? For example, safety is espoused as a priority, but behaviours (e.g. decisions) promote production.]
* How does the board model the values/set the tone in respect of safety?
* How does the board ensure the values are embedded throughout the organisation?
* How does the strategy and business model address the effective management of safety, the appropriate behaviours, and the practices expected of a licensee?
* How are concerns about misconduct and unethical practices which may affect safety raised and addressed?

### Principle 2: Board Composition

1. Effective board composition requires an effective chair and a balance of skills, backgrounds, experiences, and knowledge, with individual directors having sufficient capacity to make a valuable contribution. The size of a board should be guided by the scale and complexity of the company. The chair leads the board and is responsible for its overall effectiveness. The chair should promote open debate, facilitate constructive discussion, and ensure all directors have appropriate timely information for such discussions to take place. Considerations should be given to separating the roles of chair and chief executive to ensure a balance of power and effective decision making.
2. An effective board has an appropriate combination of skills, backgrounds, experience, and knowledge that promotes accountability and incorporates objective thought, which in turn provides constructive challenge to achieve effective decision making. The board should collectively demonstrate a high-level of understanding relevant to the company’s business needs and stakeholder interest. The size and structure of the board should be appropriate to meet the strategic needs and challenges of the organisation and enable effective decision making. Companies should consider appointing independent non-executive directors to offer constructive challenge.
3. The nature of ownership within many large companies means directors are often required to remain objective in complex situations. This is particularly relevant within licensee organisations which may either be wholly owned subsidiaries of larger international organisations or have complex ownership structures involving several companies.
4. Companies should demonstrate a commitment to the ongoing professional development of their board. Regular evaluation of the board can help individual directors to contribute effectively and highlight strengths and weaknesses of the board.
5. Key questions on **Board Composition**:

* How has safety been considered in decisions related to board composition?
* How does board composition ensure that safety matters are adequately understood?
* How does the board receive independent challenge on matters affecting safety? Are there independent non-executive directors, if not was this considered?
* How do board members maintain their development with regards to safety?
* How does the board periodically evaluate its effectiveness?
* How has the board addressed the findings of evaluations of its effectiveness?

### Principle 3: Director Responsibilities

1. An effective board should set out policies and practices that govern the internal affairs of the company, including matters relating to the authority, accountability, role and conduct of directors. These policies and practices should establish clear lines of accountability so that the board and individual directors have a clear understanding of their accountabilities and responsibilities, thereby supporting effective decision making. The board may make use of committees to help with the consideration of matters such as financial reporting, risk, and succession planning, however the board retains responsibility for decisions. Independent challenge on the board and its committees guards against individual’s having unfettered power and encourages constructive problem solving. The board may also choose to consider advice from the Nuclear Safety Committee to inform their decision making.
2. Boards should establish formal and robust internal processes to ensure systems and controls are operating effectively, and that the quality and integrity of information provided to it is reliable, enabling directors to monitor and challenge the performance of the company, and make informed decisions. A board may rely on a broad range of information sources including key performance indicators, workforce data, stakeholder engagement feedback.
3. Board papers and supporting information should be accurate, clear, comprehensive, and up to date; contain a summary of the content of the paper; inform the director what is expected of them on each issue; and be issued in good time.
4. The board should agree and set out how conflicts of interest are identified and managed.
5. The chair and company secretary should periodically review the governance processes to confirm they remain fit for purpose.
6. Key questions on **Director Responsibilities**:

* How has the authority, accountability, role and conduct of directors in respect of safety been established within the management system arrangements?
* How are board committees used to inform board safety decisions?
* How does the board make use of the Nuclear Safety Committee?
* How is independent challenge encouraged within board decision making?
* How does the board ensure the quality and integrity of the safety information it receives?
* How adequate is the information provided to the board to enable them to fulfil their governance role in respect of safety?
* How are conflicts of interest which may affect safety identified and managed?

### Principle 4: Opportunity and Risk

1. A board should promote the long-term sustainable success of the company by identifying opportunities to create and preserve value, and by establishing oversight for the identification and mitigation of risks. A board has responsibility for an organisation’s overall approach to strategic decision making and effective financial and non-financial risk management. This requires oversight of risk and how it is managed. The size and nature of the business will determine the internal control systems put in place to manage and mitigate emerging and ‘principal risks’[[2]](#footnote-3).
2. The board should establish an internal control framework with clearly defined roles and responsibilities for those involved. It should agree an approach to reporting of risks and how decisions on risks are made and escalated. Responsibilities may include developing risk management systems; determining the nature and extent of principal risks; agreeing how principal risks should be monitored and managed and over what timeframe to reduce their likelihood of their incidence or magnitude of their impact; establishing clear internal and external communication lines on the identification of risk factors; agreeing a monitoring and review process.
3. Key questions on **Opportunity and Risk**:

* How prominently does safety (for example: catastrophic event; loss of licence to operate) feature in the principal risk framework?
* How does the board oversee the identification and mitigation of principal risks which relate to safety?
* How effective is the framework of internal controls in ensuring principal risks related to safety are monitored, and managed?
* Is there an Internal Regulator Function or equivalent Internal Audit/Assurance Function that monitors nuclear safety risks and reports to the board?

### Principle 5: Remuneration

1. A board should promote executive remuneration structures aligned to the long-term sustainable success of the company and should take account of pay and conditions elsewhere in the company. Remuneration for directors and senior managers should be aligned with performance, behaviours, and the achievement of company purpose, values, and strategy.
2. The board should establish clear remuneration structures, practices and policies that include robust consideration of the reputational and behavioural risks to the company that can result from inappropriate behaviours and excessive rewards.
3. Key questions on **Remuneration:**

* How does executive remuneration balance safety performance (behaviours and outcomes) alongside other factors such as programme delivery?
* How have unintended safety consequences been considered and mitigated during the design of remuneration structures (for example, the under-reporting of events to meet bonus targets)?

### Principle 6: Stakeholder Relationships and Engagement

1. The board is responsible for overseeing meaningful engagement with stakeholders, including the workforce, and having regard to their views when taking decisions. Dialogue with stakeholders helps boards understand the effects of company policies and practices, predict future developments and trends, and re-align strategy.
2. Boards should ensure that there are channels to receive appropriate feedback from discussions with stakeholders. Companies should also develop a range of formal and informal channels to engage in meaningful two-way dialogue with the workforce, enabling ideas and concerns to be shared with senior management.
3. Boards should present to stakeholders a fair, balanced, and understandable assessment of the company’s position and prospects and make this available on an annual basis. When explaining impact on community or the environment, boards may want to refer to recognised international standards or frameworks that they follow.
4. A board should demonstrate how the company has undertaken effective engagement with stakeholders and how such dialogue has been considered in decision making.
5. Key questions on **Stakeholder Relationships and Engagement**:

* How does the board determine which stakeholders to engage with on safety matters?
* How does the board receive feedback from external stakeholders on safety matters?
* How does the board determine what safety information is presented to external stakeholders?
* How has meaningful two-way dialogue with the workforce on safety matters been established?
* Does the safety information provided to stakeholders present a fair, balanced, and understandable assessment of the company’s safety performance?
* How does the board demonstrate that the company has undertaken effective engagement with stakeholders on safety matters, and that such dialogue has been considered in decision making?

## Guidance on Intervention Planning

1. Interventions with boards of directors need to be carefully considered and planned given that it will require the cooperation and participation of executive and non-executive directors, who will have many demands on their time. The assessment of a licensee board’s corporate governance for safety should be risk-based and normally is not undertaken more than once in a five-year period, except for one of several specific occasions that require inspectors to pay particular attention to the functioning of the board in respect to safety, including the following:

* The initial granting of a nuclear site license.
* Significant changes in the operational scope of the licensee.
* Changes in regulatory attention levels.
* Significant changes to the board composition.
* Any need for relicensing.
* Changes to ownership of the licensee (also see paragraph 60 in ref. [8] covering the transfer or creation of 5% or more of company shares).

1. A comprehensive assessment of corporate governance for safety should include an examination of company structure and ownership to identify potential external stakeholder influences on company performance (such as parent bodies, shareholders, and joint ventures) as detailed in ref. [8].

* The parent company should not usurp the licensee's authority over the day-to-day operation of the prescribed installations.
* The licensee must have authority to operate in a manner that maintains safety; for example, it must have the autonomy to shut down, stop operations or take any other actions necessary to ensure safety without recourse to the parent company.
* The strategic control of funding and other resources exercised by a parent company should not impede a licensee's access to adequate resources to meet its safety obligations, including decommissioning.
* The board of the licensee company should comprise an appropriate mix of suitably qualified and experienced executive and non-executive directors who will act in the interests of the licensee company. It should not be dominated by representatives of the group parent or joint venture shareholders.
* The parent company should not be able to divert or dilute the technical skills and experience available to, and needed by, the licensee to maintain safety without agreed alternatives being put in place.

1. The assessment should also include an examination of the following aspects:

* Any changes in ownership during the period since the last intervention and whether any changes that meet the change of ownership criteria in the BEIS direction have been notified accordingly.
* Examination of top-level company documents such as company purpose, strategy, and values.
* Examination of key policy documents such as the health and safety policy, and the reporting of concerns policy.
* Examination of the documented managements system to identify corporate governance and risk management arrangements; relevant board committee terms of reference and director responsibilities and accountabilities relating to safety.
* Examination of company accounts and other relevant published material.
* Examination of board papers relating to safety and other appropriate topics.
* Examination of board agendas to identify the frequency of agenda items related to safety and other appropriate topics.
* Discussions with board members.
* Discussions with internal regulators and other internal audit and assurance personnel.

1. The assessment should also include the observation of a board meeting. Dependent upon the business being discussed, ONR’s inspector may be asked to only attend the meeting during the time at which items related to safety are being discussed.
2. The key questions based on the Wates Principles can be used as a basis for discussions with board members and other company personnel. These are collated into a question-set at Appendix 1.

## Reporting

1. The findings of corporate governance interventions should be used to inform decisions on the overall ability of a licensee to manage safety risks adequately and in supporting compliance with specific licence conditions.
2. It is good practice to share the findings of corporate governance interventions with the licensee board and this should be done to reflect any identified good practices and points to consider. It may be appropriate to suggest that the observations from the intervention could form part of the duty holder’s own review of board performance.
3. It is important to ensure that the findings from corporate governance interventions are shared with the appropriate senior management within ONR to inform their discussions with duty holders. Any changes in ownership that meet the BEIS direction criteria but have not been notified must also be reported to senior management for action.

# Glossary and Abbreviations

BEIS The Department for Business, Energy and Industrial Strategy

GDA Generic Design Assessment

IAEA International Atomic Energy Agency

LC(s) Licence Condition(s)

NISR The Nuclear Industries Security Regulations 2003

SAP(s) Safety Assessment Principle(s)

SRL(s) Safety Reference Level(s)

TAG(s) Technical Assessment Guide(s)

WENRA Western European Nuclear Regulators’ Association

# Appendix 1 – Governance Question Set

**Principle 1: Purpose and Leadership (relevant to supporting compliance with LC 17)**

* Has the board established a clearly articulated purpose which encompasses safe nuclear operations?
* Has the board established values which align to behaviours known to positively affect safety outcomes?
* How consistently and frequently are these behaviours observed within the organisation? [Are they espoused values or enacted values?]
* How does the board model the values / set the tone in respect of safety?
* How does the board ensure the values are embedded throughout the organisation?
* How does the strategy and business model address the effective management of safety, the appropriate behaviours, and the practices expected of a licensee?
* How are concerns about misconduct and unethical practices which may affect safety raised and dealt with?

**Principle 2: Board Composition (relevant to supporting compliance with LC 10 and LC 12)**

* How has safety been considered in decisions related to board composition?
* How does board composition ensure that safety matters are adequately understood?
* How does the board receive independent challenge on matters affecting safety? Are there independent non-executive directors, if not was this considered?
* How do board members maintain their development with regards to safety?
* How does the board periodically evaluate its effectiveness?
* How has the board addressed the findings of evaluations of its effectiveness?

**Principle 3: Director Responsibilities (relevant to supporting compliance with LC 12, LC 13 and LC 17)**

* How has the authority, accountability, role and conduct of directors in respect of safety been established within the management system arrangements?
* How are board committees used to inform board safety decisions?
* How does the board make use of the Nuclear Safety Committee?
* How is independent challenge encouraged within board decision making?
* How does the board ensure the quality and integrity of the safety information it receives?
* How adequate is the information provided to the board to enable them to fulfil their governance role in respect of safety?
* How are conflicts of interest which may affect safety identified and managed

**Principle 4: Opportunity and Risk (relevant to supporting compliance with LC 17)**

* How prominently does safety (for example: catastrophic event; loss of licence to operate) feature in the principal risk framework?
* How does the board oversee the identification and mitigation of principal risks which relate to safety?
* How effective is the framework of internal controls in ensuring principal risks related to safety are monitored, and managed?
* Is there an Internal Regulator Function or equivalent Internal Audit/Assurance Function that monitors nuclear safety risks and reports to the board?

**Principle 5: Opportunity and Risk (relevant to supporting compliance with LC 17)**

* How does executive remuneration balance safety performance (behaviours and outcomes) alongside other factors such as programme delivery?
* How have unintended safety consequences been considered and mitigated during the design of remuneration structures (for example, the under-reporting of events to meet bonus targets)?

**Principle 6: Stakeholder Relationships and Engagement (relevant to supporting compliance with LC 17)**

* How does the board determine which stakeholders to engage with on safety matters?
* How does the board receive feedback from external stakeholders on safety matters?
* How does the board determine what safety information is presented to external stakeholders?
* How has meaningful two-way dialogue with the workforce on safety matters been established?
* Does the safety information provided to stakeholders present a fair, balanced, and understandable assessment of the company’s safety performance?
* How does the board demonstrate that the company has undertaken effective engagement with stakeholders on safety matters, and that such dialogue has been considered in decision making?

# References

|  |  |
| --- | --- |
| [1] | ONR, “Safety Assessment Principles (SAPs) for Nuclear Facilities - 2014 Edition (Revision 1),” 2020. |
| [2] | Financial Reporting Counci, “The Wates Corporate Governance Principles for Large Private Companies”. |
| [3] | ONR, “NS-TAST-GD-107 - Safety Leadership”. |
| [4] | Financial Reporting Council (FRC), “The UK Corporate Governance Code,” 2018. |
| [5] | ONR, “NS-TAST-GD-048 - Organisational Capability”. |
| [6] | ONR, “NS-TAST-GD-065 - Function and Content of the Nuclear Baseline”. |
| [7] | ONR, “NS-TAST-GD-080 - Nuclear Safety Advice and Challenge”. |
| [8] | ONR, “Licensing Nuclear Installations”. |
| [9] | WENRA, “WENRA Safety Reference Levels for Existing Reactors,” 2020. |
| [10] | IAEA, “IAEA Safety Standards, Fundamental Safety Principles, No. SF-1,” 2006. |
| [11] | IAEA, “GSR Part 2 - Leadership and Management for Safety,” International Atomic Energy Agency (IAEA), Vienna, 2016. |

1. Espoused values are publicly stated values found written in documentation such as a ‘values statement’, whereas enacted values are those which the organisation’s members perceive to be valued by the organisation and can be observed in the behaviour of people. [↑](#footnote-ref-2)
2. ‘Principal risks’: A risk or combination of risks that can seriously affect the performance, prospects, or reputation of the entity. These should include those risks that would threaten its business model, future performance, solvency, or liquidity. [↑](#footnote-ref-3)