



# Compliance with the Regulators' Code 2015

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# Introduction

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## The Office for Nuclear Regulation

- 1 The Office for Nuclear Regulation (ONR) is the UK's independent regulatory authority responsible for the regulation of nuclear safety and civil nuclear security. ONR regulates nuclear safety and security across nuclear sites<sup>1</sup> in Great Britain (GB). This includes the existing fleet of operating reactors, fuel cycle facilities, waste management and decommissioning sites. ONR is also responsible for regulating the civil transport of radioactive materials within the UK, and enforces conventional health and safety and fire safety on GB nuclear sites, defence authorised sites, operational submarine berths and nuclear new-build sites. We also facilitate the UK's compliance with non-proliferation treaties, providing support to international inspectors and ensuring the UK's compliance with safeguards provisions.
- 2 Our stated mission is 'to provide efficient and effective regulation of the nuclear industry, holding it to account on behalf of the public'. To do this, we seek to achieve three key outcomes:
  - A nuclear industry that controls its hazards effectively;
  - A nuclear industry that has a culture of continuous improvement and sustained excellence in operations; and
  - All of our stakeholders value our work.
- 3 ONR is committed to demonstrating compliance with the objectives and values of the Regulators' Code (the Code), and we are working to embed the principles of the Code within the policies and operational processes that guide our regulatory activities.

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1 A nuclear site in England, Scotland or Wales on which a nuclear installation – a nuclear reactor or another installation that has been prescribed by the Secretary of State – is present. There are currently 37 licensed nuclear sites in Great Britain.

## The Regulators' Code

- 4 The Regulators' Code<sup>2</sup> came into force in April 2014 and aims to provide a framework for how regulators should engage with those they regulate.
- 5 The Code was published following a review of the previous Regulators' Compliance Code and consultation with regulators and stakeholders. ONR is expected to demonstrate compliance with the Code in all aspects of its work (excepting specific legislation relating to the security of nuclear materials<sup>3</sup>). Where we do not have a statutory duty to comply with the Code, we will implement the Code as far as possible within the context of nuclear safety and national security considerations. It is accepted by government that the Code will take some time to embed across the regulatory community, and this report is structured to highlight areas where we have identified gaps in our compliance and to confirm the areas for improvement (recommendations) that we will action. These are summarised at the end of the document.
- 6 This report will be sent to the Better Regulation Delivery Office in the Department for Business, Innovation and Skills so that they can monitor regulators' progress in achieving compliance with the Code.

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2 A copy of the Regulators' Code and subsidiary documents can be downloaded from: <https://www.gov.uk/government/publications/regulators-code>

3 No regulatory function exercised under or by virtue of Section 2 of or Schedule 1 to the Nuclear Installations Act 1965, The Import of Goods (Control) Order 1954, The Nuclear Industries Security Regulations 2003, Regulations 4 and 5 of the Uranium Enrichment Technology (Prohibition on Disclosure) Regulations 2004 has the Code applied to it at present.

# ONR's compliance with the Regulators' Code

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## 1 Regulators should carry out their activities in a way that supports those they regulate to comply and grow.

### Principles

- 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, for example, business size and capacity.
- 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, for example, by considering how they can best:
  - 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, by providing greater certainty; and
  - encourage and promote compliance.
- Regulators should ensure that their 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.
- Regulators should ensure that their officers understand the statutory principles of good regulation and of this Code, and how the regulator delivers its activities in accordance with them.

- 7 ONR's mission is to provide efficient and effective regulation of the nuclear industry, holding it to account on behalf of the public. The nuclear industry, as a set of dutyholders, is responsible for safety and security and for managing its own risks in accordance with the UK's regulatory approach. ONR implements government policy by holding the high hazard, high consequence nuclear industry to account through appropriate and proportionate regulatory intervention. This is carried out by designating an area of land as the 'nuclear licensed site' and applying a standard set of 36 licence conditions to each site, which the licensees must show that they have adequate arrangements to comply with.

- 8 Additionally, ONR has a responsibility to ensure that risks to the health, safety and welfare of the public and workers that arise from conventional industrial activities at nuclear licensed sites are appropriately and proportionately managed. We are also obliged to provide assurance that our dutyholders meet international regulatory standards and guidance, and are regulated in line with legal and treaty obligations as well as international good practice. ONR's intervention strategies and enforcement practices focus on the high standards of nuclear safety and security expected of dutyholders through an approach which supports compliant business growth.
- 9 Civil nuclear policy, including the siting and approval of new nuclear power stations, remains a central government responsibility. However, ONR is responsible for regulating the safety and security of these nuclear licensed sites, as well as the transport of civil nuclear material and radioactive packages in the UK.
- 10 We recognise that where dutyholders do not demonstrate compliance with the law, subsequent regulatory enforcement action taken by ONR might adversely affect commercial aspects of the business, including operating profits. Safety and security is our regulatory priority at all times and ONR inspectors apply the principles of 'as low as is reasonably practicable' (ALARP) to regulatory safety decisions. Security decisions are broadly aligned with ALARP where this is possible within the regulatory framework. Reasonable practicability is about weighing the risk against the sacrifice needed to remove or reduce it. The decision is weighted in favour of safety because the presumption is that the dutyholder should implement the measure. To avoid having to make the sacrifice, the dutyholder must be able to show that it would be grossly disproportionate to the risk reduction achieved. This is not a simple cost/benefit analysis because of the safety imperative.
- 11 ONR inspectors employ proportionate approaches to cost when assessing dutyholders' compliance with the law and ONR has published the guidance to its inspectors in assessing compliance on its website. As an example, there have been instances where ONR has judged that it would be disproportionate to withhold permission for a return to service of an installation where some agreed improvements have yet to be implemented, but overall safety is not impacted. We explain our approach and publish this online in Project Assessment Reports.<sup>4</sup>
- 12 ONR is pledged to regulating proportionately, balancing its possible regulatory impact on dutyholders – and has issued its own Enforcement Policy Statement<sup>5</sup> which is in accordance with the

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4 ONR Project Assessment Reports: <http://www.onr.org.uk/pars/>

5 ONR Enforcement Policy Statement:  
<http://www.onr.org.uk/documents/2014/enforcement-policy-statement.pdf>

Code and the regulatory principles required under the Legislative and Regulatory Reform Act 2006. The Code's growth requirement is closely related to the Growth Duty, as set out in section 108 of the Deregulation Act 2015<sup>6</sup>.

- 13 To meet this ongoing commitment, ONR will undertake internal training and communication work to ensure that staff at all levels are aware of the requirements and expectations of the new legislation, and that we have regard to growth throughout all aspects of our regulatory activities. A good example of the duty already being used in practice is the Generic Design Assessment (GDA)<sup>7</sup> process, which effectively de-risks proposed new reactor build projects at their early stages. ONR, in conjunction with the environment regulators, implements early intervention in reactor design to increase regulatory effectiveness and reduce potential costs and burdens on dutyholders.
- 14 In addition, ONR has taken steps to ensure that all staff, including inspectors, receive training on our business management system (HOW2), which contains our regulatory processes, standards and guidance. Inspectors are also trained in our enforcement policies to ensure that these are properly embedded and applied consistently throughout the organisation. ONR delivers a regularly updated training prospectus, ensuring that inspectors and front line staff are kept up to date on changes to the regulatory system. We undertake a rigorous process to provide our inspectors with an understanding of the legal powers that they will be using, before providing them with the documents that officially confer these powers (known as warrants). Inspectors also undergo a re-warranting process at regular intervals (as part of continuous professional development) to ensure that the necessary knowledge and skills remain current and relevant within the organisation.
- 15 ONR has also recently undertaken an internal audit and assurance exercise of its radioactive materials transport design approvals processes and made a number of recommendations to improve the effectiveness and efficiency of this statutory function. These improvements will seek to minimise any negative economic impacts of ONR's transport permissioning activities.
- 16 In addition, ONR will explore the economic impact that its regulatory activities have on dutyholders over the next year. This will help to demonstrate our commitment to make proportionate interventions, and to support any future decisions to change our regulatory stance.

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6 Deregulation Act 2015 s108:  
<http://www.legislation.gov.uk/ukpga/2015/20/section/108/enacted>

7 Generic Design Assessment (GDA) is the process being used by the nuclear regulators (ONR and the Environment Agency) to assess the safety, security and environmental implications of new nuclear power station designs.

- 17 ONR also engages with the Better Regulation Executive, the Cabinet Office and the Regulatory Policy Committee on the introduction of any new regulations that could impose costs upon dutyholders. Where a new measure or changes are introduced that do not require regulation but will nonetheless have an impact upon our dutyholders, consultation and engagement on the probable impact (through the Business Engagement Assessment process) is carried out by ONR in partnership with our stakeholders. These are national requirements for public bodies, and are accepted practice within the organisation.

Recommendations to achieve fuller compliance
1A: ONR will 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.
1B: ONR will undertake a review of its economic impact on our dutyholders, for completion by April 2016.

## 2 Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.

### Principles

- Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.
- 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 or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.
- This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.
- Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action 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.
- 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.
- Regulators should make available to those they regulate, clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.
- Regulators should 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.

- 18 The ONR Annual Report and Accounts 2014/15<sup>8</sup> emphasises our commitment to openness and transparency, and makes it clear that our vision includes the outcome of sharing, wherever possible, information about our activities with the public.
- 19 ONR is open and collaborative with its dutyholders in developing new policies, and complies with the Government's requirement to apply appropriate impact assessment mechanisms to proposals at an early stage of their development – which allows us to create evidence-based policies and reduce the burden of regulation on businesses<sup>9</sup>.

8 ONR Annual Report and Accounts 2014/15:

<http://www.onr.org.uk/documents/2015/annual-report-2014-15.pdf>

9 <https://www.gov.uk/government/policies/reducing-the-impact-of-regulation-on-business>

An example of this is the recent development of an update to Licence Condition 3 in 2014, where dutyholder workshops were actively encouraged to critically examine our proposals for change. Consultation on the project was proactive, and all responses were published online. A similar approach is being followed with the development of revised National Objectives, Requirements and Model Standards (NORMS 2) for security regulation, which has been supported by regular dutyholder workshops and will be subject to rigorous impact assessment in January 2016 prior to its implementation later in the year.

- 20 The ONR website has been remodelled following our establishment as a public corporation, and we have retained a 'Contact ONR' tab on the first page of our website in order to allow the regulated community to readily get in touch with us<sup>10</sup>.
- 21 ONR's main points of contact with our dutyholders are through nominated site inspectors and the ONR website. We clearly set out our technical and regulatory expectations Safety Assessment Principles (SAPs) and Technical Assessment Guides (TAGs) and provide guidance to dutyholders on our expectations in respect of their arrangements to meet licence condition requirements or security objectives. In addition, further sections of ONR's website are devoted to security and transport regulation and provide guidance and information on ONR's processes, external sources of advice, and the international regulatory framework.
- 22 Each major licensed nuclear site has a liaison committee or stakeholder group, run by the licensee, which includes local authorities, trade unions, interested local groups and members of the public. These groups encourage contributions from a number of stakeholders, and give the public an opportunity to express their views. Site inspectors from ONR attend these meetings, report on any regulatory actions taken and respond to any questions raised. The reports submitted by ONR to these Site Stakeholder Groups and Local Liaison Committees are published on our website<sup>11</sup> so that the public and dutyholders can see how we engage with our dutyholders.
- 23 Our safety, security and transport inspectors have good working relationships with the dutyholders that we regulate and, whilst our interactions are often in the form of formal activity, ONR also provides training and briefings, such as the highly regarded Senior Managers' Nuclear Security Briefing. This is supplemented with information sharing on a regular basis, including a monthly e-bulletin and quarterly newsletter to stakeholders on our most recent activities. As an example of engagement with stakeholders, the transport regulatory team organises an annual stakeholder event to which all dutyholder organisations are invited. The presentations from the event are subsequently made available on the ONR website.

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10 ONR enquiries page: <http://www.onr.org.uk/feedback.htm>

11 ONR reports to stakeholder groups: <http://www.onr.org.uk/llc/>

- 24 ONR inspectors are trained to clearly explain areas of non-compliance to dutyholders. This training was updated and refresher training became mandatory when the Energy Act 2013 came into force on 1 April 2014. This assures us that all inspectors can appropriately identify and explain the legislation that they enforce against. Where ONR judges it appropriate to issue an Improvement or Prohibition Notice, we also make sure that the dutyholder is made aware of and understands how they can appeal against the notice.
- 25 ONR has a published process that explains the stages that a dutyholder can expect to be taken during a formal enforcement procedure. This clearly states the timing requirements from the point of serving notices through to appeals periods and our process for publishing notices once the appeals period has passed. We do not publish the details of an Improvement Notice until 21 days after it has been served.
- 26 For other regulatory decisions, ONR has had a bespoke appeals mechanism (or decision review process<sup>12</sup>) in place since July 2013, which is available on our website. However, we have noted that this can be difficult to find and would benefit from updating to reflect revised management structures within ONR. It will therefore be amended and relocated in an industry-specific section of the website (see under section 5).
- 27 ONR has developed a robust complaints procedure, which can be found on our website, as well as information on how to contact us should an employee of a dutyholder wish to 'blow the whistle'<sup>13</sup>. These pages could again be amended to be more accessible to the industry, and we will amend and relocate them to a more accessible central webpage over the next few months. We will also take account of any government changes to whistleblowing policy and processes expected over the next year.
- 28 In terms of seeking general stakeholder feedback (such as through customer satisfaction surveys), this is not something that ONR has undertaken on a regular basis. We note the Code's expectation and will look at ways to engage with dutyholders (such as through the Safety Directors' Forum) in a more holistic fashion. We will also consider the best way in which to engage with our dutyholder base and implement measures to ensure regular feedback.

Recommendations to achieve fuller compliance
2A: ONR will implement changes in relation to reporting on whistleblowing over the next financial year (2015/16).
2B: ONR will 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.

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12 ONR's decision review process:  
<http://www.onr.org.uk/operational/assessment/ns-per-in-006.pdf>

13 ONR – complaints, concerns and whistleblowing:  
<http://www.onr.org.uk/complaining-about-onr.htm>

### 3 Regulators should base their regulatory activities on risk.

#### Principles

- Regulators should 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.
- 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.
- 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.
- 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.
- Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

- 29 ONR bases all of its regulatory activities upon an assessment of hazard and risk, and prioritises its interventions and attention accordingly, taking account of our views on dutyholder performance<sup>14/15</sup>. In addition, our nuclear site licence conditions and associated guidance encourage the flexible and proportionate targeting of regulatory interaction on the basis of hazard and risk. The regulations governing design approvals for radioactive materials transport are derived from safety standards agreed by the International Atomic Energy Agency (IAEA)<sup>16</sup>, which follow a graded approach depending on hazard.
- 30 ONR has a specific Regulatory Assurance (RA) programme, which provides an independent view of ONR's performance through oversight and review of regulatory processes and key decisions across all of our regulatory programmes. The aim of the programme is to secure the confidence of dutyholders and key stakeholders in the robustness of our processes and decision making. The RA challenge process and specific reviews have identified good practice as well as identifying areas for improvement.

14 ONR Annual Report and Accounts 2014/15 – see footnote 8.

15 ONR guidance on the assessment of dutyholder's security performance: [http://www.onr.org.uk/operational/tech\\_asst\\_guides/cns-tast-gd-015.pdf](http://www.onr.org.uk/operational/tech_asst_guides/cns-tast-gd-015.pdf)

16 The IAEA works with its Member States and multiple partners worldwide to promote the safe, secure and peaceful use of nuclear technologies: <https://www.iaea.org/>

- 31 ONR currently publishes its approach to safety decision making through our Enforcement Policy Statement<sup>17</sup> and through two documents currently shared with HSE: the Enforcement Management Model<sup>18</sup> and 'Reducing Risks, Protecting People'<sup>19</sup> (R2P2). The R2P2 methodology is essentially ONR's statement of risk policy. By the end of 2016, we will have examined this policy to ensure that it remains fit for purpose, and where this is not the case, consideration will be given to a proportionate update. In addition, ONR has an established suite of Technical Inspection Guidance (TIGs), TAGs and SAPs<sup>20</sup>, which are regularly reviewed to make sure that they are up to date and reflect current standards. We also utilise HSE's suite of Approved Codes of Practice and relevant industry guidance when establishing benchmarks and 'good practice' for expected standards of conventional health and safety.
- 32 The ONR Board has set its future priorities through the publication of a five-year strategy<sup>21</sup>, augmented by annual plans<sup>22</sup>. Through this, ONR is looking for a balance of regulation and intervention proportionate to the hazards and risks presented. Furthermore, we seek that nuclear regulation is targeted appropriately and is of the right quality and cost. To ensure this is achieved, ONR has established a regulatory assurance function (see paragraph 30).
- 33 Risk of harm to the public and workers is at the centre of every regulatory decision that ONR makes. We do not proceed with (for example) granting permission for a new reactor to commence operation or an aging one to enter decommissioning without considering the risk to workers and the public. We also consult widely so that we can consider the views of those affected.
- 34 ONR has commenced a project to review the site licence conditions to ensure they remain effective in relation to the changing nuclear industrial environment. The project aims to deliver options for improvement by early 2016 and will take full account of stakeholder interests and views through appropriate communications and consultation processes. ONR has also commenced the NORMS 2

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17 see footnote 5.

18 Enforcement Management Model:  
<http://www.onr.org.uk/operational/inspection/ns-enf-gd-002.pdf>.  
 Separately, Security has its own Enforcement Management Model, reflecting the relevant enforcement tools such as Security Requirements Notices and Directions.

19 Reducing Risks, Protecting People ('R2P2'), 2001:  
<http://www.hse.gov.uk/risk/theory/r2p2.pdf>

20 TIGs, TAGs and SAPs can be found on ONR's website at:  
<http://www.onr.org.uk/resources.htm>

21 ONR's Strategy 2015-2020:  
<http://www.onr.org.uk/documents/2014/onr-strategy-2015-2020.pdf>

22 ONR's Annual Plan 2015/16:  
<http://www.onr.org.uk/documents/2015/onr-annual-plan-15-16.pdf>

project as discussed in paragraph 19. The key objectives of this project are to promote outcome focused regulation, encourage greater industry ownership of security arrangements and generate added value through stimulating the development of innovative security solutions that are fully aligned with business processes.

#### Recommendations to achieve fuller compliance

3A: ONR will continue to progress its 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.

## 4 Regulators should share information about compliance and risk.

### Principles

- Regulators should collectively follow the principle of “collect once, use many times” when requesting information from those they regulate.
- 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.

- 35 ONR has a central records management system for all documentation which allows us to record, retain, retrieve and reuse information that we have received from dutyholders. We try to minimise our impact upon the regulated community by referring to our records before seeking information from the dutyholder.
- 36 ONR is also engaging with the Better Regulation Delivery Office to explore and develop ways in which we could share and use data collected with other regulators. ONR has built strong relationships with other regulators and statutory competent authorities, for instance under the Control of Major Accident Hazards Regulations 2015 (COMAH) and on specific projects. The success of partnership working with the Environment Agency when undertaking new reactor GDA<sup>23</sup> is another example of this. By working jointly, ONR and the Environment Agency avoid dual requests to the requesting parties and prospective licensee organisations and duplication of effort where our areas of interest overlap. We also have significant interfaces and joint working agreements with the Scottish Environmental Protection Agency, Natural Resources Wales and the Defence Nuclear Safety Regulator (DNSR).
- 37 In the event that ONR's work overlaps with that of other regulators, such as DNSR, the environment agencies or HSE, we will always seek to work collaboratively with them so that the approaches by each regulator are justified and duplication of requests for information are kept to a minimum. This normally means establishing Memoranda of Understanding (MoUs) (the suite of which are currently under review by ONR following its establishment as a public corporation). The MoUs set out clear lines of communication between ONR and other organisations as well as establishing agreed working practices. We are currently in the process of agreeing updated MoUs and joint guidance with each of the environment regulators on matters of mutual interest. All MoUs are published on ONR's website<sup>24</sup>, so that all of ONR's stakeholders can see the commitments and working

23 See footnote 7

24 ONR MoU landing page: <http://www.onr.org.uk/agency-agreements-mou.htm>

expectations that we have with partner organisations. In addition, representatives of other regulators are invited onto development groups when significant revisions to key standards, such as the SAPs, are made.

- 38 ONR fully supports the unilateral approach to international transport approvals, and recognises approvals granted by foreign competent authorities where the regulations permit. ONR has also agreed an information exchange agreement with the French transport regulator, which takes this mutual recognition further, for example with respect to 'fissile' package designs.
- 39 ONR also works very closely with HSE, which holds policy responsibility for the health and safety law that ONR enforces across GB nuclear sites. HSE supports ONR's regulatory work on nuclear licensed sites in relation to construction and COMAH activities. We also develop our regulatory guidance and standards in consultation with DNSR, a body that aims to regulate defence facilities in a similarly proportionate way to ONR.
- 40 In setting our regulatory priorities, we are cognisant of our responsibility to act on behalf of the public, as highlighted by our updated mission statement. We recognise that nuclear energy divides public opinion and that there is a desire for a trustworthy source of independent information that is intuitively understandable. We therefore remain committed to operating a presumption of disclosure in relation to our information and strive to be an exemplar for openness and transparency in the nuclear field. The nuclear industry, however, remains a unique challenge in respect of security, and we will need to ensure that data is shared consistently within legislative constraints and the need to protect sensitive information.

#### Recommendations to achieve fuller compliance

4A: ONR will continue to engage with the Better Regulation Delivery Office's project to develop ways in which information can best be shared between our organisation and other regulators.

## 5 Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.

### Principles

- Regulators should 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.
- Regulators should 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.
- Regulators should have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.
- Regulators should 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.
- 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.
- 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.

- 41 ONR has an established suite of guidance that is regularly reviewed to ensure that it is fit for purpose. We strive to ensure that this guidance is focused on the needs of those who will use it and specifically those who will use it for compliance purposes. ONR publicly shares the assessment and inspection guidance we issue to our staff so that the industry is aware of our regulatory expectations. An example of this is our guidance on what constitutes 'good practice'<sup>25</sup>, shared with HSE, which clearly explains to dutyholders what we expect of them in relation to this fundamental principle of risk management and compliance with the law.
- 42 ONR's philosophy of continuous improvement applies to all of our activities. This approach underpins current work to improve our web-based communications to better target our dutyholders. This will ensure access to industry-specific information and links that they might require. At present, we are exploring ways to provide a streamlined, single and accessible landing page on the ONR website for the nuclear industry. This will be in place by the time of our next review. We will review the layout and navigation of the website over the next twelve months and seek to improve the way in which information is provided to our dutyholders.

<sup>25</sup> Definition of 'good practice': <http://www.hse.gov.uk/risk/theory/alarp2.htm#a2>

- 43 ONR maintains good relationships with its dutyholders, and encourages them to seek advice on how to proceed if they are unclear about how to comply with the law and the regulatory framework. Each nuclear site has a nominated site inspector and queries on compliance are regularly fielded by these inspectors and their teams. This gives us confidence that an open and transparent relationship between regulator and regulated is being fostered. We have also established a Level 1 to 4 meeting structure<sup>26</sup> with dutyholders to ensure that we communicate appropriately at all levels.
- 44 ONR also actively engages with dutyholders at a strategic level in the Safety Directors' Forum. This is a network for government, the regulators and senior nuclear safety and security executives to identify and progress strategic themes, and to identify and prepare for the future challenges that will face the nuclear industry in the UK.
- 45 ONR consults with stakeholders when changes are made to regulatory matters, such as recent changes to the SAPs<sup>27</sup>, our updates to Licence Condition 3<sup>28</sup>, and the ONR Strategy 2015-2020<sup>29</sup>. As good practice would require, comments made in response to ONR's consultation on the revised SAPs were made public on our website<sup>30</sup>, including identifying where respondents' comments had been taken into account (or not) and our reasoning behind this.
- 46 ONR also acts as the UK focal point for collating stakeholder views to feed back to the IAEA on its review and revision cycle for the regulations and advisory material concerning the transport of radioactive material. We also undertake this role in respect of the IAEA Convention for Nuclear Safety, Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management and the Joint Convention on Security. For those conventions, ONR collates the contributions of a number of other parties, such as the Nuclear Decommissioning Authority, the environment agencies and EDF in order to produce a triennial report for the Department for Energy and Climate Change to meet UK obligations under these conventions<sup>31</sup>.

#### Recommendations to achieve fuller compliance

5A: ONR will review the content and layout of its website to make it more user-friendly, specifically tailoring it to dutyholders by September 2016.

26 Where Level 1 is Chief Nuclear Inspector and equivalent, Level 2 is deputy chief nuclear inspector and equivalent etc. etc.

27 Closed consultation on Safety Assessment Principles update 2014 on ONR website : <http://www.onr.org.uk/consultations/2014/saps/index.htm>

28 Licensing consultations: <http://www.onr.org.uk/licensing.htm>

29 Consultation on ONR's Strategy: <http://www.onr.org.uk/consultations/2014/strategy/index.htm>

30 Safety Assessment Principles: <http://www.onr.org.uk/saps/background.htm>

31 Joint Convention Report 2015: <https://www.gov.uk/government/publications/the-united-kingdoms-fifth-national-report-on-compliance-with-the-obligations-of-the-joint-convention-on-the-safety-of-spent-fuel-management-and-the-s>

## 6 Regulators should ensure that their approach to their regulatory activities is transparent.

### Principles

- Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.
- Regulators' published service standards should include clear information on:
  - how they communicate with those they regulate and how they can be contacted;
  - their approach to providing information, guidance and advice;
  - 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;
  - their enforcement policy, explaining how they respond to non-compliance;
  - 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
  - how to comment or complain about the service provided and routes to appeal.
- 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.
- Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.
- 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.

- 47 ONR's strategic aim - and that echoed by dutyholders and other stakeholders - is that we are a trustworthy source of independent information. ONR therefore remains committed to operating a presumption of disclosure in relation to our information and strives to be an example of openness and transparency in the nuclear field. This is highlighted in our Communications Strategy<sup>32</sup>, where we outline the way in which we seek to achieve 'an open, honest dialogue with stakeholders to secure public trust through demanding high standards of nuclear safety and security'.
- 48 ONR's Annual Plan for 2015/16 highlighted our front-line regulatory activities, milestones and priorities in line with our vision and mission statement. These objectives are further clarified by the Chief Nuclear

32 ONR Communication Strategy 2014:  
<http://www.onr.org.uk/documents/onr-corporate-communications-strategy.pdf>

Inspector's Summary Programme Plan<sup>33</sup>. These are regulatory activities that we have judged will enable us to have the most impact in achieving sustained compliance with the high standards expected and help us to influence improvements in nuclear safety, security and non-nuclear health and safety. ONR's work in each of the operational programmes is summarised, as well as outlining our future strategy and focus for regulating the nuclear industry. ONR's Annual Report and Accounts 2015/16<sup>34</sup> summarises our regulatory performance and attention as applied to nuclear licensed sites over the past year.

- 49 In addition to this, the planning models that form part of ONR's governance procedures are also available on our website. Where we have conducted research, this is also made available to the public via our website, including feedback on our processes. The website also contains information on all ONR cost recovery schemes, including indicative charges, as well as documents that outline what kind of service dutyholders can expect from ONR, such as the Enforcement Management Model, the Enforcement Policy Statement and SAPs<sup>35</sup>.
- 50 ONR will implement as required the appointment of a Small Business Appeals Champion from its non-executive board membership, when this government proposal comes into force. This role will take a broad overview of the appeals mechanisms within ONR to ensure that they are fit for purpose and not disadvantageous to those businesses with limited resources. In addition, when the government's proposed amendments to whistleblowing legislation take effect, we will publish numbers of whistleblowing disclosures<sup>36</sup> made to ONR in our annual reports.

#### Recommendations to achieve fuller compliance

6A: ONR will establish a small business appeals champion as required by future legislation, and will report annually on the numbers of whistleblowing disclosures that we have received (by April 2016, subject to legislation).

33 CNI's Summary Programme Plan 2015/16: <http://www.onr.org.uk/documents/2015/cni-summary-15-16.pdf>

34 Annual Report and Accounts 2014/15: see footnote 8.

35 EMM: see footnote 8, SAPs: see footnote 30; EPS: see footnote 5.

36 Complaints, concerns and whistleblowing: see footnote 13.

# Conclusion and next steps

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- 51 We believe that ONR, as a modern regulator, demonstrates compliance with the intent of the Regulators' Code. We have robust, published procedures that explain the expectations and behaviours on our regulatory inspection staff and guidance for dutyholders to demonstrate compliance with the law, as well as a presumption of transparency – where documents will be published unless there is a compelling reason to not do so.
- 52 The above said, there is always room for improvement, and ONR will seek, over the next twelve months, to further embed the Regulators' Code expectations into our everyday working practices. The table below is a summary of recommendations that the ONR will work towards to achieve greater compliance with the Code.

Recommendations to achieve fuller compliance
1A: ONR will 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.
1B: ONR will undertake a review of its economic impact on dutyholders, for completion by April 2016.
2A: ONR will implement changes in relation to reporting on whistleblowing over the next financial year (2015/16).
2B: ONR will 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.
3A: ONR will continue to progress its 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.
4A: ONR will continue to engage with the Better Regulation Delivery Office's project to develop ways in which information can best be shared between our organisation and other regulators.
5A: ONR will review the content and layout of its website to make it more user-friendly, specifically tailoring it to our dutyholders by September 2016.
6A: ONR will establish a small business appeals champion as required by future legislation, and will report annually on the numbers of whistleblowing disclosures that we have received (by April 2016, subject to legislation).

- 53 A further review of our compliance with the Code and achievement of the recommendations above will be undertaken as an addendum to this report in autumn 2016.

We would welcome any feedback from our dutyholders and stakeholders on this report, including on how it could be improved. If you do have any comments, please let us know at [ONRenquiries@onr.gsi.gov.uk](mailto:ONRenquiries@onr.gsi.gov.uk).



## Office for Nuclear Regulation

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Further information about ONR is available at [www.onr.org.uk](http://www.onr.org.uk)