

**FRAMEWORK DOCUMENT
BETWEEN
DEPARTMENT FOR WORK AND
PENSIONS
AND
OFFICE FOR NUCLEAR
REGULATION**

October 2018

Framework document between Department for Work and Pensions and Office for Nuclear Regulation

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Introduction

This framework document has been drawn up by the Department for Work and Pensions (DWP) in consultation with the Office for Nuclear Regulation (ONR). The document sets out the broad framework within which the ONR will operate. The document does not convey any legal powers or responsibilities. It is signed and dated by DWP and ONR. Copies of the document have been placed in the Libraries of both Houses of Parliament and made available to members of the public on the ONR website.

1. Purpose of the ONR

- 1.1. The ONR has been established, under Part 3, Section 77 of the Energy Act 2013 (hereafter “the 2013 Act”), as a statutory body to support the Government’s strategic aims and objectives for regulation of the nuclear industry.
- 1.2. ONR’s mission is: “To provide efficient and effective regulation of the nuclear industry, holding it to account on behalf of the public.”
- 1.3. ONR’s statutory purposes fall into five categories:
 - Nuclear safety;
 - Nuclear site health and safety;
 - Civil nuclear security;
 - Nuclear safeguards; and
 - Transport of radioactive materials.
- 1.4. Further details of ONR’s purposes are set out in Part 3 of the 2013 Act.
- 1.5. ONR’s strategic plan 2016-2020 sets out its vision for ONR to become “An exemplary regulator that inspires respect, trust and confidence”.

Governance and Accountability

2. ONR’s legal origins of powers and duties

2.1. ONR’s powers and duties stem from a range of statutes and statutory instruments. These include¹ :

- The 2013 Act;
- Sections 18, 19, and 26 of, and Schedule 2 to the Health and Safety at Work Act etc. (and subordinate legislation made under that Act);

¹ This is an illustrative and not definitive list of the legislation setting out ONR’s powers and duties.

- Sections 1, 3 – 6, 22 and 24A of the Nuclear Installations Act 1965;
 - Uranium Enrichment Technology (Prohibition on Disclosure) Regulations 2004 (SI 2004/1818);
 - Nuclear Industries (Fees) Regulations 2005 (SI 2005/1564);
 - Sections 1, 2, and 5 of the Nuclear Safeguards Act 2018;
 - Section 2 (8) of the Nuclear Safeguards and Electricity (Finance) Act 1978;
- and
- Regulations 5, 6, 8 – 11, 13 – 15, 16, 17 and 19 – 24 of the Nuclear Industries Security Regulations 2003 (SI 2003/403).

2.2. ONR also exercises, by virtue of agreements entered into under sections 90 and 95 of the 2013 Act, certain statutory powers and duties conferred on or arranged with the Secretary of State for Business, Energy and Industrial Strategy (BEIS).

2.3. The Office for National Statistics (ONS) has classified ONR as a Public Corporation. As such, ONR is not in scope for standard Cabinet Office controls. Some government fiscal controls apply to Public Corporations and it is ONR's responsibility to identify which controls it must follow, with assistance from DWP Arm's Length Body Partnership Division when requested (as per section 6.7 below).

3. Overall aims

3.1. The Secretary of State for Work and Pensions (henceforth "the Secretary of State") has agreed that, subject to Section 1 of this document, ONR's aims are to:

- deliver its mission; and
- secure delivery of work-related health, safety, safeguards and security by the nuclear industry and other sectors for which it is responsible.

3.2. ONR will fulfil its purposes in order to:

- ensure that the nuclear industry manages and controls industrial risks to a high standard, which enhances assurance and allows the industry to operate with a high degree of public acceptance;
- control the keeping and use of nuclear matter and generally prevent the unlawful acquisition, possession and use of such matter; and
- protect the health and safety of workers and minimise risks from work to members of the public.

3.3. ONR will:

- inspect and evaluate the safety and civil nuclear security culture and performance of its dutyholders, ensuring risks are well controlled;
- enforce the law, in accordance with its Enforcement Policy Statement;
- regulate in accordance with the principles set out in the UK Regulators' Code;
- deliver a permissioning regime, ensuring that dutyholder activities of principal significance to nuclear safety and security meet UK legal standards;
- continually improve the regulatory framework, maintain ONR's management systems and sustain its regulatory capability;
- engage, inform, advise and consult with dutyholders, international bodies and other stakeholders; and
- influence dutyholders to develop through-life strategies from design through to decommissioning (strategies that include construction, commissioning, operation, post operations clean out and decommissioning), achieving sustained delivery of good practice in safety and civil nuclear security.

4. Ministerial Responsibility

- 4.1. As a Public Corporation, ONR operates at 'arm's length' from central government. ONR has substantial day to day operating independence, however Ministers are ultimately accountable for its performance and continued existence.
- 4.2. The Secretary of State for Work and Pensions has the principal responsibility to Parliament for ONR governance and finance, and performance in relation to conventional health and safety. These responsibilities are delegated to the responsible Minister, who will account for such matters in Parliament. The responsible Minister will typically meet the Chair and Chief Executive (CE) annually or when business needs dictate.
- 4.3. Two other Secretaries of State are answerable in Parliament for aspects of ONR's activity:
 - the Secretary of State for Business, Energy and Industrial Strategy (BEIS) is accountable to Parliament for the UK civil nuclear regulatory framework and policies. This covers civil nuclear safety and security; new-build and decommissioning programmes; emergency preparedness and response; nuclear safeguards; and the safe and secure transport of radioactive material by all modes of transport. The Secretary of State is also accountable for ensuring ONR and other parties provide effective assurance information across all these areas; and
 - the Secretary of State for Defence is accountable to Parliament for nuclear safety and security at nuclear sites operated wholly or mainly for defence purposes.

- 4.4. The relevant Secretary of State may issue directions to ONR as specified in legislation, including the Energy Act 2013.
- 4.5. The work of ONR is also subject to administrative agreements with several other departments and regulators with related or overlapping functions and responsibilities. A list of these agreements is available on the ONR website².

5. Contact and engagement

- 5.1. DWP is responsible for ensuring that necessary governance arrangements are in place to assure the effectiveness and efficiency of ONR.
- 5.2. The partnering relationship between DWP and ONR will be conducted in accordance with the principles of purpose, assurance, value and engagement set out in 'Partnerships between Departments and ALBs: Code of Good Practice.' As such, both parties will:
 - ensure that they clearly understand the strategic aims and objectives of their partners; and
 - commit to an open and honest partnership, adopting a policy of 'no surprises' by keeping each other informed of any significant issues and concerns; and through sharing skills, experience and good practice.
- 5.3. DWP and ONR will complete an Annual Assurance Assessment to establish the effectiveness of the partnership arrangements and assess the levels of risk and opportunity that ONR presents to DWP across a suite of risk categories.

6. DWP's Accounting Officer's specific accountabilities and responsibilities as Principal Accounting Officer (PAO)

- 6.1. The DWP Permanent Secretary, as Principal Accounting Officer (PAO), is accountable to Parliament for the issue of any grant to ONR and for specifying how ONR uses the grant.³
- 6.2. The PAO is responsible for advising the responsible Minister of:
 - an appropriate framework of objectives and targets for ONR, taking account of the Government's wider strategic aims and priorities;
 - an appropriate budget for ONR, and for the grant in the light of DWP's overall public expenditure priorities; and
 - how well ONR is achieving its strategic objectives and whether it is delivering value for money.

² <http://www.onr.org.uk/agency-agreements-mou.htm>

³ The PAO's responsibilities are set out in chapter 3 of 'Managing Public Money'.

- 6.3. The PAO is also responsible for ensuring arrangements are in place to:
- promote an effective partnership approach between government departments and ONR, facilitated by DWP;
 - monitor ONR's activities;
 - address significant concerns and difficulties in ONR, making such interventions as are judged necessary;
 - periodically carry out an assessment of the risks both to DWP and ONR's objectives and activities;
 - inform the ONR Board of relevant government policy in a timely manner;
 - consider any issues that might be brought to his or her attention by ONR's CE for which advising a Ministerial Direction might be appropriate;
 - bring concerns about the activities of ONR to the full ONR Board, and as appropriate to the Departmental Board, requiring explanations and assurances that appropriate action has been taken; and
 - maintain regular liaison with BEIS and other departments with an interest in ONR business.

Responsibilities of DWP's ALB Partnership Division

- 6.4. DWP's ALB Partnership Division is the primary DWP contact for ONR. It is the main source of advice to the responsible Minister and the PAO on the discharge of his or her responsibilities in relation to ONR.
- 6.5. The Division is responsible for managing the relationship with ONR on behalf of Ministers and the PAO.
- 6.6. The Division must exercise proportionate and meaningful oversight of ONR's strategy, financial management, performance and risk management and will seek assurance that ONR adopts sound governance and control practices.
- 6.7. Core responsibilities include:
- providing advice to Ministers in respect of ONR when required and working with ONR to draft Ministerial Submissions as business need dictates;
 - informing ONR of any conditions attached to the grant from DWP and seeking assurances that these are being met;
 - holding Quarterly Accountability Review (QAR) meetings to monitor ONR's performance;
 - supporting ONR to obtain agreement to and publish corporate documentation including the Annual Report and Accounts, Corporate Plan and Strategy;

- acting as an advocate for ONR within DWP and other government departments;
 - informing ONR of, and explaining, wider developments that might affect it;
 - facilitating relationships between ONR officials and other government departments and Agencies where necessary to develop constructive and collaborative working;
 - supporting Ministers to make appointments of Non-Executives to the ONR Board and to approve the appointments of the CE and the Chief Nuclear Inspector (CNI);
 - arranging the ONR Chair's annual performance appraisal by a suitable senior person; and
 - when possible, providing access to subject matter expertise for advice, oversight, peer review and guidance to support ONR's effective delivery of strategic projects.
- 6.8. DWP will co-ordinate bilateral and trilateral senior official engagement between DWP, ONR and BEIS to discuss matters of mutual interest and to support delivery of ONR's objectives. DWP ministerial engagement with ONR is covered in section 4.
- 6.9. In the case of disputes between DWP and ONR, the DWP ALB Partnership Division's Team Leader and senior ONR officials should seek to resolve the matter in the first instance.
- 6.10. If the matter is significant and cannot be resolved at that level, the Head of DWP's ALB Partnership Division will seek resolution with the CE of ONR or the ONR Chair.
- 6.11. Exceptionally, if resolution cannot be reached, discussions may take place between Ministers or the Permanent Secretary and the ONR Chair.

7. Responsibilities of ONR's Chief Executive (CE)

General

- 7.1. ONR's CE is personally responsible for ensuring that ONR operates effectively and to a high standard of probity in respect of:
- using any grant money received from government only in accordance with the conditions attached to the grant;
 - providing assurance to the PAO on the use of grant money, at least annually;
 - safeguarding the public funds for which he or she has charge, whether these arise from a grant from DWP or from the operation of any of ONR's powers under legislation;

- ensuring propriety, regularity and value for money in the handling of those public funds at all times; and
 - the day-to-day operations and management of ONR.
- 7.2. In addition, the CE will ensure that ONR operates on the principles of regularity, propriety, value for money and feasibility set out in ‘Managing Public Money’⁴.
- 7.3. The CE has personal responsibility for ensuring that ONR uses internal audit to improve its internal controls and performance.
- 7.4. The CE does not have any responsibility for regulatory decisions such as issuing, revoking or amending nuclear licences. These decisions, as required by the 2013 Act, have been delegated to the CNI.

Governance and accounting responsibilities

- 7.5. The CE’s governance and accounting responsibilities include:
- signing ONR’s accounts, ensuring that proper records relating to the accounts are kept and that the accounts are properly prepared and presented in accordance with any directions issued by the Secretary of State;
 - preparing and signing a Governance Statement covering corporate governance, risk management, and assurance of any local responsibilities, for inclusion in the annual report and accounts;
 - ensuring that effective procedures for handling complaints about ONR are established and made widely known within ONR and to the public;
 - acting in accordance with the terms of this document, ‘Managing Public Money’ and other instructions and guidance issued from time to time by DWP, HM Treasury and the Cabinet Office, to the extent that they apply to Public Corporations; and
 - giving evidence on ONR’s stewardship of public funds, normally with DWP’s PAO, if summoned before the Public Accounts Committee.
- 7.6. The CE will take the same actions as set out for Accounting Officers in chapter 3 of ‘Managing Public Money’ if the ONR Board is contemplating a transaction which he or she considers:
- would infringe the requirements of propriety or regularity; or
 - does not represent prudent or economical administration, efficiency or effectiveness; or
 - is of questionable feasibility; or

⁴ http://www.hm-treasury.gov.uk/psr_mpm_index.htm

- is unethical.

This includes advising the PAO who would then consider whether to advise a Ministerial intervention.

Responsibilities to DWP

7.7. The CE's particular responsibilities to DWP include:

- establishing, in agreement with DWP, ONR's strategic and annual plans as determined by the ONR Board in light of the Government's wider strategic aims and mutually agreed priorities;
- informing DWP of progress in helping to achieve the Government's policy objectives and in demonstrating how resources are being used to achieve those objectives; and
- ensuring that ONR:
 - provides timely forecasts and monitoring information on performance and finance to DWP;
 - notifies DWP promptly if over-spends or under-spends are likely and that corrective action is taken; and
 - notifies DWP in a timely fashion of any significant problems whether financial or otherwise, and whether detected by internal audit or by other means.

Responsibilities to the ONR Board

7.8. The CE is responsible for:

- advising the ONR Board on the discharge of ONR's responsibilities as set out in: this document, the founding legislation and any other relevant instructions and guidance that may be issued from time to time;
- advising the Board on ONR's performance compared with its aims and objectives;
- ensuring that the Board takes financial considerations fully into account at all stages in reaching and executing its decisions, and that financial appraisal techniques are followed;
- ensuring that decisions sought from the Board and its Standing Committees are presented in a way that all financial, regularity and propriety implications are fully addressed to assist decision taking;
- advising the Board of any circumstances where ONR may incur expenditure for any purpose that is, or might be considered, novel or contentious, or which has or could have significant future cost implications;

- taking action as set out in paragraph 7.7 if necessary;
- ensuring the safe handling of personal, customer and other sensitive information, complying with any relevant government standards in the handling, processing, storing and transferring of personal / sensitive information (regardless of the media used); and
- developing and implementing robust and tested Business Continuity and Disaster Recovery Plans to ensure that disruption to the delivery of ONR's services and operations is minimised, regularly assuring the Board on this.

8. The ONR Board

- 8.1. The Board is responsible for ensuring that effective arrangements are in place to provide assurance on risk management, governance and internal control. The Board should assure itself of the effectiveness of the internal control and risk management systems.
- 8.2. The Board is specifically responsible for:
- establishing and delivering ONR's strategic aims and objectives consistent with its overall strategic direction and within the agreed Government policy and the resources framework approved by the Secretary of State;
 - ensuring that the responsible Minister is kept informed of any changes which are likely to impact on ONR's strategic direction or on the attainability of its targets, and determining the steps needed to deal with such changes;
 - ensuring that ONR complies with any statutory or administrative requirements for the use of public funds;
 - ensuring that it:
 - operates within the limits of its statutory authority, any conditions agreed with DWP, and in accordance with any other conditions relating to the use of public funds;
 - takes into account guidance issued by DWP in reaching decisions;
 - takes due consideration of any advice from the ONR CE, the PAO or the Secretary of State (or delegated Minister) with regard to any proposed actions by the Board that they consider runs counter to the requirements of 'Managing Public Money';
 - receives and reviews regular financial information concerning the management of ONR and that its decisions take into account all relevant financial considerations;
 - is informed promptly of any concerns about the activities of ONR and provides positive assurance to DWP that appropriate action has been taken on such concerns;

- setting up an Audit and Risk Assurance Committee (ARAC), in accordance with the 'Code of Good Practice for Corporate Governance' and the 'Audit and Risk Assurance Committee Handbook' and chaired by a Non-Executive member, to provide independent advice;
- demonstrating and ensuring high standards of corporate governance and probity at all times, including using the ARAC to help the Board address key financial and other risks;
- ensuring that effective arrangements are in place to provide assurance that ONR is providing efficient and effective regulation of the nuclear industry, holding it to account on behalf of the public;
- appointing the CE and the CNI, subject to Ministerial approval, and setting performance objectives for the CE. (The CE sets the performance objectives of the CNI); and
- proposing the CE's and CNI's remuneration. This must be agreed by the responsible Minister, after consulting the Chief Secretary to the Treasury where required.

8.3. The Chair and Non-Executive members of the ONR Board are not responsible for regulatory decisions such as issuing, revoking or amending nuclear licences. These decisions, as required by the 2013 Act, have been delegated to the CNI who, in turn, sub-delegates such decisions to suitably skilled, qualified and experienced staff.

The Chair's personal responsibilities

- 8.4. The Chair is accountable to the Secretary of State. Communications between ONR's Board and the responsible Minister will normally be through the Chair. The Chair is responsible for ensuring that:
- ONR delivers efficient and effective regulation of the GB nuclear industry in line with its statutory purposes; and
 - ONR's policies and actions support the responsible Minister's and other relevant government ministers' wider strategic policies and that its affairs are conducted with probity.
- 8.5. In addition, the Chair has the following leadership responsibilities:
- formulating ONR's strategy as set out in ONR's strategic and annual plans;
 - ensuring that the CE is sighted on all proposals before they are brought to the Board;
 - ensuring that the Board takes proper account of guidance provided by the responsible Minister or the Department, in reaching decisions;
 - promoting the efficient and effective use of staff and other resources;

- ensuring ONR Board's affairs are conducted with probity;
- setting performance objectives for the CE;
- representing the views of ONR and its Board to the general public and key stakeholders; and
- liaising with the Chair of the Health & Safety Executive (HSE) to agree any ONR representation on HSE's Board and any HSE representation on ONR's Board and informing the Secretary of State whenever an ONR Non-Executive Director is appointed to the HSE Board.

8.6. The Chair also has an obligation to ensure that:

- the work of the Board and its members is reviewed and that it is working effectively;
- the Board has a balance of skills appropriate to directing ONR's business, based on the principles set out in the 'Corporate governance in central government departments: code of good practice' and suitably adapted for ONR;
- Board members are fully briefed on terms of appointment, duties, rights and responsibilities;
- he or she together with other Board members, receives appropriate training on financial management and reporting requirements and on any differences that may exist between private and public sector practice;
- the responsible Minister is advised of ONR's needs when Board vacancies arise;
- he or she assesses the performance of individual Non-Executive Board members regularly and when being considered for re-appointment in accordance with the Governance Code for Public Appointments;
- there is a Board Operating Framework in place setting out the role and responsibilities of the Board consistent with the 'Corporate governance in central government departments: code of good practice'; and
- there is a code of practice for ONR Board members in place, consistent with the Cabinet Office *Code of Conduct for Board Members of Public Bodies*⁵.

⁵ The ONR Board Members' Code of Practice is at: <http://www.onr.org.uk/documents/2014/corporate-governance.pdf>

Individual Board members' responsibilities

8.7. Individual Board members are required to:

- act in good faith and in the best interests of ONR and its aims;
- comply at all times with the ONR Board Members' Code of Practice, the 'Code of Conduct for Board Members of Public Bodies' and within the rules in 'Managing Public Money', relating to the use of public funds and to conflicts of interest;
- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations; and
- comply with ONR rules on the acceptance of gifts and hospitality⁶, and ONR's 'Arrangements for Corporate Governance'.

9. Annual report and accounts

9.1. ONR will publish an annual report of its activities together with its audited accounts after the end of each financial year. ONR will provide DWP with its finalised audited accounts in accordance with the timetable agreed with DWP.

9.2. The annual report must:

- meet the requirements set out in Schedule 7, Section 24 of the 2013 Act;
- cover any corporate, subsidiary or joint ventures under its control;
- be prepared under International Financial Reporting Standards (IFRS) as interpreted by the Government Financial Reporting Manual (FReM), as stipulated in ONR's Accounts Direction; and
- outline main activities and performance during the previous financial year and set out forward plans in summary form.

9.3. The annual report and accounts, together with the Comptroller & Auditor General's (C&AG) report, will be laid before Parliament and made available on ONR's website.

⁶ ONR's Gifts and Hospitality Policy

10. Internal Audit

10.1. ONR is required to:

- establish and maintain arrangements for internal audit in accordance with the *Treasury's Public Sector Internal Audit Standards* (PSIAS) to provide an objective annual opinion on the overall adequacy and effectiveness of ONR's governance, risk management and internal control;
- ensure the Government Internal Audit Agency (GIAA) is satisfied with the competence and qualifications of the Head of Internal Audit and the requirements for approving appointments in accordance with PSIAS;
- forward the audit strategy, periodic audit plans, all final audit reports and annual report, including ONR's Head of Internal Audit opinion on risk management, control and governance to DWP as requested and as part of standard QAR procedures;
- ensure that Internal Audit acts primarily as a service to the CE, ARAC and ONR Board. The Head of Internal Audit will have direct access to the CE and the Chair of the ARAC; and
- keep records of, and prepare and forward to DWP an annual report on fraud, error and theft suffered by ONR or provide a nil return as appropriate, and notify DWP of any unusual or major incidents as soon as possible.

10.2. The internal audit service has a right of access to all documents, including where the service is contracted out.

11. External Audit

11.1 The Comptroller & Auditor General (C&AG) must examine, certify and report on the statement and must lay copies of the statement and the report before Parliament.

11.2 ONR does not currently operate any subsidiary companies, and will obtain DWP approval before creating any new subsidiary companies.

11.3. If ONR creates new subsidiary companies it will, in the light of the provisions in the Companies Act 2006, ensure that the C&AG is appointed auditor of those subsidiaries and will determine whose accounts are consolidated within its own accounts. ONR and DWP will agree the procedures for appointing the C&AG as auditor of any such companies.

11.4. The C&AG:

- will consult DWP and ONR on which of either the National Audit Office or a commercial auditor will undertake the audit(s) on his or her behalf. The final decision rests with the C&AG;
- has a statutory right of access to relevant documents, including, by virtue of section 25(8) of the Government Resources and Accounts Act 2000, those held by another party in receipt of payments or grants from ONR;

- will share information identified during the audit process and the audit report (together with any other outputs) with DWP at the end of the audit. This will include issues impacting on DWP's responsibilities in relation to financial systems within ONR; and
- will, where asked, provide DWP and other relevant bodies with Regulatory Compliance Reports and other similar reports which departments may request at the commencement of the audit and which are compatible with the external auditor's role.

11.5. The C&AG may carry out examinations into the economy, efficiency and effectiveness with which ONR has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under section 8 of the National Audit Act 1983. In addition, ONR will provide, in conditions to grants and contracts, for the C&AG to access documents held by grant recipients, contractors and sub-contractors as may be required for these examinations; and will use its best endeavours to secure access for the C&AG to any other documents it requires that are held by other bodies.

Right of access

11.6. Subject to the Data Protection Act (DPA) 1988 and (from the date at which applicable provisions in the DPA 1998 cease to have effect) data protection legislation as defined in section 3(9) of the Data Protection Act 2018, DWP has the right of access to all ONR records and personnel for any purposes including, for example, Partnership audits and operational investigations. Unless in exceptional circumstances, this right should be exercised via the Partnership Division and with the prior agreement of the ONR CE. This does not preclude routine engagement at working level. In order to protect Sensitive Nuclear Information (SNI) in an appropriate manner, access to sensitive or secret nuclear information will be considered on a case by case basis.

Management and financial responsibilities

12. 'Managing Public Money' and other government-wide corporate guidance and instructions

12.1. Unless agreed by DWP, and as necessary HM Treasury, ONR will follow the principles, rules, guidance and advice in 'Managing Public Money' to the extent that it applies to Public Corporations. ONR will refer any difficulties or potential cases for exceptions to the ALB Partnership Division in DWP in the first instance. A list of guidance and instructions that ONR must comply with is set out in Appendix 1.

- 12.2. Once the budget has been approved by DWP and subject to any restrictions imposed by statute, the PAO, the responsible Minister or this document, ONR has authority to incur expenditure approved in the budget without further reference to DWP, on the following conditions:
- ONR sets internal delegations, compliant with ‘Managing Public Money’ and other relevant Government guidance;
 - ONR will comply with ‘Managing Public Money’ regarding novel, contentious or repercussive proposals;
 - inclusion of any planned and approved expenditure in the budget does not remove the need for ONR to seek formal Departmental approval where any proposed expenditure is outside the delegated limits or is for new schemes not previously agreed; and
 - ONR will provide DWP with information about its operations, performance, individual projects or other expenditure that DWP may reasonably require.
- 12.3. ONR will set fees, charges and levies in accordance with ‘Managing Public Money’ and Part 3, Section 101 of the 2013 Act and other applicable government-wide guidance and instructions. Unless otherwise agreed, ONR income from the sale of goods and services and recovery of its costs will be treated by Government as negative public expenditure and thus offset against ONR’s costs.

13. Corporate Governance

Board appointments – the Chair and Board members

- 13.1. The DWP Secretary of State appoints the ONR Chair and Non-Executive Board members, with the following exceptions:
- a security non-executive, who is appointed by BEIS ministers; and
 - an HSE non-executive member may be appointed to ONR’s Board by the HSE Chair, with the agreement of the ONR Chair.
- 13.2. Ministerial appointments to the ONR Board will comply with the ‘Governance Code on Public Appointments’. DWP may consult BEIS during the decision making process however, the final decision rests with DWP Ministers.

Board appointments – the Chief Executive and Chief Nuclear Inspector

- 13.3. The Chair of the ONR Board appoints the CE and CNI, subject to approval by DWP Ministers. DWP may consult BEIS during the decision-making process however, the final decision rests with DWP Ministers.

Composition of the Board

- 13.4. In accordance with Schedule 7, Section 2 of the 2013 Act, the Board will consist of:
- a maximum of four executives, including the CE and the CNI, who have a balance of skills and experience appropriate to directing ONR's business;
- and
- a maximum of seven non-executives, including the Chair. So far as is reasonably practicable, at any given time there should be at least five non-executives, of which:
 - one must have experience of, or expertise in, matters relevant to ONR's nuclear security purposes; and
 - one may be appointed by the HSE Chair from the HSE Board.
- 13.5. Members should have skills or experience relevant to ONR's business, operational delivery and corporate services (such as human resources, technology, finance, commercial, communications and performance management).

14. Risk Management

- 14.1. ONR will deal with the risks that it faces in an appropriate manner, in accordance with relevant aspects of best practice in corporate governance. ONR will develop a risk management strategy, in accordance with the Treasury guidance 'Management of Risk: Principles and Concepts'.
- 14.2. ONR will inform DWP of significant risks to the Department via the Partnership Division. ONR will adopt and implement policies and practices to safeguard itself against fraud and theft, in line with the Treasury's guidance on tackling fraud: Managing the Risk of Fraud. It will also take all reasonable steps to appraise the financial standing of any firm or other body with which it intends to enter into a contract or to give grant.

15. Strategy and Annual Plan

- 15.1 Schedule 7, Section 22 of the 2013 Act requires ONR to submit a strategy for carrying out its functions to the responsible Minister for approval. ONR will review, and if necessary update, the strategy at least every five years. The responsible Minister must approve any material revisions to the strategy.
- 15.2. Schedule 7, Section 23 of the 2013 Act requires ONR to submit an annual plan for the performance during that year of its functions to the responsible Minister for approval. The annual plan will include key targets for that year and will include budgeting information so that resources allocated to achieve specific objectives can be readily identified.

- 15.3. The ONR plan will take account both of annual funding provision and any forecast receipts. It will include an annual budget of estimated expenditure and income together with a profile of expected expenditure and of draw-down of any departmental funding and/or other income over the year.
- 15.4. The plan should also include:
- key objectives and associated key performance indicators;
 - key aspects of the risk management strategy (in accordance with the Risk Management section of this document);
 - key aspects of ONR's financial strategy; and
 - other matters as agreed between DWP and ONR.
- 15.5. The responsible Minister will lay copies of the ONR strategy and annual plan before Parliament, together with a statement of whether any material has been excluded from the published documents on the basis of national security.
- 15.6. Subject to any commercial considerations, ONR will publish the strategy and annual plans on its website in the form laid before Parliament.

16. Budgeting Procedures

- 16.1 ONR is funded through a combination of:
- cost-recovery from dutyholders;
 - a grant from DWP; and
 - funding from BEIS for any specific activities where agreed.
- 16.2. Additionally, in accordance with Schedule 7, Section 26 of the 2013 Act, ONR may, with the consent of the Secretary of State, borrow money.
- 16.3. Each year, in the light of its decisions about ONR's updated strategy and plans and in accordance with its annual planning cycle, DWP will send a formal statement of the annual budgetary provision to ONR. This will take account of any forecast income approved by DWP and competing priorities across the department.
- 16.4. The approved annual business plan will take account of any approved funding provision and any forecast receipts. It will include:
- a budget of estimated payments and receipts; and
 - a profile of expected expenditure and of draw-down of any departmental funding and/or other income over the year. These elements form part of the approved business plan for the year in question.

17. Grants and Loans

- 17.1. DWP will inform ONR of any conditions and assurances attached to any grant it provides to ONR.
- 17.2. The grant will be paid in instalments on the basis of written applications showing evidence of need. ONR will comply with the general principle that there is no payment in advance of need. ONR will keep cash balances accumulated during the course of the year from grant or other Exchequer funds to a minimum level consistent with the efficient operation of ONR. Where a payment is delayed to avoid excess cash balances at the year-end, DWP will make available in the next financial year any such grant that is required to meet any liabilities at the year-end, such as creditors.
- 17.3. In the event that DWP provides ONR separate grants for specific (ring-fenced) purposes, it will issue the grant as and when ONR needs it on the basis of a written request. ONR will provide evidence that the grant was used for the purposes authorised by DWP and will account for it as distinct from any other grant. If other government departments commission work from ONR, the relevant department and ONR will establish a formal charging agreement for each activity, consulting DWP.
- 17.4. DWP and ONR will work together to enable ONR to have access to adequate levels of working capital to discharge its statutory obligations. Details of these principles and processes will be set out in a separate agreement between DWP and ONR.
- 17.5. DWP will make a working capital loan and a short term loan facility available to ONR, subject to relevant permissions. ONR may also enquire about additional loan requests with DWP if needs arise. Details of any loans and their conditions will be set out in separate loan agreements between DWP and ONR.

Debtor Financial Distress

- 17.6. ONR will recover relevant costs from dutyholders in the nuclear industry in line with the relevant statutory provisions. ONR's income could be significantly reduced if a major dutyholder experiences financial difficulties. ONR will seek to make relevant arrangements to deal with this through the ONR banking arrangements in place at the time.
- 17.7. ONR will liaise with DWP if circumstances arise in which ONR is unable to make relevant arrangements. The Government will ensure that ONR has sufficient resources to discharge its functions, thereby also ensuring that the government complies with its international duties to ensure that ONR is adequately resourced. In such circumstances, ONR will provide DWP with details of the funding requirement, including the impacted dutyholder, the action taken and the outcome of that action.

Funding a Prosecution

- 17.8. All ONR regulatory costs associated with an investigation prior to a prosecution decision must be charged to the licensee. It is for ONR in its regulatory capacity to decide whether to prosecute. DWP will ensure ONR is adequately resourced in respect of working capital to pursue formal prosecutions brought about by ONR in its regulatory capacity and commits to underwrite ONR's financial capability to lay prosecution cases before the courts in accordance with its statutory purposes as an enforcing authority set out in the Energy Act 2013.

18. Reporting Performance to DWP

- 18.1. ONR will operate management information and accounting systems that enable it to review its financial and non-financial performance against the budgets and targets set out in the annual plan in a timely and effective manner. ONR will inform DWP of any changes that make it more or less difficult to achieve its objectives. ONR agrees to provide quarterly and annual reports to the Partnership Division on financial and non-financial performance, including how ONR has performed in helping to deliver Ministers' policies and the achievement of its key performance indicators.
- 18.2. ONR's performance will be reviewed formally at senior-level, DWP-led Quarterly Accountability Reviews (QAR).
- 18.3. In addition to DWP and ONR, BEIS and any other relevant Government bodies will be invited to attend the QAR.

Providing monitoring information to the Department

18.4. As a minimum, ONR will provide DWP with information each month that will allow DWP to monitor:

- ONR's cash management;
 - ONR's draw-down of grant;
 - forecast outturn by resource headings;
 - other data required for the Online System for Central Accounting and Reporting (OSCAR) public spending database; and
 - other reasonable requests that are made from time to time.
- 18.5. DWP and ONR will liaise regularly to review financial performance against plans, achievement against targets and expenditure against ONR's grant allocation.

19. Financial approvals

- 19.1. Following discussions between DWP and ONR, DWP will issue annually, to the Chief Executive, a statement of the DWP financial allocation to ONR along with any conditions in addition to those set out in this document.
- 19.2. The ONR Chief Executive should provide assurance on the use of this grant money via the DWP ALB Partnership Division, as set out in financial allocation letters it issues to ONR.
- 19.3. ONR will obtain DWP's prior written approval before:
 - entering into any undertaking to incur expenditure funded through DWP grant that falls outside eligible expenditure detailed in the annual Financial Allocation Letter;
 - incurring expenditure, of funds from any source, for any purpose that is or might be considered novel or contentious, or which has or could have significant future cost implications;
 - making any significant change in the scale of operation or funding of any initiative or particular scheme previously approved by DWP;
 - making any change of policy or practice which has wider financial implications that might prove repercussive or which might significantly affect the future level of resources required; or
 - carrying out policies that go against the principles, rules, guidance and advice in 'Managing Public Money'.

20. ONR Staff

Broad responsibilities for ONR staff

- 20.1. Within the arrangements approved by the responsible Minister and the Treasury⁷, ONR has responsibility for the recruitment, retention and management of its staff. ONR's broad responsibilities toward its staff are to ensure that:
 - the rules for recruitment and management of staff create an inclusive culture in which diversity is fully valued; appointment and advancement is based on merit; there is no discrimination on grounds of gender, marital status, sexual orientation, race, colour, ethnic or national origin, religion, disability, community background or age;
 - the level and structure of its staffing, including grading and staff numbers, is appropriate to its functions and the requirements of economy, efficiency and effectiveness;

⁷ These include: Energy Act 2013, Schedule 7, 'Managing Public Money'; 'Guidance for Senior Pay'

- ONR appraises the performance of its staff at all levels and reviews its performance measurement systems from time to time;
- ONR encourages its staff to acquire the appropriate professional, management and other expertise necessary to achieve ONR's objectives;
- it undertakes proper consultation with staff on key issues affecting them;
- adequate grievance and disciplinary procedures are in place;
- whistle-blowing procedures consistent with the Public Interest Disclosure Act are in place; and
- a code of conduct, based on the Cabinet Office's 'Model Code for Staff of Executive Non-Departmental Public Bodies' is in place.

Pay and conditions of service

- 20.2. Although ONR and its staff are part of the public sector, they are not part of the Civil Service. ONR has the flexibility, provided through the Energy Act 2013, to set its own terms and conditions of employment, including remuneration levels for its staff. However, ONR must take account of the requirements of 'Managing Public Money', Cabinet Office guidance for the approval of senior pay and other guidance applicable to the wider public sector including Accounting Officer delegated limits. ONR will alert DWP at the earliest opportunity if it proposes to deviate from these requirements.
- 20.3. Staff terms and conditions should be set out in an Employee Handbook, which is made available to DWP together with subsequent amendments.
- 20.4. ONR will operate a performance-related pay scheme that forms part of the annual aggregate pay budget approved by DWP.
- 20.5. The travel expenses of Board members are tied to the rates allowed to Senior ONR staff. Reasonable actual costs will be reimbursed, subject to any agreed caps that are in place at the time.
- 20.6. ONR will comply with the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations.
- 20.7. ONR will not incur forward commitments, from the creation of any additional posts that will exceed its ability to pay for them.

Pensions, redundancy and compensation

- 20.8. Under the Civil Servant and Other Pension Scheme (CSOPS) ONR staff are normally eligible to join either 'Alpha', an occupational pension, or a Partnership pension. Subject to eligibility criteria, some staff may be eligible for the Principal Civil Service Pension Scheme (PCSPS).
- 20.9. Proposals on severance, redundancy or compensation for loss of office must comply with the rules in chapter 4 of 'Managing Public Money'.

21. Review of ONR's status (and winding-up arrangements)

21.1. ONR will be reviewed after 7 years in accordance with the 2013 Act, or as required by the Secretary of State. The next review is planned to take place in 2020. The outcome of any such review will be laid before Parliament.

22. Arrangements in the event that ONR is wound up

22.1. DWP will put in place arrangements to ensure the orderly wind-up of ONR. In particular it will ensure that the assets and liabilities of ONR are passed to any successor organisation and accounted for properly. (In the event that there is no successor organisation, the assets and liabilities will revert to the appropriate government department). To this end, the appropriate department will be required to:

- ensure that procedures are in place in ONR to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body;
- specify the basis for the valuation and accounting treatment of ONR's assets and liabilities;
- ensure that arrangements are in place to prepare closing accounts and pass them to the C&AG for external audit, and that funds are in place to pay for such audits. The C&AG will lay the final accounts in Parliament, together with his or her report on the accounts; and
- arrange for the most appropriate person to sign the closing accounts. In the event that another ALB takes on the role, responsibilities, assets and liabilities, the succeeding ALB Accounting Officer will sign the closing accounts. In the event that a government department inherits the role, responsibilities, assets and liabilities, that department's PAO will sign.

22.2 ONR will be required to provide the appropriate government department with full details of all agreements where ONR or its successors have a right to share in the financial gains of developers. It will also provide details of any other forms of claw-back due to ONR.

Signed... *see Schofield*

Peter Schofield

Permanent Secretary, DWP

(On behalf of DWP)

Signed... *A Kelbie*

Adrienne Kelbie

Chief Executive, ONR

(On behalf of ONR)

Date... *30/10/18*

Date... *16/10/18*

List of Appendices to the document

Appendix 1 List of government-wide corporate guidance and instructions

APPENDIX 1

Government-wide corporate guidance and instructions

ONR should comply with the following general guidance documents and instructions to the extent that they apply to Public Corporations:

- This document
- Appropriate adaptations of sections of *Corporate Governance in Central Government Departments: Code of Good Practice*
<https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments>
- *Code of Conduct for Board Members of Public Bodies*
http://www.civilservice.gov.uk/wp-content/uploads/2011/09/code-of-conduct_tcm6-38901.pdf
- *Code of Practice for Ministerial Appointments to Public Bodies*
<https://www.gov.uk/government/publications/code-of-practice-for-ministerial-appointments-to-public-bodies>
- *Managing Public Money* (MPM)
<https://www.gov.uk/government/publications/managing-public-money>
- Public Sector Internal Audit Standards
<https://www.gov.uk/government/publications/public-sector-internal-audit-standards>
- Management of Risk: Principles and Concepts
<https://www.gov.uk/government/publications/orange-book>
- Government Financial Reporting Manual (FReM),
<https://www.gov.uk/government/publications/government-financial-reporting-manual>
- Relevant Dear Accounting Officer letters
<https://www.gov.uk/government/collections/dao-letters>
- Regularity, Propriety and Value for Money
http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/psr_governance_valueformoney.htm
- The Parliamentary and Health Service Ombudsman's Principles of Good Administration <http://www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples>
- Partnerships between Departments and ALBs: Code of Good Practice
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/594345/Partnerships_between_departments_and_arm_s_length_bodies-code_of_good_practice.pdf
- Relevant Freedom of Information Act guidance and instructions (Ministry of Justice)

- HM Treasury Guidance on Tackling Internal Fraud
http://webarchive.nationalarchives.gov.uk/20130102192905/http://www.hm-treasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf.pdf
- Appropriate adaptations of sections of Model Code for Staff of Executive Non-Departmental Public Bodies (Cabinet Office)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/80082/PublicBodiesGuide2006_5_public_body_staffv2_0.pdf
- Other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts
- Other relevant instructions and guidance issued by the central Departments
- Specific instructions and guidance issued by DWP
- Recommendations made by the Public Accounts Committee, or by other Parliamentary authority, that have been accepted by the Government and relevant to ONR.