

Memorandum of Understanding
Office for Nuclear Regulation and the Office of
Rail and Road

1. Introduction

- 1.1. This Memorandum of Understanding (MoU) sets out the arrangements agreed by the Office for Nuclear Regulation (ONR) and the Office for Rail and Road (ORR) relating to transport of radioactive materials by rail and associated regulatory matters. This MoU does not have legal force.
- 1.2. The “Joint ONR/ORR Guidance for Staff” in Annex A provides additional working level information and will be updated as required by agreement at working level by the Central Contact Points (see Section 8), as required.

2. Statement of purpose

- 2.1. The purpose of this MoU is to define and document the roles and responsibilities of ONR and ORR in relation to:
 - 1) the provision of information and advice between the two regulators on the transport of radioactive materials by rail and associated regulatory matters; and
 - 2) a shared and collective understanding between the regulators on their mutual communication, liaison, collaboration and working arrangements.

3. Objectives

- 3.1. The objective of this MoU is to set out shared arrangements relating to the transport of radioactive materials by rail and associated regulatory matters to ensure:
 - 1) that the activities of ONR and ORR in relation to radioactive material transport policy and rail transport competent authority functions are informed by a shared understanding of the relevant regulatory provisions;
 - 2) that the possibility of conflicting requirements on dutyholders is minimised. Wherever practicable, activities with the same dutyholders are co-ordinated;
 - 3) that each regulator’s regulatory framework for the health, safety and security of persons, property and the environment are understood; and,
 - 4) that duplication of activity within government and regulatory bodies is minimised in line with the provisions of the [Regulators’ Code](#), and in accordance with the principles of each organisations’ current Enforcement Policy Statements (EPS) for ORR and ONR and enforcement guidance.

4. Annex for Working Level Arrangements

- 4.1. The “Joint ONR/ORR Guidance for Staff” at Annex A sets out the working level arrangements and information on the current industry arrangements which will help both regulators deliver on the contents of this MoU. Annex A describes:
- a) enforcement responsibilities,
 - b) how to request specialist support or advice from each regulator,
 - c) how to liaise in advance of planned inspection activity,
 - d) arrangements in the event of an incident,
 - e) how to inform each regulator on ‘Matters of Evident Concern’,
 - f) resolving disagreements,
 - g) emergency contacts and arrangements,
 - h) entities in charge of maintenance (ECM) at specific GB nuclear sites for vehicles to be put into service on the mainline railway,
 - i) meetings of transport regulatory bodies,

5. Responsibilities

- 5.1. ONR is UK’s independent nuclear regulator for safety, security and safeguards. ONR is responsible for the following areas of regulatory competence and enforcement:
- Nuclear and conventional safety on nuclear licenced sites;
 - Transport of radiological material via road, rail and inland waterways in Great Britain;
 - Ensure compliance with domestic and international nuclear safeguards obligations; and
 - Security in the UK's civil nuclear industry in order to prevent the theft or sabotage of nuclear material and/or the sabotage of nuclear facilities.

Further information about the role and scope of the ONR’s work can be found at their website at onr.gov.uk

- 5.2. ORR is the independent safety and economic regulator for Britain’s railways. ORR is responsible for the following areas of regulatory competence and enforcement:
- maintaining and improving railway safety by operating a system of safety certification and authorisation and actively monitoring and ensuring compliance with relevant legislation;

- developing the GB health and safety regulatory framework; and,
- investigating potential breaches of health and safety legislation related to railway operations, including those arising from railway incidents and accidents. Where appropriate ORR can take enforcement action which ranges from advice to prosecution.

Further information about the role and scope of the ORR's work can be found at their website at orr.gov.uk.

6. Scope of agreement in specific areas

Mutual Support

- 6.1. ONR and ORR will provide mutual support to each other at railway safety operational activities at licenced nuclear sites and other locations where radioactive material transport occurs.
- 6.2. ONR will:
 - ensure that relevant ORR policy objectives are considered when acting for the UK in international negotiations and development of regulations and guidance documents at the International Atomic Energy Agency (IAEA) and other international or successor bodies, including the Association of European Competent Authorities, concerning the transport of radioactive material, and;
 - provide ORR with relevant information and advice concerning the transport of radioactive material by rail, both proactively and in response to enquiries.
- 6.3. ORR will provide input to help inform ONR's health and safety functions at nuclear sites, which may include, but is not limited to:
 - the provision of an occupational health and safety perspective, as it relates to the operation of the railways;
 - the provision of specialist advice and opinion on investigation or enforcement action in connection with the operation of the railway; and,
 - advice on the investigation of occupational fatalities, injuries and dangerous occurrences in connection with the operation of the railway.
- 6.4. Where appropriate, both ORR and ONR will consult each other where there are issues of common interest or overlap in the carrying out of their respective functions.

Policy Matters

- 6.5. ORR and ONR may consult each another at appropriate stages on future legislative proposals concerning the transport of radioactive material by rail or similar regulatory or policy matters of mutual interest.

Arrangements for the Provision of Specialist Support

- 6.6. ONR and ORR recognise that there may be a need to provide specialist support to each other. In response to proportionate requests, both ORR and ONR agree to provide each other with *ad hoc* specialist advice as required. The two Central Contact Points in ONR and ORR will monitor such requests to ensure they are, and remain, proportionate.
- 6.7. Where more substantive specialist support is needed, ORR and ONR may enter into separate agreements to provide specialist support in response to major incidents, investigations or enforcement activity, and will reach an understanding to monitor and record the time and amount of expertise involved.
- 6.8. The working level arrangements for specialist support are in Section (b) of Annex A.

Inspection

- 6.9. If ORR and ONR interactions with the same dutyholder occur, they will be organised between ORR and ONR principal inspectors. This may involve joint site visits at pre-planned times and locations. Arrangements for ONR and ORR inspectors making contact are shown Section (c) of Annex A.

Investigations

- 6.10. Where an investigation is started (for example, following an incident) at the interface between activities enforced by ONR and ORR, discussions at the relevant principal inspector-level should be held quickly to ensure that there is a shared understanding of enforcement authority, and thereafter lead roles and responsibilities with reference to each organisation's regulatory framework. If Principal Inspectors still require assistance with understanding respective enforcement authorities after consulting this agreement and Annex A, they should refer the issue to their Safety Policy Team (ORR) and to ONR Transport Competent Authority' (ONR).

- 6.11. The Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006 (EARR) includes an enforcement flexibility provision at Regulation 5A. This allows ONR and ORR to assign enforcement responsibility in respect of regulations made under sections 15 or 18(2) of the Health and Safety at Work, etc Act 1974. Any consideration of using this flexibility provision will firstly require ONR and ORR's Legal Team's advice, which the Central Contact Points will coordinate.
- 6.12. Further guidance on enforcing authorities in the event of an incident is within Section (d) of Annex A below.

Matters of Evident Concern

- 6.13. If either ONR or ORR inspectors observe 'Matters of Evident Concern', as described in Section e) of Annex A, during their attendance at a location for which they are not the enforcing authority (EA) for that site or activity, these should be brought to the attention of the applicable EA as described in Section (e) of Annex A.

Specific facilities within GB

- 6.14. To aid understanding by ONR and ORR inspectors, the specific features and arrangements for some facilities within Great Britain are set out in Section (h) of Annex A. This shared understanding does not replace the legal enforcement responsibilities of either organisation as provided for in EARR.

7. Central Contact Points

- 7.1. ONR and ORR will each nominate a 'Central Contact Point' (by function or job title) responsible for:
- maintaining contact with their counterpart as necessary;
 - disseminating relevant information about the MoU and its associated Joint ONR/ORR Guidance for Staff (Annex A);
 - facilitating the effective delivery of this MoU; and,
 - resolving any disagreements where these cannot be resolved at working-level. Where the Central Contact Points cannot agree a resolution, disagreement(s) will be escalated to the relevant senior management.
- 7.2. The Central Contact Points will meet at least once per year from the date of commencement of this MoU to discuss any matters relating to the operation of this MoU. Between meetings, they will establish and

maintain lines of communication, including to ensure the maintenance of the Joint ONR/ORR Guidance for Staff document.

- 7.3. The Central Contact Points will facilitate connections between other ONR and ORR colleagues as necessary.

8. Review and Variation Process

- 8.1. Subject to paragraph 9.2 below, variations to this MoU may only be made by agreement between the parties in writing and in accordance with the respective organisation's governance arrangements for MoUs. The MoU will be reviewed approximately every five years, or sooner if a substantive need arises.
- 8.2. To ensure working level arrangements remain current, variations may be made to the Annex A 'Joint ONR/ORR Guidance for Staff' of this MoU by agreement in writing between the Central Contact Points. This is to ensure that working level arrangements remain up to date.

9. Agreement and Termination

- 9.1. This MoU comes into effect on the date it has been signed by both ONR and ORR.
- 9.2. Both regulators agree that the Memorandum of Understanding between the Office for Nuclear Regulation (ONR) and the Office of Rail and Road (ORR) dated 21 December 2015 is terminated.
- 9.3. This MoU may be terminated either on a date agreed between both ONR and ORR, or on the expiry of three months' written notice of termination given by one regulator to the other regulator.

10. Data Protection and Disclosure of Information

- 10.1. Both parties are committed to protect individual data subject rights and to meet their own legal obligations under applicable legislation including the UK GDPR and the Data Protection Act 2018.
- 10.2. No personal data will be processed without further agreement. Any agreement to process personal data will require inclusion of a relevant privacy annex to ensure that personal data is adequately protected by both parties.
- 10.3. Both regulators will follow the requirements of relevant legislation with respect to the disclosure of information shared under this MoU. ONR and ORR are subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. To encourage a consistent approach to disclosure, if either ONR or ORR is intending to disclose information relevant to the other, where practicable, it shall make the other aware of its intention prior to disclosure.

<p>Signature</p> <p>Mark Foy</p> <p>Date: 15 March 2025</p>	<p>Signature</p> <p>John Larkinson</p> <p>Date: 8 April 2025</p>
<p>On behalf of Office for Nuclear Regulation</p>	<p>On behalf of Office of Rail and Road</p>

Annex A: Joint ONR/ORR Guidance for Staff: Working Level Arrangements

(a) Understanding ORR and ONR's enforcement responsibilities

The starting point for ONR and ORR inspectors seeking to understand enforcement responsibilities is summarised below. Additional support is available within both ONR and ORR via the Central Contact Points if any uncertainty remains about enforcement responsibilities.

- The Railways Act 2005 transferred responsibility for railway-related health and safety matters from HSE to ORR by giving ORR primary responsibility for the application of HSWA Part 1 in respect of 'railway safety purposes'. EARR gave ORR enforcement responsibility in relation to the operation of a railway, subject to certain exceptions. This means that ORR has enforcement responsibility of railways, tramways or other guided transport systems, except where these operations are carried out within certain listed premises, which includes licensed nuclear sites. Consequently, the operation of a railway does not include railway operations carried out within a licensed nuclear site other than in respect of maintenance carried out on railway vehicles by an entity in charge of maintenance within such premises"
- However, pursuant to Regulation 4 of EARR, ORR is not the EA in respect of the operation of a railway carried out within a GB nuclear site other than in respect of:
 - the enforcement of orders made under section 1 of the Level Crossings Act 1983 in relation to any level crossing irrespective of the premises within which it is situated; and,
 - maintenance performed on a vehicle that is to be placed in service or used on the mainline railway by an entity in charge of maintenance (ECM).
- Consequently, ORR only has a limited enforcement role at nuclear licensed sites in relation to the operation of a railway.
- In parallel, the Energy Act 2013 and amendments to the Health and Safety (Enforcing Authority) Regulations 1998, makes ONR the EA for nuclear safety, nuclear security, transport of radioactive materials and nuclear safeguards, as well as health and safety on all nuclear licensed sites.
- In addition, ONR has responsibility for health and safety on all defence authorised sites and enforcing the Ionising Radiations Regulations 1999 (IRRs) and Radiation (Emergency Preparedness and Public Information) Regulations 2001 (REPPPIR) in respect of nuclear warship docking arrangements.

- ONR is also currently the only EA in Great Britain with a remit to enforce carriage of class 7 (radioactive goods) by road, railway and inland waterway.
- There are currently two sites with specific characteristics and arrangements to note, Sellafield and Devonport Royal Dockyard, which are set out in the table at below.

Site	Description
Sellafield	<ul style="list-style-type: none"> • Sellafield Nuclear licenced site is a unique and complex site. Currently, Direct Rail Services (DRS) is a supplier of transport services for the nuclear industry; it is also an ECM with a facility based on the Sellafield site. • ORR is the enforcing authority for DRS or similar transport service providers for the nuclear industry with respect to its activities: <ul style="list-style-type: none"> ○ off the licenced site; and ○ as an ECM on the licenced site. • ONR is the enforcing authority for DRS or similar transport service providers for the nuclear industry with respect to its activities: <ul style="list-style-type: none"> ○ that relate to the provision of internal rail operations on the licenced site; and ○ as a carrier of Class 7 dangerous goods off the licenced site, including locations where it interfaces with road transport.
Devonport Royal Dockyard	<ul style="list-style-type: none"> • Devonport Royal Dockyard is a unique and complex establishment. The naval base dockyard is a nest of separate sites each of which has to be considered individually in terms of their allocated EA. At its core, it is a dockyard currently owned by Babcock Marine (Devonport) Ltd. The dockyard is currently operated by Devonport Royal Dockyard Limited (DRDL) a wholly-owned subsidiary of Babcock Marine (Devon port) Limited. Part of the dockyard is a nuclear licensed site and the surrounding area is the larger naval dockyard owned by MOD, but contains facilities run on their behalf by DRDL. A railway connected to the national infrastructure runs across the whole site. <ul style="list-style-type: none"> ○ ONR is the EA within the nuclear licensed site, including in respect of the operation of the railway;

	<ul style="list-style-type: none"> ○ ORR is the EA for the operation of the railway throughout the remainder of the site owned by or operated on behalf of MOD; ○ ORR is the EA in relation to ECM activities for each of the sites; and ○ HSE is the EA for all other activities.
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(b) How to request specialist (inspection) support

The two Central Contact Points will each facilitate timely and early conversations about any requests for specialist support, including timing and available resources.

The provision of specialist advice, support and opinion in the event of a major incident, inspection or enforcement activity will be subject to a joint discussion including the relevant inspectors about the nature of the support required and the specialist resources necessary.

Agreement to provide specialist support, especially for complex or ongoing activities, may be subject to a separate agreement on reimbursement. Where necessary, the supplying organisation may recover the full costs (including overheads) of reciprocal services in accordance with HM Treasury guidelines “Managing Public Money”. Advice or support which is likely to require significant resources will always be discussed and agreed in writing first, via the Central Contact Points.

More general liaison and smaller pieces of specialist support will typically be carried out as part of normal working relationships between the regulators. Typically in those scenarios, matters of reimbursement will not arise.

c) How to liaise in advance of planned inspections

The relevant Principal Inspectors in ONR and ORR will endeavour to notify each other in advance of any planned inspections visits to sites with joint enforcement authority or shared duty holders.

(d) Arrangements in the event of an incident

First contact between ONR and ORR will be established by use of the Emergency Contact arrangements in Section (g) below.

Where there is an incident where the responsibilities of ONR and ORR overlap in relation to rail activities on nuclear licenced sites or the transport of radioactive materials by rail, each enforcing authority shall follow the arrangements outlined in Section (e) below.

If either ONR or ORR wish to consider the use of the flexibility provision at Regulation 5A of EARR if there is uncertainty in a particular case, coordination is required between the Central Contact Points to seek

respective Legal Team advice on the application and use of this provision as it relates to the incident at hand. ORR and ONR must agree which authority is more appropriate to be responsible for enforcement. Whichever authority is assigned the enforcement responsibility must then notify any person affected by the assignment.

Where an incident is to be or is being investigated by the Rail Accident Investigation Branch (RAIB), ONR will support ORR in its liaison and cooperation activities with RAIB, and the British Transport Police (BTP) as set out in those organisations' tripartite Memorandum of Understanding. Subject to the details of the specific incident:

- neither organisation can mandate the other's investigation decisions, but there is an overall expectation of mutual co-operation and liaison;
- ORR's and ONR's investigating inspectors will act as their respective organisations' representatives;
- where the investigation's focus is either the operation of the railway within a GB nuclear site, the use of a competent authority approved package or an incident that primarily relates to road then ONR will lead the investigation;
- where the investigation's focus primarily relates the operation of the railway, any level crossing subject to an order made under the Level Crossing Act 1983 or maintenance performed on a vehicle that was placed in service or used on the mainline railway by an entity in charge or maintenance (ECM), then ORR will lead the investigation; and,
- where there is a shared investigatory interests identified then initial investigations should be carried out jointly, whenever possible, unless and until a single lead investigatory organisation is agreed upon (see Resolving disagreements section below).

(e) How to inform each regulator on matters of evident concern

The MoU between ORR and ONR sets out that they will endeavour to consult each other where there are Matters of Evident Concern discovered in the course of their duties for which they are not the enforcing authority. Matters of evident concern are defined as those matters that create an immediate risk of serious personal injury to the workforce or others, or serious ill-health and which are observed or brought to the attention of visiting staff during interventions, for example by safety representatives. Matters of Evident Concern are outlined in ONR and ORR's respective guidance documents on the topic, which are:

- ORR: RIG-2011-04: Railway specific 'matters of evident concern'
- ONR: ONR Technical Inspection Guide (TIG): Dealing with Matters of Evident Concern and Potential Major Concern

If, during the course of either ONR or ORR work activities, a matter of evident concern arises that is connected with a location or duty-holder of shared interest, the following procedure should apply:

- where there appears to be a risk of serious personal injury, notify the other EA immediately by telephone using the details set out in the Emergency Contacts and arrangements section below. If, subsequently, enforcement action is taken, the EA should inform the referring EA via the Central Contact Points.
- In other less serious cases and cases requiring an immediate response, notify the EA in writing (via the Central Contact Points), providing as much information as possible.
- If it transpires these matters are within the responsibility of another EA outside of this MoU (such as HSE or a local authority) the receiving authority will forward the notification as appropriate and advise the originating regulator.
- where ONR and ORR have a shared interest, they should keep each other informed about issues of interest to both parties (for example, were there to be any weaknesses identified in a company's safety management system).

(f) Resolving disagreements

Where the ORR and ONR disagree on any matter covered within this MoU, both parties will seek to resolve their differences at working level via the Central Contact Points. If necessary, more senior management of their respective organisations may need to be informed.

g) Emergency contacts and arrangements

Emergency contacts for ONR and ORR respectively are as follows:

ONR: 0151 922 5911

ORR: Accident Reporting Line: 020 7282 3910 (Mon to Fri 09:00 to 17:30), 020 7944 5445 (at all other times). General Use: 020 7282 2000

Emergency contacts will ensure that the appropriate information and subsequent connections are made within each's respective organisation.

h) Entities in Charge of Maintenance (ECMs) at GB nuclear licenced sites for vehicles to be put into service on the mainline railway

- As set out above in Section (a), ORR's enforcement role in relation to railway activities at nuclear licensed sites includes maintenance of railway vehicles by entities in charge of maintenance.
- An entity in charge of maintenance (ECM) is any person or organisation that is responsible for the safe maintenance of a railway vehicle and is

registered as an ECM in the national vehicle register. This can include people or organisations such as a train operator, an owner or a maintenance organisation.

(i) Meeting of Transport Regulatory Bodies

- A meeting of Transport Regulatory Bodies has been established and includes ORR and ONR. This may also support ONR and ORR's bilateral relationship as set out in the MoU, including the sharing of good practice and the discussion of matters of common interest.
- The meeting will occur at least once a year with attendance from both parties expected, along with attendance from numerous other transport regulators.