

ORR's policy on appointing warranted inspectors and maintaining competence

Introduction

1. A warrant is the instrument of appointment provided to a person appointed as an inspector by ORR under section 19 of the Health and Safety Work Act (HSWA). Section 19 requires that such individuals are *persons having suitable qualifications as necessary for carrying into effect the relevant statutory provisions*.
2. Also The Common Safety Method on Supervision, made under the Safety Directive 2004/49/EC, requires Member States to have a system in place to ensure that supervision activities are undertaken by “competent persons”.
3. A warrant is an extremely powerful tool: it confers considerable powers as well as personal liabilities to those who carry it. ORR must have rigorous processes for appointing inspectors and ensuring that they have, and maintain, the highest standards of professional competence. The reputational risks to ORR from inappropriate use, or failing to properly use the authority conferred by inspector's warrant, are significant.
4. We expect our qualified inspectors to use their skills to investigate, inspect and audit, and apply the full range of enforcement powers available to them to them in HSWA sections 20, 21, 22, 25 and in England and Wales, sections 38 and 39.
5. This policy sets out how ORR will meet its duty to appoint suitable persons as inspectors and preserve the high standards of competence and professionalism that the job of an inspector demands. The policy also describes how we may use “restricted warrants” to best advantage in delivering the ORR strategic priorities.

Our policy

“Full” warrants

We will appoint a person as an inspector with a full warrant (i.e. an instrument of appointment conferring on the inspector the full panoply of powers laid down in HSWA) when satisfied that the individual has suitable qualifications and personal attributes that will enable them to carry the duties required of and by us as the enforcing authority and National Safety Authority.

We will have arrangements in place to:

1. ensure such individuals have suitable initial qualifications upon recruitment;
2. provide training and development for individuals to develop a comprehensive understanding of the role, functions and responsibilities of a warrant holders and how ORR requires the role to be discharged for it to deliver its functions; and
3. demonstrate that they have successfully acquired the characteristics in point 2 above.

We will determine and set out the suitable qualifications required of an Inspector.

We may also appoint persons to be inspectors with a “restricted” warrant (see below).

“Restricted” warrants

HSWA section 19 (3) provides for the enforcing authority to vary an inspector’s warrant to specify the powers which they are entitled to exercise. Appointments can also be terminated so ORR has the possibility of making short term inspector appointments to suit work demands.

The extent of powers are described in the warrant and ORR can select those relevant sections and subsections of HSWA section 20, 21, 22, 25, 38, and 39 that are appropriate.

For example, we could issue a warrant to someone to give them powers of entry, to make examination and investigation, to require persons to provide information, inspect documents etc. but not necessarily the powers to take enforcement action. Thus, restricted warrants may be used to appoint an inspector to undertake a specified range of responsibilities, rather than the full range of duties.

We may appoint inspectors to operate within a specific sector, for example electrification or level crossings, but not across the full range of industry activities. This can be done by appointing an inspector with a warrant with appropriate powers and supplemented by a letter of appointment that specifies the scope of activities within which that individual will work.

Inspectors must maintain their qualifications appropriate to the warrant they hold. ORR is duty bound to review any warrant held where it has grounds to believe that the warrant holder no longer has *“suitable qualifications as necessary for carrying into effect the relevant statutory provisions.”* This could include an ill health condition that prevents an individual from carrying out some or all aspects of an inspector's duties, or where an individual's performance indicates that they are no longer suitably qualified. If necessary, a warrant can be withdrawn.

Arrangements to deliver this policy

Appointment of new inspectors at Grade D

6. Through our recruitment processes, we ensure that new “trainee” Grade D inspectors have suitable qualifications as a basis for going on to qualify as an inspector. We issue them with a warrant and provide training, mentoring, supervision and coaching to get them up to the required standard to become an Inspector Grade C.
7. When they are deemed ready to be assessed for re-grading to Grade C, arrangements are made to conduct an assessment exercise and interview panel. This is normally conducted annually or on demand. The re-grading competence assessment exercise is rigorous (details on ORRacle.) It is expected that all trainee inspectors will pass this assessment and successfully complete the re-grading exercise within 2 years of appointment. Passing the re-grading exercise, results in promotion to Grade C.

Appointment at managerial grades C, B, A, and SCS

8. ORR may also recruit into posts at Grade C, B, A or SCS level, individuals who have not been a Grade C inspector previously, but where large elements of the job do not necessarily require the post holder to have an inspector's background. However, we feel that it is expedient for the post holder to hold a warrant for purposes of oversight or conduct of RSD's operational activity. These are likely to be managerial or only partly operational posts.
9. Candidates for these jobs will normally be existing ORR staff, with experience of the railway industry, or external recruits with either health and safety expertise or railway industry experience, or both.
10. These new post-holders may be given a full warrant and embark on a schedule of training that will ensure they achieve competence in the full range of inspector duties, or they may be given a restricted warrant on appointment and follow a bespoke course of training to ensure competence to the required level.
11. We will establish a competence framework that is appropriate for the post and arrange for an assessment against the framework. As with trainee inspectors, we would normally expect compliance with the competence framework within two years of appointment, but in many cases, the depth of expertise required in any core area may be less than for a Grade C operational inspector.

Arrangements for maintaining suitable qualifications, once appointed

12. Monitoring and maintaining inspector competence underpins our professionalism. It is the responsibility of individuals, line managers and ORR corporately.

13. The Common Safety Method for Supervision (CSM Supervision) also requires National Safety Authorities to have a competent management system. The framework of the CMS is prescribed and our own arrangements mirror this framework.

14. In order to maintain inspector competence, we have a number of measures, including:

- planned and managed moves to broaden expertise in a range of operational areas;
- arrangements for annual self-assessment of development needs using ORRdat and a discussion with the line manager;
- routine sampling of outputs of inspections and investigations by line managers;
- mandatory scrutiny by line managers and sign-off of certain activities e.g. prosecution reports and investigation reports INV1;
- a technical training function that designs and delivers technical training as identified through the ORRdat and review process;
- a range of legal training opportunities through formal courses, individual tuition and peer reviews;
- a commitment to maintaining Chartered membership status at IOSH, in particular, documented continual professional development activity;
- bespoke training delivered internally and also by external providers;
- availability of Civil Service Learning opportunities;
- a performance appraisal process with quarterly interim reviews.

15. ORR has established performance management arrangements that will be adopted in the event that a warrant holder is assessed as falling below the standards required to carry out their duties.

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