

NUCLEAR DIRECTORATE - BUSINESS MANAGEMENT SYSTEM		
SITE INSPECTION AND ENFORCEMENT		INS/031
<b>RESOLVING DIFFERENCES OF PROFESSIONAL OPINION IN ND</b>		ISSUE 002
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## 1 Purpose

1.1 This procedure describes the process for resolving differences of professional opinion within ND. It applies in situations where there are differences in professional opinion over technical issues or regulatory action to be taken (or not taken) that result from the assessment or inspection processes which cannot be resolved through the normal discussion process at the lowest level. It supplements the existing HSE process for resolving problems as set out in Human Resource Guidance.

## 2 Policy

2.1 ND employs professional people to use their knowledge, skills, experience and judgement to achieve its mission. In making decisions on the technical issues and regulatory actions that should be taken in any particular case within the existing framework of the law, HSE and ND policy and system of delegated authority, the aim is to make the appropriate decision at the lowest level through consensus wherever possible.

2.2 Consensus does not mean that decisions are made by committee rather than through ND's system of delegated authority, nor that it is necessary that everyone involved agrees with the final decision. Rather it recognises that people may not agree completely with the decision, but the extent of their disagreement is not such that they object to it taking effect. Where there is an objection then there is a process in place to resolve the disagreement at the lowest appropriate level, with the Chief Inspector acting as the final arbiter within ND in the most extreme case

2.3 A major strength of ND is the range of expertise that can be brought to bear in resolving technical and regulatory issues. ND at all levels values the opinions of staff and recognises that people have the right to disagree with colleagues and to challenge proposed decisions. ND recognises the benefits that well argued challenges can bring when those challenges are made and discussed in accordance with ND values and behaviours.

2.4 In making technical and regulatory decisions within the system of delegated authority, ND processes are such that inspectors' professional opinions are considered, and where individuals' opinions are not reflected in the final decision, the reasons are made clear both to them and others affected.

2.5 In resolving differences of professional opinion there should be strict adherence to the requirements of BSS/IMT/001 "Working on a File" to ensure that an accurate contemporaneous record is kept. Where meetings are held, then the purpose and

protocol are made clear to all attendees and sufficient time is allowed to enable the issues to be properly addressed.

### **3 Responsibilities**

#### **All Professional Staff**

3.1 Are expected to act at all times in accordance with the HSE/ND values and behaviours and the relevant code of conduct of their professional body. Staff recognise that others may not always share their views on technical and regulatory issues and that decisions on such issues that need to be taken within ND may not accord with their own judgement of the evidence and argument, especially when wider considerations are taken into account.

3.2 In forming their own view as to what action needs to be taken in a particular case, inspectors are expected to discuss issues with their peers and line managers in an open and honest environment. This is particularly important where there are likely to be differing views and inspectors should be alert to such situations so that every opportunity is taken to resolve areas of disagreement through discussion in the first instance.

3.3 Where staff have concerns about technical or regulatory issues that have not been resolved through the normal process of discussion, then they should raise these with their line manager in the first instance. The aim should be to resolve areas of disagreement at the lowest level wherever possible.

#### **Unit Heads**

3.4 Unit Heads are responsible for ensuring that the views of relevant professional staff are considered when decisions are made on technical and regulatory issues. Where consensus cannot be reached through discussion the relevant Unit Head is responsible for instigating the procedures outlined in this document and ensuring that accurate records are maintained.

#### **Nuclear Topic Leaders**

3.5 NTLs are responsible for providing impartial advice on request to Unit Heads/DCIs to aid resolution of areas of disagreement within ND.

#### **Deputy Chief Inspectors**

3.6 DCIs are responsible for resolving issues of differences in professional opinion that are submitted to them. In doing so they should consult NTLs and others in ND or HSE as necessary, or from outside HSE where appropriate and use their own professional judgement appropriately.

3.7 In reviewing cases submitted to them DCIs should also ensure that proper process have been followed and that judgements have been made on a sound basis following proper consultation.

3.8 DCIs are responsible for ensuring that all those involved in the process are made aware of the final decision and the reasons for it and that this is recorded.

### **Chief Inspector**

3.9 The CI will act as the final arbiter within ND in resolving differences of professional opinion where these have not been resolved through application of the process described in this document. The Chief Inspector will ensure that the final decision and the reasons for it are recorded and communicated to all staff involved.

## **4 Procedure**

### **Dealing with Differences of Professional Opinion Within the Assessment Process**

4.1 Where a Unit Head disagrees with the conclusions or recommendations made by an assessor(s) in an assessment report that requires the Unit Head's acceptance and these cannot be resolved by discussion, then the Unit Head should set down in writing the issues on which he/she disagrees together with the reasons why and provide the assessor(s) the opportunity to respond.

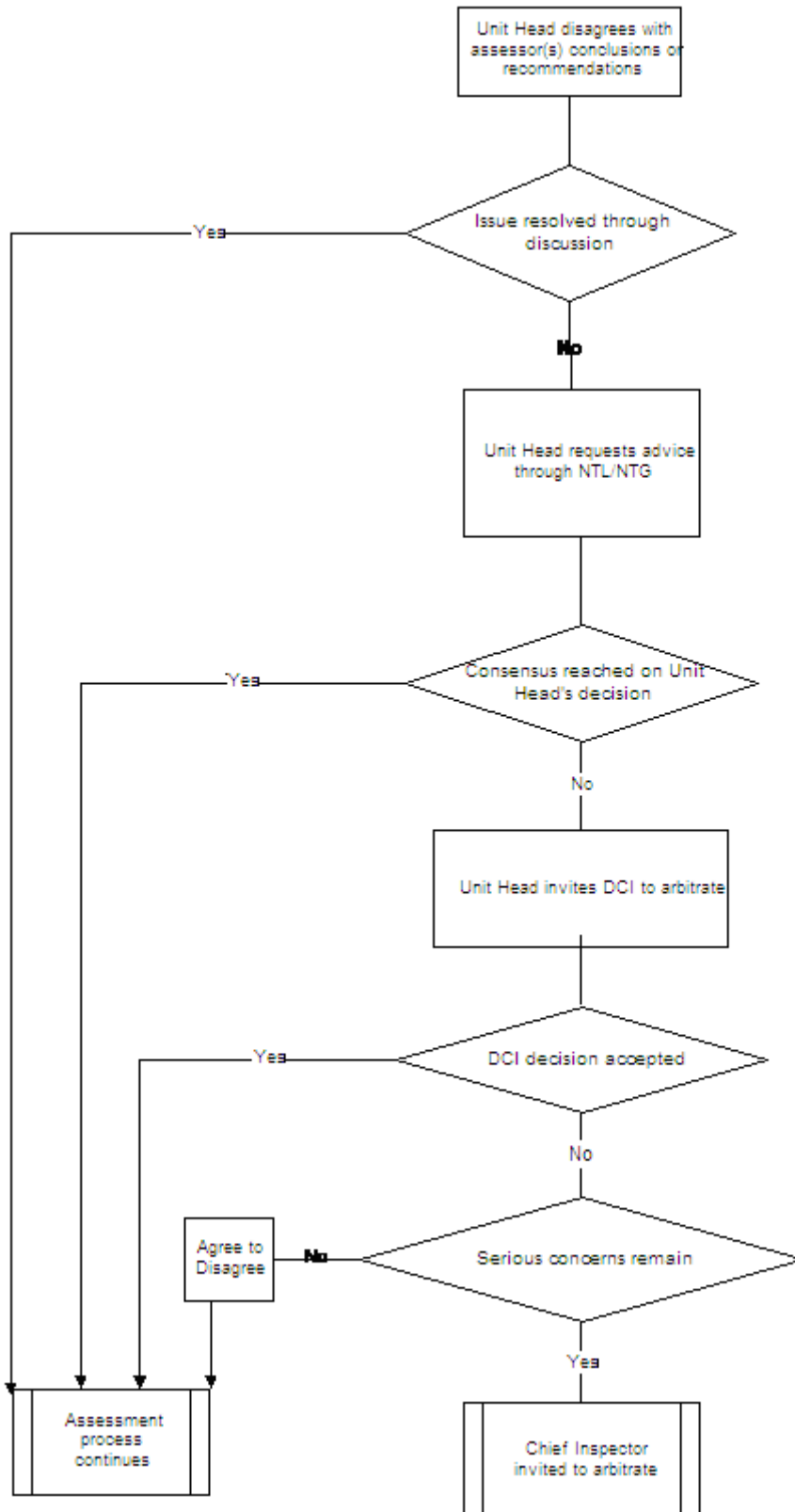
4.2 If there is still a differences of opinion then the Unit Head should ask the relevant NTL to provide, or arrange to provide independent advice. Where the Unit Head happens to be the NTL then he/she should arrange for a person(s) from the relevant NTG to provide the advice and that person(s) should not have been involved in the original process which is the subject of the differing opinions.

4.3 Any meetings that are convened to inform this advice should be recorded in agreed minutes. The inspector(s) providing the advice should then meet with the Unit Head, the assessor(s) and the NTL in an attempt to reach a consensus on the way forward. Where consensus is reached then the basis of the consensus should be recorded in an agreed note.

4.4 Where there is a failure to reach consensus on the Unit Head's decision, then agreed notes should be produced which set out the issues and the points on which there remain differences of opinion. The Unit Head should then invite the relevant DCI to review the case to ensure that proper process has been followed and the judgement is sound. The DCI should record the decision and the reasons for making that decision.

4.5 If after the process described above has taken place any person(s) involved is still of the opinion that an unsound decision has been made that has the potential to compromise safety or harm ND's reputation as an effective regulator, then the DCI should offer the person(s) the opportunity to appeal to the Chief Inspector to review the case. The Chief Inspector will act as the final decision maker within ND.

### **Dealing with Differences of Professional Opinion Within the Assessment Process**



**Dealing With Differences of Professional Opinion in the Regulatory Decision Making Process**

4.6 ND has a system of devolved authority in regulatory decision making. The issue of Legal Instruments is supported by the production of project reports and assessment reports.

4.7 Where an assessor produces an assessment report that has been approved by the relevant Unit Head and there is a difference of professional opinion with the site inspector/project inspector or between assessment disciplines, on the conclusions or recommendations, then the differences should be resolved by discussion in the first instance. Where resolution is then achieved then it should be recorded.

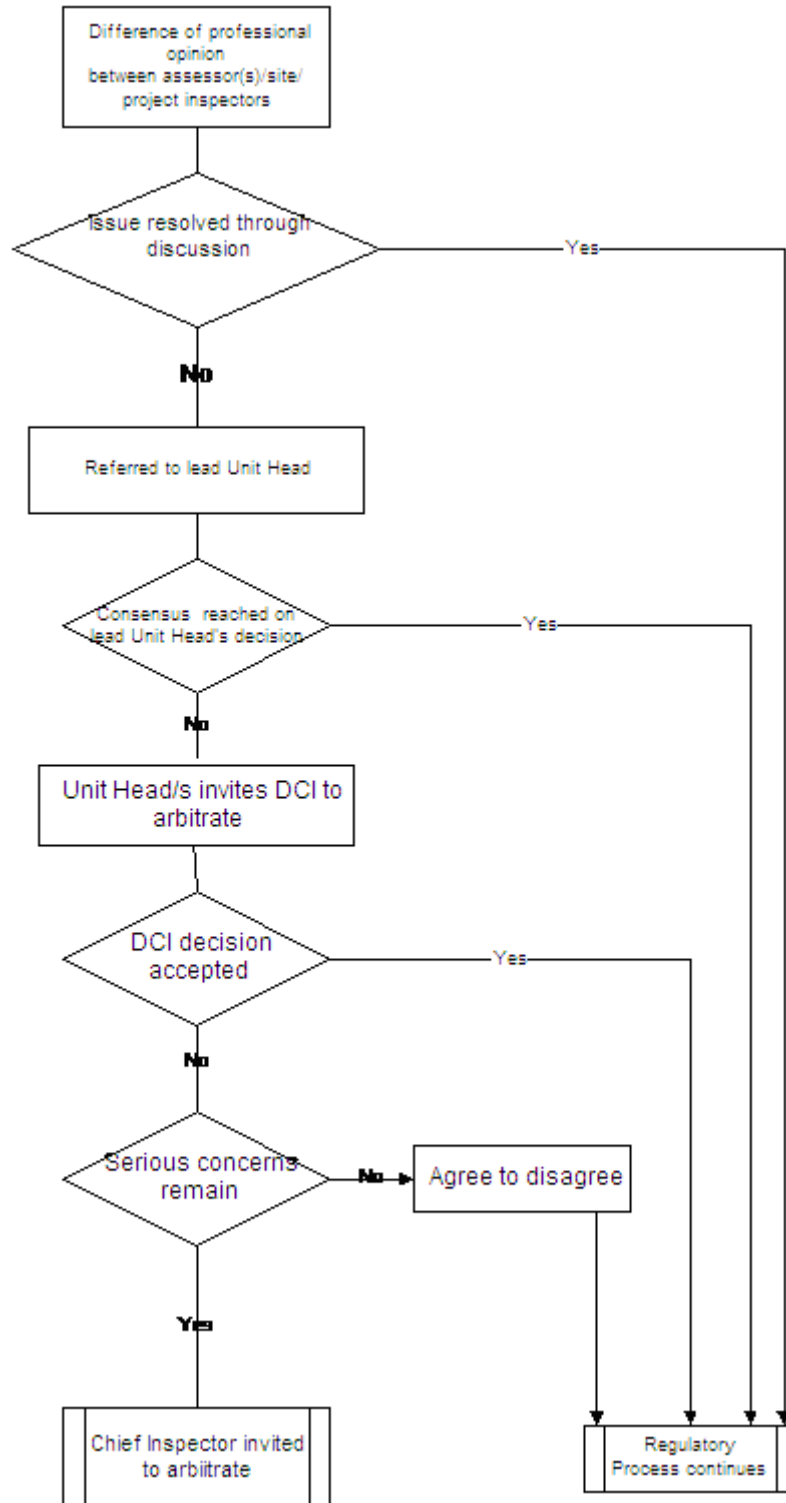
4.8 Where the discussion fails to resolve the difference of opinion then the site inspector/project inspector should bring this to the attention of the Unit Head with responsibility for the site, or plant on the site (where the regulatory lead has been passed over to a projects unit). The Unit Head should then convene a meeting attended by the site inspector/project inspector, the assessor(s) and the Unit Head from the relevant assessment unit and may invite other inspectors, including NTLs as appropriate, who may be able to contribute. An agreed record of the meeting should be kept and where consensus is achieved then this should be recorded.

4.9 Where the meeting fails to result in consensus on the lead Unit Head's decision, then the Unit Head should invite the relevant DCI to review the case. The DCI should ensure that proper process has been followed and the judgement made by the Unit Head with responsibility for making the decision, is sound. The DCI's decision and the reasons for coming to that decision should be recorded.

4.10 If after the process described above has taken place any person(s) involved, is still of the opinion that an unsound decision has been made that has the potential to compromise safety or harm ND's reputation as an effective regulator then the DCI should give the person(s) the opportunity to appeal to the Chief Inspector to review the case. The Chief Inspector will act as the final decision arbiter within ND. The Chief Inspector will ensure that the final decision and the reasons for it are recorded and communicated to all staff involved.

4.11 The process described above should take place as quickly as possible and before a final decision on regulatory action is made.

### **Dealing With Differences of Professional Opinion in the Regulatory Decision Making Process**



### Dealing With Differences in Professional Opinion on Enforcement Action

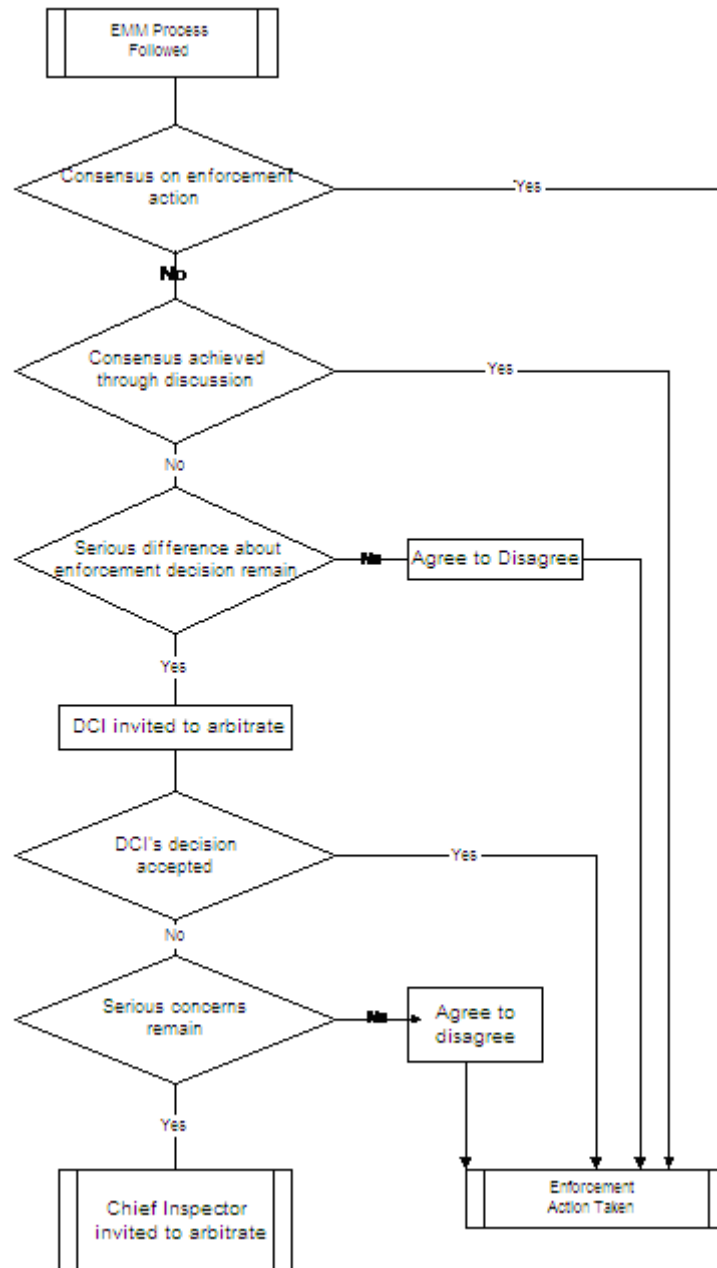
4.12 ND inspectors should follow the principles in the HSC Enforcement Policy Statement and use the Enforcement Management Model and the ND specific BMS procedure and guidance on the use of the EMM, when making enforcement decisions.

4.13 Where the EMM's Initial Enforcement Expectation results in consideration of an Improvement Notice, Specification, Direction or Prosecution and the enforcement conclusion is that such action is not taken, then the BMS procedure for application of the EMM requires that the reasons for such decisions are recorded.

4.14 After the normal process of reaching a decision to take, or not take, a particular course of enforcement action has been undertaken, involving the Unit Head with responsibility for the site; an inspector involved in the process may believe the decision not to be sound. The inspector and Unit Head should seek to resolve the issue through discussion, but where the inspector continues to believe that the decision is unsound and that safety or ND's reputation as an effective regulator is compromised, then the inspector may write to the Deputy Chief Inspector setting down in writing the reasons for his/her view.

4.15 The Deputy Chief Inspector should respond in writing to the inspector's concerns. If following receipt of the Deputy Chief Inspector's response, the inspector still has concerns then he/she may write to the Chief Inspector to review the enforcement decision.

### **Dealing With Differences in Professional Opinion on Enforcement Action**



## Dealing With Outstanding Issues of Concern

4.16 If after following the process described above an inspector should still feel that the issue has not been adequately resolved then he/she is directed to the procedure set out in Human Resource Guidance – “Resolving Problems”.

## Review

4.17 Where the resolution of differences of professional opinion has required the formal application of this procedure involving the DCI, then on completion of the process the relevant Unit Head should undertake a review involving all relevant parties. The aim of the review should be to contribute to ND’s aim of continuous improvement by identifying areas for improvement in ND’s procedures and ways of

working. CALM and ICG members should be informed of the review and its conclusion.

## **5 Associated Documents**

5.1 BSS/IMT/001 Working on a File.

5.2 BMS/AST/001 Assessment Process.

5.3 BMS/INS/030 The Use of the Enforcement Management Model in ND.

5.4 BMS/G/INS/030 Guidance: The Use of the Enforcement Management Model in ND.