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| ONR Technical Inspection Guide (TIG)  Licence Condition 12 – Duly authorised and other suitably qualified and experienced persons |



ONR Technical Inspection Guide

Licence Condition 12 – Duly authorised and other suitably qualified and experienced persons

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| 3 | Update to explain interactions between safety and safeguards inspections under the topics covered by this licence condition. |
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# Introduction

1. Many of the licence conditions attached to the standard nuclear site licence require, or imply, that licensees should make arrangements to comply with regulatory obligations under the conditions. ONR inspects compliance with licence conditions, and also with the arrangements made under them, to judge the suitability of the arrangements made and the adequacy of their implementation. Most of the standard licence conditions are goal setting, and do not prescribe in detail what the licensees' arrangements should contain; this is the responsibility of the dutyholder who remains responsible for safety.

## Purpose

1. To support inspectors undertaking compliance inspection, ONR produces a suite of guides to assist inspectors to make regulatory judgements and decisions in relation to the adequacy of compliance, and the safety of activities on the site.   
   This Technical Inspection Guide (TIG) has been prepared as a guide to inspections performed by ONR inspectors during which they judge the adequacy of licence condition compliance arrangements and their implementation.
2. The purpose of this guidance is to promote a consistent approach to a Licence Condition (LC) 12 compliance inspection and to provide guidance to inspectors in carrying out their duties in this area. The guidance should not be regarded as either comprehensive or mandatory. Further guidance is available in the relevant Technical Assessment Guidance (TAG) on Training and Assuring Personnel Competence (ref. [1]).
3. In addition to compliance against the licence conditions, the principles of this TIG may be applied by safeguard inspectors to determine a dutyholders compliance with The Nuclear Safeguards (EU Exit) Regulations 2019 (NSR19) and the associated ONR Guidance for Nuclear Material Accountancy, Control and Safeguards (ONMACS). For roles that fulfil safeguards and safety functions, LC 4 roles for example, there may be overlap with safeguards requirements and expectations. Guidance on the safeguards-relevant aspects of LC 12 is provided in the appendix of this document.

## Definitions

1. Table 2 holds a list of terms/acronyms which will aid the inspector when using the document.

Table : Table of Definitions

| Term/Acronym | Description |
| --- | --- |
| Competence / Competent | The ability to put skills and knowledge into practice in order to perform a job in an effective and efficient manner to an established standard. |
| DAP | Duly authorised person |
| FSE | Fundamental Safeguards Expectation |
| LC | Licence Condition |
| MACE | Material Accountancy and Control Expectations |
| NMACS | Nuclear Material Accountancy, Control and Safeguards |
| NMC | Nuclear Material Custodian |
| NSR19 | Nuclear Safeguards (EU Exit) Regulations 2019 |
| ONMACS | ONR Guidance for Nuclear Material Accountancy, Control and Safeguards |
| Role | A broad term encompassing a defined set of duties / tasks / functions / etc. that are required to support an activity or set of activities delivered in the workplace. |
| SQEP | Suitably qualified and experienced person |
| TIG | Technical Inspection Guide |

# Licence Condition 12 – Duly authorised and other suitably qualified and experienced persons

(12)1 The Licensee shall make and implement adequate arrangements to ensure that only suitably qualified and experienced persons perform any duties which may affect the safety of operations on the site or any other duties assigned by or under these conditions or any arrangements required under these conditions.

(12)2 The aforesaid arrangements shall also provide for the appointment, in appropriate cases, of duly authorised persons to control and supervise operations which may affect plant safety.

(12)3 The Licensee shall submit to ONR for **approval** such part or parts of the aforesaid arrangements as ONR may **specify**.

(12)4 The Licensee shall ensure that once approved no alteration or amendment is made to the approved arrangements unless ONR has **approved** such alteration or amendment.

(12)5 The Licensee shall ensure that no person continues to act as a duly authorised person if, in the opinion of ONR, he is unfit to act in that capacity and ONR has **notified** the Licensee to that effect.

# Purpose of the Licence Condition

1. The purpose of LC 12 is to ensure that only suitably qualified and experienced persons (SQEP), appointed or otherwise, perform duties which may affect the safety of operations on the site, or any other duties assigned by or under the licence conditions, or any arrangements required under the licence conditions.
2. The safety of operations is dependent on the individuals who design, construct, operate, maintain, modify and decommission it. The Licensee is therefore required to establish, and implement, arrangements to ensure that individuals who perform these activities, and any other activities pertinent to safety, are **competent**.
3. LC 12 also specifically provides for the appointment (and removal) of duly authorised persons (DAP) to control and supervise operations which may affect safety. Their roles are therefore subject to additional management controls covering areas such as the processes of appointment and assessment. Roles requiring appointment can be found in LC 21, LC 26 and LC 28:
   * + LC21 requires the appointment of a SQEP for the purpose of controlling, witnessing, recording and assessing the results of commissioning tests.
     + LC26 requires that no operations (including commissioning) which may affect safety are carried out unless under the control and supervision of a SQEP specifically appointed for that purpose by the Licensee.
     + LC28 requires that examination, inspection, maintenance and test of a plant or any part thereof is carried out under the control and supervision of a SQEP appointed by the licensee for that purpose.
4. ONR also has the ability, through LC 12(5), to request that the Licensee discontinue the use of any persons as a DAP if ONR is of the opinion that the person is unfit to act in that capacity.

# Guidance on Arrangements for Licence Condition 12

1. SQEPs, or competent persons, are those that have formally demonstrated an appropriate level of knowledge and skill, and have demonstrated the appropriate attitudes, to conduct duties which may affect safety.
2. LC 12 arrangements are underpinned by two key elements:
   * + A suitable competence management process encompassing all individuals whose duties may affect safety, and
     + Processes for appointing individuals for specific roles required by the Licence Conditions.
3. Ref. [1] provides details on ONR’s expectations for training and assuring personnel competence. The competence management system should be used to; support the determination of the competence requirements for any given safety related role, demonstrate how an individual has been assessed to determine their competence, ensure maintenance of competence, and keep supporting records.
4. The Licensee’s LC 36 arrangements should ensure that roles which could affect safety are identified and placed on the nuclear baseline. The Licensee’s LC 10 arrangements should then be used to support the identification of the competence requirements for that role (and develop a training programme to provide the knowledge and skills required to deliver that role, including the assessment of the individual). The Licensee’s LC 12 arrangements should then be used to ensure that only SQEPs fulfil those roles identified through LC 36 and provide for the formal appointment of individuals to appointed roles as required by the relevant licence conditions.
5. Ensuring individuals are competent, enables those roles which could affect safety to be delivered reliably. Therefore, if a gap between the current competence and required competence is recognised, the Licensee should define an appropriate route to provide the knowledge, skills and attitudes to close that gap.
6. Where an individual does not meet the full competence requirements of a role which may affect safety, yet is performing that role, the Licensee should establish and implement appropriate control of that role (for example, restricted duties or direct supervision) to ensure that safety is managed appropriately.
7. In some circumstances, the licensee may formally waive elements of training.   
   Such waivers should be kept to a minimum. Where training is waived, the licensee should ensure that the affected person is assessed to the same, or an equivalent, standard. This provides a basis for demonstrating that the person is competent, despite not receiving the waived part of training.
8. The Licensee should also clearly define the remit of contractors to fulfil roles which may affect safety. If contractors are able to hold roles which could affect safety, the Licensee’s arrangements should ensure that the competence of the contractor is equal to that expected of the Licensee’s own staff, and their competence has been confirmed by the Licensee.
9. The Licensee’s arrangements should also have means of revoking the appointed status of any person that Licensee deems unfit to act in the capacity of a DAP, or if ONR notifies the Licensee that it does not consider that person fit to act in such capacity.
10. It is recommended that LC12 and LC10 compliance inspection are conducted in parallel due to the significant overlap between the two topic areas. Guidance on   
    LC 10 inspection is contained within the associated TIG (ref. [1]).

# Guidance on Inspection of Arrangements

1. This section is provided to assist inspectors in judging the adequacy of the Licensee's arrangements. It identifies general, key and supporting elements that can be used to judge compliance with LC 12.
2. The inspector should normally inspect against the general and key elements, as they are closely aligned to the wording of the licence condition and are important regulatory expectations to the goal setting aspects of the licence condition.
3. The inspector may also choose to inspect against supporting elements to gain additional evidence with which to judge the adequacy of the arrangements.
4. Inspectors should endeavour, through a sampling approach, to review the arrangements against a suitable selection of the following elements and identify which elements have been considered as part of their reporting. This is important to facilitate the capture of regulatory intelligence and use of operational experience.

## General Elements

1. Confirm that the Licensee’s has arrangements in place for LC12.
2. Confirm that the arrangements make provision for submission to the ONR for approval of those part or parts of the arrangements that the ONR may specify, under LC12(3).
3. Confirm if any parts of the LC12 arrangements under LC12(3) are approved and, if so, confirm that the approved arrangements are in place, implemented and subject to configuration control and oversight.
4. Check that the arrangements enable the withdrawal of an appointment by the Licensee or if ONR notify the Licensee that it deems a DAP is unfit to act in that capacity (LC 12(5)).

## Key Elements

1. Check that the arrangements specify that only SQEPs; (a) perform any duties which may affect the safety of operations or, (b) perform any other duties assigned by or under the Licence Conditions or, (c) perform any arrangements required under the Licence Conditions.
2. Check that there is a formal process to identify SQEP and DAP roles (this may be a part of LC36 arrangements), and that competencies of these roles have been defined. Confirm that these roles are evident on the Licensee’s nuclear baseline (LC36).
3. Check that the arrangements differentiate between SQEP and DAP roles.   
   The arrangements may include a definition of SQEP and DAP to differentiate between the roles and their responsibilities. The following are ***examples*** of a definition for SQEP and DAP:
   1. "A SQEP is an individual who has the necessary competence to perform the duties which may affect safety as defined as part of their role; as demonstrated by their training and experience”.
   2. "A DAP is an individual who has direct control and supervision of operations or activities which may affect plant safety. A DAP needs to have, and demonstrated, knowledge of the plant and its associated safety case, to ensure that operations under their control and supervision are carried out safely".

**Note:** Licensee’s may have their own naming conventions for SQEP and DAP roles, and that these types of roles may also be tiered. In addition, the inspector should also consider consulting the TIG on organisational capability (ref. [2]) if discussing control and supervision as part of this inspection.

1. Check that the arrangements provide a process for ensuring only SQEP individuals fill roles which may affect safety.
2. Check that the arrangements support an appointment process for DAPs to control and supervise operations which may affect safety e.g. under LC 21 Commissioning, LC 26 Control and supervision of operations, and LC 28 Examination, inspection, maintenance and testing.
3. Check that the arrangements provide for the management of individuals who do not meet the full competence requirements for a role.
4. This could be through restriction or additional supervision requirements until such a time that they are deemed competent to discharge those duties.
5. The arrangements should state whether contractors are able to fulfil SQEP or DAP roles, and should:
   * + identify the competence requirements for contractors to meet in order to fulfil those roles, and
     + require provision of, or access to, the contractor’s demonstration of competence prior to work / appointment.

## Supporting Elements

1. The arrangements for LC 12 should be supported by, and support, LC 36 in order to enable identification of any roles which may affect safety.
2. The arrangements for LC 12 should be supported by, and support, LC 10 to ensure competence requirements are adequately identified and to enable the provision of training as required.

# Guidance on Inspection of Implementation of Arrangements

1. This section is provided to assist inspectors in judging the adequacy of the Licensee's implementation of their arrangements. This section is neither exclusive nor exhaustive and will be subject to review and revision in light of operational experience. It identifies key and supporting elements that can be used to judge compliance with LC 12.
2. The inspector should normally inspect against the key elements, as they are closely aligned to the wording of the licence condition and are important regulatory expectations to the goal setting aspects of the licence condition.
3. The inspector may also choose to inspect against supporting elements to gain additional evidence with which to judge the adequacy of the implementation of arrangements.
4. Inspectors should endeavour, through a sampling approach, to review the implementation of the arrangements against a suitable selection of the following elements and should identify which elements have been considered as part of their reporting. This is important to facilitate the capture of regulatory intelligence and use of operating experience.

## Key Elements

1. Check that the roles which may affect safety have a written role profile/ description that includes the competence requirements to fulfil the role (this could be checked as part of an LC 10 inspection focusing on the analysis of the role).
2. Check that:
   * + a schedule exists listing the roles that require appointment.
     + a name is identified against each role in the schedule and includes the list of the holders authorised duties, qualifications, training and experience.
     + those on the register still hold valid appointments. In addition, check that any LC 12(5) notifications have been acted upon by the Licensee.
3. Confirm that role holders (staff and contractors) are SQEP to conduct operations which may affect safety in line with the Licensee’s competence requirements.

**Note:** This could be conducted by checking the individuals training and competence assessment records to check the elements are current and have not expired.

1. Request a demonstration from the dutyholder of how they determine an individual (staff or contractor) is SQEP before the individual performs any duties which may affect safety. The dutyholder should be able to positively confirm the individual is SQEP against the competencies required of the role.

**Note:** This could be demonstrated through a real time interrogation of the Licensee’s or contractors competence management system (or equivalent) to determine if the individual has met the role competence requirements.

1. Check that the Licensee’s appointment process is being used effectively to appoint DAPs, and that competence assessments of DAPs are conducted prior to appointment. The assessments should be challenging and reflect the significance of the role and conducted by SQEPs.

**Note:** The competence assessment should be based on the role competence requirements, use an appropriate assessment method (written, physical, verbal, etc.), and be challenging. It should also be controlled and consistent in delivery and expectation to ensure those who meet the competence requirements can be appointed.

## Supporting Elements

1. Confirm, via sample, that SQEPs and DAPs understand their responsibilities and authorities for the specific role they are undertaking.
2. Check that the DAP has an appointment letter (or equivalent) and that this is in date. Additionally, check if the appointment identifies any limitations that currently apply to the DAP and how the limitations are being managed.
3. Check that Licensee has a process for reviewing compliance against LC 12, and that it has a process in place to action any findings in a timely manner.
4. Walk down the plant with the SQEPs and DAPs. Request them to explain their role, and compare this with the written role profile/description and defined competencies. This comparison should enable the inspector to determine whether the individual understands the role requirements.

# References

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| [1] | ONR, “NS-TAST-GD-027 - Training and Assuring Personnel Competence”. |
| [2] | ONR, “NS-INSP-GD-036 - LC36 - Organisational Capability”. |
| [3] | ONR, “ONR Nuclear Material Accountancy Control & Safeguards (ONMACS)”. |
| [4] | ONR, “NS-INSP-GD-010 - LC10 Training”. |

# Appendix A – Safeguards

1. Many of the expectations for LC 12 arrangements in this guidance are applicable to compliance with NSR19 and expectations within ONMACS (ref. [3]). NSR19 does not contain explicit requirements regarding appointment of competent safeguards staff, only that defined roles and responsibilities be assigned and communicated. However, ONR has produced guidance in the form of ONMACS that sets out ONR expectation that only demonstrably competent, or suitably qualified and experienced person, individuals perform roles with direct operational responsibility for nuclear material in a particular facility.
2. Safeguards roles are only considered relevant to LC12 where the role affects both safeguards and safety. For this reason, the inspectors should carefully consider the scope of any joint inspection that focuses on these types of roles. Where such an inspection is appropriate the inspector should consider both the safeguards guidance in Fundamental Safeguards Expectation (FSE) 3 of ONMACS and the subsequent Material Accountancy and Control Expectations (MACEs) 3.1, 3.3, and 3.4, and the inspection guidance in this document. The main overlaps are listed below. A fundamental caveat is that LC 12 is a legal requirement for licensees, whereas ONMACS represents relevant good practice for operators, except where it reiterates a requirement of NSR19.
   * + FSE 3 – There is a fundamental expectation that all personnel whose activities have the potential to impact on Nuclear Material Accountancy, Control and Safeguards (NMACS) are demonstrably competent (i.e. suitably qualified and experienced person to carry out their work and responsibilities in respect of the NMACS system). This expectation aligns with LC 12 for roles which may affect safety, hence dual purpose roles should meet the expectations for both purposes.
     + MACE 3.1 – ONMACS states that role profiles and competency analysis should be carried out, which may result in appointment of personnel to whom specific responsibility for custody of (i.e. direct responsibility for) QNM is assigned in terms of operations in a particular facility area. This responsibility is assigned by those with authority for the operational areas concerned, these personnel are identified as a Nuclear Material Custodian (NMC) in arrangements for many operators. The term has some parallel with “duly authorised person” for safety. The key linking expectation with LC 12 is that only suitably qualified and experienced person personnel carry out the NMC role and that they be proven suitably qualified and experienced person by way of assessment against a set of learning objectives identified through task analysis. This general approach aligns with some of the Key Elements sections in this document.
     + MACE 3.2 – This MACE sets expectations for analysis of roles and identifying learning objectives. It is more relevant to LC 10, (refer to the safeguards appendix in ref. [4]), however task analysis is referred to in Key Elements sections of this document as the competencies of suitably qualified and experienced person individuals should be checked during inspection.
     + MACE 3.3 – There is an expectation that formal assessment and periodic reassessment is carried out to ensure that staff in NMACS roles meet the defined role competence requirements. This aligns with expectations in this document that licensees assess individuals prior to, and during, appointment to a suitably qualified and experienced person or duly authorised person role.
     + MACE 3.4 – ONMACS places an expectation that training records should be available for personnel with defined NMACS roles. Reviewing training records is suggested in this document as part of LC 12 inspection, and so where the roles are dual purpose this activity may provide safeguards-relevant assurance.
3. Safeguards relevance has also been highlighted in an appendix of ref. [4]. Since LC 10 and LC 12 are closely linked, this guidance may also useful if considering a joint inspection between ONR Safety and Safeguards.