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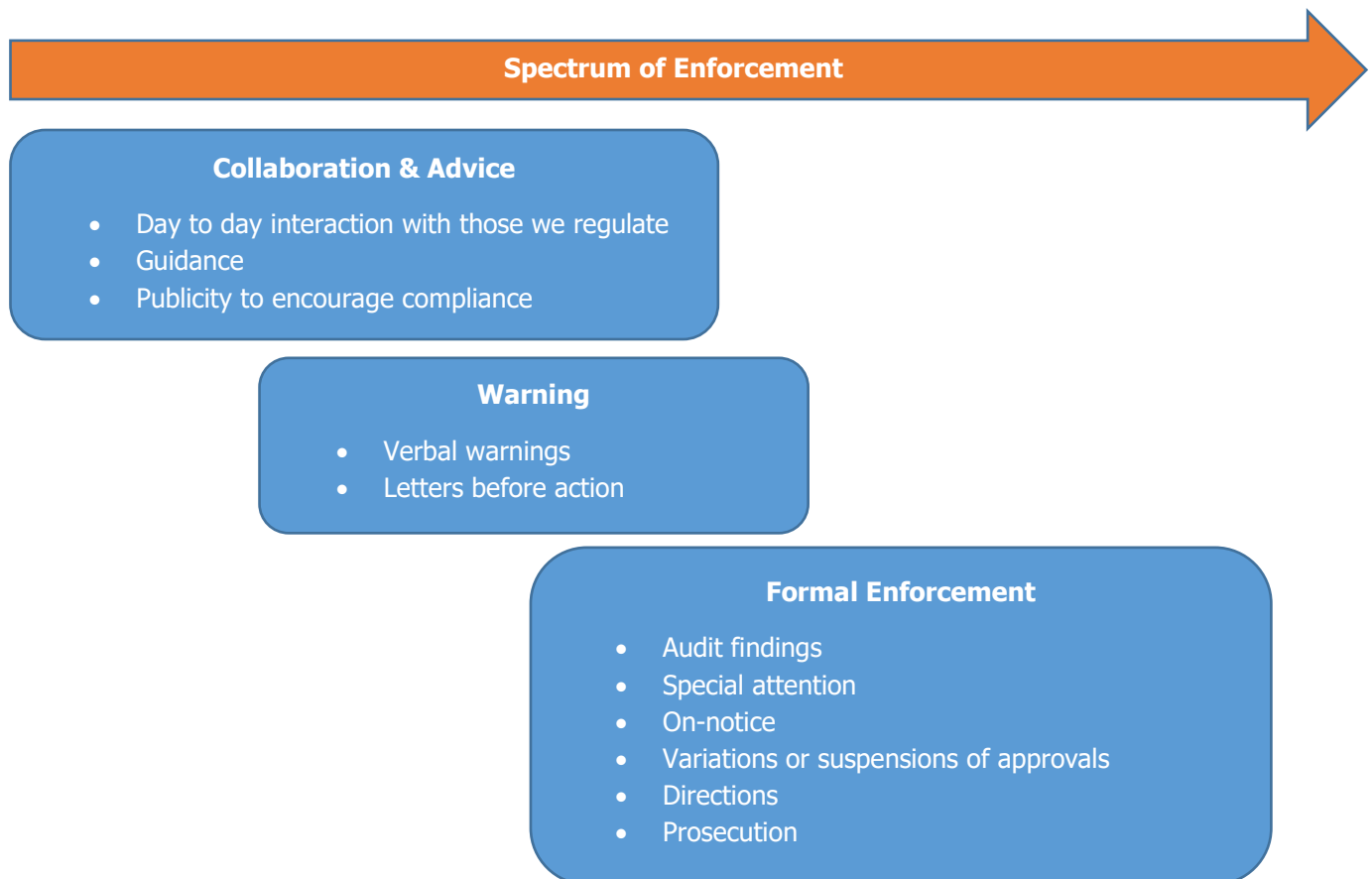
Regulatory Enforcement

Background

Annex 19 to the Convention on International Civil Aviation specifies the requirements for States to establish an enforcement policy¹ and to use a documented process to apply enforcement measures².

As the Isle of Man's aviation safety regulator, our sole purpose is to protect the interests of the public. We also have a responsibility to those we regulate to be clear about when, why and how we will enforce compliance with rules and regulations.

Enforcement is any activity that is carried out in order to seek to remedy a breach, or suspected or potential breach, of rules applicable to civil aviation. Enforcement activity forms an important part of our regulatory toolkit, alongside our other activities such as continuing safety regulatory oversight. We will continue to work with those we regulate to encourage and support compliance, but we will become much more visible and proactive in dealing with those who do not, or choose not, to comply with the rules. Consequently the spectrum of enforcement is broad and encompasses many tools and processes including those shown below:



¹ Annex 19 para 3.2.1.2

² Annex 19 Appendix 1 para 8.1

Policy

Our policy is to undertake our enforcement responsibilities through the application of the following principles:

- **We will use a proportionate and risk based approach.**
 - This means that our actions (e.g. requests for corrective actions within specific timelines, administrative penalties or other) will be proportionate to evidence of actual, suspected or potential breaches and the risk posed to public safety. In cases where there is clear evidence of public safety being put at risk we will act rapidly. In cases where there is an identified concern but evidence is limited or the risk appears to be low, we will take a measured approach which may include enhanced monitoring.
- **We will take independent, evidence based decisions.**
 - We will listen to our stakeholders to inform our enforcement decisions, but will always ensure that our decisions are robust, independent and objective. We will also ensure that our enforcement actions will be suitably documented and based on our statutory responsibilities.
- **We will publicise our enforcement action where publication is in the public interest.**
 - Publicising our enforcement actions primarily serves to provide a transparent mechanism by which we can inform the public about the actions we have taken and to provide a wider deterrent for noncompliance. In normal circumstances such publication would protect the privacy of the person or organisation concerned.
- **We will collaborate with other regulatory authorities where noncompliance crosses regulatory responsibilities.**
 - Aviation is a global activity and it is essential for regulatory authorities to collaborate to address non compliances by individuals or organisations operating in locations other than the State of the regulator.

Formal Enforcement

Findings

Findings will be made where non-compliance is identified. We will require the organisation or individual to restore compliance, or develop an action plan acceptable to us.

Findings will be categorised³ as follows:

- Level 1 - serious non-compliance with the applicable requirements and/or the individual's or organisation's own processes/manuals, which poses a significant risk to flight safety or otherwise calls into question the capability to continue safe operations, including but not limited to:
 - promulgating operational procedures and/or providing a service or operating in a way which introduces a significant risk to flight safety;

³ Findings related to applications are not a part of formal enforcement activity and will not be categorised as they are not at that time 'non-compliances' and require to be resolved to our acceptance prior to the issuance of approval/permission/certificate etc..

- falsification of submitted documentary evidence;
- malpractice or fraudulent use of the approval, certificate, etc;
- the absence of personnel fulfilling key posts;
- unresolved open level 2 findings (see below) following an appropriate period of time.

We will take action in accordance with the relevant regulation or individual, which will result in:

- directed actions by a specified date;
 - limiting or prohibiting activities;
 - provisional suspension or variation of the certificate, approval, etc or a proposal to revoke the approval.
- Level 2 – any other non-compliance, or, unresolved open observations (see below) following an appropriate period of time.

Observations

Observations will be made as a way to communicate and draw attention on specific matters that deserve scrutiny including but not limited to:

- advice and guidance on how non-compliance might be avoided;
- where best practice is not being followed;
- when it is anticipated that the individual or organisation, although currently in compliance, is unlikely to remain so unless appropriate action is taken.

We will require the organisation or individual to provide a response to the observation within an agreed timescale. Corrective action is not obligatory, but a rejected observation must be justified.

Special Attention

Where a regulated organisation or person needs to demonstrate that it can achieve and/or maintain a satisfactory standard of compliance we may identify it as requiring 'Special Attention' and therefore be subject to increased regulatory oversight. This may apply where we have safety concerns or when there are large complex developments or significant operational changes planned or underway. The 'Special Attention' notification may be lifted if the person or organisation's actions address our concerns. However, if the situation continues to deteriorate, it is likely that further non-compliance findings will be made, which may result in the organisation/person being placed 'on notice'.

On Notice

We may notify a regulated organisation or person that they are 'On Notice' when we have reason to believe that their safety compliance and/or performance is deteriorating and that, unless this trend is corrected, it will result in the organisation/person falling below the level of safety required for an approval to remain valid. Examples could be where an organisation has been subject to repeated findings, has failed to address findings in the agreed timescale or does not have an effective Safety Management System. The organisation or person will be subject to increased monitoring and will need to provide us with an acceptable corrective action plan. We will expect to detect an improvement in safety compliance and/or performance as the organisation/person continues to be monitored. The 'On Notice' notification may be lifted if the organisation or person's actions address our concerns. However, if the situation continues to deteriorate, it is likely that non-compliance findings will be made, which may result in our taking action to vary, suspend or revoke the approval of the organisation or person.

Where a non-compliance gives rise to an unacceptable loss of safety, we will take action to suspend, or vary the certificate, approval, etc. Variation means that some specific function(s) may be suspended until

such time as the issue is resolved. Suspension or variation is a temporary measure and will be appropriate where the organisation or individual is thought likely to return to compliance within the foreseeable future.

Prosecution

We will consider investigation with a view to prosecution whenever there is an alleged breach of the law, particularly when there has been a serious breach of the regulation or deliberate criminal action is suspected. A decision as to whether or not to prosecute will be taken when we are satisfied that a decision to prosecute would comply with the [Prosecution Code](#) issued by Her Majesty's Attorney General for the Isle of Man.

Problematic Use of Substances

If it is identified that a person engages in any kind of problematic use of substances (see notes), enforcement actions shall be taken to ensure that the person is removed from their safety-critical functions. The enforcement actions may utilise the provisional suspension of certificates of licence validation or the issuance of a direction in the interest of safety. The Isle of Man would also coordinate with the State of licence issuance with the aim that appropriate licensing action was taken.

Return to the safety-critical functions may only be considered after successful treatment or, in cases where no treatment is necessary, after cessation of the problematic use of substances and upon determination that the person's continued performance of the function is unlikely to jeopardise safety.

Deviations

None.

Notes

"Problematic use of substances" means: the use of one or more psychoactive substances by aviation personnel in a way that:

- a) constitutes a direct hazard to the user or endangers the lives, health or welfare of others; and/or
- b) causes or worsens an occupational, social, mental or physical problem or disorder.

"Psychoactive substances" means: alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, and volatile solvents, whereas coffee and tobacco are excluded.