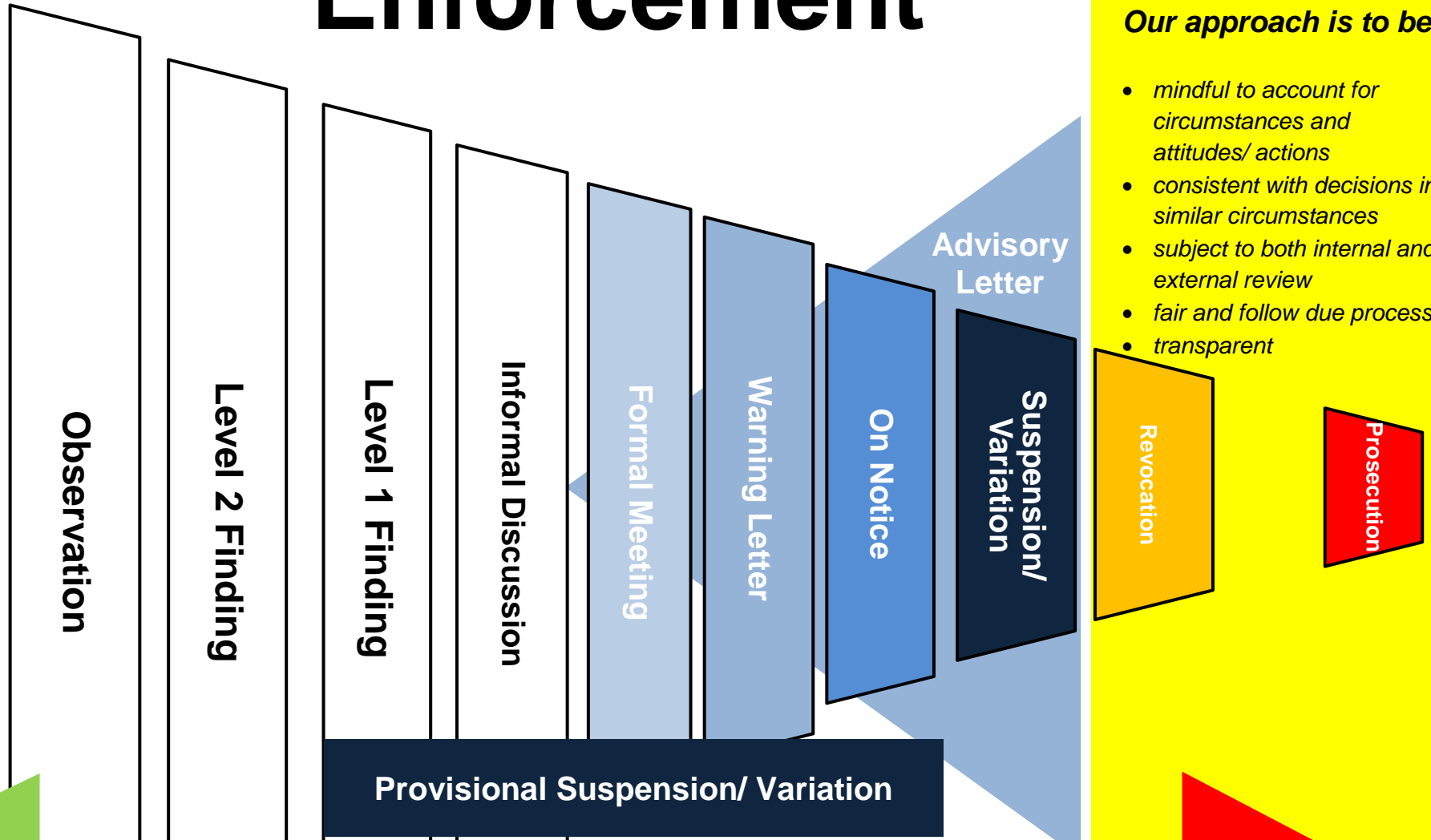


Enforcement

To achieve compliance/ safe operation through corrective action(s) that are completed satisfactorily within a reasonable time frame



Our approach is to be:

- mindful to account for circumstances and attitudes/ actions
- consistent with decisions in similar circumstances
- subject to both internal and external review
- fair and follow due process
- transparent

Factors affecting escalation

- Demonstrable commitment to solving safety deficiencies
- Actions were unintentional

- Consistent and deliberate operation outside the AN(OT)O & OTARs
- Actions were premeditated
- Evidence of deliberate efforts to conceal non-compliance(s)
- Failure to maintain an acceptable Safety Management System (SMS)

Enforcement

Enforcement is often seen in terms of prosecution, revocation, suspension and variations. It actually covers a much larger range of actions. Enforcement in itself is not an objective of an aviation regulator it is just one process to help achieve the objective of continued safe aviation operations.

It is expected that Service Providers review their own compliance, maintain and improve safety through their Safety Management System.

Individuals and Service Providers may discover breaches of regulation or safety concerns. It is important that through effective Safety Management Systems lessons are learnt to prevent any further breaches and improve aviation safety for all through sharing safety information. This enforcement process facilitates such an approach.

Hopefully, the following information will provide a better understanding of enforcement:

Immediate action enforcement

There can be occasions where there is a need to **provisionally suspend** or place a **provisional variation** on an authorisation, licence or certificate where there are serious doubts over continuing air safety. This is to provide reasonable time for an initial investigation. These may occur at any time and there is no right to Governor Review.

Sometimes it may be necessary also to **prevent a flight** until the concern has been addressed. The Regulator and Authorised Persons have this power.

Escalating enforcement:

The initial stages of enforcement are the traditional audit observations and findings which are:

Observation: The potential for a non-compliance to develop if no action is taken, or there is an opportunity for a safety/ security improvement.

Severity Level 2: Any non-compliance with a regulation or requirement or the Service Provider's own arrangements, processes or procedures.

Severity Level 1: Any non-compliance with a regulation or requirement or the Service Provider's own arrangements, processes or procedures which creates a serious safety/ security hazard. This may require the provisional suspension or variation of the Approval or Certificate.

It is important that actions to address findings are completed by the agreed closure date. Failure to complete actions may lead to escalated enforcement action.

Sometimes safety concerns may arise through other channels. In most cases these will be resolved through **informal discussions**. Every case will be individually assessed and the factors noted overleaf will affect the speed of escalation.

Formal meeting

Where day to day regulatory oversight fails to address a safety concern then a formal meeting will be conducted to clarify the safety concerns, agree actions and timescales to address these.

Warning letter

Should the actions and timescales agreed at the formal meeting not be met then a warning letter will be issued. It contains conditions on the completion of actions that if they are not met will lead to an On Notice action.

On Notice

This provides a fixed timeframe to complete any outstanding actions. Should these not be achieved then action to suspend/ vary will be taken. Or in the case where it is felt there will be no return to compliance and there is an unacceptable loss of aviation safety, revocation.

Suspension/ variation

A temporary measure where it is deemed likely that there will be a return to compliance and safe operation in the foreseeable future. In the case of a variation the overall approval remains current but some specific function(s) within it are suspended. There is a right to Governor Review.

Revocation

In cases of unacceptable loss of aviation safety and it is deemed there will be no return to compliance and safe operation then a licence, approval or certificate will be revoked. There is a right to Governor Review.

Prosecution

Only applicable following an investigation, after fully considering circumstances, attitudes and actions of an alleged serious breach of the Air Navigation (Overseas Territories) Order.

Advisory letter

These are sent to signal the closure of any enforcement action beyond informal discussions. They are kept on record and where the concern may affect another National Aviation Authority copied to them.