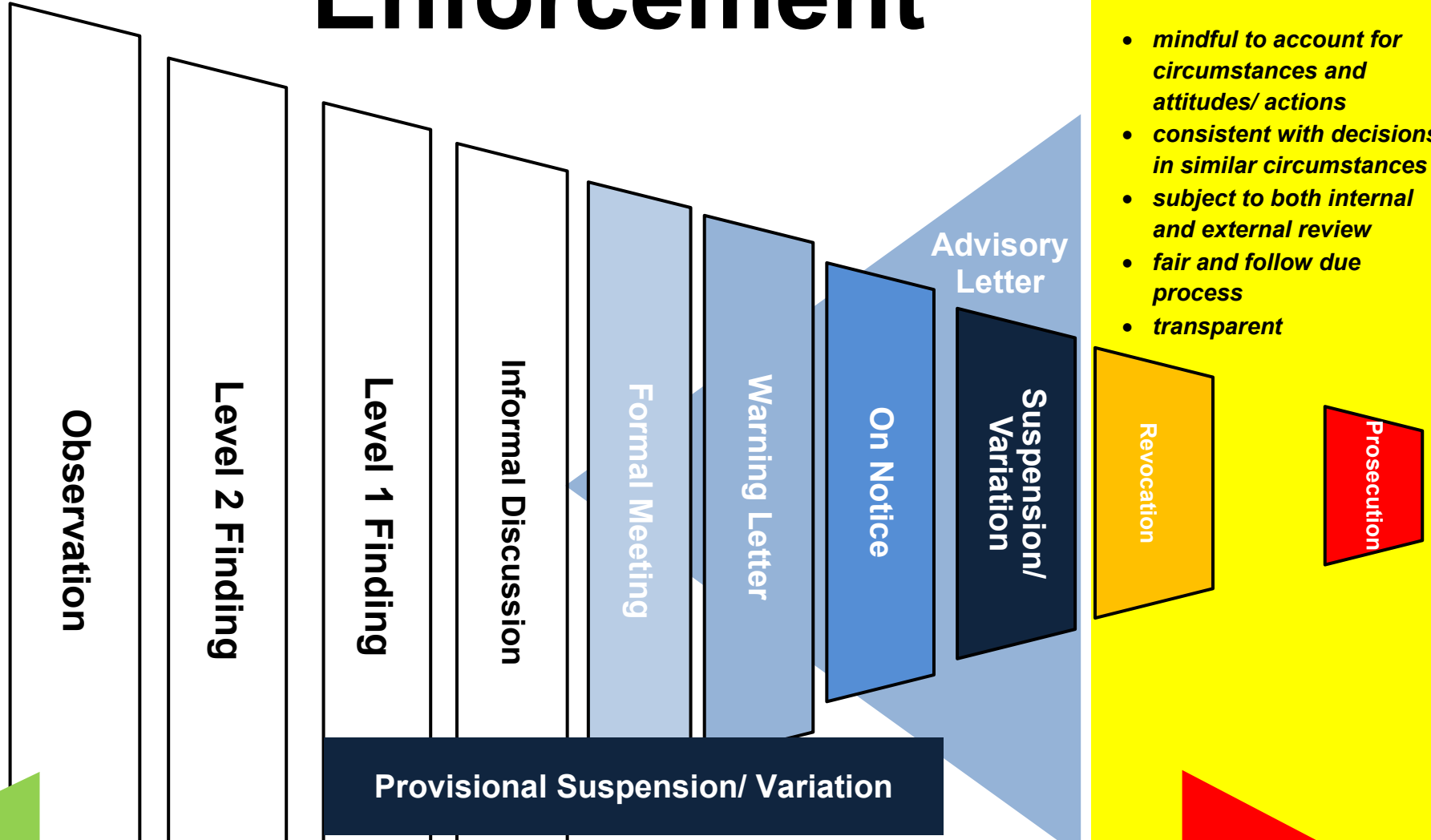


Enforcement

Aim:
To achieve compliance to ensure safe and secure operations through corrective action(s) that are completed satisfactorily within a reasonable time scale



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/de-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/ security through their Management Systems.

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

The following information explains the range of enforcement stages:

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/ security. 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 to **prevent a flight** until a concern has been addressed. The Regulator and Authorised Persons have this power.

Escalating enforcement:

The initial stages of enforcement start with 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.

A safety/ security concern may arise through other channels. These can be resolved through **informal discussions**.

For each case factors will be assessed. Overleaf describes these factors. They will affect any escalation or de-escalation and how quickly this happens.

Formal meeting

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

Warning letter

Should the actions and timescales agreed at the formal meeting not be met a warning letter will be issued. The letter will contain the actions to be completed and any conditions relating to these. If the actions and conditions in the warning letter are not met On Notice action will follow.

On Notice

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

Suspension/ variation

A temporary measure where it is deemed likely that there will be a return to compliance and safe/ secure 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/ security and it is deemed there will be no return to compliance and safe/ secure operation then a licence, approval or certificate will be revoked. There is a right to Governor Review.

Prosecution

This is only applicable following an investigation that fully considers 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.