

Principles for determining the level of contention for licensing decision – updated 30 March 2023

OFSI caseworkers should use this framework to determine whether a decision is contentious, and therefore should be taken by a Minister. They should consider:

- Whether the decision to grant or refuse a licence could have significant economic impact or impact UK commercial interests.
- Whether it is likely (55% risk or higher) that the decision to grant or refuse a licence will attract significant adverse media or parliamentary comment.
- Whether it is likely (55% risk or higher) that the decision to grant or refuse a licence will attract significant adverse international comment, such as by international organisations, other countries, governments or opposition groups whose views the UK would respect.
- Where licensing the payment would run the risk of not being consistent with the UK's current foreign policy objectives.
- Whether it is likely (55% risk or higher) that the decision to grant or refuse a licence will attract significant adverse comment by campaigning, human rights or expatriate groups whose views the UK would respect.
- Whether there are significant risks of a potential legal challenge as a result of a decision to grant or refuse a licence.
- Whether the decision to grant or refuse a licence presents any national security risks.
- Whether there are significant risks of potential reputational damage as a result of granting or refusing a licence. This could include, amongst other things: why the Designated Person is sanctioned, and whether any recent activity on their behalf would increase the reputational risk of the decision.
- Whether granting a licence application could raise wider public policy concerns.

Where Ministers have established a precedent in relation to a particular entity or set of circumstances or activity, OFSI should rely on that precedent to inform an OFSI SCS decision, rather than revert to Ministers. Where there are differences in the circumstances of the case which would mean that the use of precedent is inappropriate, or if OFSI were minded to recommend deciding against that precedent, it would revert to Ministers.

In addition, where an application relates to an administrative change to an existing licence, OFSI should refer the decision to the Head of Licensing rather than revert to SCS. Where the substantive terms of the licence are to be amended, this will not be considered an administrative amendment.

OFSI will approach private office on a case-by-case basis if they believe the Minister may wish to delegate the power to make licensing decisions in respect of Counter Terrorism (CT) cases (e.g. where no significant change in the DP's circumstances would occur by the granting, refusing or amendment of the licence).