



Date: 4 January 2005

No. 41

Subject: **Summary of the main points from the NFLA Steering Committee Meeting, Guildhall, Hull, 14 October 2004**

1. Nuclear 'Legacy' Issues

The NFLA Secretary and Legal Adviser reported:

- 1.1 The submission of a response to DTI's Intermediate Level Waste (ILW) 'Substitution.' Consultation. It was argued that the consultation was incomplete because all local authorities had not been consulted, and premature because the Nuclear Decommissioning Authority (NDA) was not in place. NFLAs also considered that the consultation could not make certain judgements until other matters (e.g. CoRWM's policy recommendations – see 1.3 below) had been decided.
- 1.2 The Radioactive Waste Management Advisory Committee (RWMAC), that was now in abeyance, identified in its final report nine issues for further work. One was the need for 'joined up thinking'. A good example of its absence being the above ILW substitution consultation. RWMAC also wanted the 'endpoint,' i.e. the point at which a fully decommissioned nuclear site can be declared ready for reuse, clarified. Other points included: the use of 'clearance levels' (deregulation) of very large volumes of very low level radioactive wastes; the retrieval for safe keeping of 'orphaned sources' (pieces of radioactive scrap such as X-ray machines and welding equipment which have been abandoned); and the recycling of radioactive scrap metals. Cllr Gregson, Shetland Islands Council, said his council were concerned over changes to the plans for decommissioning Dounreay. The estimated cost and timescale for decommissioning had reduced several times recently without sufficient explanation and his council were concerned about the safety implications.
- 1.3 The Government Committee on Radioactive Waste Management (CoRWM) had just completed its preparations for public consultation and was about to embark on its consultative programme. The Secretary had written to CoRWM to explain the need for greater local authority involvement in CoRWM's work, and the need for more resources to enable local authority engagement in consultation.
- 1.4 MoD's public consultation on proposals for Interim Storage Of Laid Up (nuclear) Submarines (ISOLUS). The Committee found none of the proposals made by the (MoD) so far were acceptable. Cllr Mike Rumney, Fife Council, reported that the MoD expected a new proposal for the storage of submarines to come forward but neither the contractor nor the site was known. Cllr Rumney reported that he was due to meet with Lord Bach, the Defence Procurement Minister, to discuss this matter further.



1. **Cont...**

- 1.5 UK Nirex Ltd: The Legal Adviser reported that CoRWM agreed with the government that the Nirex short list of proposed sites previously considered suitable for a national deep geological radioactive waste repository should not be made public because it would cause alarm, that it was unnecessary to release the list and that the list was now so old that it was no longer relevant. However, the current vice-chair of CoRWM, when chair of the Nirex transparency panel, had publicly stated that she favoured disclosure of the list. The Legal Adviser will continue to pursue this matter. It was noted that the MoD has recently asked for a copy of this list. The Legal Adviser asked why the MoD had done this if, as CoRWM said, the list was no longer relevant. The NFLA position was that the public had a right to know the locations of sites previously considered suitable for geological disposal because they would continue to be potential radioactive waste disposal sites.
- 1.6 Sellafield Discharge Authorisation: The Environment Agency's decision on radioactive discharges from Sellafield recognised that some site decommissioning practices may create increases. The Legal Adviser pointed out that NFLAs had been successful, with others, in lobbying for the reduction of Tc99 (Technetium – a radioactive heavy metal) discharged from Sellafield, and should continue to apply pressure for maximum discharge reductions.
- 1.7 Dounreay: Cllr Gregson, Shetland Islands Council, commended to the Committee the general principles defined by his council for radioactive waste management at Dounreay, saying that they had been formulated very carefully. Cllr Yates, Lancashire County Council, welcomed the principles saying that they could be adapted to any local authority's needs. The NFLA Steering Committee proceeded to agree the following:

General Principles for Radioactive Waste Management

- ▶ the idea that radioactive waste can be “disposed” or be rejected in favour of radioactive waste management
- ▶ any process or activity that involves new or additional radioactive discharges into the environment be opposed, as this is potentially harmful to the human and natural environment
- ▶ the policy of 'dilute and disperse' as a form of radioactive waste management (i.e. discharges into the sea) be rejected in favour of a policy of 'concentrate and contain' (i.e. store safely on-site)
- ▶ the principle of waste minimisation be supported
- ▶ the unnecessary transport of radioactive and other hazardous wastes be opposed
- ▶ wastes should ideally be managed on-site where produced (or as near as possible to the site) in a facility that allows monitoring and, if necessary, retrieval of the wastes
- ▶ the need for the wastes and contamination at Dounreay to be dealt with responsibly and in accordance with the above principles is accepted, but 'exporting' wastes so that they become the problem of other communities is opposed, as is the use of Dounreay for the treatment or management of wastes from any other sites

2. **New Nuclear Build**

Members of the Steering Committee from Scottish and Welsh Authorities were asked to consider tabling in the Scottish Parliament and Welsh Assembly a resolution similar to an Early Day Motion (EDM) to be tabled at Westminster in the terms below:

That this house calls on the Government to sponsor an open, accountable, transparent, and continuous public dialogue to advise upon, evaluate and publish all options for secure, sustainable and affordable future UK energy supply, before issuing any further White Papers on Energy Policy.

The Legal Adviser explained that transparency was essential as decision making for nuclear build had historically been secretive and the full cost to the taxpayer - some £50 billion of liabilities arising from past decision making - was only now beginning to be revealed.

Several Steering Committee members sought a more overt stance against new nuclear build that they considered to be uneconomic and unsustainable. The NFLA Secretary pointed out that the planned conference in Drogheda in the Spring of 2005 would focus on the hurdles to new nuclear build and provide a counterbalance to the arguments in favour that are presently advanced and widely reported in the media.

3. **Justification of Practices Involving Ionising Radiation Regulations 2004**

The Legal Adviser drew the Committee's attention to the necessity in the past for individual nuclear reactors to be justified i.e. show that detrimental effects were outweighed by beneficial ones. Now the law had changed at a European Union level and in future it would only be necessary to demonstrate a justification for each new *type* of nuclear reactor.

4. **Strategic Environmental Assessment Directive**

The Directive requires environmental assessments to be carried out for a range of defined plans and programmes likely to have significant effects on the environment. The SEA must be carried out during the preparation of the plan or programme and before its adoption or submission to a legislative procedure and requires that the public, and also the authorities likely to be concerned by the environmental effects of implementing the plan or programme by reason of their environmental responsibilities, are consulted as part of the SEA process.

Cllr Wyatt, Rotherham Council, considered this new legal requirement a potentially powerful tool because of the requirement for prior public consultation. The Legal Adviser pointed out that this will mean that a plan proposing new nuclear reactors would have to consider alternative proposals.

5. **Decommissioning of the UK Nuclear Industry's Facilities: Policy Statement**

It was decided that the NFLA Chair should write to Martin O'Neill MP, Chair of the Parliamentary Trade and Industry Committee, to draw attention to a significant change between a draft version of the above Statement and the final version that suggested that in future, nuclear operators would no longer be obliged to set aside funds for nuclear plant decommissioning prior to operating a facility.

6. Freedom of Information

The Legal Adviser reported that from January 2005 both UK and Scottish Freedom of Information legislation give rights of access to information. These will supplement the existing rights of access to information on the environment under the EU Environmental Information Directive and will replace the administrative code referred to in paragraph 2.

Barriers to access to information are in fact likely to remain strongly entrenched by virtue of:

- (i) the FoI legislation itself, because of (a) the width and number of “absolute” and “qualified” exemptions and (b) the right to charge for the supply of information;
- (ii) the past culture of those institutions against which access rights apply, which will no doubt influence the exercise of discretion on many applications for information where “qualified” exemptions apply (i.e. where release will only be permitted where public interest in disclosure outweighs public interest in non-disclosure.); and
- (iii) the post ‘9/11’ security climate.

Particularly relevant to nuclear matters will be how exemptions relating to safety, security, national defence and commercial confidentiality will be interpreted.

Access to information affected by security concerns

In anticipation of the coming fully into force of the FoI legislation, a guide has been produced by the Office of Civil Nuclear Security called *Finding a Balance: Guidance on the Sensitivity of Nuclear and Related Information and its Disclosure*, June 2004. This is intended to “...prevent the disclosure of information that could assist a person or group planning theft, blackmail, sabotage and other malevolent or illegal acts.”

The Environmental Data Services Report for August 2004 commented:

The arguments for and against nuclear power have never, of course, turned on questions of technology or commercial performance alone - or even on safety or waste management issues. There are other dimensions to nuclear energy which first received attention in the 1970s: the concerns about nuclear proliferation and the creation of a plutonium economy, and the erosion of civil liberties that might go with them. Anxieties such as these may have seemed a mite abstract at the time - but they are starkly to the fore in the post-9/11 security environment.

Benignly titled "Finding a balance", the paper actually veers strongly towards non-disclosure: of the 70 or so categories of information listed, more than two-thirds are classed as "not releasable".

The Legal Adviser reported that on *Planning Applications*, the Guide says “Detailed description of the function of the building ... is to be avoided...”. On *Safety Cases*, the Guide says “details of the potential hazards or other information that could be used as a surrogate for evaluating the impact of a release, or details on the impacts of releases” are not releasable. On the *Radioactive Waste Inventory*, the Guide says “...information that enables a specific building at a facility and the material held there to be identified” is not releasable. “The BRIMS database, which contains very detailed radioactive waste information supplied by the operators” is not releasable. On nuclear decommissioning, the Guide says “...detail of the construction ... and quantity of material to be stored in new builds for the treatment and storage of [decommissioning] waste and arisings” is not releasable.

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