

# Nuclear Free Local Authorities **RADIOACTIVE WASTE POLICY** Briefing on the Government Review

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## **POLICY REVIEW PROCESS**

Openness, transparency, participation, consensus - these are the buzz-words associated with the Government's impending policy review of radioactive waste management. Everyone - from all sides of the debate - seems to agree that the Government has to place wide-ranging public consultation at the heart of its policy review process.

This is clearly essential. As a recent Cumbria County Council forum concluded:

*"The Achilles Heel of radioactive waste management has always been that of public attitude, and government will be reluctant to force on a resistant public visibly flawed policies and practices."*<sup>1</sup>

It is also evident that this time round the Government has got to get it right. As BNFL starkly puts it: "The industry is not prepared to finance another failed project which could potentially result from a rigid decide-announce-defend approach"<sup>2</sup>. But what should replace the discredited process of decide-announce-defend?

This briefing discusses some of the options, focussing on the aims, methods and issues associated with public involvement in policy formulation.

## **THE AIM OF PUBLIC INVOLVEMENT**

According to RWMAC - the Radioactive Waste Management Advisory Committee - if future policy is to be successful, it must be based on a broader social consensus than has previously been the case<sup>3</sup>. For RWMAC, therefore, the aim of public involvement is to engender societal ownership of the resulting policy.

In the Committee's opinion, the following guiding principles will need to apply:

- *Openness* - requiring a "culture change" from traditional decision-making in the nuclear field;
- *Early involvement* - requiring the earliest possible involvement of those potentially affected by a decision;
- *Deliberative, accessible dialogue* - requiring open discussion between differing viewpoints in an effort to secure agreement;
- *Participatory peer review* - requiring the involvement of informed stakeholder groups in the peer review of scientific evidence; and
- *Adequate time for resolution* - requiring a measured process to foster consensus.

So far so good, but what methods could be used to secure wider public involvement?

## THE CONSENSUS CONFERENCE

A recent example is provided by the Consensus Conference on Radioactive Waste Management, organised by the UK Centre for Economic and Environmental Development (UKCEED). This entailed an examination of policy by a panel of 15 lay people which had been recruited through advertisements<sup>4</sup>.

The panel attended a preparatory weekend before questioning expert witnesses at a two day conference. It then prepared a report which was published and circulated to decision-makers.

The proponents of such events highlight that the lay panel is the key player throughout. In particular, it decides the selection of witnesses and the choice of questions, and reaches its own conclusions and recommendations.

Although the UKCEED conference successfully demonstrated the potential for drawing out the views of ordinary people, it did have its drawbacks. For example, one of the main recommendations - that a policy of '*deep storage*' of radioactive wastes should be adopted - could be argued to have arisen from the limitations of information provision at the conference. Thus, although the panel heard arguments for and against *deep disposal* and extended *surface storage*, it was not given sufficient information to judge the acceptability or relative seriousness of the risks of these policy options. As a result, the panel chose an option which appears to simultaneously do away with the risks of going deep underground (by making "easy retrievability" a requirement) and of storage above ground (by storing underground)<sup>5</sup>.

The selection and role of the expert witnesses was also seen to be critical, with concerns about the quality and balance of some of the contributions. This demonstrated the need for the panel to be given sufficient information about potential witnesses to make properly informed selections.

Nonetheless, if these sorts of drawbacks can be overcome, Consensus Conferences could be used to gauge the views of the 'silent majority' during the forthcoming Government review. However, such a 'sounding board' is hardly likely to engender the societal ownership of policy which is being sought by Government advisers. To do this, a far more thorough-going approach is needed.

## **THE ROLE OF POTENTIALLY AFFECTED COMMUNITIES**

The quest for meaningful public involvement in the policy review raises a dilemma. International experience strongly suggests that the development of new radioactive waste facilities will not succeed without the consent of the community or communities directly affected. However, it is unrealistic to expect a community that does not know it may be a potential site for such a facility to participate fully in any public consultation on national policy. In contrast, a community will insist on reviewing that policy if it subsequently becomes directly affected by it.

Clearly, a local authority cannot be expected to invest the same effort in the national, necessarily abstract, discussion of policy as it would in the concrete discussion of a proposal affecting its area. However, by then it may be too late to do much about it, particularly in the light of the Government's proposals for 'streamlining' planning procedures for major projects<sup>6</sup>. The implication is that national policy will not carry sufficient legitimacy unless all communities potentially affected by that policy are proactively consulted.

The Nuclear Free Local Authorities Steering Committee has therefore put it to the Environment Minister that any area previously considered for a new radioactive waste site should be told so that it will be motivated to fully participate in the forthcoming policy review. This suggestion particularly applies to Nirex's notorious 'short list' of potential sites which has continued to remain under wraps.

## **A WAY FORWARD?**

One method for involving potentially affected communities in policy review is through a Citizens' Jury.

Pioneered in America and Germany, the Citizens' Jury is a way of involving the public in decisions which affect them in their own communities. It involves:

- the recruitment of a group of local residents (12-16 people) to be broadly representative of their area;
- sitting for up to four days to consider policy proposals and local impacts (assisted by independent moderators);
- cross examination of witnesses;
- compilation of a report and submission to the commissioning body.

The local emphasis - in terms of jury membership and issues addressed - distinguishes the method from the Consensus Conference.

Proponents claim that Citizens' Juries have a unique combination of characteristics: involving ordinary members of the public in their capacity as citizens; asking jurors to take part in a 'serious civic task'; providing an open democratic mechanism to complement existing bodies and forms of public consultation; and allowing issues to be considered in detail. Approximately 25 Citizens' Juries have already been held in the UK<sup>7</sup>.

A possible way forward might therefore be for the Government to bite the bullet and organise a major programme of Citizens' Juries, including areas containing Nirex's previous shortlist of potential repository sites. Although an ambitious undertaking, this could go a significant way to engendering societal ownership of resulting policy<sup>8</sup>.

## **BEYOND TRADITIONAL CONSULTATION**

The House of Lords review of radioactive waste management also argued that policy must be the subject of wide-ranging consultation. It recommended that:

*“Government should issue a Green Paper which states the problem, the possible solutions and the principle means for implementation of that policy, including, for deep repositories, the site selection process. The consultation on the Green Paper should involve as many sections of the public as is feasible. At the end of it the Government should publish a White Paper and report the results to Parliament.”<sup>9</sup>*

In principle, the Government is supposed to respond formally to such reports within two months. However, at the time of writing, a response has not been published, indicating that there is disagreement between Departments or Ministers about how to move forward.

Whether disagreement revolves round the policy review process, or more controversial issues (such as whether plutonium stockpiles should be declared a waste<sup>10</sup>), is not certain. However, it is clear that leading players in the debate favour a transparent process. This must make it plain how different points of view are being tested and how evidence is being gathered and weighed.

It is notable that BNFL has itself indicated that a “traditional green paper/white paper approach in isolation” would be insufficient, as it may prove restrictive or discourage broad stakeholder involvement. But the industry must also look to its own practices. As highlighted by the Cumbria County Council forum, for a new approach to work:

*“there must be cultural change in the industry. It is widely seen by the public, and recognised within at least parts of the nuclear industry, that past actions have not been for the best and statements have not consistently married up to the actuality.”<sup>11</sup>*

## **CONCLUSIONS**

There is widespread agreement that a radical approach to the radioactive waste policy review is required<sup>12</sup>. This is likely to involve innovative techniques such as Consensus Conferences and Citizens' Juries, which should be seen to inform and support open and transparent decision-making. In particular, special effort needs to be made to ensure full participation from potentially affected communities. If this is not done, difficulties and conflict are likely to emerge when attempts are made to implement national policy.

So, as RWMAC concludes in its advice to Ministers on achieving consensus, there is a need for a "change in the thinking and approach from that of previous UK Governments, and provision of the necessary time and resources"<sup>13</sup>. In the light of such views, it is now time for the Government to explain how it intends to proceed.

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<sup>1</sup> J Knill, 'The Management of Nuclear Waste: Closure of Discussion', Cumbria County Council Economic Forum, 9 June 1999.

<sup>2</sup> 'Initial BNFL Response to House of Lords Committee Conclusions and Recommendations', 1999.

<sup>3</sup> RWMAC, 'The Establishment of Scientific Consensus on the Interpretation and Significance of the Results of Scientific Programmes into Radioactive Waste Disposal', April 1999

<sup>4</sup> Further details are available at the UKCEED web site, <http://www.ukceed.org>

<sup>5</sup> The implication for the Government review is that a way must be found of enabling the public to systematically compare the risks of different policy options.

<sup>6</sup> The Government's proposals for England are set out in 'Modernising Planning: Streamlining the processing of major projects through the planning system', DETR, May 1999. The Nuclear Free Local Authorities Steering Committee issued a briefing paper in June 1999, which warned that the proposals would take decision-making and debate away from local communities and enable unpopular developments to be imposed in the face of local opposition.

<sup>7</sup> Further details are available at the website of the Public Involvement Programme of the Institute for Public Policy Research, <http://www.pip.org.uk>

<sup>8</sup> Local authorities could seize the initiative as Reading Council did in 1994. In response to local concerns about safety and environmental impacts, the council set up a 'Community Inquiry', chaired by Helena Kennedy QC. This took evidence from a wide range of groups and recommended that a full public inquiry be held, 'Secrecy Versus Safety: How to Set Up a Community Inquiry', Reading Borough Council, 1994.

<sup>9</sup> House of Lords, Select Committee on Science and Technology, 'Management of Nuclear Waste', HL Paper 41, March 1999, para 8.11.

<sup>10</sup> The House of Lords report recommended that the Government develops a clear policy on the long-term management of the UK's plutonium stockpile. It added that this should consist of maintaining a minimum strategic stock and declaring the remainder a waste. See also Nuclear Free Local Authorities Steering Committee Radwaste Briefing No 2, July 1999, for a discussion of the limited scope for plutonium recycling.

<sup>11</sup> As '1.

<sup>12</sup> Note that although a UK wide policy is desirable, the implications of devolution mean that this can no longer be taken for granted. The Scottish Parliament has acquired powers to pass primary legislation in planning (i.e land use) and environmental protection fields and the Scottish Executive will have power to 'call in' and determine important decisions. In Wales, although the Assembly will not have powers to introduce any primary legislation, it will have 'call in' powers. In both Scotland and Wales, it would appear possible for separate radioactive management policies to be developed to guide land use planning and radioactive waste management decisions in those countries.

<sup>13</sup> As '2', p 27.