

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

No 6, November 2001

## **GOVERNMENT LAUNCHES CONSULTATION ON MANAGING SOLID RADIOACTIVE WASTES**

The Government has published a long-awaited consultation paper, intended to stimulate a national debate about how to develop policy on long-term radioactive waste management<sup>1</sup>. The paper proposes a major programme of research and public discussion, the use of a range of techniques to secure public participation, and the setting up of an independent advisory body to oversee information provision.

The proposed programme has five stages:

2001-2	Consultation on how to develop policy
2002-4	Research and public debate on policy options
2005	Consultation on a proposed option
2006	Consultation on implementation of chosen option
2007	Legislation, if needed

The consultation paper invites views on:

- the techniques that should be used to involve the public
- the formation of a new advisory body
- the proposed programme of action<sup>2</sup>.

This briefing provides an analysis to assist local authorities and others prepare their responses. The Government has requested that comments be submitted by **12 March 2002**.

THE LOCAL GOVERNMENT VOICE ON NUCLEAR ISSUES



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## THE NEED FOR PUBLIC FRAMING IN POLICY FORMULATION

Against a background of failed attempts to site an underground repository for Intermediate Level Waste (ILW), the consultation paper states that the Government's aim is to "develop, and implement, a UK nuclear waste management programme which inspires public support and confidence". It states that:

*To do that, we have to demonstrate that all options are considered; that choices between them are made in a clear and logical way; that people's values and concerns are fully reflected in this process; and that information we provide is clear, accurate and unbiased and complete.*<sup>3</sup>

Although the reference to reflecting people's values and concerns is welcome, the paper fails to recognise that facilitating public involvement in the *framing* of policy formulation is an essential *first step*. The Royal Commission on Environmental Pollution, for example, has pointed to the importance of ensuring that public values are articulated at the earliest possible stage, so that they can be taken into account in establishing the framework of assessment<sup>4</sup>. The Commission explains that the articulation of public values is particularly relevant to the identification and clarification of key issues, and the way they should be pursued. It also warns that "exclusion from the initial framing of the problem disempowers people".

In order to facilitate public involvement in establishing frameworks of assessment the concept of a 'Front End Consultation' (FEC) has been developed. The purpose of a FEC is to identify and understand public views, and to explore the principles, values and criteria that should be fed into subsequent stages of assessment. An example of a FEC is provided by the MoD's approach to Project ISOLUS, which is seeking to identify a preferred option for the interim storage of nuclear submarine reactor compartments. This FEC has involved a series of stakeholder workshops, focus group discussions, a citizen's panel and website consultation<sup>5</sup>.

The consultation paper does not mention the need for a FEC. Instead it lists the main findings of some existing initiatives, including focus group discussions commissioned separately by the HSE and Nirex. Although relevant up to a point, these initiatives did not specifically explore people's views and concerns about a process for policy formulation, and the way in which the public might be involved. Furthermore, simply publishing a consultation paper and inviting comments will not enable a proper exploration of public views. In order to do this, specific events which involve members of the public - such as focus group discussions or citizens' panels - should be organised.

## KEY FINDINGS FROM RECENT PUBLIC PARTICIPATION INITIATIVES

Having made the fundamental point about the need for a FEC, it is nonetheless important to review the key findings from recent initiatives in order to identify implications for the process of policy formulation. This can be done by reference to three initiatives. The first involved 8 focus group discussions and face-to-face survey interviews with 1035 people, and was commissioned from The Future Foundation by Nirex (the 'first Nirex study')<sup>6</sup>. The second involved a series of 11 focus groups designed to gain an understanding of public perceptions of radioactive waste management, and was commissioned from the Centre for the Study of Environmental Change (CSEC) at Lancaster University by Nirex (the 'second Nirex study')<sup>7</sup>. The third was the FEC undertaken as part of the MoD's Project ISOLUS. As stated above, this involved a series of stakeholder workshops, focus group discussions, a citizen's panel and website consultation (the 'MoD study').

Key findings fall into the following categories:

- *Organisational Arrangements* - The first Nirex study found that the nuclear industry and Government were perceived to have a “track record of dishonesty”. It concludes that those responsible for dealing with radioactive wastes need to be accountable to the public and open to public scrutiny. The second Nirex study highlights two key messages for policy-makers. First, that “organisations and institutions involved in the development of waste management policy are perceived as being secretive and untrustworthy: they must be open, honest and fair”. And secondly, that “an independent body should be responsible for overseeing the development and implementation of a waste management strategy”. Similar messages emerge from the MoD study, where key players were perceived “to be secretive, acting in their own interests rather than the common good, and willing to be dishonest”. The study observes that, in order to engender trust, these players need to strive for openness, transparency, integrity and accountability.
- *Information Provision* - The first Nirex study concludes that any public information strategy needs to start at a fairly rudimentary level, and will inevitably “operate within an environment of mistrust and suspicion”. It warns that people: are wary of being ‘sold’ a message; will resist any perceived attempt to anticipate what information they should or should not be given; and are concerned that information should be accessible by all, but should not be forced on anyone. The second Nirex study confirms the importance of publicising the availability of accessible forms of public information. It also highlights the view of study participants that “there are no single, neutral, balanced or independent sources of information” and that, as a result, there is a “need for the points of view of all sides of the debate to be heard and for the public to be informed of these different viewpoints and arguments”<sup>8</sup>. The MoD study contains similar findings. It notes the public perception that information from official sources “cannot be trusted, and that the direct evidence available to the public to confirm official pronouncements is very limited”. This led to demands from participants for the ‘checking’ of information by third parties, including environmental groups.
- *The Role of Experts* - The first Nirex study reports that there is “public unease about the degree to which scientists could be trusted to act in the public interest”, and that scientific progress is often felt to lack a moral or ethical dimension. The second Nirex study highlights that “scientists were widely perceived as being fallible, potentially self-interested and subject to external pressures that were likely to run counter to the public interest”. The study warns that these concerns about expertise need to be borne in mind when communicating with the public, so that the credibility of the consultation process is not undermined. In response to these sorts of concerns, the MoD study identifies a “strong requirement” for critical experts to be included. The study describes critical experts as those who are “outside the ‘magic circle’ of nuclear industry, regulators and government agencies”.
- *Funding of NGOs and Critical Experts*: The points above show that members of the public place great importance on the involvement of environmental groups and critical experts in consultation. The MoD study concludes that there is a need to make funds available for

critical experts and NGO volunteers so that they can participate effectively. It adds that clear guidelines should be developed for the provision of funding.

- *Issues 'Outside the Frame'* - During the MoD study, participants raised a number of issues which fall outside the frame of Project ISOLUS, including concerns about building more nuclear powered submarines. The study observes that "if public acceptance is to be pursued, it is crucial that these concerns are not ignored". The approach taken in the MoD study was to ensure that public concerns 'outside the frame' were passed on to the relevant bodies.

It is not at all clear from the consultation paper that the Government is fully aware of the implications of these key findings. If future policy is to inspire public support and confidence, the findings must be taken properly into account in the design of subsequent stages of consultation.

## **A NEW ADVISORY PANEL**

The Government consultation paper discusses a number of ways of providing the advice and research needed to undertake policy formulation. These include: locating the advisory and research functions in different bodies (eg a modified RWMAC or new advisory committee, with research tendered to a suitable organisation); or combining advisory and research functions in a single organisation (eg the Royal Society, Nirex, a Research Board, a Research Institute, or a Radioactive Waste Management Commission). In most of these cases, it is envisaged that the body would consist of, or be overseen by, some form of mixed-interest committee or board.

As argued above, in assessing these suggestions, it is important to take account of the key findings from recent public participation initiatives. These suggest that the public would favour bodies which are open, transparent and critical, and involve a wide range of stakeholders. With these considerations in mind, RWMAC has proposed that policy formulation should be "overseen by an independent, or at least balanced-interest, body that is widely accepted as being capable of upholding the broader public interest"<sup>9</sup>. RWMAC favours a new body established by, but independent from, Government.

There is considerable merit in RWMAC's proposal, which can be seen as building on the approach taken in Project ISOLUS<sup>10</sup>. Indeed, there is a good case for a new advisory panel which:

- includes stakeholders from Government departments, the nuclear industry, the regulators, the trade unions, local authorities, environmental NGOs, public interest groups and academic institutions;
- has an independent chairperson, with no direct institutional or professional interest in a particular approach to radioactive waste management; and
- is serviced by a dedicated unit within DEFRA (as long as this did not jeopardise the independence of the panel<sup>11</sup>), or by a consultancy organisation.

RWMAC has also recommended that the key element of the remit of the ‘oversight body’ should be management of the policy formulation process. It adds that:

*This should include responsibility for deciding and managing the detail of the programme, including organisation of events and securing inputs as necessary, and translating the outcome into policy advice for Government.<sup>12</sup>*

This is of critical importance. In contrast, the Government consultation paper suggests a much narrower remit: namely, that the role of any new body should be to “advise on what information there is, what further information is needed, and when enough information has been gathered for decisions to be made”. We support the view that the new advisory panel should be responsible for overseeing public participation events<sup>13</sup>, coordinating and commissioning research, and formulating policy advice. Its role should not be restricted to assessing information requirements for Government.

As a next step, proposals for a new advisory panel should be subject to public deliberation in the FEC events proposed above. If supported in these discussions, a new advisory panel should be set up<sup>14</sup>.

## **RESEARCH AND EXPERT INPUT**

Contrary to some of the suggestions in the consultation paper, it would be premature to use any one single organisation - whether existing or new - to act as a centre for the research expertise required during policy formulation. Instead, the new advisory panel should oversee two basic approaches for obtaining expert and research input:

- ‘Balanced Interest’ Expert Panels or Workshops: where the advisory panel oversees the convening of an expert panel or expert workshops with the purpose of producing a ‘consensus’ report. In order to engender public confidence in the outcome, ‘critical experts’ from outside the industry or government should be involved.
- ‘Jointly Commissioned Studies’: where the advisory panel commissions a study on the basis of agreement within the panel about who should undertake the study, its terms of reference, methodology and key assumptions.

The advisory panel should select the approach most appropriate to the issue that requires investigation. Whichever approach is chosen, key features should include: the systematic assessment of uncertainties; the identification of significant areas of agreement and disagreement; assessment of how uncertainties and disagreements can be reduced (and over what timescales); a strong commitment to peer review (including critical experts); and the early publication of findings for public comment.

## **ENGAGING POTENTIALLY AFFECTED COMMUNITIES**

As highlighted in a previous briefing<sup>15</sup>, the Government’s desire for meaningful public involvement in policy formulation 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>16</sup>. The implication is that national policy will not carry sufficient legitimacy unless all communities potentially affected by that policy are pro-actively consulted.

This suggests that any area previously considered for a radioactive waste disposal site should be told so that it will be motivated to fully participate in the policy review. In particular, this applies to Nirex's notorious 'long' and 'short lists' of potential sites which remain under wraps. We believe it is shortsighted of Government not to release this information. Instead, it should actively seek to engage these potentially affected communities in FEC events and subsequent stages of consultation.

## **THE FUTURE OF NUCLEAR POWER**

In 1998, in evidence to the House of Lords investigation into radioactive waste management, the NFLAs argued that:

*There is some evidence that the minimisation of future waste generation through the closure of nuclear power stations and reprocessing facilities might increase the public acceptability of disposal proposals. For example, the 1980 referendum in Sweden, which resulted in the adoption of a policy to end nuclear power generation by 2010, created the context in which better progress could be made in establishing disposal facilities. We submit that any future decision to proceed with a deep disposal site should be combined with a well-defined nuclear closure programme so that an unambiguous picture of the type and scale of waste arisings could be presented to the public.<sup>17</sup>*

A recent issue of *New Nuclear Monitor*<sup>18</sup> also drew attention to research on public attitudes to radioactive waste management which lends support to the view that a decision to cap the production of wastes in the nuclear industry is seen by sections of the public in the UK as a pre-requisite for successfully implementing policy on long-term radioactive waste management.

This is an important example of an issue that will arise in public consultation, but that is likely to be considered by Government to be 'beyond the frame' of the consultation. As argued above, there must be a mechanism for dealing with such issues. In this case, public views on the relationship between the future of nuclear power and radioactive waste management should be fully explored, and the findings taken into account in the formulation of policy on (a) radioactive waste management and (b) new nuclear build<sup>19</sup>.

## CONCLUSIONS

The Government consultation paper asks for comments on a notional programme of research and public discussion which could extend to 2007. In doing so, it seeks to focus attention on the techniques that could be used to involve the public, and on mechanisms for overseeing research and information provision.

This briefing has highlighted the process issues of most immediate concern, with a view to enabling the programme to be set up in a way which inspires public support and confidence. The briefing's main proposals are:

- *Front End Consultation*: There is a need to organise specific public deliberation events - such as focus group discussions or citizens' panels - to explore people's views and concerns about a process for policy formulation, and the way in which the public might be involved. Simply publishing a consultation paper and inviting comments will not enable a proper exploration of public views.
- *Taking proper account of the key findings from recent initiatives*: These include important messages on organisational arrangements, information provision, the role of experts, the funding of NGOs and critical experts, and tackling issues 'outside the frame' of the consultation. These messages must be taken properly into account in the design of subsequent stages of consultation.
- *A new advisory panel*: An independent advisory panel should be set up with membership drawn from a wide range of stakeholders. The advisory panel should be responsible for managing the policy formulation process and overseeing research and public participation events. Its role should not be confined to assessing information requirements for Government.
- *Research and expert input*: The advisory panel should utilise a 'horses for courses' approach to securing research and expert input during the formulation of policy advice. This is likely to include 'balanced interest' expert panels or workshops, and jointly commissioned studies. It would be premature to use any one single organisation - whether existing or new - to act as a centre for the required research.
- *Engaging potentially affected communities*: Special effort needs to be made to engage potentially affected communities. The Government should publish Nirex's previous 'long' and 'short lists' of potential sites. These potentially affected communities should be invited to participate in FEC events and subsequent stages of consultation.
- *The future of nuclear power*: This issue is likely to be considered 'beyond the frame' of the consultation. There must, however, be a mechanism for dealing with such issues. Public views on the relationship between the future of nuclear power and radioactive waste management should be fully explored, and the findings taken into account in the formulation of policy.

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- <sup>1</sup> DEFRA, 'Managing Radioactive Waste Safely: proposals for developing policy for managing solid radioactive waste in the UK', September 2001. Copies are available from Claire Herdman, DEFRA, 4/F7 Ashdown House, 123 Victoria Street, London, SW1E 6DE, or on the DEFRA website [www.defra.gov.uk/environment/index.htm](http://www.defra.gov.uk/environment/index.htm)
- <sup>2</sup> The consultation paper also invites views on a number of specific issues, including: the principle of segregating UK waste types by half-life; the link between waste substitution and repository availability; the approach to decommissioning; and policy on the management of separated plutonium and uranium. These topics will be addressed in the next issue of this briefing.
- <sup>3</sup> As above, DEFRA, p7.
- <sup>4</sup> Royal Commission on Environmental Pollution, 'Setting Environmental Standards', Twenty First Report, Cm 4053, October 1998, paras 7.12 and 7.22.
- <sup>5</sup> See <http://www.nucsubs.org.uk>.
- <sup>6</sup> The Future Foundation, 'Establishing the Value of Wider Public Consultation', November 2000.
- <sup>7</sup> J Hunt and P Simmons, 'The Front of the Front End: Mapping Public Concerns about Radioactive Waste Management Issues', March 2001.
- <sup>8</sup> Participants were also "critical of political posturing and point scoring" and expected the different parties to present their views and address the problem in constructive ways. J Hunt and P Simmons, as above, Executive Summary.
- <sup>9</sup> RWMAC, 'Advice to Ministers on the Process for Formulation of Future Policy for the Long Term Management of UK Solid Radioactive Waste', September 2001, para 5.2. RWMAC suggests that appointments to the body be made on an ad hominem basis, so that the need for continued reference back to sponsoring bodies and the representation of fixed positions is avoided.
- <sup>10</sup> In project ISOLUS a FEC was overseen by a mixed stakeholder steering group with an independent chairperson. The steering group was established and serviced by the contractor (CSEC) running the FEC. In addition to overseeing the FEC, the steering group was tasked with producing recommendations for subsequent stages of consultation within ISOLUS. These stages are also likely to be overseen by a mixed stakeholder steering group.
- <sup>11</sup> The RWMAC secretariat might provide a suitable model.
- <sup>12</sup> RWMAC, as above, September 2001, para 5.4.
- <sup>13</sup> The consultation paper lists a series of techniques for engaging the public and invites views on how these might be utilised. In its advice to Ministers, RWMAC makes the point that a 'horses for courses' approach should be pursued, with the new advisory panel making judgements about the suitability of specific techniques in accordance with the purpose and objectives of each stage of consultation.
- <sup>14</sup> The new advisory panel would have a different function to RWMAC, which provides on-going advice across a wide range of radioactive waste management issues.
- <sup>15</sup> NFLAs, 'Radioactive Waste Policy Briefing', No 3, November 1999.
- <sup>16</sup> The Government's original proposals were set out in 'Modernising Planning: Streamlining the processing of major projects through the planning system', DETR, May 1999. The NFLA 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. The latest Government statement can be found at <http://www.press.dtlr.gov.uk/0107/0335.htm>.
- <sup>17</sup> NFLAs, 'Memorandum', in 'Management of Nuclear Waste', Written Evidence, HL Paper 89, January 1989, p220.
- <sup>18</sup> NFLAs, 'The Case for Stakeholder Review and Public Participation', New Nuclear Monitor, No 2, September 2001.
- <sup>19</sup> The Cabinet Office is conducting an energy review in which the case for new nuclear build is being addressed. This is likely to result in a report "to Government", rather than "of Government". This means that at further period of review can be anticipated, potentially leading to the publication of Green and White Papers. See New Nuclear Monitor No 2 for a more detailed discussion of the case for new nuclear build.