

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

No 9, July 2003

DRAFT NUCLEAR ‘CLEAN- UP’ BILL PUBLISHED

The Government has published a draft Bill – the Nuclear Sites and Radioactive Substances Bill – to implement the proposals in the ‘Managing the Nuclear Legacy’ White Paper. The main proposal is to set up a Nuclear Decommissioning Authority (NDA), which will have responsibility for the Sellafield, Dounreay, Harwell and Magnox sites and, initially, an estimated annual expenditure of around £1 billion.

The Government has asked for comments on the Bill by 16 September. It has also published:

- a draft Management Statement, outlining the intended relationship between the Government and the NDA;
- a draft Memorandum of Understanding between the Regulators and the NDA; and
- a discussion paper on Developing a Framework for Stakeholder Engagement and Transparency¹.

The draft Bill and associated material set out arrangements which will impact on a wide range of local authorities, including those with or near civil nuclear sites and those affected by the transport or disposal of radioactive materials.

This briefing reviews the main features of the draft Bill, and makes a series of proposals for amendments aimed at enhancing stakeholder confidence. An annex to the briefing provides a response to the DTI discussion paper on stakeholder engagement. Member authorities are encouraged to consider the briefing and submit comments to the DTI².



THE LOCAL GOVERNMENT VOICE ON NUCLEAR ISSUES

CONSTITUTION AND ACCOUNTABILITY TO GOVERNMENT

The White Paper³ explained that the Government intended to:

- establish the NDA as a Non-Departmental Public Body (NDPB), so that it is not directly part of Government, but responsible to it;
- make provision for the NDA to be directed by a Board with the brief to provide strategic leadership and challenge management to deliver; and
- ensure that the Board will be accountable to Ministers.

On accountability to Government, the White Paper stated that this will be achieved through an annual meeting at which Ministers will: review the NDA's strategies and work programme; take stock of its performance to date; and set new performance measures for the year ahead.

In response, a previous briefing⁴ (RWB7) argued that although it is important to have mechanisms to ensure accountability, the commitment to an annual Ministerial review raises concerns about potential for the NDA's work to be subject to undue political delay or short-termism. It suggested that ensuring these reviews take place when required, and promptly publishing decision documents thereafter, would help meet such concerns.

The draft Bill provides for:

- the establishment of the NDA as a "body corporate", without Crown status;
- a Board of not less than seven and no more than thirteen members of which the majority must be non executives, so that the executive management team can be challenged and held to account for performance;
- the setting up of Advisory Committees, which must include at least one Board member and which may include persons who are not members of the Board or NDA staff;
- decisions on draft strategy and annual work plans to be taken by the Board with a majority of non-executive members present;
- the draft strategy and annual work plans to be submitted to the Secretary of State (SoS), and to have effect only to the extent approved by the SoS; and
- publication of the approved strategy and annual work plan.

On the NDA's strategy, the draft Bill provides for the initial strategy and any significant revisions to be subject to approval by the SoS and, as a minimum, for the strategy to be submitted for re-approval every five years. According to the Explanatory Notes to the Bill:

*This reflects the fact that, whilst the NDA is intended to have substantial management freedom and to operate at arms length from Government, Ministers must exercise strategic control over its activities and be accountable for its actions.*⁵

The draft Bill also provides for the SoS to have the power to make directions requiring the NDA to modify its strategy for decommissioning and clean-up of nuclear sites. The Explanatory Notes state that:

The rationale for this is that those matters are so important that they must be subject to strategic control by Ministers and that, in the event of a fundamental disagreement, their views should prevail.

On the NDA's annual plans, which are intended to set out how the NDA proposes to implement its strategy in the twelve months concerned, the draft Bill provides for a plan to be submitted for approval not less than three months before the start of the financial year. It also gives the SoS power to direct the NDA to deal with other matters in its plan for any financial year.

The proposed powers of direction for the SoS to modify NDA strategy or annual plans require close attention. We consider it essential that:

- **they only be exercised in exceptional circumstances, following concerted effort by the SoS to resolve any disagreement with the NDA and its stakeholders;**
- **in such exceptional circumstances, the proposed direction should be published for comment prior to being exercised; and**
- **the rationale for a decision to exercise such powers should be published.**

We therefore propose that the draft Bill should be amended to:

- **require the SoS to publish details of any proposed direction and allow the NDA and its stakeholders to comment within a defined period;**
- **specify that publication of the NDA's strategy and annual plans include an explanation of when, how and why any power of direction has been exercised; and**
- **specify that the NDA Annual Report must also contain an explanation of when, how and why any power of direction has been exercised.**

Initial consultation with environmental groups on the White Paper also made it clear that composition of the Board is seen as an important public confidence issue. In particular, consultees emphasised that membership should be such as to ensure a strong environmental challenge to NDA management. **Such concerns need to be taken into account when the Board is being appointed.**

ENGAGEMENT WITH STAKEHOLDERS

The White Paper made a strong commitment to active engagement with stakeholders, particularly at a local level in decisions about the clean up of individual sites. It stated that "the Government will expect major decisions to be taken only in the light of full consultation with stakeholders". It added that this expectation will be backed up by specific legal obligations on the NDA to consult widely on the way in which it intends to discharge its functions.

Schedules 2 and 3 of the draft Bill provide legal obligations for the NDA to consult with various parties in the preparation, review and revision of its strategy and annual plans.

On the NDA's strategy, the draft Bill provides for consultation in preparing, revising or reviewing the strategy. The persons to be consulted are:

- the nuclear regulators (HSE, EA and SEPA);

- every local authority whose area includes an NDA site, installation or facility, or an affected locality⁶;
- every person with control of such a site, installation or facility;
- their employees and Trade Union representatives;
- persons with responsibility for security; and
- every body established (i) by the NDA or (ii) by the persons with control of a designated site, installation or facility, for the purpose of consulting persons about activities carried on at, or in connection with, such a site, installation or facility.

The Explanatory Notes to the draft Bill explain that whilst each of these groups must be consulted, there is no constraint on the NDA consulting other stakeholder groups or the public at large. It also adds that:

*.. the Schedule does not prescribe the basis on which consultation should take place – the Government’s view is that it should be left open to the NDA and stakeholder groups to develop and, as necessary subsequently change arrangements which best serve their purposes.*⁷

The Notes further explain that: “The NDA is required to have regard to all representations made to it.”

Schedule 3 makes very similar provisions for consultation in preparing, revising or reviewing the NDA’s annual plans. However, as the Explanatory Notes set out, the main difference is that, given that work plans will implement an agreed strategy, the possibility is left open that, in cases where a plan is revised in year, the NDA need only consult those directly affected by the proposed revisions.

The draft Bill also provides powers for the NDA to issues directions to a site licensee or operator to consult with relevant parties in preparing and revising plans for the site. The Explanatory Notes add that the expectation is that consultation will be carried out on a similar basis to that required in the preparation of the NDA’s strategy and annual work plans⁸.

We consider it important to strengthen the consultation obligations contained in the draft Bill to ensure that:

- **the NDA is required to seek views from all stakeholder groups and the public at large in connection with preparing, revising or reviewing its strategy;**
- **the NDA or persons with control of a designated site, installation or facility are required to set up bodies for the purpose of consulting persons about activities carried on at, or in connection with, such a site, installation or facility; and**
- **persons with control of a designated site are required to consult with relevant parties in preparing and revising plans for the decommissioning and clean-up of the site.**

The draft Management Statement states that the NDA will publish a Framework for Stakeholder Engagement setting out how it intends to embed stakeholder engagement into its day to day activities. As indicated above, the Government has published a discussion paper to start the process of identifying what such a framework should contain. The annex to this briefing contains a suggested response to the discussion paper.

Supporting authorities are encouraged to consider the Government discussion paper and suggested response, as they address issues critical to achieving effective stakeholder engagement. These issues include:

- **the objectives of engagement;**
- **the substantive issues that might be addressed;**
- **the provision of resources and capacity building for engagement;**
- **community involvement and the reform of Local Liaison Committees, and**
- **a proposed organisational structure for engagement.**

We consider it particularly important that the DTI should provide a protocol for ensuring stakeholder views are given proper consideration at NDA Board meetings, and for recording in Board minutes how these views have been taken into account in reaching decisions.

OPENNESS AND TRANSPARENCY

The White Paper stated that the Government regards openness and transparency as “fundamental to the successful operation” of the NDA. It added that:

From the outset it will therefore be a champion of public information - visible, accessible, providing clear and comprehensive information about its activities consistent with security requirements and necessary commercial confidentiality ..”

The draft Bill would require the NDA to publish:

- its strategy and annual plans;
- any revisions to its strategy and annual plans;
- a report on the representations it received about its strategy or annual plans; and
- an Annual Report describing what it has achieved and what changes have occurred, for example, to contractual arrangements.

In each case, publication is subject to exclusion of anything which the SoS considers to be against the interests of national security.

In addition to these proposed legal obligations, the draft Management Statement adds that the stakeholder engagement framework will set out the topics and areas of the NDA’s operations on which information will actively be made available. It states that this will include:

- Board minutes and papers
- progress reports
- information on engagement activities and stakeholder representations
- the process by which key decisions are to be made
- annual reports and accounts; and
- standard contract terms⁹.

The suggested response to the Government discussion paper on developing a framework for stakeholder engagement elaborates on, and adds to, this list (see annex). The response suggests that the following information be published:

- as far as is possible, the future decision-making timetable of the Board¹⁰;
- reports from local and national stakeholder engagement initiatives;
- site clean up plans;
- an inventory of liabilities (covering type, scale, location, management programme, costs, funding, safety issues and environmental impacts);
- reports of assessments of options for dealing with specific clean-up work streams;
- the incentivisation structures and performance measures written into contracts between the NDA and site licensees;
- a skills and contractor database, including progress in developing the supply base and the status of contracts; and
- progress reports covering the performance of the NDA and site contractors against Key Performance Indicators, and updates on site remediation plans, specific clean-up work streams, costs and funding, incidents, regulatory developments, the return of materials and wastes arising from the reprocessing of overseas customer's spent fuel, and stakeholder engagement outputs.

Supporting authorities are encouraged to request that the DTI include these information requirements in the Framework for Stakeholder Engagement.

In addition, in developing that framework, the DTI should:

- **analyse the impact of the Freedom of Information Act and Environmental Information Regulations on the proposed NDA's activities, and publish an explanation of how it expects the NDA to meet the legal obligations that arise; and**
- **provide an explanation of how the NDA will ensure that the public's rights of access to information is not curtailed by the actions of the regulators, licensees or contractors.**

RWPB 7 highlighted that there are likely to be points of conflict over what information should be withheld on commercial-in-confidence or security grounds. It therefore suggested that there should be a mechanism for arbitration, which could review appeals against a refusal to release particular information. In response to such suggestions, the draft Management Statement states that a process for appeals to the withholding of information by the NDA – or its contractors – will be established¹¹.

The draft Memorandum of Understanding with the regulators also contains statements on openness and transparency, including that the regulators will:

- develop working arrangements which are consistent with the NDA's statutory obligation to consult stakeholders and the general commitment to openness and transparency, as far as practicable, in its dealings with stakeholders; and
- provide such support as the NDA or site licensee may request in consulting stakeholders about site plans, and explaining the basis for decisions¹².

OPERATION OF THORP AND SMP

Although THORP (Thermal Oxide Reprocessing Plant) and the SMP (Sellafield MOX Plant) are not yet part of the ‘nuclear legacy’, legal and financial responsibility for these plant are to be transferred to the NDA because of the integrated nature of the Sellafield site and the regulatory and managerial need for the site to be treated as a whole.

The transfer of such controversial plant presents a challenge for the NDA, particularly if it is to achieve public confidence. The NFLA Steering Committee has urged that the NDA play a key role in the re-negotiation of contracts between BNFL and its customers to end reprocessing in THORP and MOX fuel manufacture in the SMP.

The White Paper, however, asserted that all existing contracts will be honoured. Nonetheless, it also set out a series of commitments which offer prospect of improvement in the way decision-making on future operation will be handled. These are:

- *Priority to clean-up*: THORP and SMP will be operated by the site licensee under contract to the NDA. The licensee will be incentivised to maximise returns to the taxpayer consistent with the delivery of an agreed clean up programme. If there is any conflict between the two it will be resolved by giving priority to clean-up.
- *Changes to contracts*: Existing contracts will remain with BNFL as site licensee. Any changes or variations to those contracts will require the approval of the SoS acting on advice from the NDA. Approval would not be given unless the principle of priority to clean-up is satisfied.
- *Proposals for new contracts*: These will also require approval by the SoS. Approval would only be given if the contract was consistent with clean-up plans and the UK’s environmental objectives and international obligations, and expected to make a positive return to the taxpayer.
- *Annual review of the case for continued operation*: the NDA will keep the case under review. This review will consider: prospective income from future operation; prospective operational costs; any additional waste management costs; assessment of the potential costs of earlier than planned closure; contingencies to cater for uncertainties in prospective income or costs; and potential effect on agreed clean-up programmes.
- *Publication of information*: the NDA’s annual report and accounts will include specific information, consistent with the requirements of commercial confidentiality, on the financial and operating performance of THORP and SMP and the rationale for keeping the plants open.

The draft Bill and associated material only refer to the last of these White Paper commitments. With regard to the Annual Report, the draft Bill requires the NDA to deal separately with (a) activities relating to decommissioning and clean-up, and (b) operational plant such as the Magnox stations, THORP and the SMP. The Explanatory Notes state that this reflects the commitment in the White Paper to provide specific information, consistent with the requirements of commercial confidentiality, on the performance of these plant and the rationale for keeping them open¹³. The Notes also state that the NDA’s accounts will show income from, and expenditure on, these plant separately from income and expenditure on decommissioning and clean up¹⁴.

Although these requirements are welcome, there is also a need to:

- ensure that a proper annual review of the case for continued operation takes place; and
- specify *how* the annual review should be undertaken in order to ensure stakeholder confidence in the robustness of the findings.

To this end, we strongly recommend that:

- the draft Bill be amended so that the NDA will be required to undertake an annual review of the case for continued operation of THORP, the SMP and the Magnox stations; and
- the Management Statement be amended to specify that this annual review will: take full account of the cases for alternative spent fuel management strategies and alternatives uses of the SMP; pay proper regard to stakeholder views, including THORP and SMP customers; be subject to genuinely independent review prior to publication of the findings; and be published in a substantive and convincing form, including the comments of the independent reviewers.

FUNDING MECHANISM AND SOURCES

The White Paper invited comments on two possible funding mechanisms, “each of which would represent a radical departure from conventional arrangements for the funding of Government programmes”. It stated that the purpose would be to: underline a commitment to clean up and build public confidence; give the NDA the flexibility needed to drive forward the clean up programme; and encourage competition by giving companies confidence that funding will be available when needed.

The two options were:

- *A Segregated Fund*, which would be akin to a ‘pension fund’ which holds investments.
- *A Statutory Account*, which would be akin to a ‘savings account’ within the Government’s Consolidated Fund, which is kept by the Treasury.

RWPB 7 argued for a segregated fund, on the grounds that this would be isolated and managed separately from wider Government funds, and that the NDA could have control over drawing down monies to fund its work programme.

In April, the Energy Minister announced that the funding mechanism would be a Statutory Account. According to the announcement, a Segregated Fund could not provide the certainty of future funding that is required, and the Government could not justify setting aside the many billions of pounds required to provide funding for nuclear clean up activity many years ahead of need. In contrast, it was argued, a properly structured Statutory Account, providing a rolling commitment to finance the NDA and with clear rules of operation, offers the possibility of making much better use of public money.

In accordance with this announcement, the draft Bill provides for the establishment of a Nuclear Decommissioning Funding (NDF) Account. The Explanatory Notes state that the aim is to enable the NDA to plan ahead effectively and put long term contracts in place by demonstrating the availability of funding on a rolling basis over a period of 10 years or more¹⁵.

The draft Bill also provides for the opening balance of the NDF Account to be determined by the SoS with the consent of the Treasury. The Explanatory Notes state that the intention is to ensure that it is sufficient to support the NDA's programme over the first ten year period, and that it will be made up of:

- the value of BNFL's Nuclear Liabilities Investment Portfolio (which will be transferred to the SoS and paid into the Consolidated Fund);
- the value of the Magnox Undertaking of 1998 at the time it is extinguished by the Bill; and
- an additional sum from Government reflecting its commitment to driving forward the decommissioning and clean up programme¹⁶.

The Notes also explain that thereafter the SoS will receive all income generated by the NDA – for example through the operation of THORP, SMP or the Magnox stations - and provide grants to the NDA. The NDF Account will record all such payments as credits or debits respectively. The Notes state that in the interests of transparency, NDA generated income will thus be clearly separated from the grant it receives from Government. The Notes go on to explain that the annual contributions from Government will be the largest of the credits to the NDF Account, and that they will ensure that the balance is kept at a sufficient level to support a rolling ten year programme of work.

Further provisions in the draft Bill include:

- a requirement on the SoS to publish a policy statement explaining how the annual contribution is to be determined so as to prevent the balance of the NDF Account falling below a minimum defined level; and
- the auditing of the operation of the NDF Account by the Comptroller and Auditor General¹⁷.

Although the totality of these funding proposals represent a major advance on current arrangements, they do not fully meet concerns that funding from the industry should be maximised, so as to reduce the drain on the public purse. Such concerns are informed by a strong sense that BNFL should not be allowed to escape financial responsibility for the liabilities that it has created.

RWPB 7 discussed a further way in which funding from the industry could be increased. BNFL possesses liquid assets in the form of investments, short-term deposits and cash at bank and in hand. The future of these assets came under scrutiny during the Parliamentary Trade and Industry Committee (TIC) examination of the White Paper, when it was suggested that they might also be transferred to the NDA. In response, the then Head of the DTI Nuclear Liabilities and BNFL Directorate explained that the transfer agreement will need to strike a balance between ensuring that 'New BNFL'¹⁸ has enough cash to operate successfully and that the NDA has as much cash as possible to fund its liabilities. She also confirmed that the liquid assets would not be ignored in seeking to strike the right balance. The Bill and associated material make no mention of the transfer of liquid assets.

We recommend that the DTI should make a formal commitment to:

- **publish an up-to-date statement about BNFL's liquid assets just prior to the creation of the NDA;**
- **maximise the amount of BNFL's liquid assets transferred to the SoS and credited to the opening balance of the NDF Account; and**
- **consult stakeholders on the draft transfer agreement.**

In early July, the Government announced that it had agreed with the BNFL Board to conduct a joint review of the Company's strategy¹⁹. This will consider various options, but will exclude the possibility of flotation. The review team has been asked to report to the Board and to the SoS in the autumn. **This review should also be conducted in a transparent and open way.**

THE NDA AND BRITISH ENERGY

The draft Bill contains a number of provisions which could give the NDA a key role in delivering controversial plans for restructuring the stricken nuclear generator, British Energy (BE), which runs the AGR and Sizewell B nuclear power stations.

The Government has supported the restructuring plans to try to avoid BE falling into administration, following its inability to meet liabilities, caused in part by reduced income resulting from low electricity prices. The plans²⁰ involve:

- a Government commitment to meet the costs of 'historic' AGR reprocessing contracts;
- BE making payments into a new Nuclear Liabilities Fund (NLF) to contribute towards meeting the costs of uncontracted liabilities²¹; and
- a Government commitment to meet the costs of such liabilities to the extent that they exceed the assets in the NLF.

In addition, BE and BNFL have agreed new contracts covering the supply of fuel and the management of 'new' spent AGR fuel (for fuel loaded into reactors after the restructuring has become effective). BNFL (ie ultimately the taxpayer) is to assume ownership of this spent fuel on delivery from BE, and will receive payments from BE which take into account variations in the price of electricity.

If given final approval²², the restructuring plans would significantly complicate the liability ownership and funding picture that the NDA will inherit. The draft Bill clarifies the role that the NDA could play. It provides:

- the NDA with the function of acting on behalf of the SoS under the terms of the agreements with BE, to ensure that BE's decommissioning and clean-up plans and actions are such as to minimise any call on public funds²³;
- the SoS power to make directions for the NDA to be given responsibility for private company sites or facilities for the purposes of decommissioning and clean-up²⁴;
- for the possibility that the private company concerned could be required to pay for the work carried out by, or on behalf of, the NDA²⁵; and
- for the possibility of transfer of private sector liabilities to the NDA²⁶.

In short, not only will the NDA have responsibility for 'historic' and new AGR spent fuel liabilities, but it could be given responsibility for a much wider range of BE liabilities, including the decommissioning and clean-up of its sites. This raises major issues and questions about the funding of such work, with payments potentially being made direct from BE, from BE's Nuclear Liability Fund²⁷, or from the Government.

There will be a need for absolute clarity and transparency in the way the NDA's NDF Account is credited and debited with regard to liabilities owned or originally created by BE. In particular, there is a need to be able to demonstrate convincingly that the call on public funds really is being minimised. We recommend that the DTI explain at the earliest opportunity how this transparency will be achieved.

THE NDA AND NEW NUCLEAR BUILD

The provisions in the draft Bill, which provide for increasing the scope of the NDA's liabilities, could also have implications for the potential viability of building new nuclear power stations in the UK.

Although the recent Energy White Paper rejected the case for new nuclear build in the short term, it did not rule out a possible need for new nuclear power stations at some point in the future²⁸. In the latter circumstances, investors could be more favourably disposed towards new build if the provisions in the current draft Bill become law. This is because, in principle, the provisions would enable the owner of new nuclear stations to pay out to shareholders whilst under-providing for its liabilities in the knowledge that, should they become unmanageable, there exist mechanisms to allow the Government to bail the company out.

One way to reduce the risk of this happening is to ensure that any company which owns new nuclear power stations is obliged to establish a segregated fund to meet all the stations' post-operational liabilities. Such a fund should be built up over the lifetime of a station, and be based on costing assumptions which err on the side of caution to minimise the risk of under-provisioning. We recommend that the DTI adopt this as policy when the case for new nuclear build is considered again.

It should also be noted that the draft Bill would give the NDA power to construct new facilities which are required for the purpose of decommissioning, clean-up or treatment of radioactive materials. It is currently not clear whether this power would enable the NDA to build new reactors for the purpose of burning plutonium fuels, as part of a strategy to reduce its stocks of separated plutonium (ie to "treat" the plutonium)²⁹.

Given the inevitable controversy that would surround any new build proposals - and the White Paper statement that there would be no direct link between the NDA and new nuclear build - we strongly recommend that the Bill be amended so as to explicitly exclude the construction of new reactors from the NDA's powers.

CONCLUSIONS AND RECOMMENDATIONS

The proposed powers of direction for the SoS to modify NDA strategy or annual plans require close attention. It is essential that these powers only be exercised in exceptional circumstances, following concerted effort by the SoS to resolve any disagreement with the NDA and its stakeholders. In addition, any proposed direction should be published for comment prior to being exercised, and the rationale for any decision to exercise such powers should also be published. It is therefore proposed that the draft Bill be amended to:

- require the SoS to publish details of any proposed direction and allow the NDA and its stakeholders to comment within a defined period;
- specify that publication of the NDA's strategy and annual plans include an explanation of when, how and why any power of direction has been exercised; and
- specify that the NDA Annual Report must also contain an explanation of when, how and why any power of direction has been exercised.

It is important to strengthen the consultation obligations contained in the draft Bill. These should ensure that:

- the NDA is required to seek views from all stakeholder groups and the public at large in connection with preparing, revising or reviewing its strategy;
- the NDA or persons with control of a designated site, installation or facility are required to set up bodies for the purpose of consulting persons about activities carried on at, or in connection with, such a site, installation or facility; and
- persons with control of a designated site are required to consult with relevant parties in preparing and revising plans for the decommissioning and clean-up of the site.

Issues critical to achieving effective stakeholder engagement are currently under discussion between the DTI and stakeholders. These issues include: the objectives of engagement; the substantive issues that might be addressed; the provision of resources and capacity building; community involvement and the reform of Local Liaison Committees; and a proposed organisational structure for engagement. Supporting authorities are encouraged to submit views to the DTI after considering the attached annex, which sets out a suggested response to a series of questions posed by the DTI.

The DTI is seeking views on what openness and transparency should mean in practice. Supporting authorities are encouraged to request that the DTI include the following information requirements in the NDA's Framework for Stakeholder Engagement:

- as far as is possible, the future decision-making timetable of the NDA Board;
- reports from local and national stakeholder engagement initiatives;
- site clean up plans;
- an inventory of liabilities (covering type, scale, location, management programme, costs, funding, safety issues and environmental impacts);
- reports of assessments of options for dealing with specific clean-up work streams;
- the incentivisation structures and performance measures written into contracts between the NDA and site licensees; a skills and contractor database; and
- progress reports covering the performance of the NDA and site contractors against Key Performance Indicators, and updates on site remediation plans, specific clean-up work streams, costs and funding, incidents, regulatory developments, the return of materials and wastes arising from the reprocessing of overseas customer's spent fuel, and stakeholder engagement outputs.

In addition, in developing that framework, the DTI should:

- analyse the impact of the Freedom of Information Act and Environmental Information Regulations on the proposed NDA's activities, and publish an explanation of how it expects the NDA to meet the legal obligations that arise; and
- provide an explanation of how the NDA will ensure that the public's rights of access to information is not curtailed by the actions of the regulators, licensees or contractors.

There is a need to ensure that a proper annual review of the case for continued operation of THORP, the SMP, and the Magnox stations takes place. There is also a need to specify *how* the annual review should be undertaken in order to ensure stakeholder confidence in the robustness of the findings. To this end, it is recommended that:

- the draft Bill be amended so that the NDA will be required to undertake an annual review of the case for continued operation of THORP, the SMP and the Magnox stations; and
- the Management Statement be amended to specify that this annual review will: take full account of the cases for alternative spent fuel management strategies and alternatives uses of the SMP; pay proper regard to stakeholder views, including THORP and SMP customers; be subject to genuinely independent review prior to publication of the findings; and be published in a substantive and convincing form, including the comments of the independent reviewers.

With regard to sources of funding for the NDA, it is recommended that the DTI should make a formal commitment to:

- publish an up-to-date statement about BNFL's liquid assets just prior to the creation of the NDA;
- maximise the amount of BNFL's liquid assets transferred to the SoS and credited to the opening balance of the NDF Account; and
- consult stakeholders on the draft transfer agreement.

There will be a need for absolute clarity and transparency in the way the NDA's NDF Account is credited and debited with regard to liabilities owned or originally created by BE. In particular, there is a need to be able to demonstrate convincingly that the call on public funds is being minimised. It is recommended that the DTI explain at the earliest opportunity how this transparency will be achieved.

The provisions in the draft Bill could encourage the owners of any new nuclear power stations to under-provide for post-operational liabilities. In the future, to avoid this, any company which owns new nuclear power stations should be obliged to establish a segregated fund to meet all the stations' post-operational liabilities. Such a fund should be built up over the lifetime of a station, and be based on costing assumptions which err on the side of caution to minimise the risk of under-provisioning.

There is uncertainty about whether the draft Bill would provide the NDA with the power to build new reactors as part of a plutonium disposition strategy. Given the inevitable controversy that this would generate - and the White Paper statement that there would be no direct link between the NDA and new nuclear build – it is recommended that the Bill be amended so as to explicitly exclude the construction of new reactors from the NDA's powers.

This annex provides a response to the questions posed by the DTI in its discussion paper on developing a framework for stakeholder engagement.

1 What objectives do you think the NDA should have for engagement and transparency?

The aims and objectives proposed in the DTI paper provide a good starting point. Two additional objectives should be made explicit:

- To engage stakeholders in the development of proposals as appropriate.
- To clarify the reasons for disputes, and seek resolutions where possible.

The first suggested addition recognises the distinction made in the DTI paper between “consultation” (where stakeholders comment on NDA proposals), and “dialogue” (where stakeholders participate in the development of proposals). The DTI’s suggested objectives currently cover consultation, but not dialogue.

The second suggested addition gives explicit recognition to the likelihood that there will be disputes between the NDA and stakeholders, and that the NDA should actively seek to resolve any disputes. The latter would contribute to the building of public confidence.

2 Where there are differences of view between the NDA and stakeholders how should they be resolved?

It should be possible to identify *processes* that can substantially reduce the scope for, and impact of, differences of view. However the nature of the process response is likely to vary from case to case. Two examples serve to illustrate the range of required responses:

- It is clear from the two reports on the ‘Views and Concerns of Environmental Groups’³⁰ that the continued operation of THORP, the SMP and the Magnox stations will be a source of dispute with the NDA. The second phase report explains that environmental groups take the view that the NDA should: seek to extricate itself from reprocessing in THORP by *re-negotiating* contracts; identify and promote alternative uses for the SMP; and bring forward closure of Magnox stations ahead of the declared programme³¹. The reasons for these views are stated to be that: the continued operation of controversial assets would detract from running an effective and widely supported liability management programme; and there is a need to draw a clear line under waste quantities by having a well defined and early closure programme. *In terms of how the contested issue of future operation should be addressed, most environmental groups welcomed the White Paper commitment to an annual review, but added that the reviews should: be genuinely independent; take proper account of the cases for alternative management strategies (eg spent fuel storage) and alternative uses (eg SMP as a plutonium immobilisation plant); take proper account of customer views; and be published in a substantive and convincing form. This issue is also discussed in the main text of the Briefing.*

- Another potential area of dispute relates to the identification of national clean-up priorities. Stakeholder perspectives on what constitutes a priority could vary significantly from site to site. An example might be that some stakeholders at Magnox sites could consider it highly desirable to move forward with reactor decommissioning as soon as possible, rather than prioritise the retrieval and conditioning of some of the less hazardous legacy wastes at Sellafield and Dounreay. *In this case, the NDA response should be to ensure that local stakeholders from each site are properly involved in a transparent process of weighing and proposing national priorities. If this process is designed to be participative, transparent, and robust, then the scope for dispute should be much reduced.*

3 What are the key issues on which you would like to be actively involved in order to inform NDA decision-making?

We welcome the opportunity to feed in views on this topic, as good practice is to reach decisions about what to engage on through discussion with stakeholders.

We believe that stakeholders should be actively involved across a wide-range of issues, including:

- establishing the aims and ‘end points’ of site clean-up plans;
- identifying local and national clean-up priorities;
- assessing options for dealing with specific clean-up work streams³²;
- exploitation of synergies across sites;
- reviewing the case for continued operation of THORP, SMP and the Magnox stations; and
- the socio-economic impacts of plant closures and clean-up.

We believe that careful thought needs to be given to how each of these issues should be addressed at local and national levels, and how local views should inform national discussion and decision-making (see the response to Q18).

More specifically, the degree of active involvement of the NFLA Steering Committee at the national level will depend on how the issue of capacity building is taken forward (see the responses to Qs 13, 14 and 15).

4 What information should the NDA provide as a matter of course and how should it be published?

The NDA should provide a wide range of information as a matter of course, including on the topic areas listed in the draft Bill and Management Statement. In addition, the following information should be published:

- as far as is possible, the future decision-making timetable of the Board³³;
- reports from local and national stakeholder engagement initiatives;
- site and national clean up plans;
- an inventory of liabilities (covering type, scale, location, management programme, costs, funding, safety issues and environmental impacts);
- reports of assessments of options for dealing with specific clean-up work streams;

- the incentivisation structures and performance measures written into contracts between the NDA and site licensees;
- a skills and contractor database, including progress in developing the supply base and the status of contracts;
- independent annual reviews of the case for continued operation of THORP, SMP and the Magnox stations;
- information on the progress of the return of materials and wastes arising from the reprocessing of overseas customer's spent fuel; and
- progress reports covering the performance of the NDA and site contractors against Key Performance Indicators, and updates on site remediation plans, specific clean-up work streams, costs and funding, incidents, regulatory developments, and stakeholder engagement outputs.

The primary route for publication of much of this material should be the NDA website. Consideration should also be given to direct postal and/or electronic mailing of a newsletter to alert stakeholders to key developments, and to the availability of new information on the NDA website.

5 What are the particular issues or areas of the NDA's work that you would wish to monitor/scrutinise in order to hold the NDA, or its contractors, to account?

We would wish to monitor/scrutinise all the issues listed in response to Q3.

In addition, we would like to highlight two specific issues:

- contractorisation and competition; and
- liability estimation and funding.

The emphasis on contractorisation and competition in the NDA model raises strong concerns about potential profiteering and a potentially detrimental impact on safety and environmental performance. These concerns should be addressed by enabling stakeholders to monitor/scrutinise: the nature of contracts, the way they are managed, and the performance of contractors against contract requirements.

In order to start building stakeholder confidence, the DTI should *promptly* report progress the LMU has made on reviewing past experience and developing baseline strategies for contractorisation.

Liability estimation and funding also raise strong concerns³⁴, not least because of the large increases in estimates that have occurred over recent years and the implications for the public purse. Public confidence is only likely to be secured and maintained through stakeholder monitoring and scrutiny.

These are also issues where the DTI needs to look to what can be done in the short-term to start the process of building public and stakeholder confidence. In particular, the LMU's work on liability estimation should be opened up to wider stakeholder scrutiny, with an explanation of what lessons have been learnt from past experience and how these are being addressed in liability estimation.

6 What sort of information should or could reasonably be withheld and why?

We recognise that a limited amount of information might be legitimately withheld on grounds of commercial confidentiality, security, the need for private deliberations and personal privacy. Although it might be useful for the NDA to give specific examples, we do not think it should seek to build detailed catalogues of such information. Instead, we recommend that the NDA's approach should be based on the following requirements:

- a strong presumption of openness and transparency;
- ensuring that systems of documentation, and the way documents are written, facilitate openness and transparency;
- adopting a transparent process for deciding what could reasonably be withheld; and
- providing an appeals mechanism for contested decisions³⁵.

The process for decision making on whether to withhold information should involve a careful assessment of whether release would cause genuine harm.

7 How might the NDA define what is meant by commercially confidential?

It is essential that “commercial confidentiality” is not used as an all-embracing excuse for denying access to information, particularly that relating to liability costs and funding.

Careful assessments will be required to ensure that information is only withheld if it is clearly in the taxpayer's interest to do so, or if it could really be expected to do genuine harm to the commercial interests of third parties.

We recommend that the DTI closely examine national and international experience in this area, in order to suggest a definition of commercial confidentiality that is acceptable to a wide range of stakeholders³⁶.

8 Which stakeholder groups – national and/or local – should the NDA engage with?

As a basic principle, the NDA should engage with any organisation, group or person who has a ‘stake’ or interest in NDA activities. This will encompass those with professional, expert, community, campaign or personal interests.

We would particularly like to highlight the importance of engaging with local government, where councillors have been elected to represent the interests of local communities, and which have important and relevant functions, including planning, environmental health, emergency planning, and economic and sustainable development.

We also consider it important to engage with environmental NGOs and public interest groups. Indeed there is evidence that the public expects and wants such groups to be engaged³⁷.

Breadth of perspective should be sought after. Participants should not be screened out on the basis of their perspective.

9 Through which channels or mechanisms should the NDA seek to identify stakeholder groups?

In the main, most stakeholder groups will be well known to the DTI and the current owners of the sites.

Close consideration should be given to stakeholder groups that are currently outside the loop of the engagement activities sponsored by the industry or Government on radioactive waste management issues.

Our expectation is that the issue here is not so much that groups have not been identified, but that some groups are not participating because of:

- insufficient opportunity (eg inadequate engagement practices at local level);
- insufficient resources or capacity; and/or
- insufficient demonstration of the value and potential of engagement.

10 How should local communities be represented?

Following on from our response to Q8, it is *essential* that local authorities are intimately involved in local engagement activities.

However, local authorities are not the only organisation at a local level that will have a legitimate perspective. In particular, environmental NGOs and public interest groups should also be directly engaged.

We would like to stress that the DTI/NDA should not look for a single organisation or group to “represent” local communities. Instead, a stakeholder engagement framework should be developed which will enable participation - by one means or another - of all those who consider themselves to have a local stake or an interest.

We would also point out that stakeholders should not have to “represent” the views of an organisation in a formal, mandated sense. Participation can also be legitimate where stakeholders “reflect” the views of their organisation or group³⁸.

11 What are your views on the period of involvement for any one representative?

We recognise that it is important to find ways of ensuring that new blood and fresh perspectives can be brought to bear on the work of the NDA. However, we do not think that there should be formal periods of “appointment” for “representatives”. Rather, we suggest that stakeholder groups and organisations be allowed to make their own decisions on the duration of involvement of their participants, but with the recognition that the NDA would value injections of new blood from time to time.

In our view, it is more important for groups and organisations to identify effective participants, than to adhere to artificial periods of “appointment”. By effective we include the need to report back to constituencies and to carry the outcome of constituency discussions back into engagement processes.

12 *What will be the most important issues on which to engage the general public and what might be the best ways of doing this?*

We agree with the assumption that appears to lie behind the question: that the NDA should be selective about what it chooses to engage the public about.

In broad terms, we can see a case for engaging the public in the following circumstances:

- to inform major strategic decisions, for example, on the aims and ‘end points’ of site clean up plans;
- to inform options assessment for *major* clean-up work streams; and
- to inform stakeholder discussion on issues where there is controversy or dispute between stakeholders.

We also welcome the distinction made in the DTI paper between methods which allow small demographically selected participants to consider issues in some depth (eg focus groups and Citizens’ panels), and those which are designed to enable anyone to express a view (freephones, websites etc).

A couple of other points to note are:

- the NDA will either need to employ specialist staff, or take specialist advice, to inform it about which methods are most appropriate to the objectives of engaging the public on specific issues; and
- there will need to be good liaison and coordination between national and local levels to ensure that initiatives taken to engage the public are consistent and do not duplicate one another.

13 *What needs to be done in order to enable different stakeholder groups to engage effectively with the NDA?*

We welcome the recognition in the DTI paper that there are various barriers to effective engagement which need to be addressed through the provision of resources and capacity building.

From the point of view of local government, early discussions are underway about the possibility of creating a ‘Special Interest Group’ (SIG) under the auspices of the Local Government Association for England and Wales. The purpose of the SIG would be to develop and promote a broad local government voice on nuclear clean up and radioactive waste management issues. Joint working with the Convention of Scottish Local Authorities (CoSLA) and the Northern Ireland Local Government Association (NILGA) would therefore be essential. One of the joint SIG’s primary objectives would be to ensure effective engagement between the NDA and local government at a national level.

One of the issues in developing the SIG would be funding. Although some funding should be available from local government sources, we think there is a case for significant funding from the DTI or NDA. This is because a primary objective of the SIG would be to provide an effective mechanism for the engagement *that the NDA is likely to seek* with local government.

This initiative contains a larger message: a number of stakeholder groups need to develop more effective mechanisms for national engagement. In the case of local government, it is hoped that this would be provided through the SIG. In the case of environmental NGOs, there would be value in providing resources to help set up a forum to ensure an effective green input to engagement processes. This suggestion builds on those made by some green groups in earlier consultation about the setting up of the NDA³⁹. It also responds to current unease that environmental NGOs are not sufficiently resourced for the level of engagement anticipated.

A separate point is that consideration needs to be given to the scope for better liaison and coordination between the various engagement processes on radwaste management related issues, or even to some rationalisation or merger of these initiatives⁴⁰. This is becoming essential in order to help address feelings of ‘engagement fatigue’ and, in the case of some green stakeholders, a perception of ‘divide and rule’.

In other words, steps to better integrate existing and impending engagement processes should go hand in hand with the provision of resources and capacity building.

14 What are your views on the NDA making resources available to participants as suggested above?

We strongly support the suggestions that the NDA should make funds available to enable effective engagement, through for example:

- covering the cost of reasonable travel expenses (as is currently the practice, for example, in the BNFL National Stakeholder Dialogue); and
- compensating participants for loss of income.

We also think that there is a case for funding a participant’s time where it can be reasonably shown that a participant’s group or organisation cannot afford to meet such costs. Although recognising that this is a difficult area, we recommend that it be considered carefully so as to avoid the non-involvement of stakeholders from groups or organisations with modest budgets.

15 What are your views and ideas for the NDA taking steps to help stakeholders build technical knowledge and skills?

We very much welcome the suggestions in the DTI paper about ways of building capacity, including access to technical expertise, skills training and support for sectoral stakeholder forums.

We would also welcome the opportunity to meet with DTI – along with other key local authority representatives - to discuss capacity building in the local authority sector, with particular reference to the potential to set up a SIG under the auspices of the Local Government Association (that could be extended to CoSLA and NILGA - see response to Q13).

16 What ideas, suggestions or views do you have for evaluating the success of the NDA’s engagement and transparency activities and how might evaluation be carried out?

We agree that these activities should be evaluated, and recommend that evaluation be built into engagement *from the start*.

Evaluation would be helped considerably by developing a protocol for ensuring stakeholder views are given proper consideration at NDA Board meetings, and for recording in Board minutes how these views have been taken into account in reaching decisions.

Beyond that, we note that there is now a considerable amount of experience of evaluation methods amongst process experts, and recommend that expert advice be taken on the design of an effective evaluation process.

We also note that the BNFL National Stakeholder Dialogue is embarking on a systematic evaluation by external contractors, and that this will provide valuable learning experience that should be considered by the DTI and ultimately the NDA.

17 Should the existing Local Liaison Committees be revised to form the NDA’s forum for engaging with local stakeholders?

Consultation with NFLA Member contacts on LLCs confirms that the existing committees would require radical revision to be able to operate effectively⁴¹.

In addition to providing a focus for two-way communication between a site and local community, we consider it essential that local engagement structures are able to fulfil consultation and dialogue functions. We understand these functions to consist of:

- review and comment on Government, NDA, licensee or regulator proposals relating to, or impacting on, the site (ie consultation); and
- to participate in the development of proposals for potential adoption by the NDA or licensee (ie dialogue).

Our reading of the CAG/Greenstreet Berman report is that LLCs would require a radical overhaul to be able to fulfil these functions. We strongly recommend that this be done.

18 What are your views on the proposed organisational structure for NDA stakeholder engagement?

We think that the proposed structure contains some positive and innovative features, but raises a number of serious concerns.

The key positive features are that the proposed structure entails:

- a clear and direct link with the NDA Board; and

- a mechanism for ensuring liaison and coordination between national and local levels of engagement.

The key areas of concern are that:

- A structure based on local and national panels may overly restrict the number of participants. As a result, some stakeholders may feel discriminated against, and trust will be eroded.
- The proposals place too much emphasis on the roles and authority of the Chairs of the local and national panels. It is difficult to envisage a situation where *all* local stakeholders will have sufficient trust and respect in any one individual for the proposed ‘representational’ structure to work effectively.

We recommend that the DTI give serious consideration to a model of engagement which builds on the learning experience of the BNFL National Stakeholder Dialogue (see response to Q16).

The key features of the BNFL Dialogue include:

- independent expert facilitation, rather than appointed stakeholder chairs;
- a Coordination Group to oversee and coordinate the work of the Dialogue;
- Working Groups to undertake detailed work programmes;
- Task Groups to undertake specific tasks; and
- a larger Main Group of stakeholders, to which the Coordination, Working and Task Groups are accountable.

The adoption of these sorts of features – suitably modified to meet the NDA’s requirements – would enable the key concerns above to be addressed.

We recommend that serious consideration be given to the following engagement model:

- Local Stakeholder Forums could be established to absorb the current functions of the LLCs and take on consultation and dialogue functions. The Forums might meet 3-4 times a year, and could be open to all local stakeholders. It is anticipated that Forum meetings would be independently facilitated. In principle, the Forums could set up working or task groups as appropriate to the fulfilment of its functions, and a local Coordination Group to meet 2-4 times between Forum meetings. If set up, these groups should be broadly representative of the full range of local stakeholder interests. It would, however, be up to the Local Forums to decide whether, and if so what, local mechanisms were necessary (including engaging the public, see response to Q12). The Local Forums would also identify a nationally agreed number of local stakeholders (say 3-4) to participate in a National Stakeholder Forum on behalf of the Local Forum. The nominated stakeholders should also be broadly representative of the range of local stakeholder interests.
- A National Stakeholder Forum could be established to fulfil communication, monitoring, consultation and dialogue functions at a national level. The Forum might meet 3-4 times a year, and be open to stakeholders from national organisations or groups (such as the LGA SIG, response to Q13). It would also involve the nominees from each of the Local Forums. It is anticipated that Forum meetings would be independently facilitated. The National Forum could also set up working or task groups as appropriate to the fulfilment of its functions, and a National Coordination Group to meet between National Forum meetings. It may also wish to undertake initiatives to

engage with the public (see response to Q13). It is anticipated that a member of the NDA Board would actively participate in the National Forum and Coordination Group, and be accountable to the NDA Board for representing stakeholder views and proposals.

This structure would retain the positive features of the DTI proposal, but avoid the concerns that it raises.

It is also worth highlighting some points of anticipated difference to the BNFL National Stakeholder Dialogue:

- The business of the National and Local Stakeholder Forums would be closely linked to the decision-making requirements of the NDA and site licensees. In other words, the relevance and potential value of engagement would be clear for stakeholders to see.
- Much of the business of the Forums could be conducted in relatively short-lived task groups, or workshops, rather than in the long-lived working groups.

19 Which stakeholder groups should be represented at a local level?

We consider that Local Stakeholder Forums should be open to any local organisation, group or person who has a ‘stake’ or interest in the running of the site (see response to Q10).

The key issue here is what would constitute a reasonable definition of “local”. We note in this regard the criticisms of existing LLCs that stakeholders have been excluded by defining “local” too narrowly.

We suggest that “local” be defined primarily as within the county area containing the site. However, local geography may also be such that organisations or groups within neighbouring local authority areas could also reasonably be considered to be local stakeholders.

¹ The Bill and associated documentation are available on the new nuclear ‘clean-up’ website at www.dti.gov.uk/nuclearcleanup. No deadline has been set for comments on the associated material. In addition to the discussion paper on stakeholder engagement, the DTI has published two reviews: A Review of UK and International Experience of Stakeholder Engagement and a Local Liaison Committee’s Review report. These reviews are also available from the website above.

² Comments on the draft Bill and associated material should be sent to Richard Griffin, Nuclear and Coal Liabilities Unit, DTI, 1 Victoria Street, London SW1H 0ET (Richard.Griffin@dti.gsi.gov.uk).

³ ‘Managing the Nuclear Legacy: a Strategy for Action’, Cm 5552, July 2002.

⁴ ‘Government Seeks Views on Managing the Nuclear Legacy’, NFLA Radioactive Waste Policy Briefing No 7, September 2002.

⁵ ‘Draft Nuclear Sites and Radioactive Substances Bill: Explanatory Notes’, 2003, para 55.

⁶ The definition of “an affected authority” requires clarification through discussion with local authorities.

⁷ Explanatory Notes, as above, para 53.

⁸ Explanatory Notes, as above, para 69.

⁹ ‘Nuclear Decommissioning Authority Management Statement’, June 2003, para 5.1.6.

¹⁰ It is important for stakeholders to be assured that the outputs of engagement will be fed into Board decision-making in a timely way. The publication of information about the Board’s decision-making timetable would help achieve this.

¹¹ Management Statement, as above, para 5.1.5.

¹² ‘Draft Memorandum of Understanding between NDA and Nuclear Regulators’, June 2003, paras 2.2 and 5.3.5.

¹³ Explanatory Notes, as above, para 63.

¹⁴ Explanatory Notes, as above, para 81.

¹⁵ Explanatory Notes, as above, para 82.

¹⁶ Explanatory Notes, as above, para 83.

¹⁷ Explanatory Notes, as above, paras 85 and 86.

¹⁸ The Government has yet to set out the Schedule in the draft Bill relating to the restructuring of BNFL. The Explanatory Notes states that this is still under consideration. The White Paper indicated that restructuring will involve the creation of a new company - called 'New BNFL' - which will be owned by the Secretary of State, and include a utility services business and a government contracting business. The existing company - BNFL plc - and its subsidiary Magnox Electric plc will continue in being as site licensees. BNFL plc will be owned by New BNFL and operate, initially at least, under contract to the NDA.

¹⁹ 'Sale of BNFL abandoned', Guardian, 7 July 2003.

²⁰ BE, 'Announcement of Restructuring Proposals and Extension of HMG Loan Facility', 28 November 2002.

²¹ These payments include £275 million in bonds, £20 million a year, and 65% of the Company's free cash flow.

²² The Government made a submission to the European Commission in March 2003 to seek state aids approval for the restructuring plans. It currently expects a decision to be taken by the autumn of 2004.

²³ Explanatory Notes, as above, para 30.

²⁴ This power also extends to the possibility of direction to take responsibility for Ministry of Defence sites and facilities. Explanatory Notes, as above, paras 39 and 40.

²⁵ Explanatory Notes, as above, para 45.

²⁶ Explanatory Notes, as above, para 95.

²⁷ In principle, payments could also ultimately come from British Energy's segregated decommissioning fund, set up to pay for the latter stages of AGR and Sizewell B decommissioning.

²⁸ 'No Nuclear Power Stations .. For Now', NFLA New Nuclear Monitor, No 6, April 2003.

²⁹ See clause 3 and 45(1) of the draft Bill.

³⁰ F Barker, 'The Views and Concerns of Environmental Groups', First and Second Phase Reports to the DTI, April and October 2002.

³¹ F Barker, as above, Second Phase Report, paras 4.9-4.11.

³² See in particular, NFLAs, 'Decommissioning Policy Under the Spotlight', Radwaste Briefing, No 8, May 2003, for a detailed explanation of how we think stakeholders should be involved in options assessment for Magnox reactor decommissioning.

³³ It is particularly important for stakeholders to be assured that the outputs of engagement will be fed into Board decision-making in a timely way. The publication of information about the Board's decision-making timetable would help achieve this.

³⁴ NFLAs, 'Government Seeks Views on Managing the Nuclear Legacy', Radwaste Policy Briefing No 7, September 2002, p8-10.

³⁵ These factors are similar to those identified in advice to the DTI, 'A Review of UK and International Experience of Stakeholder Engagement', CAG and Greenstreet Berman, May 2003. The proposal for an appeals mechanism has also been raised by environmental groups, see Barker, as above, April 2002, p16.

³⁶ Some outline examples are provided in CAG/Greenstreet Birman, as above, p38-43.

³⁷ For example, an MoD commissioned Front End Consultation concluded that the development of proposals should entail independent scrutiny and/or critical expert and green group involvement, see Lancaster University, 'Project ISOLUS: Front End Consultation Final Report', September 2001. Similarly, public opinion research commissioned by DEFRA concluded that NGOs should be involved in decision-making to provide a curb on vested interests, see Market Research Services, 'Benchmarking Public Opinion on the Management of Radioactive Waste, DEFRA/RAS/02.012, July 2002. Finally, the report from Project PASCALEA recommends that AWE Aldermaston should "enter into dialogue with relevant NGOs to establish a framework in which all parties can agree that the findings of future environmental studies are regarded as independent by all parties". See NNC and Lancaster University, 'Public and Stakeholder Consultation on AWE's Long-term Environmental Aims', December 2002.

³⁸ The discussion on p52-53 of CAG/Greenstreet Berman, as above, draws attention to the distinction between 'representing' and 'reflecting' views.

³⁹ See F Barker, as above, April 2002, para 8.7, and October 2002, para 7.5.

⁴⁰ Current initiatives include the DTI's area forums, the BNFL National Stakeholder Dialogue, the Magnox Decommissioning Dialogue, the Safegrounds project, and initiatives on Very Low Level Waste. Impending initiatives include those related to the MRWS process, and the NDA.

⁴¹ Consultation responses summarised in NFLA email to DTI, 23 January 2003