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No. 60

Subject: Summary of the main points from the NFLA Steering Committee Meeting, Civic Hall, Leeds, 7 December 2006

1. New Nuclear Build

The Steering Committee was updated on progress with a new series of NFLA briefings called *Critical Reactions*. The first four briefings prepared by the NFLA Legal Adviser have been posted to every UK local authority, circulated more widely to industry, Government, and regulators (with the assistance of Greenpeace), and posted on the NFLA web-site (www.nuclearpolicy.info). The next four in the course of preparation will cover:

- Nuclear safety: pre-licensing. The Legal Adviser is investigating the statutory power of HSE to undertake pre-licensing.
- Radioactive waste: pre-authorisation
- Strategic Environmental Assessment/ Strategic Siting Assessment & Siting Criteria
- Justification

Judicial Review

On 23 November the court gave permission to Greenpeace to proceed with an application for judicial review of the Energy Review. The court will review the issues at a hearing scheduled for 7 to 9 February 2007. At the request of Greenpeace a letter of support from NFLAs, to be filed with the court, was prepared. The challenge in part relies on correspondence written to the DTI at the outset of the year by the NFLA Legal Adviser on behalf of both NFLAs and Greenpeace, and subsequent advice of the Legal Adviser to Greenpeace.

The Legal Adviser further reported that he had submitted comments for NFLAs in response to the DTI's Nuclear Policy Framework Consultation that closed at the end of October. The consultation document itself had been described by one consultant as *"a very poor basis for any effective consultation aimed at developing such a policy framework. It is riddled with anomalies, imprecision and contradictions: too many to draw attention to individually."*

NFLA's comments were critical of the two components of the consultation document. Firstly, a draft Government 'Statement of Need' designed to obviate any debate at a public inquiry of whether nuclear power was necessary, was badly drafted, poorly explained and imperfectly supported by any process of consultation or process of dispassionate gathering of evidence.

THE LOCAL GOVERNMENT VOICE ON NUCLEAR ISSUES

Secondly, a suggested route through the regulatory decision-making process failed to clarify whether: new build reactor types will be analysed for their “justification” as required by EU law; whether the site selection process or the Government’s plans for nuclear energy will be submitted to a Strategic Environmental Assessment as required by EU law; and how the overlapping requirements will be addressed, without one decision prejudicing elements of another e.g. on safety and economic issues.

Proposed new rules for planning inquiries for large-scale electricity projects

The DTI has published 'Updating electricity generating stations and overhead lines inquiry procedure rules', available at <http://www.dti.gov.uk/energy/review/page31995.html>

Under the new rules (that affect England & Wales only) evidence and cross-examination on “matters such as national need/energy policy, health and safety and security” could be curtailed. The Legal Adviser considers that the use of the proposed power in the way contemplated would be open to legal challenge. Inquiries could also be held in *concurrent sessions* by a number of Inspectors. It is not clear how poorly financed objectors and NGOs and over-stretched local authorities are intended to attend simultaneous sub-inquiries. There appear to be legal objections to the use of such sessions that reflect these practical objections. The Legal Adviser will be submitting comments about the proposed rules to DTI by the end of January.

A similar approach however can be anticipated in Scotland where planning reforms in the Scottish Planning Bill allow for

“...the introduction of new procedure rules for inquiries (to follow the Bill in secondary legislation) allowing the decision-maker to determine the most appropriate means of resolving the matters in dispute. This would allow increased use of informal hearings and exchanges of written submissions and reserve formal inquiry sessions for those issues genuinely requiring adversarial examination.”

Joint Work

The Legal Adviser, NFLA Secretary and NFLA(S) Policy Adviser (the latter funded by Greenpeace) attended strategy discussions on nuclear power under the aegis of the Green Alliance in London on 12 September and 22 November. Periodic meetings are likely to continue with the NFLA Legal Adviser participating in a sub group of lawyers reviewing Government and regulatory agency proposals for their legality.

White Paper

A White Paper on Government policy is currently expected in March 2007, but if Greenpeace succeed in their Judicial Review then DTI will have to correct the defects in their consultative process. This will force Government to rethink its timetable for delivering its nuclear policy.

2. **Radioactive Waste Management Policy**

The NFLA Secretary reported on the Government’s response to the final recommendations of the Committee on Radioactive Waste Management (CoRWM) and the continuing work of the MoD ISOLUS (Interim Storage of Laid Up Submarines) project.

The Secretary reported concerns that Government had: seized on CoRWM’s recommendation favouring deep geological disposal without giving sufficient weight to unresolved technical issues; disregarded CoRWM’s recommendation about the need

for a new consultation on the management of radioactive wastes from a new nuclear programme; failed to consult openly on institutional arrangements for implementing future policy (by giving the task to the Nuclear Decommissioning Authority and merging UK Nirex Ltd with the NDA without any opportunity for public comment); diluted CoRWM's recommendations about the need for effective 'policing' of policy implementation; reopened the door for radioactive wastes from the nuclear industry to be dispersed to local landfill; and failed to provide adequate time for public consultation on the next stages of policy implementation. The Steering Committee's submission to DEFRA can be viewed at: www.nuclearpolicy.info

The Secretary also reported on work that he had undertaken to assist MoD in establishing an advisory group to evaluate the ISOLUS programme and inform the ISOLUS management group. Work continues to identify the most environmentally and publicly acceptable approach to land storage of radioactive wastes from decommissioned nuclear powered submarines. The Steering Committee decided to be represented at the ISOLUS workshop on 8 February 2007 which will decide membership of an advisory group.

3. **Nuclear Decommissioning Authority**

The Steering Committee received an update on: the NDA national stakeholder meeting in Birmingham on 7 and 8 November 2006 (see www.nda.gov.uk) and the continuing shutdown of the THORP reprocessing plant. Loss of income from THORP operation over almost two years was now forcing the NDA to cut back and delay some decommissioning work.

The NFLA Secretary had also participated in the LGA's Nuclear Legacy Advisory Forum discussions with the NDA on future strategy for the storage of intermediate level radioactive wastes (ILW) pending development of a long term waste management facility. The NDA is considering the pros and cons of consolidating ILW storage at one, two or several of its sites.

4. **UK Nuclear Weapons Policy**

The Steering Committee considered the then recent publication of the Defence White Paper – *The Future of the United Kingdom's Nuclear Deterrent* - setting out the Government's case for continuing to maintain a nuclear weapons capability through to the middle of this Century. The White paper can be downloaded from <http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/PolicyStrategyandPlanning/DefenceWhitePaper2006Cm6994.htm>

In the White Paper the Prime Minister calls for "*...a substantial period of public and parliamentary debate in which the issues can be aired freely.*" However, no commitment is made to formal consultation. The Secretary's report recapped concerns about: the strategic relevance of a new nuclear weapon system; its potential to spur further nuclear proliferation; the cost estimated at around £75 billion for construction and maintenance over a 30 year life cycle; and the hazards associated with nuclear weapons manufacture, transportation, and radioactive waste generation. Considering these matter the Committee decided that a briefing paper be prepared in the terms of the report to assist member authorities to respond to the Government's White Paper about nuclear weapons policy. (A Trident Replacement Briefing has now been circulated to all member councils and is available for download at: www.nuclearpolicy.info)

5. **NFLA Forum & Membership Development**

NFLA membership continues to grow with two more Irish councils (Roscommon County Council and Wexford Borough Council) joining the All Ireland NFLA Forum. Salford City Council and Conwy County Council have membership under active consideration.

The first AGM of the All Ireland NFLA Forum will be hosted by Newry & Mourne District Council. A provisional date of 14 April 2007 has been set but this may be postponed if, as expected, a General Election in Ireland is called for early May. Further details from: skemp@nuclearpolicy.info.

The English NFLA Forum is planning a series of three seminars for 2007 starting with a meeting hosted by Bury MBC on 9 March to review developments with Government policy towards new nuclear power station development. Further details from: sean.morris@leeds.gov.uk.

The NFLA (Scotland) Steering Committee met in Glasgow on 19 January and set their next meeting for 22 March in Manchester (before the full NFLA Steering Committee on 23 March). Further details from: cathy.birrell@ced.glasgow.gov.uk.

The next meeting of the Wales NFLA Forum will take place on 16 March at County Hall, Caernarfon. Details are available from: skemp@nuclearpolicy.info.

6. **Finance**

The Secretary reported on further revisions to estimates for FY 2006/07. The actual overspend for 2005/06 was £12,500 greater than projected for the year though £10,000 of this was explained by income for services arising during 2005/06 not appearing in the accounts until 2006/07. Only a very small reserve was expected to be available to carry forward into FY 2007/08. Further efforts would be needed to bring income and expenditure into line. Considering the report the Steering Committee decided to reconvene the NFLA finance and development working group in 2007 (date now fixed for 27 February at Manchester Town Hall) to urgently review budgetary matters.

7. **Dates and venue for NFLA Steering Committee meetings in 2007**

11.00am -1.00pm, Friday, 23 March 2007, Town Hall, Manchester

11.00am -1.00pm, Friday, 22 June 2007, venue TBA (possibly Lerwick, Shetland)

11.00am -1.00pm, Friday, 14 September 2007, Town Hall, Manchester

11.00am – 1.00pm Thursday, 6 December 2007, venue TBA
(in conjunction with consolidated joint UK & Irish Local Authorities Conference on Nuclear Hazards & 2007 NFLA AGM)

For more information on any of the above matters contact:
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