

DECC/NGO Nuclear Forum 1st October 2013

Management of Radioactive Waste – Issues for Consideration

Position Paper prepared for the Forum by Andy Blowers Co-Chair

1. Context

Radioactive waste management has been a key theme of the last three meetings of the Forum. Papers prepared by Ruth Balogh and Andy Blowers formed the basis for discussions among members of the Forum and with ministers, regulators and officials. The main concern has been the MRWS process and NGOs have particularly focused on the nature of the process itself, especially as experienced in Cumbria, on the problem of trust and public confidence, on the issue of new build wastes and on the importance of long term storage as an integral part of the management process.

We have now reached (another) critical moment in the development of policy for managing radioactive wastes. There are issues concerning disposal of low level wastes at the national facility at Drigg and at potential other locations. The NDA is developing a strategy for the optimal siting of ILW wastes at existing nuclear sites. And, the Government is proposing changes in the siting process for the national geological disposal facility which are currently the subject of consultation. All of these issues are being considered at this Forum which is devoted mainly to radioactive waste management. The Forum provides an opportunity for members to consider the whole spectrum of radioactive waste management and to identify questions and make comments on the proposals under consideration. This paper is mainly devoted to the development of the MRWS process.

Individual members and NGOs will, of course, wish to make their own responses to the various consultations. There will be opportunity in the coming months to participate in regional workshops and a workshop for NGOs. But, there may be issues of common concern among Forum members which might be formulated into a response from the Forum, in which case we will need to consider how to proceed.

Question 1. Should the Forum consider making a response to consultations covering those issues on which there is common concern and agreement?

2. The Purpose and Scope of the Review of the MRWS Process

The Government has reaffirmed its belief that Geological Disposal is the appropriate method for managing the most highly active solid radioactive wastes and confirmed its commitment to a voluntary process to identify a suitable site for the national repository. The purpose of the approach is to revise and improve the process so that it is more likely to succeed in finding a site. One interpretation might suggest that it clears away the impediments that forestalled the previous attempt and provides the legitimation for new build.

The scope of the consultation is narrowly drawn, fixated on the problem of finding a site for a geological repository. This is the clear priority for government determined to justify new build. It might be argued that clean up, especially at Sellafield, and

managing existing and future legacy wastes at scattered sites is of greater concern and that geological disposal, while possibly a desirable long term goal, is a less pressing problem. The consultation pays little attention to siting strategies for interim storage and no attention at all to the problem of dealing with wastes in the event of a repository being delayed or no suitable site being found. The possibility of storage for the long term or even indefinitely needs also to be considered. Storage is not an alternative method of management but a complementary and integral part of the whole management strategy. New build will raise new challenges for long term storage, not least of which is finding appropriate and secure locations for spent fuel stores into the far future.

Question 2. Is the revised approach too narrowly defined in terms of a search for a geological repository? Should its scope be widened to incorporate an interdependent and integrated strategy of radioactive waste management? Should the scope of the process be widened to include strategies and siting for long term storage? Specifically, should the implementation of the voluntary process be extended to include long term storage sites as well as a potential repository site?

3. Decision Making – Roles, Responsibilities, Participation

The core of the consultation is devoted to the issues surrounding decision making, reflecting the government's concern to adapt a define a process that will lead to the desired outcome of a suitable and acceptable site for a repository. The changes proposed both loosen up the process but, at the same time, ensure it is more controlled and focused. Several aspects of this may be identified

A continuous process

The original process was phased or staged with points at which key decisions such as willingness to enter the process would be explicitly taken by the decision making body possibly on the recommendation of a siting partnership. It is now proposed to introduce a continuous process with two phases described as 'learning' and 'focusing' with no 'artificial' decision points. This would enable the pace to be dictated by the representative authority and allow for information flow and consensus building as the process proceeds. However, this might eventually lead to a state of 'lock in' where communities feel the process is inexorably proceeding to its inevitable conclusion. It may be that clear decision points make for sharper debate, clarification and the endorsement to proceed.

Question 3. Is a looser continuous process preferable to a phased approach to decision making?

Demonstration of community support

This is a contentious area raising a range of issues such as timing, nature of consultation, definition of 'community', coverage, method, interpretation and so on. It is now proposed that a demonstration of community support will be required and will take place at the end of the decision making process before the decision to proceed to developing a repository is taken. The question is whether this should occur before the right to withdraw is lost. However, it may be argued that demonstrations of support

could be an integral part of deliberative engagement throughout the entire siting process. They should be taken at various intervals in order to provide a reasonably frequent test of community views. With a staged process the decision points would identify appropriate moments for such a test.

There is also the question of whether community support is needed to inform or is a necessary condition on which to base a decision to proceed. It may be argued that failure to act in accordance with community support would vitiate the voluntary nature of the process and question its legitimacy.

Question 4. What is the purpose of a demonstration of community support? When should it be taken? Should a demonstration of support be required at the end of the process or at various times throughout?

The Decision Making Body

As in the previous process, the Decision Making Body (DMB) is defined as the representative authority that holds the right of withdrawal. As an elected body the DMB legitimates the consent to proceed. The principle of subsidiarity, that is, ‘the lowest practical level, close to the people who are affected by the decisions’ has been applied and the local authority identified as the appropriate level. In England this is the unitary authority (district or borough) in single tier authorities and the District or Borough Council in two tier authorities. Hence, County Councils are to be downgraded to consultative rather than decision making status thereby avoiding potential conflict such as occurred in the case of Cumbria.

The question arises as to whether one level of local authority is appropriate to volunteer on behalf of a community and that that level should be the District or Borough Council (in Wales county and county borough, in Northern Ireland district). Are Districts the appropriate bodies to represent potential host communities given that they cover a much wider area than that surrounding a potential host authority? On the other hand, the lower level of parish and town councils lacks resources and powers and covers only small areas (although they could be formed into groupings).

Another issue is how decisions are actually taken. It may be argued that the decision on a geological repository is so fundamental that it should be taken by the full Council rather than by its Cabinet. This should enable a greater diversity and plurality of viewpoints to be engaged.

Question 5. Is the District (County in Wales) the appropriate representative authority to constitute the Decision Making Body?

Steering Group

It is proposed to set up a Steering Group composed of the representative authority, the Government and the developer (RWMD) chaired by the Leader of the representative authority. The Steering Group would keep the viability of the project under continuous review, guide the government and developer and engage with the wider community. This is a fundamental contrast to the previous concept of a participative process relating to a siting partnership composed of a wide range of interests

presenting views and information to the DMB for decision at certain key points. An important aspect of that process was the separation of participative and representative democratic functions. In practice in the case of the West Cumbrian Partnership the functional separation was blurred and the DMBs took a leading role in the partnership as well as taking the key decision on whether to proceed. Another problem was the failure of the Partnership to make recommendations leaving it to the DMBs to make their own judgement.

This problem of the DMBs playing a dominant role has become intensified in the revised process whereby power is clearly concentrated in the iron triangle of the Steering Group which in the continuous process is responsible for information, for consultation and for decision making. This may be seen as a retrograde step designed to provide a tight control over a deliberately loose process. It may also be criticised as weakening the plurality of participation implied by the voluntary principle.

Question 6. Is the proposed Steering Group the appropriate model to achieve partnership, representativeness and accountability in the voluntary process?

Consultative Partnership

During the Focusing phase a Consultative Partnership will be convened. The membership is to be determined by the DMB indicating its primacy in power relationships. This is an altogether weaker conception of partnership than was intended in the original model in which partnership was the ethos of the whole process. In the previous dispensation partnership and participation together with community benefits and the right to withdraw were the essence of the voluntary process. The present model is more hierarchical and elitist and appears to rely on a more traditional conception of participation as consultation rather than involvement in decision making.

Question 7. Is the siting process proposed consistent with a partnership approach? What should be the nature the nature of the partnership and what role should it play in the decision making process?

Decision to Volunteer

There is no restriction on when to volunteer. Consequently, volunteers may request to be considered at any time and, depending on whether they offer 'reasonable prospects' of being a potentially suitable host for a repository, they may enter the Focusing phase. The representative authority and the Government will decide who may volunteer. The Government's role in the revised process is a proactive one. In the first place it will actively encourage councils (and other bodies) to volunteer; secondly it can decide who is able to volunteer; and thirdly, if there is more than one volunteer it will be Government that decides who proceeds and, ultimately, who succeeds in becoming the host authority. Under the old system the Government was at pains to stress its passive role; in the new system it proclaims a more active role in identifying, selecting and deciding. In short the Government will be able to promote and support its choice of volunteer. It may be that an independent body should have oversight of the process and provide advice to the Government on such matters as identifying and selecting volunteers.

Question 8. To what extent should government play a more active role in the voluntary process? Is there scope for an independent body to oversee the process?

4. Information Provision

One of the chief criticisms of the previous process concerned the nature, timing and quality of information provided to decision makers, stakeholders and public. It was felt that decisions were being hurried and taken on the basis of inadequate information. In particular there was considerable controversy over geological information. The revised approach seeks to address these problems.

Initial Awareness Raising: Geology and Risk

Recognising the relative ignorance of the problem of managing radioactive wastes the Government intend to launch the new programme with a national public awareness and engagement programme. This is in response to criticism of the original approach and in essence is a good idea. The 'offer' to potential volunteers will explain the process of voluntary participation and set out the nature of geological disposal and the wastes to be disposed of, and consider the socio-economic impacts and community benefits. While this programme of information and awareness raising is to be welcomed there are aspects which might concern the NGO community.

One is how geological information is dealt with. There will be a descriptive regional geology and an offer to interested communities provide more detailed information for their area. Critics of the first process argued that there should be an initial geological screening which would indicate which areas might be ruled out from the outset. The consultation paper explains why Government does not think this useful or appropriate concluding that 'initial screening has limited usefulness when it comes to providing evidence for definitive statements about suitability' (p.38). Instead it is proposed to provide detailed and peer reviewed reports to volunteers during the Learning phase sufficient to guide discussion on the geological prospects for hosting a disposal facility.

Question 9. Is the proposed approach to providing geological information satisfactory?

Another aspect is the apparent absence of information on the risks and uncertainties surrounding the long term management of radioactive wastes. The focus is entirely on disposal whereas storage is bound to play a continuing long-term role. The controversial nature and conflicting understandings of health risks are not considered although this is the basis of most people's concerns about radioactive wastes. The information provision is mostly technical and scientific and presumably intended to explain and perhaps to persuade.

Question 10. How far should information on risks and uncertainties be part of the 'offer' included in the initial national engagement programme?

This raises a third point, the need for credible, balanced and peer reviewed information. This not only applies to scientific and technical information but, where

appropriate, to information on other aspects including economic, social and ethical. The status of the information provided should be indicated and degrees of uncertainty revealed. The consultation document indicates three possible ways of achieving independent review of information. One of these, the idea of establishing an independent advisory body or reference group might be further explored.

Question 11. What ways might best be introduced to achieve verification or evaluation of information provided?

4. Planning and Policy Framework

It is suggested that as a nationally significant infrastructure the GDF should be brought within the policy framework of a National Policy Statement (NPS) and within the planning framework of the Infrastructure Planning Process. Both of these are relatively new and essentially replace the former major planning inquiry process which covered both policy and approval.

It is unclear what part a NPS for a GDF would play and where it would come in the process. A geological disposal NPS might be developed at the outset of the process as a statement of policy covering all the generic scientific, technical, social, economic and ethical issues. As such it would be significant in the framing of the initial public awareness and learning phases and as a source of information. Or, the NPS might come later in the process in the form of a decision making document, evaluating and selecting potential sites.

Is a NPS appropriate as a means of stating policy for a GDF? If so, should it be seen as a framing document or as a decision making one?

The nationally significant infrastructure planning regime has so far been applied to a range of projects including the proposed nuclear power station at Hinkley Point. It was introduced to circumvent the laborious planning inquiry process to help speed up decision making. The issue is whether it is an appropriate approach for a GDF. It would presumably be applied at the end of the voluntary process as a final act of decision making, the consent to construct a repository. It would reflect the ultimate authority of the Government to decide, presumably once the DMB had surrendered its right to withdraw. It would give a final opportunity for participation in decision making.

Is the infrastructure planning regime appropriate for taking the decision to proceed? If so at what point in the process should it be introduced?

Inventory

The consultation document makes it unambiguously plain that the GDF will take wastes from new build. The Government needs to secure a plausible route for new build wastes to justify its claim that ‘effective arrangements will exist to manage and dispose of the waste that will be produced by new nuclear power stations.’ Indeed, a clear purpose of the revised process is to try to ensure that a site will be found to take new build wastes. Critics have argued that the siting process should be restricted to legacy wastes as envisaged by CoRWM since new build raises other issues which should be the subject of a separate process and consultation. In any event it can

certainly be argued that the siting of stores for long term management of new build wastes should also be the subject to an open and deliberative volunteer process. Communities should be offered the opportunity to indicate whether they are willing to act as hosts for spent fuel stores arising from new build.

Is co-disposal of new build and legacy wastes acceptable or should there be a separate process to consider disposal of new build wastes. Should there be a separate and voluntary process to consider the siting of stores for new build wastes?

Other Issues

There are many other issues on which comment could be made including socio-economic impacts, community benefits and environmental considerations. The purpose of this paper is to draw attention to what seem to be the main issues for the Forum to discuss and on which to formulate its views on the development of the MRWS process.

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