

INSTITUTIONAL ARRANGEMENTS FOR IMPLEMENTATION

Policy Statement 2
October 06



Introduction

There are a number of models for institutional arrangements for implementing policy on the long-term management of radioactive wastes. These models are characterised by important differences in the way in which key tasks are allocated to different bodies. This statement outlines potential tasks and the nature of different models, including pros and cons. Rather than advocate any one model, the statement recommends a set of principles that should be followed by Government when putting in place appropriate institutional arrangements.

The three main models are:

- a) **Commission led:** where an Independent Commission takes key decisions in the siting programme and is responsible for stakeholder engagement, and a Waste Disposal Company undertakes site investigations and repository design and construction under direction from the Commission¹.
- b) **Implementing Body led:** where an independent Implementing Body takes charge of all aspects of the implementation process, and its work is scrutinised by an Independent Review Committee².
- c) **NDA led:** where the NDA is responsible for the implementation programme, a lead Contractor/s undertake site investigations and repository construction, and the programme is scrutinised by an Independent Review Committee.

Each model assumes strong and independent regulation to help assure technical quality and stakeholder confidence.

MRWS Programme

The Government's announcement of how it intends to proceed in response to CoRWM's recommendations is expected in the autumn. Following that announcement, Government will embark on Stage 3 of the Managing Radioactive

¹ As proposed by the House of Lords Select Committee on Science and Technology in, 'Management of Nuclear Waste', Third Report, March 1999, Chapter 6.

² As proposed by Nirex in, 'Note on Separation and Independence', June 2006. In this model, the Implementing Body would be 'grown' from Nirex, and be given a new mission and name.

Wastes Safely programme. It is expected that this will involve public debate on how the Government's decision should be implemented. This will be followed by Stage 4, the start of the implementation process.

Key Tasks

For the purposes of this statement, it is assumed that Government accepts CoRWM's recommendations and that siting of a geological repository proceeds through the following main stages:

- (i) Develop and apply screening criteria to identify potentially suitable areas
- (ii) Issue invitations, set up partnerships and arrange involvement and community packages
- (iii) Undertake desk-based evaluation of areas willing to participate to identify potentially suitable sites
- (iv) Undertake field investigation of short-listed sites
- (v) Undertake detailed characterisation of the preferred site(s)
- (vi) Obtain planning permission and construct repository(ies)

CoRWM estimates that this programme is likely to take around 39 years³, as follows:

- Stages (i) and (ii) - 10 years
- Stages (iii), (iv) and (v) - 19 years
- Stage (vi) - 10 years

Some of the key tasks that need to be allocated are specific to individual stages and others may be needed in several or all stages. Some of the tasks will be sequential and others will be undertaken in parallel.

The tasks could include:

- establish R&D programmes, covering long-term safety and package design
- review and develop design options for disposal concept
- establish monitoring and review of national and international R&D relevant to alternative waste management options
- establish arrangements for peer review of R&D and technical input into the siting programme
- develop screening criteria through public and stakeholder engagement
- apply screening criteria and propose potentially suitable areas
- review and consult on proposals for potentially suitable areas
- publish a decision document on potentially suitable areas
- develop broad framework of partnership arrangements through public and stakeholder engagement nationally and locally
- develop broad framework for Involvement and Community packages through public and stakeholder engagement
- establish mechanisms for dispute resolution

³ CoRWM, Recommendations to Government, Doc 700, July 2006, Annex 5.

- issue invitations to potentially suitable areas to participate in the siting process
- undertake discussions with local authorities and communities that express an initial interest in participating
- establish provisional partnership arrangements with participating local authorities and communities
- negotiate and agree the involvement package for each partnership
- develop and agree the community package for each area
- administer funds for involvement and community packages
- discuss repository design concepts and identify preferences with each partnership
- develop programmes for desk-based evaluation of partnership areas to identify potentially suitable sites
- agree programmes with each partnership
- undertake desk-based evaluation of partnership areas
- review and agree a short-list of potential sites for field investigations
- publish a decision document on the short-list of potential sites
- develop and agree programme for field investigations
- undertake field investigations of short-listed sites
- undertake comparison of short-listed sites
- agree preferred site or sites for full characterisation
- publish a decision document on the short-list of potential sites
- develop and agree programme for site characterisation
- undertake site characterisation
- develop safety case, environmental assessments and planning applications

It is helpful to group these tasks into four broad categories:

I **Decision-making:** particularly about proceeding from one stage to the next. Major decisions relate to siting criteria, potentially suitable areas, frameworks for partnerships and packages, a short-list of potentially suitable sites, preferred site(s) for detailed characterisation, and a preferred site(s) for development.

II **Technical:** covering R&D, repository design concepts, peer review, application of screening criteria, desk-based evaluations, field investigations, site characterisation and safety case development.

III **Stakeholder and Community Involvement:** potentially covering development of screening criteria, proposals for suitable areas, frameworks for partnership and packages, issue of invitations, discussion with potential participants, setting up partnerships, agreeing involvement packages, discussing repository design concepts, reviewing proposed programmes for desk-based evaluations, field investigations and site characterisation, monitoring progress and reviewing outputs.

IV **Independent Oversight and Scrutiny:** potentially covering the nature and schedules for proposed technical and stakeholder involvement programmes at each stage, progress in those programmes, and review of proposed decisions at the end of each stage.

Institutional Arrangements for Implementation, NuLeAF Policy Statement 2, p3

Allocation of Tasks in the Three Models

At this stage it is not always clear how key tasks would be allocated to different bodies within the three main models. In particular, with regard to decision-making, there are issues around:

- the extent to which Government will wish to retain a role in national decision-making; and
- once the siting process is underway, the extent of devolution of decision-making to local authorities and partnerships.

The allocations in the table below should therefore be viewed as illustrative.

Model	Decision-making at key stages	Technical	Stakeholder and Community Involvement	Independent Oversight and Scrutiny
Independent Commission led (accountable to Parliament)	Primarily the Commission	Primarily with the Commission up to short-list of potential sites. Then primarily with the Waste Disposal Company.	Primarily with the Commission up to short-list of potential sites. Then with Waste Disposal Company.	Commission switches from 'doing' to 'scrutinising' after short-list of potential sites agreed.
Independent Implementing Body led (accountable to Govt.)	Primarily the Implementing Body up to establishment of partnerships. Then potentially joint decision-making with partnerships.	Implementing Body, with use of contractors	Primarily the Implementing Body up to establishment of partnerships. Then a joint role with partnerships.	Independent Committee
NDA led (accountable to Govt.)	Primarily with the NDA up to establishment of partnerships. Then potentially joint decision-making with partnerships.	Potentially with the NDA up to short-list of potential sites. Then primarily undertaken by contractors.	Primarily with the NDA up to establishment of partnerships. Then a joint role with partnerships.	Independent Committee

Pros and Cons of Each Model

A preliminary review of pros and cons is set out in the following table:

Model	Pros	Cons
Independent Commission	<ul style="list-style-type: none"> - Opportunity to set up body with appropriate role, constitution and staffing - Clean-break with problematic siting history - Independent from political and nuclear industry pressures (eg to drive forward too fast with siting process) 	<ul style="list-style-type: none"> - Requires time consuming legislation and setting up - Makes transition from 'doer' to 'scrutiniser' part way through process - No independent scrutiny of Commission's 'doer' role
Independent Implementing Body	<ul style="list-style-type: none"> - Independent from political and nuclear industry pressures (eg to drive forward too fast with siting process) - Can 'grow' from existing organisation (Nirex) that is committed to key features of proposed siting process - Ensures repository concept holder delivers independent advice on packaging requirements 	<ul style="list-style-type: none"> - Likely to need new statutory powers eg to provide support to potential host communities - May not be perceived as clean-break from problematic siting history - May be resistant to changes to current repository concept - Potential conflict with NDA/industry over implementation strategy eg timescale for repository development - Would create another set of stakeholder engagement mechanisms in participating nuclear site areas (ie Partnerships in addition to Site Stakeholder Groups)
NDA	<ul style="list-style-type: none"> - Clean-break with problematic siting history - Can absorb staff and expertise from Nirex - Has statutory powers under Energy Act re provision of support to local communities - Experience of contracting out for large-scale activities 	<ul style="list-style-type: none"> - Conflict between strong internal pressure to accelerate decommissioning and clean-up, and time needed for effective participation in siting process - Existing SSGs do not meet needs of partnership arrangements and joint decision-making - Potential conflict re delivering advice on packaging requirements and drive for cost savings - Involved in commercial decisions re fuel manufacture, electricity generation and reprocessing

The Independent Review Committee and Principles for Effective Institutional Arrangements

There are pros and cons associated with each of the three models. Whichever model is chosen, Government must show clearly how it intends to overcome, reduce or manage the disadvantages associated with its preferred model.

For the independent implementing body and NDA models, the role, make up and staffing of the **independent review committee** will be critical. In particular:

- the committee must be able to scrutinise *proposed* implementation programmes, schedules and decisions in a timely fashion
- the committee must be able to oversee and review progress in all aspects of the siting process
- the committee should be able to review whether stakeholder and community views are being adequately addressed
- the committee should be able to review the adequacy of R&D programmes and peer review arrangements
- the committee should be able to play a part in dispute resolution
- the advice and recommendations of the review committee must be formally considered and a response published in a timely manner by the implementing body or Government as appropriate.

This remit suggests that the committee should be made up of a mix of project management, technical and stakeholder engagement process expertise, supported by an administrative *and* technical secretariat.

Given the importance and breadth of the scrutiny and review role, Government should assess existing models to identify what works well and why.

In addition to the requirements for the independent review committee, the institutional arrangements should be based on the following principles:

- be capable of securing public and stakeholder confidence and trust
- retain and utilise existing resources and expertise
- a clear and appropriate allocation of functions
- good governance (including openness and transparency, fair and effective public and stakeholder engagement, and taking full account of public and stakeholder views in decision-making)
- adequate funding in the short and long-term
- adequate staffing in terms of numbers, experience, expertise and commitment to the principles of good governance.