

Meeting:	NuLeAF Steering Group, 21 October 2011
Agenda Item:	6
Subject:	Community Benefits and Radioactive Waste Management
Author:	Fred Barker
Purpose:	To report on developments and propose next steps in developing a Radioactive Waste Community Benefits Protocol

Introduction

This report provides:

- an update on discussions that have taken place about a potential Radioactive Waste Community Benefits Protocol; and
- a note summarising key points about a potential protocol that could provide the basis for discussion with NDA and Government.

Recommendations

That the Steering Group agrees that:

- 1 the summary note of key points provides a suitable basis for discussion with NDA and Government; and
- 2 the Executive Director should enter into discussions, initially with NDA and then Government.

Contribution to Achieving Strategic Objectives

This report is intended to contribute to the achievement of the following NuLeAF objective:

- to seek to ensure that a consistent, proportionate and transparent approach can be taken to the establishment of Community Funds associated with key radioactive waste management facilities.

1 Update on Discussions

At its meeting on 6 July the NuLeAF Steering Group (SG) agreed:

- to support, in principle, the development of a Radioactive Waste Community Benefits Protocol for ‘beyond S106’ community funds;
- that the ED should liaise with other organisations involved in developing or applying similar protocols; and
- that authority be delegated to the Chair, Vice Chair and Executive Director to agree the timing and form of further NuLeAF approaches to Government to discuss a Radioactive Waste Community Benefits Protocol.

The SG’s attention is drawn to the following discussions:

- **Engagement meetings with NDA (22 and 27 June):** the meetings noted that some LAs may look more favourably on waste consolidation and co-location if the balance of disadvantages and benefits is favourable. NDA explained that the development of thinking on its socio-economic strategy may provide some scope for addressing the question of benefit packages when specific planning applications are proposed. The NDA has subsequently been supplied with the July SG report on the proposed protocol and a future discussion is proposed (see below).
- **RenewableUK:** preliminary feedback from the trade association is that it is too soon for there to be any examples of the Wind benefits protocol being put into practice as it only came into force in May of this year.
- **Wider waste industry and DEFRA:** the secretariat has obtained preliminary feedback from DEFRA about the outcome of Government’s waste review and the means by which “communities can realise the benefits from hosting new local waste recovery infrastructure”. DEFRA state that the review recognised that communities hosting certain types of waste plant in their local areas do not always see the direct benefits from them and that it has therefore begun engaging with people in the waste industry who have expertise and experience of the planning process, to help identify best practice and discuss options for improving the way things work. DEFRA add that discussion is ongoing about whether industry-led protocols or incentives are the most effective way of encouraging developers and communities to engage earlier in the planning process, or whether there are other steps the Government or industry can take to help overcome the barriers that some waste companies continue to face in developing new plant. The secretariat has also contacted the Environmental Services Association, who say that no formal discussions have yet taken place with DEFRA.
- **New Nuclear Local Authorities Group (NNLAG) Task Group:** NNLAG have established a Task Group to develop a new build community benefits protocol. The group held teleconferences on 16 August and 6 September. The main actions arising are to: draft a letter to the Nuclear Industry Association to explore the possibility of a meeting to discuss a protocol; and to prepare an initial draft protocol for discussion and adoption by the meeting of NNLAG on 18 October. A verbal update on the outcome of that meeting will be provided to the SG.

- **Discussion in NuLeAF's Radioactive Waste Planning Group (RWPG):** the officer meeting on 8 September discussed a number of points about a potential protocol, including: whether community benefit could truly be considered separate from the planning process; whether the definition of 'community benefit' should include reference to addressing burdens; the practicalities of separately managing a community benefits process; and how to get a handle on defining a minimum value. These points are taken into account in the summary note of key points about a potential protocol attached to this report.
- **West Cumbria MRWS Partnership:** the Partnership has developed a set of Community Benefit Principles, which stress the expectation of additional and transformational benefits in recognition of the national service that would be provided by hosting a Geological Disposal Facility. The Minister has stated that the principles would provide a basis for negotiations if decisions are taken to proceed to the next stage of the siting process. It should be noted that the approach being adopted is unique to GDF siting and that it is not intended that a GDF be included within the scope of a proposed Radioactive Wastes Community Benefit Protocol.

2 Summary of Key Points about a Potential Protocol

The summary note attached as an Annex to this report has been prepared, taking into account previous discussion at the SG and the discussions above.

It is recommended that the SG agrees that:

- the summary note of key points provides a suitable basis for discussion with NDA and Government; and
- the Executive Director should enter into discussions, initially with NDA and then Government.

ANNEX: SUMMARY OF KEY POINTS ABOUT A POTENTIAL ‘RADIOACTIVE WASTE COMMUNITY BENEFITS PROTOCOL’

Context and Rationale

Discussion about development of a Radioactive Waste Community Benefits Protocol (RWCBP) should recognise:

- the Government’s strong adherence to a **‘localism agenda’**, including policy commitments to ensure that local communities benefit from local development;
- the likelihood of **more restrictive, less flexible, use of Section 106 Agreements**, resulting from the placing of statutory restrictions on the use of planning obligations, and the scaling back of their use in areas where Community Infrastructure Levy (CIL) schemes are introduced;
- the **limited applicability of the CIL** to radioactive waste management developments, where the size of the levy charge (based on the floor space formula) is highly unlikely to be proportionate to the scale of the impacts of a radioactive waste management development;
- the **adoption or discussion about development of protocols** in other or related sectors, including the wind industry¹, the waste industry² and new nuclear build³; and
- aspects of **NDA Strategy** that demonstrate the NDA’s desire to move forward with the consolidation of treatment and storage of radioactive wastes at a smaller number of sites, or that indicate the potential future development of new management or disposal facilities that could fulfil a multi-site role, including the near-surface disposal of short-lived ILW/graphite wastes.

In this context, the rationales for community benefits provided in accordance with a protocol would be to:

- recognise and reward communities for hosting radioactive waste management facilities with a regional or national role⁴; and
- help ensure greater acceptance from local communities, thereby helping to secure the deliverability of national strategies for nuclear legacy management.

¹ The Wind Farm Protocol sets out the commitment by the members of the trade association, RenewableUK, to deliver real and tangible benefits to those communities that live near onshore wind farms of 5MW and above. It is available at: <http://www.bwea.com/pdf/publications/CommunityBenefits.pdf>.

² The Government’s waste review has concluded that: “The principle that those most impacted should benefit most should operate across all scales from street to neighbourhood to local authority. How to achieve this should be part of an ongoing dialogue between communities, local authorities, waste management companies and developers. Other industries, for example wind generation, have addressed this issue through the development of industry protocols for providing community benefits in relation to infrastructure development, and we will explore with the waste management industry whether such approaches could be suitable for waste infrastructure.” (See [waste-policy-review](#), para 264)

³ The Government’s response to the consultation on the revised draft NPSs for energy infrastructure states that it is giving further consideration to issues raised about the provision of community benefit outside the planning regime (See [Govt-resp-consultation-on-nps](#), para 3.726). The New Nuclear Local Authorities Group is developing proposals for an associated community benefit protocol.

⁴ The protocol is not intended to apply to benefit packages that might be associated with a Geological Disposal Facility. These benefits are being addressed within the MRWS process.

The purpose would be to ensure that regional or national needs in radioactive waste management are met in a way that is fair and reasonable at a local level.

Nature of a RWCBP

It is intended that a RWCBP would provide a nationally agreed framework for negotiation of local community benefits that:

- are separate and additional to the mitigation measures that might arise solely from a Section 106 Agreement as part of the planning process; and
- provides flexibility so that local agreements for community benefits can reflect local circumstances.

The protocol should help ensure that the implementation of any local community benefits scheme is undertaken within the boundaries of, and with the support of, an agreed industry and Government backed framework.

The community benefits would be a voluntary contribution from an operator or developer. The benefits would be separate from the planning process and the mitigation of a development's impacts. As such, the community benefits could not make an unacceptable development in planning terms acceptable. The benefits should have no influence on planning decisions.

Scope of a RWCBP

The protocol would apply to facilities for the treatment, storage or disposal of radioactive wastes (other than a Geological Disposal Facility) that fulfil a role in implementation of national strategies by managing radioactive wastes from more than one site, customer or sector.

It is envisaged that facilities that only manage radioactive wastes on the single site from which they arise will fall outside the scope of the RWCBP. Such facilities may, nonetheless, require mitigation measures to be put in place as a normal part of the planning process.

It is also envisaged that facilities that will be used to manage radioactive wastes or spent fuel from a single site with a new nuclear power station may be subject to a separate Community Benefit Protocol for such stations.

Scale of Community Benefits

It is envisaged that the protocol will contain criteria for defining the *minimum value* of benefit that should be associated with a facility. A range of factors could be relevant to defining the minimum value of community benefits. Relevant factors could include:

- the volume of wastes to be managed in the facility
- the maximum total radioactivity content of the wastes to be managed
- the capital costs of the facility
- the time period across which the facility and associated institutional controls would be present within a community

- the extent to which the facility will take radioactive wastes from other sites, customers or sectors
- the extent to which the facility contributes to the optimisation of the use of legacy management facilities and the achievement of national costs savings.

The protocol could adopt the principle that the size of benefit should take account of the overall scale, nature and national significance of the facility.

Discussion with relevant parties could also seek to identify whether it is appropriate to adopt an approach to deriving the size of benefit using a relatively simple formula (for example, based on volume or radioactivity content), which could then be adjusted through discussion to take into account a wider range of relevant factors.

It should be noted that various international precedents exist which would provide benchmarks for such an approach. In particular, a simple formula approach to funds associated with spent fuel storage has been, or is being, developed in Belgium, France and Spain.

Other Key Features

It is envisaged that other key features of the protocol would be that:

- **Adoption of the RWCBP:** it is suggested that the NDA could adopt the protocol, for use by Site Licensee Companies, or the wider supply chain.
- **Separation from planning decisions:** as the community benefits arising from the protocol would be separate and different from those actions and contributions from a developer which are necessary to make a proposed development acceptable in planning terms, local authorities involved in discussions about potential community benefits will ensure that the officers or councillors directly involved are not also in a position to influence any planning decision associated with the facility in question.
- **Community engagement:** community/ies with an interest will be identified and consulted through engagement involving the operator or developer, the Local Planning Authority and relevant stakeholders as defined in any Statement of Community Involvement or similar requirement.
- **Start date and duration of payments:** benefit payments would commence shortly after all relevant decisions have been taken to develop the relevant new facility or extend the use of an existing facility. Payments would be provided for the duration of the operation of the facility for managing radioactive wastes.
- **Community Benefits Certificate:** in order to ensure a transparent and consistent approach the protocol would establish a Community Benefits Certificate for operators or developers in order to ensure a transparent and consistent approach. Non-compliance with the Protocol would lead to public revocation of an operator or developer's Certificate.
- **Arrangements for audit:** it is envisaged that arrangements for audit will be established to ensure an open and transparent understanding of the level of benefits being paid.