

Meeting:	NuLeAF Steering Group, 6 th December 2017
Agenda Item:	7
Subject:	Update on national developments in radioactive waste management
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Purpose:	This paper provides an update on recent developments in radioactive waste management and NDA operations

Introduction:

This paper updates members on recent developments in radioactive waste management and NDA operations. It covers:

- Report from Theme Overview Group (TOG) meetings;
- NAO Report published, Holliday inquiry update and PAC hearing on Magnox Contract;
- Magnox update;
- Industrial Strategy launched;
- Report on SCCORS meeting, 30th November; and
- ONR appoint new Chief Nuclear Inspector.

Recommendation:

This report is for noting.

1. Report from Theme Overview Groups (TOG) meetings

Meetings of the **Site Decommissioning and Remediation (SDR) TOG** were held in Penrith on the 8th November and 1st December and attended by NuLeAF.

A verbal update of the 1st December meeting will be provided at the Steering Group meeting.

The main focus of the 8th November meeting was to review the objectives that the NDA Strategy sets out for SDR (page 25 of Strategy III), namely **Decommissioning, Land Quality Management, Interim and End States, and Re-use of sites**. For each objective and sub-objective the level of influence of each organisation and the extent to which each of the organisations present could contribute to delivery was discussed.

There was a clear recognition in the meeting of the need to better engage with local authorities, and in particular Elected Members, planners and economic development officers, as the NDA mission progresses. Looking forward key areas of work of relevance to NuLeAF include:

- Proportionate Regulatory Controls
- Discussions around in situ disposal of low level radioactive waste
- Work with local authorities on the development and update of land use plans
- Application of the NDA Values Framework
- Discussions around the GDF siting process and the potential option of near surface disposal for some of the Higher Activity Waste (HAW) inventory
- Development of the Magnox Decommissioning Strategy and updating of Life Time Plans
- BEIS work on Strategy and Policy

It is hoped that this work will lead to a more structured and focussed work plan for the SDR TOG that draws on the expertise of all stakeholders in a more effective way.

NuLeAF's Executive Director also attended the **Critical Enablers (CE) TOG** in Carlisle on the 2nd November. The meeting was focussed on one issue – developing the **NDA's Transport Strategy**. The Strategy is at an early stage and the meeting consisted of an open discussion on transport issues with input invited from those external stakeholders in attendance, namely EA, SEPA, ONR and NuLeAF.

The vision of the new Transport Strategy is 'to utilise our transport assets and capabilities to develop and maintain a world-class radioactive materials transport and logistics infrastructure for the UK (and internationally), delivering all of the NDA group's Mission, achieving best taxpayer value for other domestic nuclear Missions and representing the UK on the world stage in nuclear materials transportation.'

The hope is to deliver added value and better integration in transport matters across the NDA, including the SLCs and the current rail and sea transport businesses (Direct Rail services and International Nuclear Services). The strategy will look at rail, road and sea transport and the issues around packaging, governance, skills and the means of engaging with regulators and stakeholders.

It is hoped that a draft of the strategy will be available in early 2018. At present there are no plans for a public consultation on the Strategy but there will be more opportunities for engagement with stakeholders.

At the meeting NuLeAF raised concerns from local authorities on a number of issues, including the need for more clarity on how decisions are taken on whether to move material and the best transport mode to use; also that NDA must better consider local plan development cycles in engaging with councils on the transport of material.

2. NAO Report published, Holliday inquiry update and PAC hearing on Magnox contract

The **National Audit Office (NAO)** has published its report in to the Magnox PBO contract¹. This follows on from a High Court ruling in July 2016 that the NDA had wrongly decided the outcome of the procurement process. Energy Solutions, one of the incumbent contractors for the Magnox sites until 2014, unsuccessfully bid for the contract, and subsequently issued legal claims against the NDA for damages. The High Court found that, had the NDA applied its evaluation criteria correctly, the winning bidder, Cavendish Fluor Partnership (CFP), would have been excluded from the competition.

In a highly critical report, the NAO concludes that:

'The NDA's fundamental failures in the Magnox contract procurement raise serious questions about its understanding of procurement regulations; its ability to manage large, complex procurements; and why the errors detected by the High Court judgement were not identified earlier. In light of these issues, the Department must consider whether its governance and oversight arrangements surrounding the NDA are sufficiently clear and effective in providing the scrutiny and assurance it requires to meet the standards expected in managing public money.'

Among the report's findings are that:

- Through the 'Magnox contract', the NDA aimed to 'do the same for less' and give the contractor a stronger incentive to deliver savings for the taxpayer. HM Treasury approved the competition and contract award on the basis that the new contract would provide savings of at least 10%.
- For the procurement, the NDA Board relied on assurance reviews and legal advice that did not detect problems later identified in the High Court judgment.
- While defending the legal claims, the NDA was progressing a complex process of contract 'consolidation' with CFP. The NDA describes this contractual process as a 'truing up' between what the contractor was told to expect and what it actually found upon taking over responsibility for the sites. During consolidation, the expected costs of

¹ <https://www.nao.org.uk/report/the-nuclear-decommissioning-authoritys-magnox-contract/>

decommissioning the Magnox sites increased from £3.8 billion in CFP's winning bid in 2014 to £6.0 billion in 2017. The NDA attributes £0.7 billion of this increase to a revised understanding of the volume of waste and asbestos on the sites, which it says could not be quantified before work under the contract began. Another £1.0 billion of the increase was expected by the NDA when it awarded the contract, but £0.5 billion was not expected.

- Before terminating the contract, the NDA forecast 13% cost savings (£904 million) compared with the previous contracts. The NDA believes that so far, CFP has reduced costs by around £255 million relative to the old contracts.
- For the consolidation process, certain formal governance arrangements were not in place until August 2015, a month before the contractual deadline to complete the process.
- Three reviews commissioned by the NDA assurance director cited significant risks with the consolidation process from December 2015. The reviews were shared with the programme's senior responsible owner and the NDA's chief financial officer, but the NDA Board was only informed of findings from the third review.

The NAO estimate that the Magnox contract cost the taxpayer upwards of £122 million. The NDA agreed to settle legal claims with Energy Solutions and Bechtel at a cost of £97.3 million. It also spent £13.8 million on legal and external advisers. Of this, £3.2 million was spent on the competition and £8.6 million was spent on legal fees in the ensuing litigation. The NDA estimates that in-house staff time has cost £10.8 million. This excludes the cost of staff time of senior central government officials who were heavily involved in decisions, particularly about the NDA's settlement and its decision to terminate the contract.

The **Holliday Inquiry**, commissioned by BEIS to look into the issues around the Magnox contract, published its interim findings in October 2017². This highlighted weaknesses in the procurement including overcomplexity of the scoring system for assessing bids and mistakes in the assessment of the cost elements. It set out a range of recommendations around competition rules, and notes a number of areas that will be more fully considered in the final report.

Finally, the **Public Accounts Committee (PAC)** held a hearing on the Magnox PBO contract on the 24th November³. Evidence was taken from Simon Bowen, Chief Executive Officer at Cavendish Nuclear; current and former NDA Chief Executives' David Peattie and John Clarke; along with Alex Chisholm,

² <https://www.gov.uk/government/publications/magnox-inquiry-interim-findings>

³ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/public-accounts-committee/inquiries/parliament-2017/nuclear-decommissioning-magnox-17-19/>

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Permanent Secretary at BEIS. The Committee will publish a report in due course, and you can view the session on Parliament TV⁴.

3. **Magnox update**

On the 29th September **the NDA served notice of termination to Cavendish Fluor Partnership (CFP)** for the management and decommissioning of the UK's 12 Magnox nuclear sites⁵. The termination notice took effect from 1st September 2017, allowing for a 24-month notice period ending on 31 August 2019. The NDA and CFP have reached agreement on the work to be performed on the sites during the contract's remaining two years, as well as the arrangements and agreed state in which the sites will be left.

In addition, Magnox announced at the NDA Stakeholder Summit (September 2017) that they were pursuing a new approach based around continuous decommissioning. In response to concerns expressed by NuLeAF members, Simon Boniface and Bill Hamilton of NDA will be attending this Steering Group meeting to present on and discuss proposals for the Magnox Decommissioning Strategy.

4. **Industrial Strategy launched**

The UK Government's **Industrial Strategy** was launched on the 27th November⁶ with a stated aim of boosting productivity and earning power of people throughout the UK. Its vision is for the UK to deliver:

- The world's most innovative economy
- Good jobs and greater earning power for all
- A major upgrade to the UK's infrastructure
- The best place to start and grow a business
- Prosperous communities across the UK

Progress against these objectives will be assessed by an independent **Industrial Strategy Council**.

Contained within the Strategy is a commitment to a nuclear sector deal that will cover both decommissioning and new build. The Strategy states that:

⁴ <http://www.parliament.uk/business/committees/committees-a-z/commons-select/public-accounts-committee/inquiries/parliament-2017/nuclear-decommissioning-magnox-17-19/>

⁵ <https://www.gov.uk/government/news/contract-termination-notice>

⁶ <https://www.gov.uk/government/topical-events/the-uks-industrial-strategy>

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'The nuclear sector is integral to increasing productivity and driving growth across the country. Nuclear is a vital part of our energy mix, providing low carbon power now and into the future.

The safe and efficient decommissioning of our nuclear legacy is an area of world leading expertise. The nuclear sector, under the leadership of Lord Hutton, is in advanced discussions with the government on a range of ambitious proposals to increase competitiveness and achieve greater value at both national and regional levels.

Industry-led proposals for a Nuclear Sector Deal focus on how, working with the government, substantial cost reductions can be achieved across the UK's new build and decommissioning programmes. There are shared interests in improving productivity and the opportunities to improve the UK's competitiveness, domestic capability and export growth. The sector's proposals cover the supply chain, nuclear R&D and skills, where the aim of the deal is to help deliver the diverse workforce needed for the future, supporting a potential 100,000 jobs from Cumbria, north Wales, Somerset, Essex and Suffolk'.

More information on the Nuclear Sector Deal will be provided in the coming weeks, and NuLeAF will update members on this.

5. Report on SCCORS meeting, 30th November

The **Scottish Council Committee on Radioactive Substances (SCCORS)** is the equivalent body to NuLeAF for local authorities north of the border. NuLeAF's Executive Director was invited to attend their meeting in Edinburgh on the 30th November. He will provide a verbal report to Steering Group on the meeting and on SCCOR's future plans.

6. ONR appoint new chief nuclear inspector

The **Office for Nuclear Regulation (ONR)** has appointed Mark Foy as its new Chief Nuclear Inspector on a 5-year term. He is an internal appointment having previously served as the Deputy Chief Nuclear Inspector⁷. Among his challenges will be to prepare the ONR for additional inspection responsibilities that may result from changes to the UK's relationship with Euratom.

⁷ <http://news.onr.org.uk/2017/10/onr-appoints-new-chief-nuclear-inspector-2/>

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