

NUCLEAR DECOMMISSIONING, RADIOACTIVE WASTE MANAGEMENT AND COMMUNITY BENEFITS



Briefing Paper 13

February 2020

1. Introduction

Community benefits, also referred to as community funds, can be defined as:

*'a payment in money or kind to a local community in recognition for hosting a development that, whilst delivering national benefits, imposes a particular environmental, financial or other burden upon the locality where it is sited.'*¹

The principle of 'community benefits' is well established in relation to the decommissioning of nuclear facilities, radioactive waste management, and a range of other developments. It is an issue of great interest to NuLeAF and our member local authorities. NuLeAF has a Strategic 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.'

This Briefing Paper is intended to provide context and background on the issues around Community Benefits as they apply to nuclear decommissioning and radioactive waste management. It supports **NuLeAF Policy Statement 7** in which we set out our belief that community benefits are a critical element of an integrated support package for communities that host nuclear legacy facilities and nuclear waste. Despite that, our view is that:

'The basis on which NDA decisions on community funds and benefits are made are not always clearly understood and appear inconsistent. This contrasts with the generous packages of benefits paid to nuclear communities in other European countries, and to communities affected by other developments, such as renewable energy, within the UK.'
NuLeAF Policy Statement 7, 2019

A clear, consistent, fair and ambitious approach to community benefits for nuclear decommissioning and waste management is required in the UK. This should recognise the impacts on communities of hosting (a) nuclear

¹ From NNLAG Framework on Community Benefits

decommissioning sites (b) long term nuclear waste stores (c) radioactive waste management and disposal infrastructure such as landfill sites and (d) radioactive waste left in-situ or on-site.

2. Context and definition of 'community funds'

The UK decommissioning and clean-up mission will give rise to very large volumes of radioactive waste. These wastes include:

- High and Intermediate level wastes, which will be stored for many decades at various locations before disposal in a planned Geological Disposal Facility (GDF) and potentially at Near Surface Disposal (NSD) sites;
- Low Level Wastes (LLW), disposed of at the national Low-Level Waste Repository (LLWR) in Cumbria, in landfill sites or by incineration and other treatment methods.

The UK Government is also proposing that, where environmentally justifiable, some LLW may be left *in-situ* or on site, meaning that some parts of current nuclear licensed sites will continue to contain radioactive materials for centuries to come.

NuLeAF recognises the need for effective management and disposal of legacy wastes and encourages member authorities to engage constructively with the industry on waste management. It is essential, however, that proposals are taken forward in ways that address local authority concerns and can inspire public confidence. The provision of community benefits and funds is an important part of ensuring that regional or national needs in radioactive waste management are met in a way that is seen at a local level as fair and reasonable.

The term Community Benefits can be used to refer to a range of approaches. These include:

- **Investment of funds in the local community** reflecting the contribution to wider national objectives that a community plays by hosting such facilities or disposals sites.
- **Wider socio-economic support for communities** through the maximising of employment opportunities to local people, investment in infrastructure and the use of procurement policies to enhance the 'spend' with businesses in the area around a site.

It is the first of these that is the focus of this paper. In the discussion below, 'community benefits' or 'community funds' refers to such investment.

3. Community Benefits and Mitigation Measures

Mitigation measures required under the planning system are an important though separate mechanism for enhancing the positive impacts of development and reducing negative consequences.

Section 106 of the **Town and Country Planning Act 1990** provides that a developer may enter into a planning obligation enforceable by the local planning authority. This can include a commitment on the part of the developer to make payments to the authority.

Section 106 agreements have become increasingly important to the provision of infrastructure. They are sometimes referred to as 'Community Impact Mitigation Funds' and can address the impact of development on communities, the environment and the economy; compensate for loss or damage created by a development; and support basic off-site infrastructure such as access roads.

Agreements achieved under Section 106 or through the Community Infrastructure Levy are not technically 'community benefits' but are *mitigation measures*. As set out in a 2019 Supreme Court decision², it is acknowledged that the provision of general benefits to the community that do not have a 'proper planning purpose' cannot be taken into account when making decisions on planning applications. This decision confirmed that contributions need to be for a planning purpose; fairly and reasonably related to the development and not so unreasonable that no reasonable planning authority could have imposed it.

That said, Section 106 has been used to require the establishment of 'Community Funds' (see Section 6) and there is thus a 'grey area' in terms of how S106 can help support investment in communities. They are thus an important part of the overall package attached to a development and NuLeAF supports the effective use of S106, separate from and in addition to community benefits.

4. Justifications for community benefits

There are a number of recognised justifications for community benefits, including:

- **Actual or Perceived Impacts** It is widely recognised in the UK and internationally that the development of radioactive waste facilities can produce significant concerns about real or perceived risks and impacts. These concerns can include impacts on public health and wellbeing, the environment, and on the local infrastructure and economy (including

² <https://www.pinsentmasons.com/out-law/news/supreme-court-community-benefits-not-planning-material-consideration>

transport, tourism, business, industry and the ability to attract investment). There are also the 'opportunity costs' that are lost by an area of land on a nuclear site not being made available for future use.

- **Inter-generational Impacts** As a result of decommissioning, many sites across the UK will store radioactive waste for decades and disposals on site can remain radioactive for hundreds of years. Decisions taken now thus affect future generations and may impact on the local economy for a long time. People in decades to come will not benefit from any employment opportunities on sites, but their community will still be faced with legacy waste management issues.
- **Optimisation of Use of National Facilities and Cost Savings** Radioactive waste is managed on a national basis. Those communities that are in receipt of waste previously destined for the LLWR, and those living around nuclear sites which will not now be returned to a 'pre-nuclear' state contribute to the achievement of the aspirations set out in the NDA's national strategy. For example:
 - Diversion of waste from the Low-Level Waste Repository (LLWR) to alternative disposal routes extends the lifespan of a significant national resource, eliminating the need for a new Repository at a cost of £Billions to the UK taxpayer.
 - It is now proposed by NDA that significant quantities of Very Low-Level Waste (VLLW) could be left on former nuclear sites rather than be removed as previously envisaged. This will save the Government hundreds of millions of pounds but will leave residual waste that will remain radioactive for hundreds of years.
- **Civic responsibility** As has been recognised by a range of other public and private sector organisations, it is important for organisations to play their part within the communities that host them, giving them a '*social licence to operate*'. The need to do so is a clear requirement of the NDA as set out in its strategy (see Section 4). This is above and beyond what might be expected as part of more general Corporate Social Responsibility.

5. The Legislative and Policy Basis for Provision of Community Funds

The delivery of socio-economic benefits to host communities is underpinned by the legislation guiding the nuclear industry and by wider government legislation, strategy and policy:

The **Energy Act 2004** requires the NDA to consider the socio-economic impacts of its activities on local communities and gives it a function of giving '*encouragement and other support to activities that*

benefit the social or economic life of communities' living near NDA sites. The Act gives the NDA the 'power to make grants or loans to persons undertaking activities that benefit the social or economic life of communities'.

The **Public Services (Social Value) Act 2012** places a duty on all those who commission public services to secure wider economic, social and environmental benefits.

In Wales, the **Well-being of Future Generations (Wales) Act 2015**³ requires public bodies to consider the long-term impact of their decisions, to work with communities, and to address issues such as poverty and climate change.

The **Industrial Strategy**⁴ and the **Nuclear Sector Deal**⁵ set clear objectives for securing wider economic benefits through decommissioning activities.

The **NDA's Strategy**⁶ and **Business Plan 2019-22**⁷ outlines the organisation's mission, namely to '*Deliver safe, sustainable and publicly acceptable solutions to the challenge of nuclear clean up and waste management*' supported by a socio-economic mission '*to support the maintenance of sustainable communities up to and after site closure*'.

The NDA has committed to preparing a **Local economic and social impact Strategy** in 2020, having been challenged by the UK Parliament's **Public Accounts Committee** which concluded in 2018 that '*We are not convinced that the NDA is achieving the wider economic benefits that would help justify the vast amounts of public investment*' at Sellafield and across the NDA estate.⁸

Some local authorities have developed a Community Benefits Strategy, setting out their commitment to securing voluntary Community Benefit Contributions (CBCs) for all major developments.

Anglesey/Ynys Mon County Council Strategy⁹ states that CBCs will be used to '*maximise positive benefits and impacts from all major projects... to contribute towards socio-economic transformation, together with an improvement in the quality of life and sustainability of its communities.*

³ <https://futuregenerations.wales/about-us/future-generations-act/>

⁴ <https://www.gov.uk/government/topical-events/the-uks-industrial-strategy>

⁵ <https://www.gov.uk/government/publications/nuclear-sector-deal/nuclear-sector-deal>

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609601/Extract_from_NDA_Socio-Economic_Strategy_III.pdf

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790526/NDABusinessPlan2019-2022.pdf

⁸ <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/1375/137505.htm>

⁹ <https://www.anglesey.gov.uk/documents/Docs-en/Business/Energy-Island/Community-Benefit-Contributions-Strategy.pdf>

In their **Minerals and Waste Local Plan 2015-30**¹⁰, Cumbria County Council set out their support for community benefits for all minerals and waste developments, including those in the nuclear sector. South Gloucestershire Council includes requirements for community benefits in relation to major infrastructure projects and nuclear new build.

6. Examples of, and recent developments in, community funds

In other countries there are clear agreements to provide funds not just for waste disposal but also for the storage of spent fuel. For example, in Spain around £10 million per annum is provided for Spent Fuel storage¹¹.

Though there is no protocol or standard approach to community funds in the nuclear industry, such benefits are already paid in relation to a number of elements of the overall NDA Mission:

The siting process for a **Geological Disposal Facility (GDF)** was launched in 2018/19. Government policy is that any community entering the process will receive **Community Investment Funding** of up to £1million per annum, rising to £2.5million per year during engagement in the siting process. The final host community for the facility will receive much more significant support with *'major investments in local transport facilities and other infrastructure and... secondary benefits within industry, local education resources and local service industries.'*¹²

The **Copeland Community Fund**¹³ is an agreement between the Low-Level Waste Repository (LLWR), Cumbria County Council and Copeland Borough Council. LLWR provides £1.5 million per year for the fund, in addition to an initial endowment of £10million. The fund is managed to provide a benefit to the residents of Copeland even after the Borough has stopped receiving waste. It offers support for a wide range of activities relating to work and skills, local communities, health and wellbeing, infrastructure and the environment and young people.

Through the **Magnox-Socio economic Scheme**¹⁴, small pots of money are available: up to £1,000 for small projects near sites and up to £10,000 for capital expenditure towards sustainable projects. To date funding, and wider Magnox Socio-economic spend, has tended to be focussed on a few priority sites.

¹⁰ <https://www.cumbria.gov.uk/eLibrary/Content/Internet/538/755/1929/4298491253.pdf>

¹¹ Community Benefits and Geological Disposal: An International Review, P Richardson, Galston Sciences, 2010

¹² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766643/Implementing_Geological_Disposal_-_Working_with_Communities.pdf

¹³ <https://copelandcommunityfund.co.uk/>

¹⁴ [https://magnoxsocioeconomic.com/assets/news/Socio-economic%20plan%202016-19%20English%20\(2019%20rev\).pdf](https://magnoxsocioeconomic.com/assets/news/Socio-economic%20plan%202016-19%20English%20(2019%20rev).pdf)

Community funds have also been established using Section 106 agreements. Outside the NDA estate, EDF Energy has established a **community fund in relation to the Dry Fuel Store** on the Sizewell B site. There has also been agreement in relation to disposal of VLLW/LALLW at the **East Northamptonshire Resource Management Facility (ENRMF)** landfill site in Northamptonshire. Administered by Northamptonshire County Council, grants are offered to community groups living within 10 miles of the site.

A number of comparable industries have now entered into agreements or protocols on community benefits.

In relation to **new nuclear development**, the Government has recognised the role that communities play in hosting such large infrastructure projects and has committed to a package of benefits proportionate to the amount of energy the power station will generate, up to a value of £1000 per MegaWatt (MW) per annum for up to 40 years¹⁵. In the case of Hinkley Point C, this could amount to around £128 million.

Renewable UK, the trade body for the renewable energy industry, has developed a **Community Benefits Protocol**¹⁶ which sets out a commitment to deliver tangible benefits to communities living by onshore wind farms of 5MW or above. Following the issuing of Government guidance on local community engagement and benefit funds, the level of the fund was increased to £5,000 per MW with local people deciding how funding is spent. The total value of funds could be £150 million over coming decades.

In 2013, Scottish Renewables, the renewable energy industry body for Scotland, launched an **Onshore Wind Community Benefit Protocol**¹⁷. It outlines a commitment to explore the potential for greater community ownership and a pledge to sign up to the online **Register of Community benefits from renewables**. Like in England, national guidance in Scotland is that all wind developments should provide community benefits packages equivalent to £5,000 per MW, index linked for the duration of the scheme.

In recent years, developers have also pledged to provide **community funds for offshore windfarms**, even when they are many kilometres from land and have little or no visual impact on communities¹⁸.

The **UK Onshore Oil and Gas industry**, representing the shale gas sector, announced an industry wide community benefits scheme in June 2013¹⁹. At the exploration phase each local community will receive £100,000.

¹⁵ <https://www.gov.uk/government/speeches/community-benefits-for-sites-that-host-new-nuclear-power-stations-michael-fallon>

¹⁶ https://cdn.ymaws.com/www.renewableuk.com/resource/resmgr/Docs/community_benefits_report.pdf

¹⁷ <https://www.scottishrenewables.com/publications/scottish-renewables-onshore-wind-community-benefit/>

¹⁸ <http://dudgeonoffshorewind.co.uk/community/community-fund>

¹⁹ <http://www.ukoog.org.uk/community/benefits>

An NDA review of such arrangements²⁰ identified other examples including:

- Project funding associated with specific developments (e.g. Birmingham airport)
- Socio-economic benefits through, for example, the Landfill Tax and Aggregates Levy Sustainability Fund
- Coalfield Regeneration Trust
- Blight compensation from the Highways Agency
- Funding for regeneration and infrastructure associated with the 2012 Olympics
- The Sullom Voe oil related Agreement.

7. Conclusions

Many billions of pounds are to be spent over coming decades in addressing the waste and legacy impacts of the UK's nuclear industry. It is essential that the socio-economic and environmental needs of the communities that support decommissioning and waste management are addressed, recognising the important contribution that host communities make.

There is a clear requirement on the NDA, as a public body and under the Energy Act 2004, to deliver positive socio-economic outcomes, and the UK Parliament has challenged the Authority to do better than it has.

The principle of community benefit payments for decommissioning and legacy waste management has been established in relation to the GDF and through the Copeland Community Fund. However, the current approach is inconsistent. The NDA's plans for optimising waste management, through the use of in-situ disposal, diversion of material from the LLWR, and consolidation of waste stores means that a greater number of communities will be impacted by legacy waste management. The contribution of these communities to the national decommissioning and waste management mission should be recognised. Community Funds must also be part of any development of a Near Surface Disposal facilities or site.

Drawing on positive examples from the nuclear industry and elsewhere, NuLeAF believes that NDA should adopt a nationwide community benefits framework. This framework should ensure a consistency of approach while also recognising the particular characteristics and impact of each case and the need for a degree of flexibility in local negotiations.

Our view is that a community benefits framework could greatly assist NDA in developing local responses. NuLeAF will continue to press the case for a framework in our engagement with Government, the NDA and nuclear

²⁰https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=2ahUKewjNutWs_MblAhVMQkEAHXFgBX0QFjABeqQICBAC&url=https%3A%2F%2Ftools.nda.gov.uk%2Fpublication%2Fmanaging-radioactive-waste-safely-literature-review-of-uk-experience-of-partnerships-2007%2F%3Fdownload&usq=AOvVaw2_MRNRdtsMiKdE5mXv2oJn

industry; and also support our members in their local engagement around community benefits.

Annex A: Proposed NuLeAF Community Benefits Framework

Many billions of pounds are to be spent over the coming decades in addressing the waste and legacy impacts of the UK's nuclear industry. It is essential that the socio-economic and environmental needs of the communities that support decommissioning and waste management and storage facilities are adequately addressed, recognising the important contribution that host communities make. While NuLeAF recognises the diversity between different NDA sites, our view is that a community benefits framework would greatly assist NDA in developing local responses.

Community benefits or funds are an important way of recognising the contribution that host communities for nuclear waste decommissioning, storage and disposal play.

NuLeAF believes that there is a need for a national Framework to be established which sets out an agreed range of parameters for Community Benefit Contribution (CBC) schemes in relation to the management and disposal of nuclear legacy wastes. This will help to ensure that the implementation of any local CBC scheme is undertaken by following an agreed set of national voluntary principles, supported by industry, UK Government and the Welsh Government.

A Framework would:

- clarify the legislative bases for provision of community funds;
- clarify the types of radioactive waste management facilities covered by the framework;
- acknowledge the justifications for providing community funds;
- provide guidance on what constitutes a proportionate approach;
- provide guidance on the types of initiatives that can be funded;
- clarify the process for initiating discussions and reaching agreement;
- provide guidance on how a fund should be administered/managed; and
- demonstrate equity and fairness in fund allocation between communities.

A growing number of comparable industries have recognised the benefits of adopting a clear nationwide approach to community benefits or funds. These include:

- the avoidance of 'negotiating from scratch' each time a proposal is made;
- the avoidance of inconsistencies between agreements in different areas;
- the avoidance of delays;
- greater transparency; and
- increased goodwill on the part of local stakeholders and a sense among communities that they are being treated in a fair way that is justified and proportionate.

Definition

Community Benefit is regarded as: *"a payment in money or kind to a local community in recognition for hosting a development that, whilst delivering*

national benefits, imposes a particular environmental, financial or other burden upon the locality where it is sited.”

A proposed national framework

Drawing on the positive examples from the nuclear industry and elsewhere, NuLeAF believes that NDA should adopt a nationwide Framework for its operations and the communities around nuclear waste and legacy facilities.

NuLeAF welcomes the commitment in the GDF siting process and the Copeland Community Fund. We believe communities around other sites, such as landfills accepting radioactive wastes, and sites that will act as long term stores of such wastes, or where waste is disposed of in situ, should also be supported.

As a result of the variety of economic, environmental and social contexts for the management of the UK’s nuclear legacy, the Community Benefit Contribution principles should provide a consistent framework, while providing flexibility to reflect each particular local circumstance and the level of development in a given area.

Any payment via a CBC scheme is a matter to be discussed and agreed with the host authorities and communities. It is likely that the scale of payments, the duration of payment and the phases for which any payment is required and agreed will vary with each development.

Any framework should be:

- Clear about the nature of the funds involved and their legal basis, which will be additional to those from ‘planning gain’ and general Corporate Social Responsibility. One way of defining community benefits is as support for ‘off-setting the burden of hosting’²¹
- Provide guidance as to how ‘community’ should be defined in terms of geographic area
- Provide guidance as to how such funds should be managed and what activities (in general terms) should be funded. It is important that the local community should be at the heart of management arrangements

The Principles

Principle 1: *Purpose* - Community Benefit recognises the role communities play in hosting such developments morally, politically and practically on behalf of the nation.

Principle 2: *Consistency* - Community Benefit is a common and well-established practice. There are increasing commitments to community benefits in comparable industries in the UK in relation to the renewables and the oil and gas sectors. It is therefore equitable and consistent that Community Benefit schemes should apply in relation to the management of the UK’s nuclear legacy.

²¹ As used in the South Gloucestershire Core Strategy

Principle 3: *Scale* – The size of a CBC scheme should reflect the overall scale, nature and local/regional/national significance of the development and the particular local circumstances of the host communities. The *cumulative* impact of nuclear developments and waste management in an area should also be recognised. In some areas of the UK, local authorities and communities are likely to see the impacts of a number of proposed developments, undertaken over an extended period of time.

Principle 4: *Timescale* – A CBC scheme should provide short and long-term benefits. Payments in money or kind should also reflect the longevity of a development.

Principle 5: *Separation* - Community Benefit is entirely separate from the mitigation of a development's direct and indirect impacts. It is voluntary, and may be in addition to, and 'above and beyond' any Section 106 agreement, Community Infrastructure Levy (CIL) payment or Community Impact Mitigation (CIM) fund agreed between the developer and host communities.

Principle 6: *Management and distribution* – Flexibility around the management and timing of payments in money or kind is required to ensure that appropriate mechanisms are put in place for each community.

Principle 7: *Parameters* – A CBC scheme would be influenced by existing and emerging legislation and best practice guidance regarding Community Benefit and/or any local taxation benefits²².

Principle 8: *Local and stakeholder accountability* – Any CBC should be based on sound governance that ensures accountability to the local population, for example through the establishment of a trust involving the nuclear operator/ industry, NDA, Local Authority, and representatives of the local community.

Management of the principles

In order to secure delivery, agreement will be sought with industry in relation to the management and monitoring of CBC schemes.

If a number of nuclear legacy management developments occur in one area then each proposal / negotiation should be considered on its own merits with the potential for more than one community benefits package to be agreed in areas affected by a number of significant developments.

It will also be important to ensure there is no potential for duplication with other schemes. For example, NNLAG has developed a framework for CBC's in relation to new nuclear build, which is likely to occur in close proximity to the decommissioning and management of legacy wastes. The merits of a community benefits package for legacy wastes should be considered separately from and in addition to any agreement around new build.

²² Note: In Wales the situation may be interpreted differently. Anglesey is currently working with Welsh Government (WG) on Enterprise Zone status.

It is also suggested that the CBC principles are reviewed with all relevant parties on a regular basis and in the light of experience. Given the inherent link between the issue of local business rate retention and community benefit, it is suggested that the review period should be triggered by either a notice of a change in Government Policy or every 10 years - whichever is sooner.