

2ND STAGE REVIEW

CONSULTATION PROCEDURES AND PROCESSES OF THE SIZEWELL A FUEL ELEMENT DEBRIS CONSULTATION

CLIENT: SHUT DOWN SIZEWELL CAMPAIGN - REF N^O R3093-A2

SUMMARY

To be proper, consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken.

This 2nd part of the Review into the adequacy of the pre-consultation documents examines the procedures and processes adopted for the Sizewell A FED consultation exercise to date.

It is determined that there are international convention commitments requiring that members of public be informed and consulted on issues involving the environment. At a national level, the UK government has published a *Code of Practice on Consultation* and although there is nothing in statute that requires a formal consultation process, the government has expressed a firm expectation that the appropriate consultation will take place and that, for this, the code of practice should be regarded as binding on UK departments and their agencies, such as the Nuclear Decommissioning Authority (NDA).

In this instance (the Sizewell A FED consultation) the substantive document issued to groups and individuals who have been invited to participate, specifically refers to '*this consultation*' and the website dedicated to the FED issue identifies the '*Sizewell SSG as the primary forum for engagement in this consultation*'. From these statements the expectation is for, and some would opine that the Law requires the NDA, via its contractor Magnox South, to honour the promise to undertake a consultation exercise and that this should be done properly in accord with the government code of practice.

However, the NDA stance is that it is for its contractor Magnox South to plan and conduct the consultation and that, contrary to Magnox South's statement that the consultation is to determine the final BPEO choice, the NDA considers it to be just one element in a hierarchy of inputs to the final decision-making stage. Moreover, the NDA goes further, stating that the nature and level of engagement with the public and stakeholders is primarily determined by advice in radioactive waste policy documents and, particularly, from the Environment Agency's guidance on BPEO assessment thereby, or so it seems, entirely ignoring the government code of practice and running in peril of the Sullivan J judgement finding the recent Energy Review consultation illegal. More to the point, the policy and guidance documents that the NDA relies upon are confined to referring to the role of any consultation and not, as considered here, how the consultation process is to be fairly and practicably implemented in accord with the government code of practice.

This Review concludes that it is understandable that any one consultation exercise will be flawed in one, or even in a number of respects, especially because of the diverse range of issues that may have to be covered a unified code of practice cannot be expected to achieve an entirely satisfactory standard of consultation and, indeed, the decision-making body must have a broad discretion as to how the consultation should be carried out. However, the Sizewell A FED has been, to date, unsatisfactory in a number of important respects, notably:

- the very mean period for the consultees to assimilate the information provided being well short of the 12 week period for written submissions and responses stipulated by the government code;

- the fact that Magnox South entirely managed the collection and dissemination of the pre-consultation meeting information without inviting other specialist interest groups (planning, environmental health and the SDSC itself) to contribute to the information pool at a much earlier stage;
- that all of the stakeholders and consultees were not involved at the crucial stage when the *options* were short listed;
- there was and continues to be confusion between Magnox South and the NDA over the purpose and eventual contribution of the consultation exercise;
- there is some ambiguity about if and to what extent the environmental impact of the FED management options were considered in the consultation on the assessment of decommissioning (EIAD) by the HSE in 2005 or thereabouts – if FED was not considered at this stage, which seems to be the case, then there is greater justification for the current FED consultation to extend beyond the narrow BPEO remit implied only to be necessary by the NDA.
- there is little information on how the consultation inputs and responses will be analysed, its contribution to the BPEO decision taken, how the post-consultation feedback route is too established and, indeed, if and when the results will be published.

As it stands to date, the Sizewell A FED consultation might be seen by some to be a contrived and manipulative exercise with intent of promoting and securing the FED option preferred by the present operator. Overall, it genuinely does not seem to be this but, that said, the present consultation to date has fallen short of a number of the criteria of the government *Code of Practice on Consultation* and, for such a technically complex subject that includes an option for not insignificant radioactive discharges to the marine environment, the scheduled single day meeting for consultees to consider and intelligently contribute to the final FED *option* decision-making is, surely, palpably insufficient.

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CONSULTATION PROCEDURES AND PROCESSES FOR THE SIZEWELL A FED CONSULTATION

INTRODUCTION

Perhaps surprisingly and although there is a great fashion for public and stakeholder consultation, there are no detailed regulations in the UK statute that either apply generally or more specifically to the nuclear industry. There are, however, a number of undertakings, codes of practice and guidance notes that might be assumed to provide a framework of the processes and procedures to be adopted for consultations involving members of the public, interested groups and other stakeholders.

For international undertakings and specifically for the development of policy in environmental matters, the United Kingdom is signatory to the *Aarhus Convention*¹ requiring for the public, amongst other things, improved access to information and an entitlement to participate in decision-making via consultation. At a national level, specifically for the preparatory stage towards future energy provision decisions, government introduced the *Energy White Paper*² calling for the ‘*fullest public consultation*’ for which a *Guidance Note* or *Code of Practice*³ sets out the procedures and processes that should be involved. Government agencies, such as the Nuclear Decommissioning Authority (NDA), themselves have issued application-specific derivatives⁴ of the government code of practice, applying these ‘*local rules*’ to specific processes and nuclear plants.

TO CONSULT OR NOT TO CONSULT

The Aarhus convention notes ‘*that citizens must have access to information, be entitled to participate in decision-making and have access to justice in environmental matters*’ although it does not specify how this prerequisite is to be achieved in any detail. That said, Article 8(c) refers to this participation in terms that ‘. . . (c) *The public should be given the opportunity to comment, directly or through representative consultative bodies*’.

The government’s code of practice and the criteria within it apply to all UK public consultations by government departments and agencies which, it is assumed, includes the NDA. In a recent judgment,⁵ Justice Sullivan considered the undertaking given in the *Energy White Paper* that ‘*before any decision to proceed with . . . , there would need to be the fullest public consultation*’, noting that its sufficiency to be that of just not requiring a formal consultation with members of the public and other stakeholders but, also, that the consultation process itself should adhere to the government’s own code of practice^{3,6} published in the year following the white paper.

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- 1 *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters*, done at Aarhus, Denmark June 1998
 - 2 *Our Energy Future - Creating a Low Carbon Economy*, February 2003
 - 3 *Code of Practice on Consultation*, Cabinet Office, January 2004 - this code should be used in conjunction with the *Code of Good Practice in Consultations and Policy Appraisal*.
 - 4 For example see the NDA note of 10 November 2005, *Guidance for site stakeholder groups: a route map to determine site end states and end points*, authored by Richard Griffin – available at <http://www.nda.gov.uk/documents/loader.cfm?url=/commonspot/security/getfile.cfm&pageid=5257>.
 - 5 *The Queen on the Application of Greenpeace Limited -v- Secretary of State for Trade and Industry*, In the High Court of Justice, Queen’s Bench Division Administrative Court, [2007] EWHC 311 (Admin), Co/8197/2006
 - 6 The *Code of Practice on Consultation* was first published in November 2000 and outlined minimum standards for central Government departments and any of their agencies when they are carrying out consultation exercises. A revised Code was published in January 2004 and came into force on 1 April 2004; the accompanying guidance on the

On its part, on previous occasions and for other applications, the NDA has adopted the framework of the government's code of practice on consultation. In its 5-Step advice to the Site Stakeholder Groups (SSGs) serving at its Magnox nuclear power station and other nuclear sites, the NDA sets out the need for consultation as Step 3, specifically:

“ . . . Step 3 – Consultation

Once a set of options has been finalised, it will need to be shared with the full SSG membership and the wider community around the site concerned. This could be done via a formal consultation or public meetings or both. The ultimate aim is to ensure that the local community understand the possible options that are available and have the chance to comment and discuss them.

... “

In summary: Although there is nothing in statute that requires a formal consultation process, clearly the government has a firm expectation that the appropriate consultation will take place. It does so via application of its *Code of Practice on Consultation* that, although not having legal force and which cannot prevail over statutory or mandatory external requirements,⁷ government has directed that its code of practice should otherwise generally be regarded as binding on UK departments and their agencies unless, that is, Ministers conclude that exceptional circumstances require a departure from it.

Put another way, whether or not consultation of interested parties and the public is a legal requirement, if it is embarked upon it follows that it must be carried out properly, where 'properly' is defined by adherence to the government's code of practice.

CONSULTATION APPLIED TO THE SIZEWELL FED OPTIMISATION

In this instance (the Sizewell A FED) the main *issues* paper⁸ specifically refers to '*this consultation*' and the website⁹ dedicated to the FED issue identifies the '*Sizewell SSG as the primary forum for engagement in this consultation*' [emphasis added]. From these statements the expectation is for, and some would opine that the Law requires the NDA, via its contractor Magnox South,¹⁰ to honour the promise to undertake a consultation exercise. So, it follows, that the NDA being a government agency, has to ensure that a consultation exercise compliant with the government's code of practice is undertaken.

However, responding to a request for further information (see APPENDIX I) the NDA stated that it is not directly involved in the Sizewell FED consultation and although it acknowledges the requirement and that '*the FED consultation work is being performed by Magnox South under contract to the NDA . . . requiring them to use best practice . . . and to follow government advice and legislation*'. The NDA has also stated that '*there is no formal predefined consultation process for BPEO – it only requires a consultative element as input to the decision making*'. Later it will be shown that this latter reference to BPEO is somewhat confusing and not an issue of semantics but rather a division of substance between the NDA and its contractor Magnox South.

Code of Practice was also re-issued. The current Code is now firmly embedded in the practices of Government departments.

7 eg under European Community law.

8 *Assessment of Short-Listed Options for the Management of Fuel Element Debris at Sizewell A Site, Magnox South* for which a separate title page is provided in the document bundle – it is not at all clear why this document carries a separate title page which is undated.

9 <http://www.sizewellconsultations.com>

10 *Properly Magnox South is EnergySolutions which is licensed to operate the Sizewell A and a number of other Magnox sites.*

This almost resolute stance of the NDA seems to be at odds with government policy and, specifically, its requirements in the code of practice on for consultation, to reiterate:

“ . . . Though the code does not have legal force, and cannot prevail over statutory or mandatory external requirements (eg under European Community law), it should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure from it. . . . ”

If this government directive stands then it follows in the absence of FED-specific instructions from the NDA, that the Sizewell A FED consultation should adhere to the government code of practice. Where the issue (here FED BPEO) is very specialised and where there is a limited number of consultees/stakeholders involved there is a discretion not to conduct a formal *written* consultation and, linked to this, there could arise a possible relaxation of the 12 week consultation period. However, although the consultees numbers are relatively few, since some amongst these (the Shut Down Sizewell Campaign (SDSC), Women’s Institute, etc) have not been directly involved in the FED policy development process then government guidance indicates that the consultation should strictly follow the government code of practice³ by including the 12 week written consultation period.

An interesting aspect that possibly bears on the scope and detail of the FED consultation is that the environmental impact assessment of the decommissioning programme (EIAD)¹¹ for the Sizewell A site has already been granted approval by the Health and Safety Executive (HSE). This approval, of May 2006, takes account of radioactive discharges during the overall decommissioning period (tens of years) but it has not been possible to determine if the *Environmental Statement*¹² prepared by the then Magnox Electric for the approval included account of future discharges from the FED options now under consideration. Similarly, the *Environmental Management Plan* required as part of the HSE approval is also not readily accessible but this will, it is assumed, be subject to modification in account of the final FED option chosen.

The point here is whether the consultation undertaken by the HSE in or following September 2005 to determine the EIAD approval took detailed account of the impending FED management. If it did not, which seems to be the case, then there is greater justification for the current FED consultation to extend beyond the narrow BPEO remit implied only to be necessary by the NDA (APPENDIX I).

MEETING THE CRITERIA AND STAGES OF THE CONSULTATION PROCESS

To be proper, consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken.

11 *The Decision on the Application to carry out a Decommissioning Project at Sizewell A Power Station under the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999*. HSE May 2006 – see also *Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2006*, SI 2006 No 657 HMSO 2006

12 This is because this *Environmental Statement* and *Environmental Management Plan* do not seem to be readily available on the worldwide internet, although such may be accessible locally in public libraries near to Sizewell.

Adherence to Government Code of Practice on Consultation

In its present form and as conducted to date, the Sizewell FED consultation exercise does not comply with the government code of practice, particularly the first two of the six criteria. The most significant departures of the Sizewell FED consultation to date have been i) failure to provide a sufficient period for consultees to prepare a written response; ii) failure to involve all of the consultees at an earlier stage when the full range of FED options were identified and filtered down to the remaining 4 options; iii) confusion and lack of clarity over the purpose of the consultation, particularly relating the stage of decision-making for BPEO; together with some broader issue of iv) non-disclosure of information material to the consultation.

The first criterion of the government code of practice requires (only pertinent features are reproduced here):

“ . . . 1 Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.

*1.1 Consultation is a continuous process that needs to be **started early** in the policy development process.*

1.2 It is important to identify proactively relevant interested parties and those whom the policy will be likely to affect. These groups should be contacted and engaged in discussion as early as possible in the policy development process.

1.3 Informal consultation with these stakeholders should be conducted prior to the written consultation period. . . .

*1.4 The formal consultation period should always include a written consultation exercise. **This written consultation period should be a minimum of 12 weeks.** . .*

1.5 Although there will sometimes be circumstances that require a consultation period of less than 12 weeks, this should be the exception and should be avoided wherever possible. . .

1.6 Where a consultation takes place over a holiday period or lasts less than 12 weeks, extra effort should be made to ensure that the consultation is still effective, by supplementing the written exercise with other methods of consultation.

1.7 Where a consultation period is less than 12 weeks this must be highlighted in the consultation document . . .

. . .”

The original period of time permitted for consultees to respond to the documentation falls far short of the minimum of 12 weeks specified in the code (*Cl 1.4*). The actual deadline set by Magnox South for the written response was about 2 weeks for the first *issues* paper and just one or two days to respond to the second *issues* paper of 36 pages. Although, mainly as a result of the first part of this Review, Magnox South deferred the consultation meeting by a further three weeks, this extension of time also fails to meet the government’s stipulated 12 week consultation period, especially now that Magnox South has issued amendments and additions to the second *issues* paper.

Consultees such as the SDSC were not invited to participate in earlier discussions (*Cl 1.1 & 1.2*), particularly those where the 20 or so *options* for the management of FED were reduced to just 4 *options* subsequently identified in the second *issues* paper. Moreover, it seems that the full Sizewell SSG (here assumed to be a composite of more informed stakeholders) first

received notification of the consultation on 7 September 2007, although the consultation process was introduced at a SSG sub-group meeting of 18 July 2007. Also, there is no record that either the sub- or main SSG groups had any participation in reviewing the 20 or so options or any other details of the FED scheme before the consultation was formally started on or about 7 September, 2007.

In other words, both the SSG and the wider public bodies and organisations (SDSC etc) have not had sufficient opportunity to examine the fundamental issues involved in the full range of FED options since these were determined before their invited involvement. Once involved, at the earliest from 7 September for SSG members but about a week later for the SDSC, there has been insufficient time to assimilate the information and intelligently respond.

The government's second criterion requires that:

“ . . . 2 ***Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.***

2.1 *Ask focused questions, and be clear about the areas of policy on which you are seeking views. Responses that do not refer to the specific questions asked should still be accepted. Encourage respondents to provide evidence, where appropriate, to support their responses.*

. . .

2.3 *As far as possible, consultation should be completely open, with no options ruled out. . . . The risks and consequences of doing nothing should be outlined.*

2.4 *If there are particular areas where respondents' input would be especially valuable, make this clear as well. . . .”*

The purpose of the Magnox South consultation is set out in the second *issues* paper, being quite clear in that:¹³

“ . . . *this document is to describe the options, attributes and the process that will be used at the optioneering review meeting to be held on the 27th of September, to **determine** the best management option available for Sizewell A's Fuel Element Debris. . . .”*

[emphasis added]

from which it is manifest that this meeting (now deferred until 22/25 October) involving the SSG and other consultees would be at which the final FED option was to be **determined**. This is quite contrary the NDA's understanding that whereas the BPEO process

“ . . . *only requires a consultative element as **input** to the decision making . . . the output of the consultation process will be used to inform their (Magnox South) decision”*

[emphasis added]

which is broadly consistent the relevant guidance note for BPEO assessment¹⁴ that consultation

13 *Assessment of Short-Listed Options for the Management of Fuel Element Debris at Sizewell A Site, Magnox South* for which a separate title page is provided in the document bundle, undated.

“... is not a substitute for effective stakeholder input. . . and may involve a corresponding hierarchy of BPEO studies and stakeholder consultation activities . . .”

The point here is that Magnox South’s description of the ‘consultation’ is that it is a process that will arrive at a final decision, viz ‘.it will identify a single main contender [ie ‘option], with a possible second option . . .’, whereas the NDA consider ‘consultation’ to be just an interim part of a hierarchal process towards a final decision. Whatever, both viewpoints acknowledge and involve consultation that should, as previously discussed, be undertaken in accord with the government code of practice.

There are a number of ways in which the Sizewell FED fails the second criterion of the government code of practice: The confusion of purpose (with regard to the BPEO decision), particularly with the NDA apparently disagreeing with the stated intention of Magnox South (CI 2.1); the greater number of *options* have been ruled out before involvement of either the SSG or wider consultation groups (CI 2.3); and there seems to have been no encouragement given to participating respondents’ inputs (CI 2.4), for example from the local authority planning and environmental health departments, and from the Environment Agency and Nuclear Regulators (both NII and OCNS).

On the broader issue of a proper consultation, the previous part of this overall review¹⁵ gave example of a number of omissions of information and data that had not been presented to consultees in the pre-meeting documentation phase of the consultation. By referring to a number of undisclosed documents the previous review identified that, although Magnox South had the knowledge, it had chosen not to disclose this information in advance to the consultees. The problem with this is that although the NDA, and its agent/contractor, are not obliged to publicise every submission and topic of information received, or that it has knowledge of, there remains the overriding responsibility to inform the consultees enough so that they might make an intelligent contribution to the consultation.

Put another way, there is an overriding and natural justice requirement that the consultation must be fair. It is whether this fairness requires the existence (not necessarily in any great detail) of all information to be made known to the consultees so that they might consider and take the opportunity to scrutinise it before a decision is taken. The findings of the previous review concluded that a number of areas of undisclosed information (eg Magnox South preordained preferences, aspects of nuclear risk, etc) should have been made available to the consultees.

In conclusion: It is understandable that any one consultation exercise will be is flawed in one, or even in a number of respects. Because of the diverse range of issues that may have to be covered a unified code of practice cannot be expected to achieve an entirely satisfactory standard of consultation and, indeed, the decision-making body must have a broad discretion as to how the consultation should be carried out.

However, the Sizewell A FED has been, to date, unsatisfactory in a number of important respects: notably, the very mean period for the consultees to assimilate the information provided; the fact that Magnox South entirely managed the collection and dissemination of the pre-consultation meeting information without inviting other specialist interest groups

14 *Guidance for the Environment Agencies’ Assessment of BPEO Studies at Nuclear Licensed Sites*, Environment Agency, 2004

15 *Adequacy of the Sizewell A Fuel Element Debris Consultation Documentation and Information*, Large & Associates R3093-A1, October 2007

(planning, environmental health and the SDSC itself) to contribute to the information pool at an earlier stage; that all of the stakeholders and consultees were not involved at the crucial stage when the *options* were short listed; and that there was and continues to be confusion between Magnox South and the NDA over the purpose and eventual contribution of the consultation exercise.

APPENDIX I

CORRESPONDENCE WITH THE NUCLEAR DECOMMISSIONING AUTHORITY

E-MAIL OF 12 OCTOBER 2007-10-16 TO RICHARD GRIFFIN, NDA

Large & Associates has been instructed by the Shut Down Sizewell Campaign to evaluate the adequacy of the pre-consultation meeting documentation provided to consultees prior to the consultation meeting on the Fuel Element Debris BPEO consultation that is presently underway.

I have completed the first part of this instruction (see <http://www.largeassociates.com/3093%20Saxmundham/R3093-A1.pdf>) and I now intend to proceed with a short assessment of the status of the consultation process itself, the processes involved, and how the outcome is to be taken into account by the NDA.

For this it would be useful if you could, first, confirm that the FED consultation has been undertaken at the behest of the NDA and, if it has, then

- i) if there is an authoritative NDA protocol on how the consultation process is to proceed - ie is there the equivalent of the Cabinet Office Guidance on Consultation required of its contractor (Magnox South) by the NDA, or perhaps there is something along the lines of the 5-Step process authored by yourself of 10 November 2005 - if so, please provide a copy of the protocol, or whatever, as this applies to the Sizewell A FED consultation;
- ii) what are the processes and safeguards involved if the outcome of the consultation is to be taken into account in the ultimate decision to be taken by the NDA on the future management option for the FED arisings - please provide a copy of this; and, generally,
- iii) if the processes etc., (so far as these relate to environmental matters) involved comply with the UK's undertakings of the so-called Aarhus convention of 1998.

I assume that you will wish to proceed with this request under the provisions of the Freedom of Information Act and, if so, please take note that the consultation meeting is set for 22/25 October so I ask, therefore, that you comply by providing the information requested 'promptly' as required by the Act.

NDA RESPONSE OF 16 OCTOBER 2007

I can confirm that the FED consultation work is being performed by Magnox South under contract to the NDA, as part of the Lifetime Plan delivery for Sizewell A. The NDA does its own stakeholder engagement through groups such as the National Stakeholder Group and Site Stakeholder Groups, but expect our contractors to also engage with local communities.

- i) if there is an authoritative NDA protocol on how the consultation process is to proceed - i.e. is there the equivalent of the Cabinet Office Guidance on Consultation required of its contractor (Magnox South) by the NDA, or perhaps there is something along the lines of the 5-Step process authored by yourself of 10 November 2005 - if so, please provide a copy of the protocol, or whatever, as this applies to the Sizewell A FED consultation;

There is no NDA protocol for contractors to follow with regards to engagement, apart from requiring them to use best practice from both the nuclear and non-nuclear industrial sectors and to follow Government advice and legislation. Government legislation comes in the form of advice in its ILW and LLW Policy documents and also from guidance documents from the regulators, such as the EA and SEPA '[Guidance for the Environment Agencies' Assessment of BPEO Studies at Nuclear Licensed Sites](#)'.

There is no formal predefined consultation process for BPEO - it only requires a consultative element as input to the decision making. The extent and scope of consultation is defined by the complexity of the issues or the waste management options. For Sizewell A's FED Consultation process, the extent was agreed between the Sizewell Site Stakeholder Group (SSG), an Environmental Consultant contracted by the site, and the site's Waste Management team. This agreement with the SSG, was based on previous consultation processes such as the recent Site End State Consultation. This defined the consultation process, the number of different stakeholders and stakeholder groups and the catchment area to be considered. These stakeholders and individuals from these groups were contacted and requested to comment on the range of stakeholders that were being consulted. We understand that very few comments were received back.

- ii) what are the processes and safeguards involved if the outcome of the consultation is to be taken into account in the ultimate decision to be taken by the NDA on the future management option for the FED arisings - please provide a copy of this; and, generally,

The NDA require contractors to justify waste management options, including scope, technical readiness, cost and schedule of delivery, before they can implement the work. However, it is up to contractors, in this instance Magnox Electric, to identify the most beneficial waste management option. The output of the consultation process will be used to inform their decision. This will be aligned as much as possible with the output of the consultation process, but may vary depending on various factors such as funding, improvement notices, regulator input on the BPEO process and the resulting safety case for that strategic management option of the waste.

- iii) If the processes etc., (so far as these relate to environmental matters) involved comply with the UK's undertakings of the so-called Aarhus convention of 1998.

As mentioned, the consultation process used is based upon regulatory processes and guidance based upon UK legislation which incorporates such conventions as required. The international standards set up by the Aarhus Convention have been implemented through the Environmental Information Regulations of 2004 and the Environmental Impact Assessment (EIA) and Integrated Pollution Prevention and Control (IPPC) Directives. These regulations and directives cover both radiological and non-radiological discharges and

disposals and Magnox Electric comply with them through company procedures. Sizewell A have already had their Environmental Impact Assessment for Decommissioning approved by the HSE in May 2006, and comply with all UK Waste legislation. With regards to radiological waste streams, the Radioactive Substances Act of 1993 and the Ionising Radiation Regulations of 1999 are the driving legislation which the site must comply with and these currently make no mention of the Aarhus Convention.

I hope that this satisfactorily answers your queries. If you require any further information please contact me.

Regards

LARGE & ASSOCIATES ACKNOWLEDGEMENT AND FURTHER REQUEST OF 18 OCTOBER 2007

Thank you for your prompt response to my FoI request.

Whereas I am very appreciative of this most useful and informative reply, I note that it is not accompanied by any copy documentation that would assist my further understanding of the NDA's position and Magnox South's contractual obligations.

For example, i) is there no reference to the FED consultation in the Lifetime Plan for Sizewell A, ii) is it not referred to in the Environmental Impact Assessment submission to the HSE, iii) cited the Environmental Management Plan under the EIAD, or is it as implied by your response iv) that the FED consultation has been initiated and is being undertaken entirely and solely at the volition of Magnox South?

Also, I understand that my FoI request may have prompted some recent communication to the NDA from Magnox South and if, as I assume, this related to the consultation issue then could you please provide an appropriately redacted copy of this.

Because timescales are pressing the 2nd Stage Review of the FED Consultation is to be issued today but if you do have a response to this e-mail than, of course, it will be made available as an addendum.