

# Notes from meeting between CALC and Environment Agency to discuss regulatory resources

16<sup>th</sup> November at Ghyll Mount, Penrith 10:00-12:00

## Present

Guy Richardson – Cumbria Association of Local Councils (CALC)  
 Chris Shaw – CALC  
 Roger Yearsley – Environment Agency (EA)  
 Gavin Thomson – EA

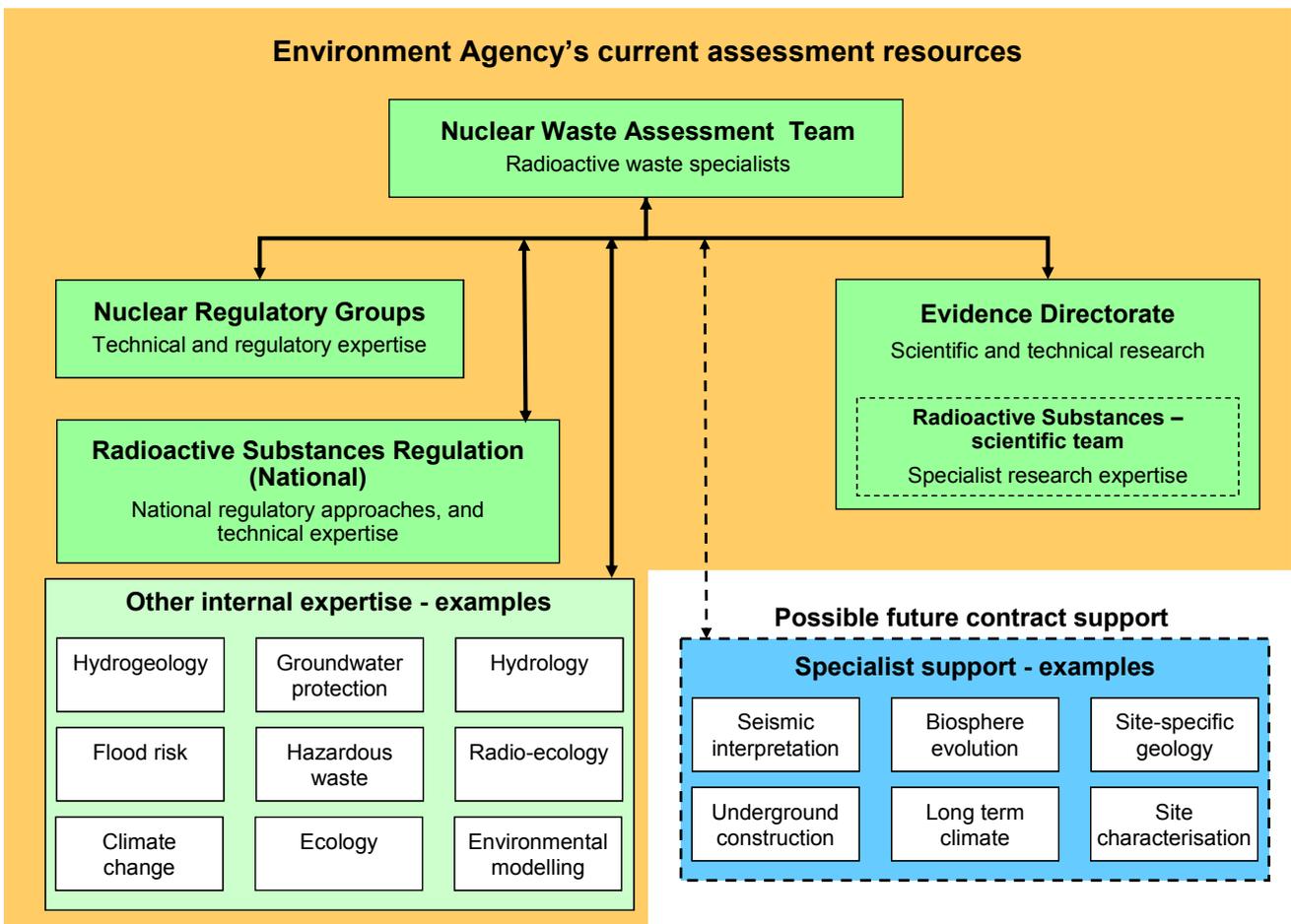
## Introduction

Following introductions GT provided a brief recap on the reason for the meeting. The regulators had presented a paper to the West Cumbria MRWS Partnership in January [1] and had subsequently provided responses to 4 questions [2] that arose during the discussions. GR had raised some further queries on regulators’ resources in reviewing the responses [3], which led to this meeting. Unfortunately due to staff absences, the Health and Safety Executive were not able to attend, and so the meeting focused on the Environment Agency. CALC also suggested that an update on Staged Regulation would be useful.

The Partnership programme manager was aware of this meeting and it was agreed that this brief note of the meeting be produced and made available to the Partnership.

## Regulators’ resources

RY and GT provided a brief overview of the organisation of Radioactive Substances Regulation (RSR) within the EA. The more detailed discussion of resources was based on the figure below (with minor amendments made following the meeting, for clarity).



- The EA’s Nuclear Waste Assessment Team (NWAT) would lead any future assessment of an environmental safety case which NDA-RWMD (or successor organisation) submitted to support development of a geological disposal facility (GDF). NWAT is currently scrutinising the NDA-RWMD’s work through a formal agreement, and is providing regulatory advice on NDA-RWMD’s

technical and organisational development submissions. NWAT also undertakes the EA's assessments for the disposal of LLW and VLLW and scrutinises (with HSE) proposals for the management of higher activity wastes on Nuclear Licensed Sites in England and Wales.

- The National Radioactive Substances Regulation (RSR) team (in the Environment and Business Directorate) provides regulatory advice and expertise in support of national (and European) policy development, as well as the technical services required to support environmental permitting activities.
- The Evidence Directorate provides scientific and technical research support. Within the Directorate, there is a dedicated Radioactive Substances team which manages research projects and provides specialist expertise in, for example, radioecology.
- The Nuclear Regulation Groups (NRGs) regulate disposal of radioactive waste from Nuclear Licensed Sites under the Environmental Permitting (England and Wales) Regulations 2010. The NRGs comprise: 4 regulatory teams which cover nuclear sites in England and Wales; an assessment team involved in the Generic Design Assessment for new nuclear power stations; and the NWAT.
- During an assessment of an environmental safety case for a GDF, the NWAT would also be able to call on wider EA internal expert resources in areas such as hydrogeology, groundwater protection and chemically hazardous wastes. These resources are already available and are being used; the EA used its internal knowledge and experience of the groundwater conditions in west Cumbria to inform its recent review of the draft BGS screening report of Allerdale and Copeland.
- Should proposals to host a geological disposal facility go ahead (either in West Cumbria or elsewhere in England or Wales) then an internal EA project team could be developed from the available resources and skills. Initial planning and communication is underway.
- We have arrangements for joint working on geological disposal with the HSE and the Department for Transport, to build shared knowledge and understanding early in the programme and support our future joint regulatory role.
- The EA could bring in external experts, under contract, to support review of an environmental safety case. Such experts could include, for example, specialists in seismic interpretation and site characterisation. The EA has experience in using such experts from both the UK and from overseas, for example, to support its assessment of the environmental safety case for the LLWR.

The following areas were also discussed:

- **Costs**  
As a result of the UK Government's Comprehensive Spending Review, the EA's funding provided through grant in aid is likely to be cut back. This will affect RSR's government grant funding - but most of RSR's income (>75%) comes from charges to the nuclear industry. We also have a power to enter into agreements to provide advice and assistance on environmental matters and to recover our costs of doing so. For example, the NWAT's programme of scrutiny of the NDA's work relating to geological disposal is charged to the NDA through such an agreement even though, at present, the EA has no formal regulatory role. NDA is keen that this scrutiny continues and the EA is not currently aware of any plans by the NDA to reduce the funding available for the scrutiny programme. The EA's normal charging scheme would apply should formal regulation of development of a GDF start in the future; the EA would be able to charge the developer for all the costs associated with assessment of an environmental safety case. (The EA's proposed charges under the scheme are subject to annual public consultation.)
- **Finite resources**  
CALC raised a query over whether the regulators may be hindered in the future by difficulties in recruiting staff with appropriate skills and experience.

The EA has begun to undertake some preliminary thinking on how its resource requirements may change in the future but given the early stages of the MRWS Site Selection process, no detailed plans have yet been developed. The EA is committed to supporting the WC MRWS Partnership and the EA's Regional Management Team is being made aware of the current work programme and the potential need for wider EA staff resources to be made available to support some work.

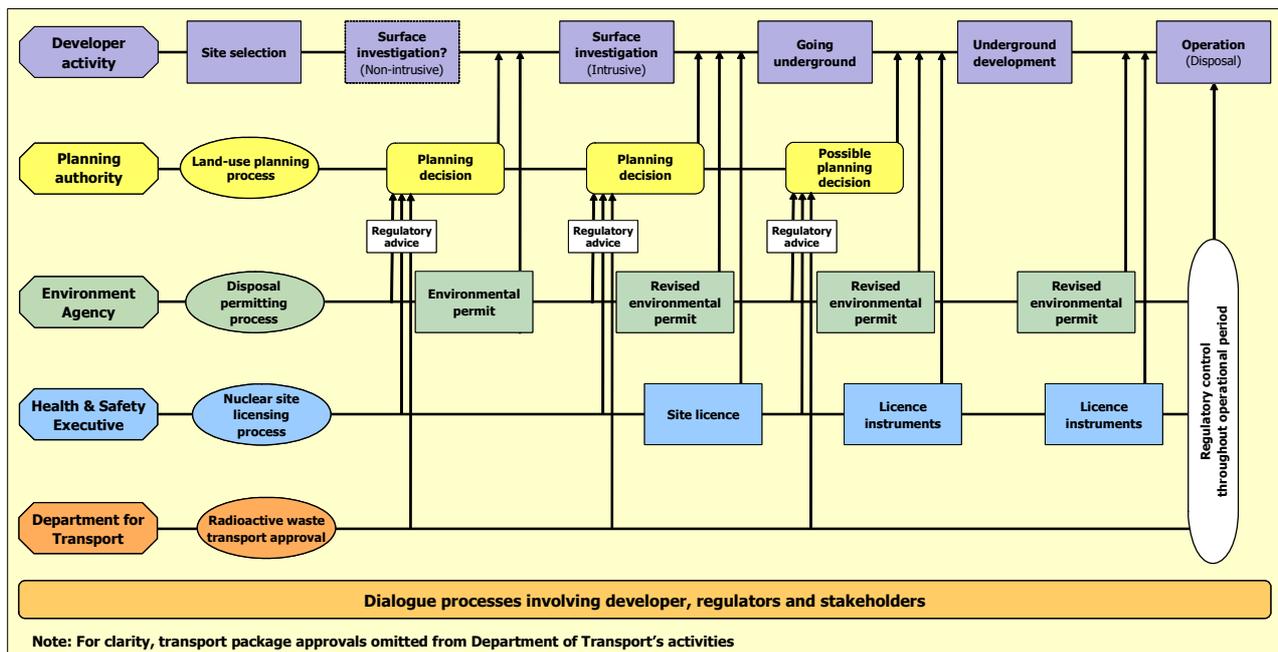
The salaries the EA pays are believed to be competitive with those offered in the industry, and recent experience has not raised concerns about being able to attract staff with the required skills and experience. NWAT had recently been allowed to recruit an external candidate to fill a vacancy at a time when there is a general a recruitment freeze across Government Departments and their agencies.

The EA is continuing to maintain and develop its staff base and is participating in initiatives such as EMPower MSc studentships and the NDA's graduate scheme, to maintain appropriate skills.

The EA will carry out a rigorous assessment of any environmental safety case submitted by a developer of any future GDF. This will be based on assessment of targeted areas of specific importance to the developer's demonstration of environmental safety and may include some independent calculations but a full parallel safety assessment will not be undertaken. As noted above, to support an assessment the EA will use its internal staff resources and may also contract in external experts from the UK and from overseas – going overseas would provide access to a wider pool of independent experts.

## Staged Regulation

RY provided an overview of staged regulation and recent discussion with NuLeAF and planners from CCC<sup>1</sup> on the links with the land-use planning process.



Key points of the process are as follows:

- During the process for identifying candidate sites, the regulators will provide advice and comment to Government, local authorities, communities, NDA and others on matters within the regulators' remits. The regulators' advice is likely to inform, for example, a Community Siting Partnership's recommendations and a Government decision on selection of candidate sites for investigation. The regulators' advisory role will continue during non-intrusive site investigations.
- Staged Regulation by the EA will begin at that point at which intrusive site investigations (e.g. borehole drilling) begins.
  - The EA would expect to receive an application from the developer for an environmental permit at around the same time as the developer submits an application for planning permission for boreholes.
  - The EA would provide advice and comment to the planning authority during its consideration of the planning application and, if it received the application an environmental permit sufficiently early, the EA would be able to say whether it was minded to grant such a permit. This will be a two-way process, with the planning authority providing advice and comment to support the EA's decision-making. The EA would not grant an environmental permit until planning permission had been granted (although this does not represent a legal requirement).
  - There may be a requirement for more than one round of permitting for intrusive investigations, that is, there may be more than one phase of borehole drilling at a candidate

<sup>1</sup> When reviewing and updating its *Guidance on Requirements for Authorisation*, the EA had used NuLeAF to facilitate discussions with planners in order to discuss interfaces between its guidance and the planning process. A similar process is therefore being used to discuss the development of the EA's Staged Regulation and more generally the interfaces and interdependencies between the regulators and the planners.

- site. The links between the EA's regulatory process and land-use planning would be the same in each phase of intrusive site investigation.
- The process outlined above would be repeated to support any planning decisions required before the developer begins underground excavations
  - The UK Government has yet to decide whether a GDF would be a nationally significant infrastructure project. This leaves some uncertainty on the nature of the planning authority (i.e. centralised or local) but the EA anticipates that its interactions would remain essentially the same in either case.
- Currently, it is expected that the HSE's process for granting a Nuclear Site Licence would start when the developer decides to proceed with underground construction (i.e. MRWS Stage 6). The EA and HSE regulatory processes would then run in parallel through the development and operation of a geological disposal facility.
  - The Department for Transport (DfT) has an ongoing role to regulate the safety of radioactive waste transport and this will continue throughout development and operation of any geological disposal facility.

RY and GT had suggested to the Partnership programme manager that the EA should prepare a brief paper on EA/HSE regulatory interfaces with the land-use planning process, which could be presented alongside the Partnership's task on planning, *1a(iii) Understand planning system*, which is now proposed for the meeting of January 2011. GR and CS agreed that this may aid the Partnership's understanding in this area

Gavin Thomson  
6th December

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[1] Environment Agency, Health and Safety Executive and Department for Transport. 2010. Regulators' roles and processes in the implementation of MRWS. Paper 36 for West Cumbria MRWS Partnership. Final version January 2010.  
[2] Environment Agency, Health and Safety Executive and Department for Transport. 2010. Response to questions on regulators' roles and processes. Paper 57 for West Cumbria MRWS Partnership. Draft 1 February 2010.  
[3] MRWS – Regulators' resources. Email correspondence from Guy Richardson to Gavin Thomson. 10<sup>th</sup> March 2010.