

# DMB Decision making

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Author:	Steve Smith, in liaison with other officers from the DMBs
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This document summarises the position of the three Decision Making Bodies (DMBs), namely Copeland and Allerdale Borough Councils and Cumbria County Council, in relation to the three Councils taking a decision about participation (DaP) in the next stage (stage 4) of the MRWS process. It is prepared in response to issues raised by consultees in PSE3, specifically those referred to in 'topic 2' of the Strategic Responses. In summary the issues raised relate to the DMBs setting out the process by which they will be considering the final report of the Partnership and taking a decision about participation.

## 1. Background to DaP and timescales

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The final report of the Partnership was considered at the last meeting of the Partnership on 19<sup>th</sup> July and then submitted to the three local authorities. The three local authorities will now need to consider the report in relation to their own individual decision making processes. The collective aspiration is for each of those authorities to take a decision on the same day at the same time and the challenge is to manage the 3 processes such that this aspiration is achievable. Officers of the 3 authorities will liaise to monitor and comment upon each others draft Executive/Cabinet reports as they develop and CALC will also be invited to submit comments.

Each of the 3 Councils has considered their respective constitutions to determine the appropriate Council meeting to consider the Partnership's final report and take the decision about participation into Stage 4. Each of the Councils operate Executive decision making arrangements pursuant to Part II of the Local Government Act 2000. The provisions in the Act (section 13) and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, set out the local government functions which **cannot be** the responsibility, or the sole responsibility, of an authority's executive. None of the functions specified are considered to relate to decisions about participation or otherwise in Stage 4 of the MRWS process. Section 9D of the Local Government Act 2000, as amended by the Localism Act 2011, provides that "...any function of the local authority which is not specified in regulations .....is to be the responsibility of the executive under executive arrangements." Section 9DA(2) provides that "any function which is the

responsibility of an executive of a local authority under executive arrangements .... is to be regarded as exercisable by the executive on behalf of the authority.”Section 9DA(3) provides that “... any function which is the responsibility of an executive of a local authority under executive arrangements.... may not be discharged by the authority.”

Allerdale and Copeland Borough Councils have thus determined that the decision about participation will be taken by a meeting of their Council’s Executives, whilst Cumbria County Council have determined that such a decision will be made by a meeting of the Council’s Cabinet.

It should be noted that Executive/Cabinet decisions of the 3 Councils are subject to a ‘call-in’ procedure which provides an opportunity for other Members outside of the Executive/Cabinet within the individual Councils to ask for the decision to be scrutinized. Each of the Councils has a specified time in which a decision is subject to ‘call-in’ and during which a decision cannot be implemented.

These arrangements also reflect the aspirations contained in the Memorandum Of Understanding (see doc 235), as agreed by the three Councils and DECC, and the letter to the Partnership from Charles Hendry, Minister for Energy and Climate Change of 7<sup>th</sup> Nov 2011 (see doc 240) which refers to the agreement between local and central government regarding the decision making process.

The outline of the 3 processes is as follows:

**Copeland Borough Council**

Presentation/discussion on the Partnership’s final report at a Special Full Council meeting on 26<sup>th</sup>September. Report considered by a special meeting of the Council’s Executive to make a decision about participation on 11<sup>th</sup> October. Both meetings will be held in public.

**Allerdale Borough Council**

Presentation/discussion of the Partnership’s final Report at Nuclear Issues Working Group on 6 September  
Presentation/discussion on the Partnership’s final Report to take place prior to the start of the Council meeting on 19 September and the Council’s Executive to make a decision about participation on 11<sup>th</sup> October. The meetings on 19 September and 11 October will be held in public.

**Cumbria County Council**

Report for discussion and comment to Copeland and Allerdale Local Area Committees (30<sup>th</sup> August)

Report for discussion and comment to Nuclear Issues Working Group (29<sup>th</sup> August)

Report for discussion and comment (inc. possible presentation on Partnership work tbc) at Full Council meeting 5<sup>th</sup> September

County Council Cabinet decision about participation on 11<sup>th</sup> October.

All meetings will be held in public except the meetings on 29<sup>th</sup> and 30<sup>th</sup> August.