

MEMORANDUM OF UNDERSTANDING BETWEEN NUCLEAR DECOMMISSIONING AUTHORITY AND THE OFFICE FOR CIVIL NUCLEAR SECURITY

1 Introduction

1.1 This Memorandum of Understanding is between the Nuclear Decommissioning Authority (NDA) and the Office for Civil Nuclear Security (OCNS). It applies solely to the interaction between OCNS and the NDA in its operational decommissioning role and not to OCNS's regulatory interface in respect of the NDA's holdings of sensitive nuclear information. It forms one of a series of similar MoUs between the NDA and the nuclear regulators. It should be read in conjunction with the MoUs and other agreements already in place between OCNS and other nuclear regulators in relation to the operation of nuclear sites.

1.2 Nothing in the terms of this MoU over-rides, or is intended to pre-empt, the ability of either party to exercise its statutory powers or undertake its statutory duties. Equally, nothing in the MoU constitutes, or is intended to have the effect of, a binding legal agreement between the NDA and OCNS.

1.3 This MoU is disapplied immediately with respect to relevant designated sites, installations and facilities if the NDA exercises its power under section 10(2)(b) of the Energy Act 2004, namely its power to apply for and hold nuclear site licences, registrations under section 7 of the Radioactive Substances Act 1993 and authorisations under sections 13 and 14 of that Act. For relevant sites the relationship of the NDA with OCNS becomes that of regulated organisation under the auspices of the Nuclear Industry Security Regulations 2003.

2 Objectives

This MoU represents a statement of common purpose by the NDA and OCNS to work together constructively with respect to the decommissioning and clean up of designated sites, installations and facilities. Consistent with their statutory obligations, duties and functions the NDA and HSE undertake to ensure that decommissioning and clean up activities are carried out cost effectively, openly, and as quickly as is reasonable practicable in accordance with security regulatory requirements.

2.1 Within resources the NDA and HSE hereby jointly commit themselves to the development and maintenance of:

(a) effective working relationships nationally and at site level

(b) working arrangements which are transparent particularly to those responsible for managing designated sites, installations and facilities.

2.1 This MoU sets out the basis on which the NDA and OCNS intend to achieve these objectives.

3 Statement of Commitments

3.1 The agreed aim of the NDA, OCNS and the other nuclear regulators is to ensure consistency in devising strategies and plans, to harmonise and streamline their individual requirements wherever practicable and to minimise the overall administrative burden on site licensees/operators.

3.2 The NDA hereby commits itself to:

(a) develop and maintain a constructive working relationship with OCNS and respond positively to criticism and challenge;

(b) engage as appropriate in dialogue with OCNS, other nuclear regulators, site licensees/operators and other stakeholders to resolve issues of substance;

(c) do nothing which inhibits OCNS in the exercise of its statutory powers and duties, (including taking enforcement action);

(d) take appropriate action as and when it is made aware of any concerns OCNS might have about the operation of any designated site, installation or facility;

(e) establish mechanisms and methods of working which facilitate dialogue with OCNS for significant decision making;

(f) provide in a timely manner all such information which OCNS may request regarding the NDA's overall strategy or annual work plans;

(g) agree with OCNS the relevant section of its annual report dealing with relationships with the nuclear regulators before adopting it and sending it to the Secretary of State (and the Scottish Ministers if required); and

(h) act in accordance with and, over time, review and improve the operation of the MoU as a basis for delivering a common purpose approach to decommissioning and clean up.

3.3 OCNS recognises that in order to carry out its statutory duties the NDA will need to monitor the actions of nuclear site licensees and operators of other designated sites, installations and facilities and hold them to account for performance. Consequently, and without prejudice to any regulatory action, OCNS hereby commits itself to, as appropriate:

(a) develop and maintain a positive working relationship with the NDA and its principal contractors and to respond constructively to criticism and challenge;

(b) engage in dialogue with the NDA, other nuclear regulators, site licensees/operators and other stakeholders to resolve issues of substance;

(c) support the NDA in the implementation of decisions taken following consultation with and in agreement with OCNS under the terms of this MoU;

(d) work together with the NDA in explaining the basis of such decisions to other stakeholders;

(e) inform the NDA as soon as reasonably practicable about any significant regulatory action impacting on the discharge of the NDA's statutory duties and other functions;

(f) where regulatory action is taken, ensure that the NDA is made aware of the background to, and implications of, the action taken so that the NDA can respond and take whatever action may be necessary to ensure that it can properly discharge its statutory duties and functions;

(g) subject to legal and security constraints, supply the NDA with all such factual information which the NDA may reasonably request or which OCNS considers may be material to the carrying out of the NDA's statutory duties and functions;

(h) act in accordance with and, over time, improve the operation of, this MoU

(i) comment constructively, and in a timely way on proposals and documents put forward by site licensees/operators or the NDA, as appropriate; and

(j) where OCNS's views differ significantly from those of other nuclear regulators where possible, work with them and the NDA to resolve any differences so as to provide a firm basis for implementation of agreed NDA proposals.

3.4 In addition for designated sites, installations and facilities, both NDA and OCNS will, in relation to all aspects of security, engage constructively (seeking to resolve any concerns in a timely manner), on:

(a) contract terms;

(b) tender evaluation criteria; and

(c) NDA procedures, requirements and guidance.

4 Review Provisions

4.1 A Review Group, involving representatives of the NDA, and OCNS (and other nuclear regulators, as appropriate) will meet whenever the need arises, and at least every year, to review the working of this MoU. The NDA and OCNS will take the chair alternately.

4.2 In the event of the Group's inability to resolve particular issues which may bear on policy matters, the NDA will refer to its Chief Executive and Board and OCNS to its Director.

Roger Brunt
Director of Civil Nuclear Security

Ian Roxburgh
Chief Executive
Nuclear Decommissioning Authority

22 March 2005

31 March 2005

References

1. Memorandum of Understanding between the Health and Safety Executive and the Environment Agency on Matters of Mutual Concern at Nuclear Sites Licensed by HSE in England and Wales, 23 April 2002.
www.environment-agency.gov.uk/commondata/103599/nuclear_mou_final_version.doc
2. The Working Relationship Between HSE and EA on Nuclear Safety and Environmental Regulatory Issues – A Statement of Intent, 8 August 2001.
www.environment-agency.gov.uk/commondata/105385/hseras.pdf
3. Working Together on Nuclear Sites, January 2003
www.environment-agency.gov.uk/commondata/105385/wtfinal2_1.pdf
4. MoU between HSE and SEPA on Matters of Mutual Concern at Licensed Nuclear Sites in Scotland – 22 March 2002
5. The MoU between the HSE and the DTI on Matters of Mutual concern at Licensed Nuclear Sites dated 3 April 2001.
6. MoU between EA and FSA (RE Smith to provide a reference)