

Terms of Reference for the Nuclear Liabilities Financing Assurance Board

1.0 Context

- 1.1 The Energy Act 2008 creates a framework for ensuring that operators of new nuclear power stations have secure financing arrangements in place to meet the full costs of decommissioning and their full share of waste management costs. To achieve this, the Energy Act 2008 requires any operator of a new nuclear power station to have a Funded Decommissioning Programme, approved by the Secretary of State, in place before construction of a new nuclear power station begins and to comply with this programme thereafter. The Funded Decommissioning Programme prepared by the operator of a new nuclear power station must include:
- provision for the steps necessary to decommission the installation and manage and dispose of hazardous waste;
 - an estimate of the costs of taking those steps;
 - details of any security to be provided in relation to those costs.
- 1.2 Following the Energy Act 2008, the Government has published [guidance](#) on what a Funded Decommissioning Programme (FDP) should contain. This guidance assists operators in understanding their obligations under the Energy Act, and what is required for an approvable Funded Decommissioning Programme. The guidance is not intended to be unduly prescriptive but instead to set out principles which the Secretary of State will expect to see satisfied in the Funded Decommissioning Programme prepared by an operator. The guidance gives information on ways in which the operator might satisfy those principles.
- 1.3 The guidance assists operators in setting out and costing the steps involved in decommissioning a new nuclear power station and managing and disposing of hazardous waste and spent fuel in a way which the Secretary of State may approve. It also sets out the cost modelling methodology the Government expects to use to generate its own prudent estimates of the costs of decommissioning, waste management and waste disposal for new nuclear power stations.
- 1.4 The guidance also covers the Funding Arrangement Plan (FAP) to assist operators in setting out acceptable financing proposals to meet the costs identified. It sets out the Guiding Principles against which the Government will assess the funding proposals submitted by operators as part of their Funded Decommissioning Programme for approval under the Energy Act 2008.
- 1.5 The FAP must set out how the operator will meet the identified costs over the expected lifetime of the new nuclear power station, but will also have to show how costs would be met in the event of early decommissioning, i.e. should the nuclear power station stop generating earlier than expected and liabilities crystallise early.

2.0 Responsibilities

- 2.1 The Nuclear Liabilities Financing Assurance Board (NLFAB) shall be established and maintained by the Department of Energy and Climate Change (DECC).
- 2.2 The Board will provide independent advice to the Secretary of State for Energy and Climate Change.
- 2.3 The Board will provide public advice to the Secretary of State on the suitability of the Funding Arrangements Plan ("FAP") element of the Funded Decommissioning Programmes submitted by operators for approval by the Secretary of State, as required by the Energy Act 2008. The suitability should be determined by the extent to which the proposals put forward by operators will meet the Objective and Guiding Principles outlined in the FAP guidance document and take into account any agreement the Secretary of State reaches with the operator under Section 46 of the 2008 Act.
- 2.4 The Board will decide how it reaches its conclusions.
- 2.5 The Board will provide public advice to the Secretary of State on the ongoing suitability of an approved FAP at the time of annual and quinquennial reviews of an operator's approved Funded Decommissioning Programme, to ensure that the FAP in place continues to adhere to the Guiding Principles and will meet the Objective set out in guidance.
- 2.6 The Board will provide advice to the Secretary of State on any proposed changes to the FAP guidance, or to an approved FAP, including advice on modifications proposed by the Secretary of State.
- 2.7 The Board itself will decide what other appropriate sources of expert input is required, if any, during the course of its work, including the use of advice from existing regulatory, public or other bodies. The Board must agree in advance the related costs with the secretariat which will commission any such work on its behalf, and it is intended that the Secretary of State will charge operators a fee to cover these costs, as provided for in the Energy Act 2008.
- 2.8 The NLFAB will fulfil its functions by convening meetings when required. It will give careful consideration to the matters brought before it and where appropriate seek evidence and expert advice from outside its own membership. The NLFAB Chairman will report the Board's findings in writing to the Secretary of State of Energy and Climate Change. The Chairman shall also report its conclusions, in writing, to the Programme owner.
- 2.9 The NLFAB shall report on its activities through the Minutes of its meetings.
- 2.10 The Board is set up by, and answerable to Ministers and is funded by the taxpayer. It must therefore comply with the Cabinet Office guide "Non-Departmental Public Bodies a Guide for Departments".

3.0 Membership

- 3.1 The Chair and Members of the Board are nominated by the Secretary of State of Energy and Climate Change. There shall be 6 members and 1 Chairman.
- 3.2 The Board will be composed of people with a range of relevant skills and expertise, including current or former fund manager(s), financial expert(s),

nuclear specialist(s), economist(s), environmentalist(s) and legal expert(s), appointed by the Secretary of State in line with the Code of Practice for Public Appointments.

- 3.3 Initial appointments will be for three years. Sponsoring Ministers retain the right to terminate appointments at any time in light of individual members' performance, changes in the Board's work requirements, or completion of the work required of the Board.
- 3.4 In order to maintain the Department's high standards of public life any appointments made by the Secretary of State may be terminated in the event that an appointee is convicted of a criminal offence, and/or where the Secretary of State believes that the appointee's conduct means that he or she is no longer a suitable person for the office of the Nuclear Liabilities Financing Assurance Board.
- 3.5 The Department of Energy and Climate Change will reimburse the Chairman and Members for their work for the Board. They will also be fully reimbursed for all reasonable travel and subsistence costs incurred during the course of their work.

4.0 Authority

- 4.1 In the absence of the Chairman, another Member nominated by the Chairman shall chair the meeting. If no such nomination has been made, a Member may be elected by the NLFAB to chair the meeting. The Chairman of the meeting shall exercise any power or duty of the Chairman of the NLFAB in relation to the conduct of the meeting.
- 4.2 During any period of recess or between meetings, when urgent action is necessary, standing approval may be given by the NLFAB to delegate authority to the Chairman acting in conjunction with any other NLFAB Member(s). Any business conducted in this manner shall be reported to the next full meeting of the NLFAB.

5.0 Voting Rights

- 5.1 Subject to paragraph 4, each Member shall have the right to vote in a debate, where a vote is deemed necessary.
- 5.2 In the event of no majority decision the Chairman shall have a second or casting vote, whether or not he/she has previously voted on the matter.

6.0 Declaration of Interest

- 6.1 Members must declare any personal or business interests which may, or may be perceived to, influence their judgements in performing their functions.
- 6.2 These interests will be included in a register of interests maintained by the Board secretariat and Members must ensure that entries are kept up to date. Should a particular matter give rise to a conflict of interest Members are required to inform the secretariat of the Board in advance and withdraw from discussions or consideration of the matter.

7.0 Frequency of Meetings

- 7.1 Meetings are to be held at periodic intervals throughout the year as and when Funded Decommissioning Plans are submitted to the Secretary of State for approval, review or modification.

8.0 The Department of Energy and Climate Change

- 8.1 The Department of Energy and Climate Change:
- Will endeavour that matters relevant to the Board carrying out their responsibilities listed above are brought to the Board's attention within a reasonable time, including any proposed changes to the guidance or to an approved Funded Decommissioning Programme.
 - Will examine all issues raised by the Board within its terms of reference.
 - Will consider all advice received from the Board.
- 8.2 The Department of Energy and Climate Change will include a summary of the work of the Board within its annual report.
- 8.3 The Department of Energy and Climate Change will provide the NLFAB with a secretary, administrative support and any policy or legal guidance it requires and ensure that it is appropriately resourced to discharge its function effectively. The Department of Energy and Climate Change will also administer NLFAB expense claims and payments, and act as a conduit between the NLFAB and other Government Departments and Agencies, as required.
- 8.4 Papers will be distributed to members at least 10 working days before meetings.

9.0 Contacting the NLFAB

- 9.1 The NLFAB may be contacted by writing to NLFAB Secretariat, Office for Nuclear Development, Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.