



The Government response to the Magnox Inquiry and the BEIS Departmental Review into the NDA

Presented to Parliament

by the Minister of State for Energy, Clean Growth and Climate Change

by Command of Her Majesty

July 2021



HM Government

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With thanks to Tom Ridge for his leadership of the Departmental Review into the NDA.



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Introduction

The Government has recently published two reports, both reviewing the form and function of the Nuclear Decommissioning Authority (NDA), as well its oversight and governance.

The Magnox Inquiry was commissioned by the Department for Business, Energy and Industrial Strategy (BEIS) Secretary of State in 2017 to review the management by the NDA of the Magnox competition process, related litigation and the events leading up to the decision to terminate the Magnox contract.

A Tailored Review of the NDA was launched in 2019 to scrutinise the form and function of the NDA as an Arm's Length Body of the Government. In 2020 the Government decided to close the current Tailored Review programme, and the review of the NDA continued under the auspices of a Departmental Review.

Strong progress has been made in parallel with these reviews; with Government's recasting of its oversight arrangements for NDA, a complete overhaul of the leadership team for the NDA Group and the progressive collaboration between Government and NDA to bring in NDA operating companies¹ as subsidiaries.

The recommendations in these reviews complement the progress made and propose further improvements for consideration.

The Nuclear Decommissioning Authority

The NDA is an executive non-departmental public body established under the Energy Act 2004 to lead the clean-up and decommissioning work at 17 sites, the UK's earliest nuclear legacy sites. Its planned expenditure for 2021-22 is £3.5 billion, £2.5 billion of which will be funded by the UK government.² Its portfolio spans ~15,000 employees. The NDA Chief Executive Officer (NDA CEO) holds the Accounting Officer accountability for the NDA's expenditure.³

The NDA is sponsored and funded by BEIS. The BEIS Permanent Secretary holds the Principal Accounting Officer accountability for BEIS.

UK Government Investments (UKGI) provides strategic oversight of the NDA's corporate governance and corporate performance, working closely with and reporting directly to BEIS senior officials and providing advice to Ministers. A senior official of UKGI is nominated to join the NDA Board as BEIS' non-executive board member and shareholder representative.

¹ Collective term for: Sellafield Ltd., Magnox Ltd., Dounreay Site Restoration Ltd., Low Level Waste Repository Ltd., Radioactive Waste Management Ltd., Nuclear Transport Solutions

² UK Government (2021). NDA Business Plan 2021-24. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/970389/NDA_Business_Plan_2021-2024_170321.pdf

³ See reference (2)

The NDA is also responsible to Scottish Ministers, who in turn are accountable to the Scottish Parliament for the activities and performance of the NDA Group relating to Scotland. To this end, NDA, BEIS and UKGI officials work closely with Scottish Government officials.

The Magnox Inquiry

The Magnox competition, launched in 2012 by the NDA, sought a Parent Body Organisation (PBO) to take ownership of 12 NDA sites, all under the corporate entity 'Magnox Limited'. It had an estimated value (as stated in the Official Journal of the European Union Notice) of £6.2 billion. In March 2014 the first placed bidder was announced as Cavendish Fluor Partnership. Cavendish Fluor Partnership started work in September 2014 under a 14 year contract. Subsequently, it became clear to the NDA that there was a significant mismatch between the work that was specified in the contract and the work that actually needed to be done on the sites. As a result, and having taken legal advice, in March 2017 the NDA Board concluded that it should exercise its right to terminate the contract with effect from September 2019.

Meanwhile, in April 2014, one of the unsuccessful bidders, Energy Solutions, commenced proceedings against the NDA seeking damages. In July 2016 the High Court found that the NDA had wrongly decided the outcome of the procurement process. In August 2016 a bidder from the same consortium as Energy Solutions - Bechtel Management Company Limited - issued a claim. In March 2017 the NDA came to a settlement with Energy Solutions and Bechtel. The total settlement amount was £85 million for Energy Solutions and approximately £12.5 million for Bechtel.

In a Written Ministerial Statement in March 2017 the then Secretary of State for BEIS commissioned an independent, non-statutory inquiry ("the Inquiry") into, among other matters, the management by the NDA of the Magnox competition process, related litigation and the events leading up to the decision to terminate the Magnox contract. The final report of the Inquiry was published in March 2021 and was addressed jointly to the Secretary of State for BEIS and the Cabinet Secretary, in accordance with its terms of reference.^{4 5}

The Secretary of State's Written Ministerial Statement accompanying publication of the final report states that the NDA, BEIS, UKGI and other relevant government departments would consider the report with great care and respond fully, effectively and in a timely manner to the findings. The Secretary of State also noted the intention that the Government and the NDA would publish formal responses to the Inquiry later in the year.

⁴ UK Government (2021). Magnox Inquiry: final report. Available at:

<https://www.gov.uk/government/publications/magnox-inquiry-final-report>

⁵ UK Government (2017). Magnox Inquiry: terms of reference. Available at:

<https://www.gov.uk/government/publications/max-inquiry-terms-of-reference/magnox-inquiry-terms-of-reference>

The BEIS Departmental Review into the NDA

Pre-work for a Tailored Review into the NDA was initially commissioned in December 2019. In 2020 the Government decided to close the current Tailored Review programme of Arm's Length Bodies, and to replace it with a new programme. As a result of this, Government Departments were requested not to start any new Tailored Reviews until a new programme was in place. BEIS took the decision to continue the evidence-gathering under the auspices of a Departmental Review, rather than a Tailored Review, given the long-standing public commitments made (the review was called for in a National Audit Office report in June 2018).⁶ The final report from this review was published in June 2021.⁷

The scope of the Departmental Review addresses several of the Inquiry's recommendations for BEIS and UKGI as well as offering further recommendations for consideration.

Commitment to the Public Accounts Committee

The Committee of Public Accounts, in its twenty-first report of session 2017-19, made a number of recommendations in relation to the events surrounding the Magnox contract and requested a response to the final report of the Inquiry.⁸

In its sixty-fifth report of session 2017-19 the Committee requested a response to the Tailored Review (now Departmental Review).⁹

In its twenty-eighth report of session 2019-21 the Committee stated: "...On publication of the Magnox Inquiry and Tailored Review, the Department and the Nuclear Decommissioning Authority should set out publicly what has been learnt from them".¹⁰

BEIS and the NDA publicly acknowledged these reports via the Treasury Minutes process, committing to respond to both the Inquiry and the Departmental Review.^{11 12}

⁶ National Audit Office (2018) The Nuclear Decommissioning Authority: progress with reducing risk at Sellafield. Available at: <https://www.nao.org.uk/report/the-nuclear-decommissioning-authority-progress-with-reducing-risk-at-sellafield/>

⁷ UK Government (2021). Departmental Review into the NDA. Available at:

<https://www.gov.uk/government/publications/nuclear-decommissioning-authority-departmental-review>

⁸ House of Commons (2018). Committee of Public Accounts, The Nuclear Decommissioning Authority's Magnox contract. Available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/461/46102.htm>

⁹ House of Commons (2018). Committee of Public Accounts, Nuclear Decommissioning Authority: risk reduction at Sellafield. Available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/1375/137503.htm>

¹⁰ House of Commons (2020). Committee of Public Accounts, The Nuclear Decommissioning Authority's management of the Magnox contract. Available at:

<https://publications.parliament.uk/pa/cm5801/cmselect/cmpubacc/653/65302.htm>

¹¹ UK Government (2020). Treasury Minutes progress report – February 2020. Available at:

<https://www.gov.uk/government/publications/treasury-minutes-progress-report-february-2020>

¹² UK Government (2021). Treasury Minutes progress report – May 2021. Available at:

<https://www.gov.uk/government/publications/treasury-minutes-progress-report-may-2021>

Form of the response

This response conveys the steps taken by the Government, and future commitments, in consideration of the findings of the Inquiry and the Departmental Review into the NDA. We agree with the majority of the recommendations and have in some cases already implemented our response.

To appropriately and adequately address the interrelated feedback from across the Inquiry and the Departmental Review, this document sets out the Government response to both of the reports. It combines the collective contributions of BEIS, UKGI and the Cabinet Office.¹³

The NDA's response is published alongside this document. The Government and the NDA responses are complementary and aligned. This alignment is facilitated through the shaping of the two response documents against common themes, which inform the chapter structure. Each chapter contains a thematic summary, followed by a specific response to each recommendation in that theme.

The responses within this document have been the subject of consultation with other stakeholders as appropriate including HM Treasury, the Scottish Government and the Welsh Government.

A full list of recommendations can be found in Appendix A, mapped to the relevant page in this document.

¹³ When the term 'Government' is used, this refers to the combination of views from BEIS, UKGI and the Cabinet Office.

Executive summary

This document is intended to give stakeholders confidence of the depth of reach and robustness with which the learnings from the reports have permeated, or will permeate, the governance, processes and culture of both the Government and the NDA.

BEIS will take overall responsibility for the implementation of the BEIS and UKGI commitments herein, as well as oversight for those in the NDA's response. A system of regular and robust reporting on how they are being implemented will be put in place.

Since it was established under the Energy Act 2004, the NDA has driven a significant step change in the decommissioning of the UK's legacy nuclear sites. The sheer scale of the challenge, and the range of complex activity delivered by the NDA and its operating companies is unique. The NDA's portfolio includes 17 licenced nuclear sites, with over 15,000 people employed by the NDA group, and contributes very significantly to the Government's levelling up agenda.

The NDA's mission is delivered effectively and efficiently with safety and security being the paramount drivers. There is an ongoing need for the NDA to evolve to become a more resilient, efficient and effective organisation that continues to drive transformation on the ground and deliver value for money for the taxpayer. The NDA has already taken action to deliver this transformation over recent years and will continue to deliver upon this.

The Magnox Inquiry report and the Departmental Review collectively provide insightful considerations and a wide spectrum of helpful recommendations for further improvements to both NDA organisational effectiveness and the oversight of the NDA provided by BEIS and UKGI. The recommendations for other parts of central government have also been gratefully received and detailed consideration has been given on how to most effectively respond to the challenges raised.

A number of recommendations focused on the efficiency of the relationships and formal arrangements at the interface between the NDA and the Government, and the risks they carry. The Departmental Review looked at the classification and form of the NDA and concluded that it should remain as a non-departmental public body, which wider Government agrees with. The relationship landscape between the Government and the NDA will be considered and refined in light of the recommendations. We will do this whilst continuing to be mindful of the benefits that the NDA continues to have as a non-departmental public body with delegated operational independence and decision making. This separation of decision making on nuclear decommissioning from everyday Government control remains important, but it is appreciated that the high levels of public spending associated with nuclear decommissioning will always demand some level of Government scrutiny. For that reason we will be taking a stronger interest in NDA target setting as well as introducing a new process for evaluating the performance of the NDA Chair. We have also strengthened the links between the NDA Chair and NDA CEO and BEIS Ministers and senior officials.

BEIS and UKGI are still reviewing the specific evidence relating to the recent change of operating model for the NDA, from PBO-led to a wholly-owned subsidiary arrangement. Notwithstanding, BEIS, UKGI and the Scottish Government generally believe that the current programme of work within the NDA is not well suited to a PBO model and that the change is therefore positive.

The BEIS model of oversight of the NDA focuses on awareness, feedback and escalation where absolutely necessary, rather than regular direct intervention. This reflects the NDA's position as being both our strategic adviser on nuclear decommissioning and our delivery agent. Overall the Government will aim to reduce the bureaucratic burden on the NDA, whilst ensuring that it has confidence in the robustness of its oversight arrangements.

The NDA's primary mission is the safe, secure and efficient delivery of its current portfolio of decommissioning work. In addition, a key feature of the NDA's vision, as laid out in the NDA's current strategy, is to be trusted to do more in the UK and globally.¹⁴ The skills and capabilities of the NDA Group represent a significant asset to the UK which could be utilised to deliver more value for money for the taxpayer, while ensuring that the NDA remains focussed on its core mission. As the realisation of this vision is NDA-led, with policy guidance, support and approvals provided by government as appropriate, the recommendations with this theme are covered in the NDA's response.

A number of changes have been made to the NDA's internal governance arrangements. These are supported by BEIS and UKGI, having facilitated the Government approvals as needed for implementation. These changes have added to NDA board capability on project performance and risk as well as ensuring that the NDA executive team have the skills necessary to the size of challenge the NDA faces. As the majority of changes to the NDA's internal governance have been led by the NDA the recommendations with this theme are covered in the NDA's response.

A number of recommendations relate to the framework defining how BEIS, Scottish Government, UKGI and the NDA work together, as captured in the NDA Framework Document, which has been recently updated. This document does not convey any legal powers or responsibilities. It covers, among other things, governance and accountability arrangements; accounting officer responsibilities, the construct of the NDA Board, expectations for audit and compliance, and management of finances and people.

The updated document includes additional measures around public sector transparency, reflecting the fact that oversight of the NDA operations is now fully within the public sector.

The Government, the NDA Chair and the NDA CEO need to have confidence in, and scope to influence and improve, the capabilities across the NDA Board and executive team. The NDA is responsible for some of the most technically demanding projects and programmes being undertaken in the UK, often in highly hazardous environments and with cutting edge

¹⁴ UK Government (2021). Nuclear Decommissioning Authority strategy effective from March 2021. Available at: <https://www.gov.uk/government/publications/nuclear-decommissioning-authority-strategy-effective-from-march-2021>

technology. These are exceptional projects and to ensure that they are delivered and governed properly the NDA needs exceptional people to run them. They ensure this by undertaking board effectiveness reviews but also through strong action from the CEO, including the recent creation of the Group Leadership Team.

Rigorous assurance of NDA projects and programmes is essential both at the subsidiary level, and at NDA and Government level. It is important though for this process to be as efficient as possible and Government will be working with the NDA to make improvements to the sanction process - to ensure a smooth journey, whilst retaining proper scrutiny. The NDA takes risk management extremely seriously, but Government also needs to understand the risks they hold. That is why there is now a systematic and regular system for the reporting of risks.

The Inquiry was also relevant to wider Government commercial activity as well as the NDA. The findings were common with areas that have been identified right across Government and in response the Government's Commercial Continuous Improvement Assessment Framework and Commercial Functional Standard were updated in May 2021. These strengthen commercial standards applicable across Government, including those relevant to the findings of the Inquiry.

The recommendations in relation to sustainability centre on the importance of the NDA's notable commitment to sustainability being shaped by, and complementary to, policy direction. The Government already supports and challenges the NDA in evaluating sustainability and its net zero targets. The Government agrees that it should consider how it can work with the NDA to help it measure and evaluate the impact of its socio-economic activities, including the benefits to the delivery of the NDA's core mission and the Government's, and Scottish Government's, wider socio-economic priorities.

Chapter 1 – governance and interfaces

While there are many elements of the NDA’s operations that are unlike any other non-departmental public body, it does still spend taxpayers’ money for which it, and BEIS, are accountable to Parliament. As such there will always need to be a relationship between central Government and the NDA and the exact nature of the relationship must strike a balance between the greater degree of independence that comes from being a non-departmental public body and the need to account for a planned expenditure £3.5 billion of annual spend in 2021-22, and similar levels beyond.

The interface between the government and the NDA is the most important aspect of determining that relationship in that it practically influences how they will work together. The responses to the recommendations in this chapter set out how that interface can be improved with the overall aim being to establish an efficient and effective interface that allows an optimum relationship to be established whilst minimising administrative burden on either party.

Government oversight of the NDA

Inquiry 4.21: The governance and management structure of the NDA ought to be streamlined and simplified. I recommend that BEIS should take a more active, direct role in overseeing the NDA, and that UKGI (acting on behalf of BEIS) should be removed from the day-to-day oversight of the NDA.

Inquiry 4.22: UKGI should be called upon by BEIS to provide independent advice on its areas of expertise, in particular to review and advise periodically on governance arrangements. Any recommendations UKGI make must have teeth, and either be followed through, or formally rejected with written reasons by the NDA.

- 1.1 The Government accepts that there is room for improvement with the current NDA oversight function, jointly performed by BEIS and UKGI, noting that the function has already been enhanced significantly since the time of the Magnox procurement. The Government believes that UKGI brings valuable corporate finance and corporate governance skills, performs effectively as our Shareholder representative at the NDA Board, and provides high-quality advice in relation to performance monitoring, thereby adding valuable capabilities to those of the BEIS sponsorship team. This position is reflected in the Departmental Review, which noted that “...the current shared oversight arrangements broadly work, but could be sharpened up and made more effective and the delineations in responsibility clearer”.
- 1.2 Improvements will be made to enhance the manner in which the BEIS and UKGI teams function in order to deliver improved oversight of the NDA and more efficient support.

1.3 The following steps will be taken:

- The BEIS NDA Sponsorship team will have a dedicated Senior Civil Servant to lead it and strengthen the interactions with UKGI and the NDA senior team.
- The BEIS NDA Sponsorship team will be grown and enhanced in order to more efficiently respond to NDA interactions and better access support from the UKGI team. It will also take on a dedicated project and programme management office to manage and track BEIS' interactions.
- Group email addresses and shared work trackers will be used by BEIS through the NDA Group Leadership Team to simplify the commissioning and receipt of formal requests between them and support clearer communication of roles and responsibilities.
- An MoU between the BEIS Sponsorship team and the NDA Group Leadership Team will be used to ensure that formal meeting structures and communications channels are not bypassed to unintentionally circumvent due diligence and scrutiny.

1.4 These improvements will allow the BEIS NDA Sponsorship team to provide a more focussed service to the NDA. The BEIS and UKGI teams will continue to work together to eliminate areas of ambiguity that might exist between their respective roles in line with the recommendations of the Departmental Review.

1.5 Options for additional enhancement of the NDA oversight function will be kept under review.

Departmental Review 5: BEIS and UKGI should consider ways of simplifying the current multi-channel engagement with – and therefore reducing unnecessary transactional burdens on - the NDA.

1.6 The NDA Framework Document formally defines the role of BEIS, the Scottish Government and UKGI in relation to the NDA. BEIS and UKGI are committed to working with the NDA to bring a further level of granular clarity to the interface, so as to facilitate a streamlined relationship, minimising the transactional burden on the NDA whilst providing Government with what it needs to sustain its oversight function.

1.7 Some steps have already been taken to ease the burden of reporting requirements. To provide a few examples:

- The attendance list of core, routine governance meetings has been streamlined, so as to minimise the personnel cost of such meetings. We have capitalised on the advantages of remote working which should also reduce travel burdens in future.

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- The ‘deep dive’ topics for core, routine meetings are now selected in accordance with current NDA priorities, rather than bespoke requirements to produce papers on specific topics.
- 1.8 To further this easing, there are a number of approaches BEIS and UKGI will collectively explore, drawing on learning from interfaces with other Arm’s Length Bodies. For example:
- Development of a shared key stakeholder map and yearly cycle of key engagements and touch points
 - Enhanced understanding of the NDA activities, priorities and links across government through a regular “sponsorship forum”, to which NDA speakers will be invited, promoting a joined-up approach.
 - Working with BEIS Partnerships Team to complement their role in leading the overall framework of engagement and sponsorship with BEIS Arm’s Length Bodies.
 - Creating a cross-organisational administration role with the tools to efficiently schedule and oversee the calendar of meetings at the interface. This could also provide us with valuable analytics to inform ongoing continuous improvement efforts.
- 1.9 As the interface matures we hope that the historic need for reporting to be tailored specifically for the Government will fall away. UKGI and BEIS are working with the NDA as they develop a new approach to group wide performance and financial reporting through the implementation of an Integrated Financial Framework. We expect to be able to reduce duplication through ‘a single version of the truth’ that is tailored to both NDA’s internal needs and Government’s reporting requirements.

Departmental Review 8: The department and the NDA should consider how to facilitate more frequent and more direct conversations on matters of strategy and policy implementation. This could be led by the Chair. This would allow on the one hand the Secretary of State and junior ministers to share their priorities, insights, and expectations of the NDA, referencing their wider policy and delivery vision as appropriate, and on the other give the NDA a forum to explain both their progress and surface any challenges they wish to bring to ministers’ attention.

- 1.10 BEIS recognises that regular interaction between the NDA Board, the NDA Group Leadership Team and BEIS’ Permanent Secretary, UK and Scottish Ministers and Secretary of State will offer mutual benefits to both the NDA and the Government. BEIS fully supports the aspiration to enhance relationships and will proactively facilitate this engagement.

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- 1.11 A regular schedule of meetings is in place at this level that not only complies with the minimum requirements set out in the NDA Framework Document, but goes further to capture the spirit of this recommendation. For example, there is also a regular pattern of meetings between the Director General for BEIS and NDA CEO & Chair. These regular meetings will be held alongside any unplanned, topic or issue specific meetings should they be needed by either the Government or the NDA.
- 1.12 By way of recent example, members of the NDA Group Leadership Team recently presented a summary of upcoming sanction decisions and an update on improvement initiatives to BEIS Project and Investment Committee members, the body responsible for approving business cases for the Department and its Arm's Length Bodies. This followed a session held the previous year; these senior-level strategic conversations will continue in order to continually improve and align understanding of the NDA's project and procurement landscape.
- 1.13 BEIS and NDA are also keen to re-start regular visits to NDA sites (once COVID restrictions allow) for Ministers and policy officials who would benefit from generating a first-hand experience of the scale of the challenge.

Inquiry 4.23: Corporate performance objectives and appropriate key performance measures should be agreed by the BEIS Accounting Officer (Permanent Secretary), who should take an active role in managing the NDA against these measures on a quarterly basis. Formal quarterly reports on progress against these measures should be part of the regular information reviewed by the NDA Board.

- 1.14 The Government agrees with this recommendation and it is an area where much progress has been made in recent years. Both corporate performance measures and Group Key Targets are reported on monthly by the NDA to UKGI, and these are delivered into BEIS' reporting systems. Each quarter, the NDA provides a more detailed performance pack additionally covering the performance of its operating companies, drawn from Quarterly Performance Reviews held with each of the operating companies. Both the monthly and quarterly packs are reviewed and cleared by the NDA Board before onward transmission to the Government. Over the last 12 months the NDA has commenced a key programme to enable improved performance reporting across the NDA Group, the aims of which will be detailed in the NDA's response.
- 1.15 A summary of key progress by the NDA and any issues arising is provided by UKGI to BEIS' Permanent Secretary, Ministers and Secretary of State on a quarterly basis. Whilst the Permanent Secretary currently has no direct personal input to agree Group Key Targets, officials work with the NDA on the formulation of these targets. BEIS, UKGI and NDA will jointly build further on this process to allow for greater BEIS and UKGI input to the development of Group Key Targets. This will allow feedback to be provided to the Permanent Secretary on this process and on annual proposed Group Key Targets. The final sign off of Group Key Targets will remain with the NDA.

Inquiry 4.24: In addition, I recommend that the NDA Chair must have annual performance objectives set by the Permanent Secretary, who should conduct a formal annual performance review of the Chair. The review should include feedback from the Senior Non-Executive Board Member, the Non-Executive Directors, and the NDA's CEO.

- 1.16 The Government agrees with this recommendation and has recently made improvements to the process. The NDA Chair's performance is reviewed by the BEIS Permanent Secretary on an annual basis, informed by wider Government feedback, including input from the Scottish Government on NDA's activities in Scotland. A more formalised process has been implemented from the end of the 2020-21 financial year onwards, in line with UKGI and BEIS policies.
- 1.17 The NDA Chair has performance objectives (personal, and for delivery in conjunction with the NDA Board) that are set in the annual Chair's Letter from the BEIS Permanent Secretary. In future, Chair's Letter objectives for the Chair and Board will be clearly delineated from operational objectives for the NDA Accounting Officer/CEO. As detailed in the NDA Framework Document, the Permanent Secretary meets with the Chair on an annual basis to conduct a performance review, which includes a review against the objectives of the Chair's Letter. The 'Governance Expectations of the Chair' Annex to the Chair's letter commits the Chair to this annual review process.
- 1.18 Following the formalisation of the process in the updated NDA Framework Document, future reviews will draw on feedback provided by the NDA's Senior Independent Director, who will collate evidence from all the NDA Board members. It will also refer to feedback from other people as relevant (HMG, or where appropriate, views from outside Government), collected by UKGI, and an assessment against the objectives of the NDA Chair's letter.

Departmental Review 11: As the NDA consolidates its understanding and management of its businesses and sites, and drives up the quality of its own performance management, Government should actively consider ways of easing the impact of the scrutiny it applies. This is likely to be over a period of several years. For example setting higher levels of delegated authority for sanctioning of projects and programmes, in recognition of measurable progress made by the NDA in developing transparent, comparable management and financial information from all Group businesses.

- 1.19 The NDA was created as an Arm's Length Body to separate decision making on nuclear decommissioning from everyday Government control. The NDA has a well-established framework for scrutinising spend and maintaining financial controls. Nevertheless, the high levels of public spending associated with nuclear decommissioning will always demand some level of Government scrutiny.
- 1.20 Overall delegation levels for the NDA are set via a delegation letter from BEIS, and can only operate within the delegation provided to BEIS by HM Treasury. The NDA's current delegation of £100 million is already the highest in BEIS and one of

-
- the highest for any Arm's Length Body across Government. These levels of delegation enable the NDA to operate efficiently and effectively, in recognition of the substantial annual spend it oversees.
- 1.21 The 2020 Spending Review, announced by the Chancellor in November 2020, set out that Cabinet Office commercial spending controls would be extended to some Arm's Length Bodies that were currently exempt. This will include most of the NDA's operating companies and the NDA has worked collaboratively with BEIS and the Cabinet Office to agree a practical regime.
 - 1.22 Delegated authorities and spending controls are just one piece of the picture in terms of the level of scrutiny that the Government provides. For example, NDA business cases are often required to be submitted for scrutiny at different stages of their development and there may be opportunities for scrutiny on a programme basis, instead of multiple business cases for projects within those programmes.
 - 1.23 There are also other types of scrutiny that will be considered, including pay controls for NDA staff, Cabinet Office controls which cover areas like commercial or advertising spend as well as monthly and quarterly governance meetings.
 - 1.24 As the recommendation notes, key to securing reduced scrutiny will be demonstrating that the NDA has high levels of oversight across all parts of its operations. Central to this will be demonstrating that the NDA has the right systems, processes and culture in place to ensure that the leadership teams, both in the NDA Corporate Centre and in its operating companies, are able to deal with issues swiftly and with confidence that they have an accurate picture of the actual situation. This is particularly important for Major Projects but also hugely beneficial for other areas of the business.
 - 1.25 There are other elements of compliance the Government will look to the NDA to demonstrate in consideration of an ease of scrutiny. Most importantly, maintaining their high levels of safety performance, ensuring a safe working environment for their employees and contractors. This is also important in areas such as pay, compliance with government policy, guidance and spending controls, and financial management.
 - 1.26 Cultivating and sustaining a culture of high performance continues to be a key area of focus for the NDA. Enhanced delivery of outcomes is a key benefit sought through the new NDA operating model. A focus of the recently formed NDA Group Leadership Team is to maximise opportunities from working as a group, assuring strategies and plans are delivering value and transferring good practice.
 - 1.27 To determine a mutually agreeable level of oversight, BEIS and UKGI will work with the NDA to agree a series of performance measures reflecting the required controls set out above and also possible relaxations that would accompany the improvements in performance. These will be used when considering whether to relax or tighten the level of scrutiny the Government undertakes on NDA issues. So

as not to increase the burden on the NDA our intention for these measures is for them to be associated with the NDA's annual Group Key Targets.

The NDA Framework Document

The NDA Framework Document sets out how BEIS, the Scottish Government, UKGI and the NDA work together. It does not convey any legal powers or responsibilities. It covers, among other things, governance and accountability arrangements; accounting officer responsibilities, the construct of the NDA Board, expectations for audit and compliance, and management of finances and people. It defines NDA's specific responsibilities to the Scottish Government with regard to its Scottish sites.

Departmental Review 7: The Framework Document should be kept under regular review, and formally updated to a frequency set by BEIS/UKGI, at least every two years.

- 1.28 Paragraph 6.8 of the Code of Good Practice for corporate governance in central government departments calls for a three-year cycle for review of a framework document.¹⁵ This reflects the fact that, once agreed, a framework document should provide stability to an organisation, as well as reducing the administrative burden and organisational distraction of revisiting the text on a regular basis. Framework documents are drafted in a way such that their text should have reasonable longevity, and so should not require frequent updates.
- 1.29 The NDA Framework Document should therefore be kept up-to-date on a best-practice cycle of every three years, or whenever the organisation has a period of fundamental change in purpose, direction or governance (including a change in shareholding or structure, possibly resulting from the replacement of senior leadership).
- 1.30 To add context, at the time of completion of the Departmental Review (June 2021), the NDA Framework Document was significantly out of date, having last been updated in 2013. The most recent iteration has recently been published.¹⁶ A commitment has been made to revisit this within twelve to eighteen months of publication to take account of the scale and pace of change within the NDA at present as it restructures.

¹⁵ UK Government (2017). Corporate governance in central government departments: code of good practice. Available at: <https://www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments-2017>

¹⁶ UK Government (2021). Nuclear Decommissioning Authority Framework Document 2021. Available at: <https://www.gov.uk/government/publications/nuclear-decommissioning-authority-framework-document>

Departmental Review 10: The revised Framework Agreement should make clear that all of the NDA's wholly-owned subsidiaries should work towards full disclosure of salaries above the normal transparency threshold for publication, from a point in time agreed between the NDA and BEIS to allow the necessary time to implement, recognising that there may be contractual or other legal matters to resolve before doing so. In addition, the Government should introduce a group-level pay control total, agreeing the total number of staff that may be paid above a certain threshold across all of the NDA's subsidiaries, with the corporate centre working with the subsidiaries to allocate the roles, and the Government reviewing the effectiveness of this change every year.

- 1.31 The NDA has a total annual planned expenditure of £3.5 billion for 2021-22 and is responsible for some of the most technically demanding projects and programmes being undertaken in the UK often in highly hazardous environments and with cutting edge technology. These are exceptional projects and to ensure that they are delivered and governed properly the NDA needs exceptional people to run them.
- 1.32 Government policy recognises that public sector organisations need to be able to appropriately remunerate senior staff but also that this should be done in a controlled manner to ensure that senior pay is set at a level to enable the public sector to recruit, retain and motivate the best people whilst ensuring value for money for the taxpayer.
- 1.33 One of the ways that Government does this, especially with Arm's Length Bodies, is by establishing pay control totals for the number of staff who can receive remuneration over a certain threshold. Indeed, there are currently thresholds in place at two of the NDA's operating companies, Sellafield and Magnox.
- 1.34 Now that the NDA's operating companies are proposed to be fully managed within the public sector, NDA is developing a proposal for consideration by Government for a single pay control total for the entire NDA Group. This would provide the NDA flexibility to optimally deploy its resources as needed. If agreed, the Government would establish a review mechanism to allow the pay control total to be re-appraised regularly to ensure it remains fit for purpose. This would also provide reassurance to the Government that levels of senior pay are overseen and are being actively managed.
- 1.35 The Government is now in discussions with the NDA on the precise nature of the pay control total, the initial level at which it will be set and how the review mechanism will operate.
- 1.36 Furthermore, with the oversight of the NDA's operations now fully managed within the public sector, the NDA should make a full disclosure of salaries above the normal transparency threshold for publication, starting this year. This will include the

NDA's Public Corporations¹⁷, which while not formally included within the scope of the exercise, are encouraged to comply.

- 1.37 While the publication of these salaries is an established Government policy, BEIS recognises that this will have an impact on senior staff at those parts of the NDA that have not previously disclosed this information. BEIS stands ready to support the NDA in engaging with affected staff.

Structure of the NDA Group

As documented by the NDA in their response, it has now terminated all of the historic PBO contracts for management of its operating companies. As of July 2021 all NDA operating companies are subsidiaries. This came about via the NDA seeking Government permission in 2020 to create new subsidiaries for both Dounreay Site Restoration Ltd. and the Low Level Waste Repository Ltd.. As part of the NDA's submission, which was required under the terms of the NDA Framework Document, the NDA outlined how taking a greater oversight role for both sites could improve overall management both in terms of achieving end states and in terms of better strategic alignment across sites.

The submission also made clear that, while it was not part of the formal approvals process, the NDA intended to pursue an 'NDA Group' approach across all its sites that would effectively move the organisation permanently away from a PBO model.

The Government granted permission for the operating companies to become subsidiaries. In doing so it asked for further work, in the form of a comparative analysis paper, to be undertaken to justify a permanent move away from a PBO model to an 'NDA Group' approach. This paper would outline how the NDA Corporate Centre and subsidiaries would now operate under complete public sector oversight, giving the Government opportunity to assure itself that the NDA has the appropriate level of resources to pursue its mission in this way; and whether this is the most optimal manner for the NDA to do so.

The Government has recently received the final version of this paper and is now reviewing its contents.

Inquiry 4.06: BEIS should promptly consider the scope of work that the NDA is accountable to deliver in light of the size and resources of the organisation, in comparison with industrial companies that are directly managing such complex and expensive programmes.

- 1.38 The Government agrees with this recommendation. The Departmental Review (Section 5.3) examined the Classification and Form of the NDA and concluded that it should remain as a non-departmental public body. The review noted that the "One NDA" approach currently being delivered will, amongst other issues, 'focus the right capabilities in the right place'. As part of this, the NDA will be looking at the role of the Corporate Centre going forward, and this year's spending review will provide an

¹⁷ The constituent parts of the NDA's Nuclear Transport Solutions: Direct Rail Services (DRS), International Nuclear Services (INS) and Pacific Nuclear Transport Ltd (PNTL) are all public corporations as classified by the Office for National Statistics.

opportunity for the NDA to set out the level of the resourcing NDA needs to make progress against its mission.

- 1.39 The restructuring of NDA, with all remaining NDA operating companies becoming direct subsidiaries, completes in July 2021. As part of the 2021 spending review considerations, BEIS will invite the NDA to undertake a self-assessment of the NDA corporate centre in light of the revised capacity and capabilities required. Following receipt of this input, BEIS will use it to inform a terms of reference for a BEIS review of the scope of work that the NDA is accountable to deliver in light of the size and resources of the organisation, in comparison with industrial companies that are directly managing such complex and expensive operations and programmes. This review will aim to provide recommendations to BEIS Permanent Secretary and BEIS Ministers by Summer 2022.

Inquiry 4.07: The review should include questioning how the NDA manages its site licensing companies, including (a) whether the PBO/SLC model (where the NDA is essentially at least one step removed from the supplier in charge of delivery), can ever adequately manage the programme, and (b) whether risk can ever be adequately passed onto the supply chain.

- 1.40 The Government agrees with this recommendation. The experience of the Magnox procurement shows areas where the PBO model for nuclear decommissioning was not optimal. While we are still reviewing the specific evidence relating to the change of model for the NDA, we generally believe that the current programme of work within the NDA is not well suited to a PBO model. The NDA's mission is, however, extremely long and it should not be discounted that at some point in the future a PBO model, in the right circumstances, may be appropriate.
- 1.41 In the early years of the contracts, the PBOs' breadth of external experience did indeed provide some significant benefits to the NDA by transfer of experience and practices from across the world. For example, in the case of the Low Level Waste Repository Ltd., in the first five years of the contract, the PBO made significant savings (in the region of £2 billion) to the lifetime costs associated with waste treatment and disposal, through the introduction of a new approach to waste management. This proved the innovation achieved through the PBO model to be particularly successful on sites with low complexity and risk and well understood scope.
- 1.42 In terms of risk transfer, the issues faced by the Magnox procurement have shown that it was not appropriate for a private sector organisation to take on the number, magnitude and complexity of risks across the Magnox sites. This experience is part of the reason for the NDA's new group approach, but it does not mean an end to the use of private sector contractors or the end of appropriate risk transfer to the private sector.
- 1.43 The NDA's new group approach allows for the interface between the public and private sectors to be much more carefully calibrated and adjusted without the need for fundamental changes. Contracts and frameworks with the private sector are

placed for carefully specified packages of work, reducing the possibility of the contractor facing unacceptable levels of risk. Most delivery of decommissioning continues to be done by the private sector – more than half of all NDA spend is with the supply chain.

1.44 The contractual models used vary depending on the nature of the work and the risks inherent in it. For example:

- At Sellafield the Programme and Project Partners model, based on Project 13 principles¹⁸, shares risk across a number of private sector companies as well as Sellafield itself.
- The Decommissioning Delivery Partnership at Sellafield, which allows for remuneration and incentivisation to be determined based upon the specific characteristics of a project; enabling risk to progressively transfer as scope maturity increases and complexity decreases. The use of mini-competitions for packages of work helps maintain competitive tension and supports value for money throughout this ten-year arrangement.
- Elsewhere, where appropriate, fixed price contracting is used to completely transfer risk to the private sector.

¹⁸ Project 13 (undated). Project 13 Principles. Available at: <https://www.project13.info/about-project13/>

Chapter 2 – people, capacity and capability

NDA performs a critical function and it is therefore essential that it has the resources to deliver its mission, which the Government has provided through sustained levels of increased spending settlements. The responses in this chapter set out our expectations that the NDA Chair and NDA CEO should be responsible, and accountable, for ensuring their organisation has the right skills and expertise whilst recognising the accountability of the Government, working collaboratively with the NDA Chair, in appointing NDA Board members.

Inquiry 4.16: The commercial capability within the NDA has already been increased by the recruitment of a suitably experienced Commercial Director. Any future material changes to the scope and seniority of this role should be determined by the NDA Board and approved by BEIS.

- 2.1 The Government recognises the strong action taken by the NDA CEO soon after his arrival in 2017. He increased the commercial expertise on the NDA senior team by the recruitment of a Commercial Director, who is GCF accredited, to fully focus on the NDA's commercial requirements. More recently the NDA Group Leadership Team was established, bringing the expertise of the chief executives of the operating companies directly into the NDA's management and decision-making.
- 2.2 The Government agrees that it is for the NDA CEO to determine the make-up of the NDA Group Leadership Team, working with the NDA Board and operating company boards. The Government does not believe that it would be appropriate for BEIS to formally have a role in approving the make-up of the NDA Group Leadership Team.

Inquiry 4.19: The NDA Chair should be given delegated authority to decide on the mix of expertise required, and the appointment of Non-Executive Directors, to ensure that the NDA Board has a spread of expertise from within and outside the nuclear sector, which maps onto those areas of greatest risk and importance to the NDA.

- 2.3 While the Government has no plans to review the Energy Act 2003, we agree that the NDA Chair should continue to be closely involved in the appointment of Non-Executive Directors to the NDA Board (with the presumption that they should be on the recruitment panel). Appointments to the Board – as set out in the Energy Act 2004 – are Ministerial decisions and cannot be delegated to the Chair. This means that any change to apply a delegation would require a change in legislation. While there are currently no plans to revise this legislation, we will ensure the points made by the Magnox Inquiry are taken into account in any future review.
- 2.4 At present, the Chair is heavily involved in recruitment, representing the NDA alongside BEIS and UKGI in recruitment exercises to the Board. Board recruitments necessarily focus on the skills and expertise required for the Board, as informed by feedback from the Chair and the Board's own skills surveys. Processes are led at official level by UKGI in accordance with the Code for Public Appointments.

Recruitment panels are chaired by a BEIS official, representing the Secretary of State, and the Chair is always present. Advice is submitted to Ministers by UKGI, but the final decision on appointments is for Ministers alone and, by law, cannot be delegated.

Departmental Review 12: Board Effectiveness Reviews should take place at a frequency in line with current best practice (i.e. an externally facilitated review every three years, and an internal review annually). BEIS and UKGI should work with the Chair to set the terms for a skills audit to complement the externally facilitated Board Effectiveness Review in order to assess whether the Board has the right mix of skills given the evolving nature of the group model and the merits of recruiting further additional nuclear expertise. The outcome of the Board Effectiveness Review and the skills audit should be shared in writing with BEIS / UKGI.

- 2.5 The Government agrees with this recommendation. The NDA undertakes board effectiveness reviews in line with best practice set out in the UK Corporate Governance Code. The NDA conducted an externally facilitated board effectiveness review in 2017-18 and has conducted internal reviews in the intervening years. A decision was taken due to the departure of the incumbent NDA Chair that it was inappropriate to conduct an externally facilitated review until the new Chair, Ros Rivaz, was in place in the 2020/21 financial year. An externally facilitated board effectiveness review was conducted from January 2021, with the final report presented to the NDA Board in March 2021.
- 2.6 The 2018 board effectiveness review identified nuclear expertise as a skills gap within the NDA Board. To rectify this Michelle Heath was recruited to the Board in 2019, replaced by Professor Francis Livens in 2020.
- 2.7 The NDA Board maintains a skills audit of board members to inform succession planning, this was further informed by the 2021 board effectiveness review, which considered 'roles, relationships, contribution, dynamics, behaviours, & diversity of perspectives' as part of its scope. The review also suggested several ways in which the quality of the Board's skills audit could be improved, so as to aid future succession planning.
- 2.8 The 2020/21 Board effectiveness review was a light touch approach to an externally facilitated review, as set out by the NDA Chair, and as such had no formal written output. The reason for this approach was that the NDA is soon to undertake significant reforms to its own board and governance structures, as well as recruit a significant cohort of non-executives, and would therefore undergo significant change which could render recommendations from a fuller review irrelevant.
- 2.9 UKGI recommends that the NDA undertakes a further board effectiveness review once it has undergone its proposed overhaul of its supporting committees over the next couple of years. This will allow the NDA Board to embed its new governance structures before they are assessed, and to have completed a number of non-executive recruitments who will be able to provide fresh insights into the review. This review should have input from inception on its formulation from UKGI and BEIS, and

the review should produce a written report with recommendations and an action plan.

- 2.10 In the interim, UKGI recommends that the NDA builds upon the recommendations of the recent effectiveness review with regards to improving the way it monitors the skills, knowledge and experience of its members to aid forthcoming recruitments. A skills audit should also necessarily form a part of the subsequent review.

Chapter 3 – risk and assurance

Ensuring that NDA projects and procurements are subject to appropriate levels of scrutiny is an integral part of the Government role in accounting to Parliament for their spend. The Government recognises its assessments are just one part of how each of the NDA's projects and procurements are evaluated. While these assessments must continue, the responses in this chapter will set out the action we have, or will, take to ensure that they are additive to the overall process. The overall aim is, as far as is possible, to not repeat previous assurance already carried out.

Risk

Departmental Review 9: BEIS and UKGI should establish a clearer, more transparent mechanism for identifying those NDA top-level risks that merit formal reporting to BEIS' Performance and Risk Committee, and to the BEIS Director General.

- 3.1 We agree with this recommendation. The NDA reports its top-level risks through an established BEIS platform (and regularly to UKGI), which is available to the BEIS Performance and Risk Committee and the Director General with responsibility for the NDA. The risk information will also feed up to the BEIS Executive Committee for escalation where appropriate. To address any gaps that may arise in this reporting system, part of the Quarterly Governance Meetings between UKGI, NDA and BEIS will be available for discussions on risk.

Assurance of Major Projects and procurements

Inquiry 4.60: I am aware that the IPA is developing improvement plans, and in this connection I recommend it should focus on fewer but deeper reviews for high risk, high complexity projects only. Reports by the IPA should be presented to the board or relevant subcommittee of the organisation, and should be clear and upfront about exclusions, and thus leave no doubt about areas where no assurance can be given.

Fewer but deeper reviews:

- 3.2 As part of the Government Major Projects Portfolio (GMPP) Reset and related assurance refresh, the IPA has refocused all IPA Reviews to GMPP Tier A only and are working to develop tiering prioritisation on an ongoing basis.¹⁹

¹⁹ UK Government (2021). Treasury Minutes progress report – March 2021. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972860/CCS207_CCS0321222622-001_CP_409_Treasury_Minutes_E-Laying.pdf

Reports should be presented to the board:

- 3.3 The reviews are undertaken for the benefit of Accounting Officer and the Senior Responsible Owner (SRO). Following an assurance review, the outcomes are shared with the Accounting Officer and SRO for distribution on a confidential basis. Internal distribution of IPA assurance review outcomes is the responsibility of the organisation holding the SRO accountability.
- 3.4 In order to ensure the reviewers secure open and transparent responses to review interviews providing the most accurate reflection of the project, it is important that interviewees are aware that their comments will be non-attributable and that the review output will not be widely shared. IPA therefore undertake to share only with the SRO and Accounting Officer. It is then up to these individuals whether the output is shared more widely. It will be up to individual Departments and Non-Departmental Public Bodies to make decisions as to whether these reports are shared with their respective Boards.
- 3.5 With respect to IPA review reports on NDA projects, BEIS believes it would be appropriate for all such reports to be shared with the NDA Board and will be working with the NDA to consider how to most appropriately ensure this happens.

Inquiry 4.61: In light of the recommendation in the preceding paragraph, the IPA ought to undertake a skills and capability assessment of all IPA reviewers, and formally document and regularly audit the competence and capability, skills and experience required, before assigning reviewers to particular reviews.

- 3.6 Assurance reviewers are recruited through an IPA managed selection and on-boarding process where all reviewers are accredited and trained through an IPA led process. This ensures reviews are conducted by appropriately qualified reviewers and ensures a consistent quality of assurance.
- 3.7 As part of ongoing assurance improvements, the IPA are conducting a 'reviewer refresh' which is improving further these processes and the IPA are looking to increase the size, breadth, quality and diversity of the reviewer pool.

Inquiry 4.62: The IPA should clearly state the purpose of each review, and identify the prime 'customer' of any review (e.g. the SRO, the CEO or possibly the full board of an organisation). It should make it clear what actions should be taken as a result of the review.

- 3.8 Following the reset and refresh described above IPA will now deliver its assurance as commissioned by and for the Accounting Officer. RED ratings will be reported to Accounting Officers, Cabinet Office and HM Treasury Leadership.
- 3.9 The purpose of each review is clearly defined in the terms of reference.
- 3.10 The output of each review clearly lays out a set of risk-based recommendations.

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- 3.11 The review team will record the key risks or concerns that will severely impact deliverability of the project or programme. All recommendations should be aligned to the resolution and management of these key risks and the overall red/amber/green rating should be based on the severity and urgency of these risks.

Inquiry 4.63: The review must have real teeth. Ratings should be unambiguous, which may include recommending that progress be halted, if that is judged to be necessary.

- 3.12 The move from a five-category rating model to an improved three level red-amber-green system gives clearer and definitive indications on the status of a project. This is a stage gate Assessment which will be used to decide whether a project is ready to proceed at every gate. Without this approval from the IPA, the project will not be allowed to move to the next stage. Ultimately, IPA assurance will inform better decisions on whether projects should be modified, continue, or end.

Business case approvals

Departmental Review 18: BEIS should review how its business case approvals mechanisms, including the PIC, can complement the NDA's assurance process rather than replicating it. BEIS and NDA should consider seconding staff into the Corporate Centre and/or a Site Licence Company to provide enhanced capability on the drafting of business cases.

- 3.13 The NDA are leading an initiative to respond to this recommendation and other related recommendations made directly for the NDA. The BEIS Project and Investment Committee (PIC) is an integral part of the business case assurance process, providing an oversight, scrutiny and approval function for NDA business cases over £100 million and ensuring value for money for the taxpayer. BEIS will continue to work with the NDA and the IPA to streamline the NDA's business case assurance process. For example, BEIS is undertaking work, alongside the NDA, to ensure PIC members are able to feed their views into the assurance process earlier than has historically been the case. Different options are being considered for how best to implement this.
- 3.14 BEIS fully supports secondment opportunities between the Government and the NDA and will work jointly with the NDA to facilitate an exchange of talent for mutual benefit. Furthermore, a number of NDA and SL colleagues have or are registered to attend commercial business case training.

Departmental Review 19: We recommend that the NDA produce clearly defined terms of reference for each layer of governance in the business case approvals and sanctions process that explains the roles and responsibilities of each and highlights their additive value. Unnecessary layers should be removed. Additionally, IPA should consider what further help it can provide NDA's PPM capability with a view to offering advice and support as it enhances its capability.

- 3.15 The IPA recognises the importance of supporting improved project delivery capability across the Government and agrees with this recommendation.
- 3.16 IPA continues to build and maintain a close relationship with the NDA as evidenced by standing involvement at delivery level via, for example, the NDA Monthly Major Projects Review Group as well as more senior level via, for example, the NDA Senior Officials Group. This involvement ensures IPA holds current understanding of the NDA's activity to improve its project delivery capability and provide advice and support where appropriate.
- 3.17 Recent examples of this have been:
- The IPA's role in supporting the Sellafield Project Improvement Programme through a structured framework of workshops focussed on making the identified changes sustainable.
 - The IPA Assurance of the NDA's GMPP programmes continues to highlight areas of learning which are then fed into the wider NDA project delivery capability. For example, the recent Gate 3 of the Geological Disposal Facility.
 - IPA is supporting recruitment of SROs into roles within Sellafield, to inject capacity and capability.
- 3.18 IPA will continue to work closely with NDA colleagues in identifying and addressing project delivery capability with the mutual aim of continuous improvement.

Chapter 4 – commercial and contracting

This theme contains recommendations split across commercial ‘policy’, which have been answered by the Cabinet Office and ‘operational’ which will feature in the NDA’s response.

Summary of Cabinet Office commercial standards

The Commercial Continuous Improvement Assessment Framework (CCIAF), as updated in May 2021, has been revised to strengthen areas relevant to the findings of the Magnox Inquiry.²⁰ The framework has been actively used by the NDA and other central government organisations since 2016 and has continued to evolve to raise the standards of commercial activity across central government and parts of the wider public sector.

The expectations of contracting authorities in this latest version include key changes that complement the findings of the Inquiry around areas including governance, assurance and internal controls. These have been complemented by enhanced requirements to train bid evaluators and work with suppliers to understand the market and learn from supplier feedback over procurement processes.

The NDA have been one of the most active participants throughout the evolution of the commercial standards process over recent years. Their insights and internal improvement made in light of the Magnox findings have fed into the refreshed document, along with all other departments, which places the CCIAF in a stronger position to directly complement the findings.

Aligned to the CCIAF is the Commercial Functional Standard.²⁰ This sets out the role of the commercial function across central government and includes a range of mandatory obligations. This document describes the roles and responsibilities of different grades and sets out minimum governance processes and assurance controls.

Some of these mandatory obligations will be reflected in SCS grade performance objectives which will further strengthen the improvements.

As part of the NDA-led initiative in response to Departmental Review recommendation 18, the NDA is considering the core principles set out in the Sourcing and Construction Playbooks, such as early market engagement, delivery model assessment, should cost modelling and contingency planning to name a few.^{21 22}

²⁰ UK Government (2021). Commercial Continuous Improvement Assessment Framework and Commercial Functional Standard. Available at: <https://www.gov.uk/government/publications/commercial-operating-standards-for-government>

²¹ UK Government (2021). The Sourcing Playbook. Available at: <https://www.gov.uk/government/publications/the-outsourcing-playbook>

²² UK Government (2020) The Construction Playbook. Available at: <https://www.gov.uk/government/publications/the-construction-playbook>

Summary of Cabinet Office assurance controls

The Inquiry made a number of recommendations relating to good commercial practice that are incorporated into the GCF standards. The Commercial Continuous Improvement Team, in addition to setting the standards, also tests them through a rigorous assurance process. Accredited commercial professionals review central Government department's commercial pipeline, testing commercial strategies and compliance to policy and good practice. A deep dive commercial review at outline and final business case is conducted for novel, contentious and complex requirements and departments cannot progress to the next stage of their procurement without approval via this assurance process. This 'third line of defence', after project and departmental assurance, is designed to apply a pan-government perspective and build management information of commercial performance across the Government.

In autumn last year, the Minister of State for Efficiency and Transformation, who makes the final determination on Commercial Spend Control approvals, announced his intention to remove all exemptions to those controls. The NDA, with some of its operating companies exempt to the controls, some not, was in the first tranche of organisations to respond to the lifting of these exemptions and was proactive in engaging with the Cabinet Office in agreeing a commercial assurance methodology. A phased transition is being taken for in-flight projects, to minimise disruption and ensure maximum added value.

In February 2021 an assurance regime for the NDA was agreed by Cabinet Office upon the following principles.

- All individual commercial transactions in excess of £50million will be subject to Cabinet Office Commercial Spend Control approval at outline business case, before the procurement is launched, and final business case, before a contract is awarded.
- A pipeline assurance review approach will be adopted for all commercial activity between £25m and £50m to enable the Cabinet Office commercial controls team to have oversight of higher risk cases. Those judged particularly concerning within this range can be subject to deeper dive review.

The Commercial Controls methodology tests application of these policies and best practice as well as the commercial functional standard across six tests; Commercial Policies, Competition, Markets, Risk Allocation/ Pricing, Contract Management and Planning. The application of these additional levels of assurance, testing adherence to the best practice principles expected in the GCF, will mitigate the risk of the problems identified by the Inquiry arising in subsequent procurements.

As part of this new regime BEIS commercial and NDA commercial have established a closer working relationship. In practice this will mean BEIS commercial receive a standing invite to all of the NDA's enhanced commercial assurance panels, with quorate membership; a quarterly review of the NDA Group commercial pipeline; and agreement that NDA will notify BEIS should the Cabinet Office call in any activities for deep dive review.

Furthermore, the Commercial and Operations Director of BEIS plans to establish a forum for the commercial directors of all of the BEIS partner organisations to come together and share learning and best practice.

Recommendation specific responses

The inquiry raised particular points relating to commercial practices in government and we accept the direction of improvement of all these recommendations. Many of these recommendations reinforced issues that had been identified across Government and so, earlier this year in May 2021, the Government updated its Commercial Continuous Improvement Assessment Framework and Commercial Functional Standard.

Inquiry 4.41: Procuring authorities should ensure that Boards or senior Departmental oversight bodies appoint a Non-Executive director (with a background in procurement) to advise on key decisions to be taken by the Board or equivalent body in relation to a complex procurement

Inquiry 4.42: Procuring authorities should consider the composition of the steering group/ body directly involved in oversight of a complex procurement. Care should be taken to ensure that that body has a majority of members who are not directly involved in delivery of the complex procurement itself.

- 4.1 There is an expectation that all departmental oversight bodies, boards and steering groups should include procurement expertise. The Commercial Continuous Improvement Assessment Framework²⁰ sets expectations for the good practice described at 4.41 and 4.42 in the first theme, Commercial Strategy, Planning and Governance. Specifically it requires that organisations operate with “A commercial governance framework [that] defines roles and responsibilities for the strategic and operational management of commercial activity, including a commercial oversight board or equivalent and is aligned to the wider organisational governance framework” (Practice area 1.3: commercial governance and management framework).

Inquiry 4.43: Procuring authorities should embed appropriate involvement of senior executives with relevant responsibilities within any strategy for complex procurement from an early stage. This may avoid any subsequent perceived need to exclude senior input and oversight in order to ensure an untainted procurement process.

- 4.2 The Commercial Continuous Improvement Assessment Framework²⁰ sets expectations for the good practice described at 4.43 in ‘Theme 1 Commercial Strategy, Planning and Governance’. These standards require that there is a senior officer accountable for an organisation’s commercial activity, who has relationships across the organisation (**Practice area 1.4: commercial leadership and senior ownership**). The suitably qualified senior business owners (or SROs if applicable) should be identified and assigned for procurement and management of all gold contracts throughout their lifecycle to provide leadership and direction.

Inquiry 4.44: Procuring authorities must recognise that successful procurement is materially assisted by robust and effective contract management, which, in particular, should produce sufficient, accurate quality data. This enables both the procuring authority and bidders respectively to identify, offer and assess a sustainable and affordable delivery model and pricing structure.

- 4.3 The importance of effective contract management in the successful delivery of complex procurements, providing fair access to material data will allow bidders to properly understand the risks of a programme and produce deliverable proposals. Achieving this outcome requires good quality contract management which has been the subject of significant investment within Government. The Government Commercial Function offers a Contract Management training programme for all Civil Servants who use third party contracts to deliver goods and services. The base level (Foundation) is free of charge and available online and more detailed training is available for practitioners and experts.
- 4.4 Furthermore, mobilisation obligations and where applicable transition arrangements are expected to be incorporated into all applicable contracts before signing. This guidance is codified in Theme 5 of the Commercial Continuous Improvement Assessment Framework²⁰ (Practice area 5.1: contract mobilisation and transition). Cabinet Office Commercial Spend Controls test the provisions made for adequate exit, mobilisation and contract management.

Inquiry 4.45: Procuring authorities should clearly differentiate between items in their decision-making process which are compliance-related and pass/ fail, and those which are qualitative and go to the nature of the tendered proposals. A pass/ fail item should be just that i.e. an omission or mistake in a tender which is of such magnitude that the authority would want to have the ability to decline that tender.

Inquiry 4.46: Procuring authorities should decide whether pass/ fail items are mandatory or discretionary. If the latter, there should be a documented decision-making process to ensure that any discretion is lawfully and defensibly exercised.

- 4.5 Evaluation criteria with a pass / fail decision point is appropriate and necessary when testing for critical requirements. The binary nature of the decision point and the consequential impact this evaluation can have on the success of a bid requires such tests to be introduced to evaluations judiciously. When included in evaluation criteria the terms of their application should be clear and the decision making process in relation to their application well documented, along with all evaluation activity.
- 4.6 The Government Commercial Function has produced evaluation guidance for complex procurements available to all Civil Servants which assists them in applying pass / fail criteria lawfully. The latest iteration is Government Commercial Function

Bid Evaluation Guidance Note, May 2021.²³ Section 3.3.5 of this guidance advises that all evaluators and moderators need to be appropriately trained and records kept of this training and that this training should cover pass / fail criteria.

- 4.7 This guidance also emphasises in Section 4.1.3 that *‘Where evaluation criteria are pass / fail, ensure that this is both appropriate and proportionate. If it is mandatory that a particular threshold is met then it is necessary to exclude any bidder that doesn’t meet it. You should therefore consider carefully whether the requirement in question is significant enough to merit rejecting a bid regardless of its other benefits.’*

Inquiry 4.47: There should be clear business ownership of the award criteria with direct linkage to the procurement strategy.

- 4.8 This recommendation is accepted and is already embedded in functional guidance as good practice. Section 4.1 of the Government Commercial Function Bid Evaluation Guidance Note, May 2021²³ outlines expectations for effective design of an evaluation model stating: *‘The evaluation model should reflect the desired business objectives, outputs and outcomes of the procurement.’*

Inquiry 4.48: The evaluation criteria should be scenario tested thoroughly to ensure that the desired business objectives are achieved, and that any unintended consequences are understood and dealt with.

- 4.9 This recommendation describes good commercial practice which is reflected in Government commercial guidance. The Government Commercial Function Bid Evaluation Guidance Note, May 2021²³ sets out the following expectation in Section 4.1.3: *‘The evaluation model should be developed iteratively, with early outline evaluation criteria tested with potential bidders as part of early market engagement. Evaluation criteria may also be developed through early testing phases of a project. Scenario test the model before finalising to check it works as expected.’*

Inquiry 4.49: Procuring authorities should keep contemporaneous records of dialogue meetings and share with bidders a record of any decisions reached or assurances given, which they may rely upon in their tenders. These do not have to be audio recordings.

- 4.10 The importance of keeping contemporaneous records of meetings and material decisions made through dialogue is fully recognised. The Government Commercial Function Bid Evaluation Guidance Note, May 2021²³ Section 3.4 ‘Set up a record keeping process’ addresses this particular point. In particular paragraph 3.4.1 states *‘A robust evaluation process involves good record keeping. Failure to keep a thorough and well documented evidence trail can make it difficult to justify why a particular bidder won.’*

²³ UK Government (2021). Government Commercial Function Bid Evaluation Guidance Note - May 2021. Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987130/Bid_evaluation_guidance_note_May_2021.pdf

Inquiry 4.50: Evaluators should understand that their written remarks and observations made during evaluation may be discoverable in the event of litigation. Subject to this, they should be permitted and encouraged to keep working notes so that they have an accurate record of their conclusions.

- 4.11 The Government Commercial Function Bid Evaluation Guidance Note, May 2021²³ Section 3.3.5 notes that one of the key areas of training that all evaluators and moderators need to undergo relates to record keeping (both why it matters and how to do it effectively).

Inquiry 4.51: Evaluation may be and often is an iterative process. Procuring authorities should ensure that their processes allow for provisional scores to be arrived at, and that systems and records clearly denote what are provisional and final scores.

- 4.12 The iterative nature of evaluation is acknowledged and functional guidance accounts for this dynamic element of bid evaluations. Evaluation processes are expected to maintain detailed records (Section 3.4 Government Commercial Function Bid Evaluation Guidance Note, May 2021²³) which should prevent any ambiguity in what are provisional and final scores and evaluators must be trained in the evaluation process, including compliance checks, individual scoring and the moderation and consensus scoring process.

Inquiry 4.52: All evaluation processes should employ moderation to ensure consistency, and to ensure that evaluators have a common view of what good looks like.

- 4.13 The importance of moderation and consensus scoring is recognised and Government Commercial Function guidance reflects this. The Government Commercial Function Bid Evaluation Guidance Note, May 2021²³ Section 9.3 'Moderation and consensus scoring' states, '*Once individual scoring is complete, evaluators should send their scores and evaluation reports to the moderator for review.*'
- 4.14 This guidance goes on to state '*The moderation process should not be closed until all evaluators and moderator have agreed and are satisfied with the scoring. The moderator should also be satisfied that the scoring methodology and evaluation criteria have been correctly applied.*'

Inquiry 4.53: Legal advisers should be asked to assess and report on legal/challenge risk and mitigations at the outset of a complex procurement, and to review this advice on a regular basis. Such advice should be addressed to the oversight body (not simply the individual directly leading the procurement) and should be provided in its own terms to ensure legal risk is accurately reported and legal privilege respected.

- 4.15 Legal advisors should be involved early in the procurement process for complex requirements to provide insight and guidance and their advice should also be represented on investment committees. The Sourcing Playbook²¹ recognises the need to incorporate legal input across the sourcing policies that are applied to

procurements, noting in the section *'Who is the Sourcing Playbook for?'* Figure 2, that *'legal need awareness of the legal obligations and ensure they are contractually captured (where appropriate).'*

- 4.16 Access to legal advice relating to bids can be made available to oversight bodies whilst protecting legal privilege and processes are in place within government to support this. The need for legal advice to be made available beyond the individual leading the procurement to provide effective oversight is understood. Section 3.1 'Governance and management framework' in the Government Functional Standard: Commercial²⁰ states that organisations must 'have a senior officer accountable for its commercial activities' who operates in a governance structure that allows oversight of commercial delivery teams.
- 4.17 The Commercial Continuous Improvement Assessment Framework²⁰ reinforces the governance guidance in the Functional Standards in Practice Area 1.3 'Commercial Governance and Management Framework' which defines best practice for governance and commercial assurance. In addition, Cabinet Office Commercial Spend Controls, which are operated by the same team that produces the functional standards, can incorporate legal risk and advice into their review to provide an additional independent assurance check and if necessary access legal advice.
- 4.18 The Government Functional Standard: Commercial²⁰ also sets an expectation at Section 4.1 'Shaping the business need and make or buy assessment' that *'Commercial Specialists should be appointed early to support definition of the business need...'* with the expectation that these specialists will operate under the functional guidance to seek legal advice proportionately throughout the lifecycle of the procurement.
- 4.19 The Government Commercial Function Bid Evaluation Guidance Note, May 2021²³ provides frequent guidance to consult with legal colleagues or seek legal counsel in the development and implementation of a procurement plan, for example stating in Section 3.1.2 *'Legal colleagues can assist with designing and/or reviewing the evaluation process and any specific queries.'*

Inquiry 4.54: In the context of complex procurements where bidders may have invested many millions of pounds, procuring authorities should regard debrief interviews as a key part of the procurement process, not simply an administrative step (involving if necessary the SRO or CEO). Debrief interviews provide a significant and genuine opportunity to listen to bidders, and to mitigate concerns/risk of challenge.

- 4.20 The significant investment businesses make when bidding for Government contracts is well understood. This commitment should be recognised in the quality of debrief interviews at the end of a complex procurement. They are an opportunity for mutual learning which not only improves the delivery of the subject requirement but increases the chances of success for future procurements. To this end, the Government Commercial Function Bid Evaluation Guidance Note, May 2021²³ notes in Section 10.1 *'Notify bidders and provide feedback'* that *'Good feedback to bidders can be extremely useful to them by helping them to understand what they did well,*

what they could have done better, and points to consider in the future.' The guidance goes on to list good practice in providing feedback.

- 4.21 The Cabinet Office Markets and Suppliers team run the Crown Representative programme and a team of Supplier Relationship Managers who can support government organisations in their engagement with Government Strategic Suppliers.

Inquiry 4.55: The relevant authority must seek legal advice on the merits, cost and timeframe for the dispute, and weigh those considerations against the prospect and size of any formal claim. It must articulate and regularly review its commercial and legal strategy in the light of material developments (for and against) which fundamentally will be whether to defend or settle the dispute.

- 4.22 The appropriate handling approach for any dispute depends upon the nature of that dispute but any decision made would take into account legal advice.

Inquiry 4.56: Where the dispute involves policy considerations, carries reputational risk and/or a material cost risk, the sponsoring Department (in the case of an arm's length body) and Cabinet Office should be consulted. Their views on those matters should also be weighed carefully in the balance when devising - and revising - the commercial and litigation strategy.

- 4.23 There is an expectation across Government that should a serious dispute arise, whatever the risks or circumstances, then a coordinated response should be made, accounting for commercial, delivery and reputational risk, legal principle and policy considerations. With this in mind there are both formal processes and principles of collaboration embedded across functional guidance.
- 4.24 Cabinet Office Commercial Spend Controls require disclosure of disputes with a likely settlement over £10 million whether instigated by the government or external organisation. The Cabinet Office may support or take the lead to manage and resolve the dispute. The Government Legal Department will be made aware of this disclosure by the Cabinet Office.
- 4.25 In the Commercial Continuous Improvement Assessment Framework²⁰ Practice Area 8.1 'Policy awareness and implementation' puts an expectation on Arm's Length Bodies to understand and communicate policy obligations, which reinforces the Cabinet Office Controls dispute disclosure requirement. This expectation is reinforced in the Government Functional Standard: Commercial²⁰ Section 3.5 which reminds organisations that '*where commercial spending controls are applicable, the relevant Cabinet office and HM Treasury stakeholders shall be consulted in a timely manner, to facilitate commercial assurance activity and ministerial approvals...*' The Government Commercial Function are considering the inclusion of disputes as a stand-alone section within the next update of the document and this will be an opportunity to codify in more detail cross government handling of disputes.

4.26 The Cabinet Office Complex Transactions team offers optional support to departments and organisations who are handling disputes and maintains a database record of this information. The team includes dispute resolution specialists who provide expert guidance when devising and revisiting commercial and litigation strategies.

Inquiry 4.57: In my view, using the same law firm in litigation as has advised on a procurement should not be considered automatic. I recommend that the decision on legal representation, once legal proceedings have been brought, should be taken only after the fullest consideration of all potential implications, and should also be formally sanctioned at senior management level.

4.27 The decision on which law firm is used in litigation depends upon the circumstances of the dispute. Using representatives and advisors who have not advised on the process under challenge is recognised as good practice. There are some circumstances, however, where the deep knowledge of the subject matter will be advantageous. The Government Commercial Function would expect any procurement of services to take place in accordance with Government Functional Standard: Commercial²⁰, the Sourcing Playbook²¹ and Cabinet Office controls as is appropriate.

Inquiry 4.58: Wider Government should review the approach it takes to public procurement litigation generally. Although a sub-species of public law litigation, this should not disguise the fact that many issues underlying public procurement litigation are comparable to those within complex commercial litigation. This accentuates the need to adopt a consciously more commercial approach to the assessment and quantification of the relevant costs and risks involved.

4.28 The Government is reviewing the approach it takes to public procurement litigation. The review will be informed by identified challenges in dealing with public procurement litigation.

Inquiry 4.59: Cabinet Office, with input from the Government Legal Department, should put in place suitable procedures to capture key lessons learned and best practice in the conduct of procurement litigation on an ongoing basis, and ensure these are shared across Government and the broader public sector, given the financial and wider reputational impact of such cases.

4.29 The Cabinet Office looks to the Government Commercial Function to use its cross departmental role to build, maintain and share knowledge. In response to lessons learned from previous disputes a number of cross Government interventions have been made, for example the production of guidance to prepare for legal challenge and guidance on mitigation measures in the event of dispute. One of the key advantages of the Government Commercial Function is that expertise and lessons learned can be shared readily with a community of practitioners across government and this structure can be utilised to deliver the learning from experience proposed in this instance.

Chapter 5 – sustainability

The recommendations in this theme centred on the importance of the NDA’s notable commitment to sustainability being shaped by, and complementary to, policy direction.

Since the NDA was formed, global awareness of sustainability and specifically decarbonisation, clean growth and social value have become ever more important. This has contributed to the development of the United Nations Sustainable Development Goals (“UN SDGs”) and declaration of climate emergencies by UK, Welsh and Scottish Parliaments with legislation to reduce the emissions of greenhouse gases to net zero across the entire UK by 2050.

In 2015, the Government committed to the delivery of the UN SDGs by embedding them in the planned activity of each Government department. The Government and the devolved administrations have developed sustainability policies and strategies such as the 25 Year Plan to Improve the Environment, the Clean Growth Strategy, the wellbeing of future generations commitments in Wales and the nuclear sector plans in Scotland.

DEFRA is the lead on an HMG Sustainable Development Strategy, which consists of three pillars, environmental, social and economic, all of which should underpin the Government policy. These three pillars are each key components of the NDA’s Value Framework.²⁴

These responses set out how BEIS will support the NDA in its sustainability endeavours.

Departmental Review 02(i): BEIS should consider how it can work with the NDA to help it measure and evaluate the impact of its socio-economic activities, including the benefits to the delivery of the NDA’s core mission; ensuring that the overall strategic approach aligns with wider socio-economic priorities as well as the Energy Act requirements, and are given the right level of challenge and support by central government.

- 5.1 The Government agrees that it should consider how it can work with the NDA to help it measure and evaluate the impact of its support to its local communities, including the benefits to the delivery of the NDA’s core mission and the Government’s wider priorities such as levelling up, as well as the Scottish Government’s wider priorities.
- 5.2 The NDA core mission provides critical national and global societal benefits through the completion of decommissioning, nuclear materials management and site remediation functions in a safe and secure manner. Alongside those priorities, the Government expects that the NDA will play a key role in supporting the Government’s Ten Point Plan for a green industrial revolution through the essential

²⁴ UK Government (2016). NDA value framework: how we make decisions. Available at: <https://www.gov.uk/government/publications/nda-value-framework-how-we-make-decisions>

support role that it will provide for the development of new large-scale nuclear power and both Small Modular Reactors and Advanced Modular Reactors, which have all been identified as being key components toward the UK meeting its 2050 net zero carbon ambitions and providing a reliable source of low-carbon electricity.

- 5.3 Nuclear decommissioning creates high-quality jobs and opportunities in the supply chain. The emergence of social value, maximising the positive social, economic and environmental impacts achieved as a result of procurement, employment and investment activity, has begun to transform the way businesses, in the UK and globally, operate. The Government is mindful of the very significant influence the NDA is able to convey through the geographical spread of the NDA's sites across the UK, the considerable size of its workforce and the NDA's annual capital expenditure through the supply chain in the UK. BEIS is already working with the NDA to identify opportunities for that influence to be used so that the NDA is a local, regional and national leader in sustainable development and transforming industrial processes in line with the Government's Industrial Decarbonisation Strategy.
- 5.4 The NDA recently revised its approach in its Local Social and Economic Impact Strategy Update 2020²⁵, which was signed off by the Government. The NDA's grant programmes, for example, are an important and flexible tool to support the Government's regional growth and levelling up agenda. The NDA, for example, has supported the development of successful town deals in Cumbria and the Borderlands deal in Dumfries.
- 5.5 By measure of the NDA providing well-paid jobs and highly skilled careers in areas where salaries fall below the UK average, the NDA is a crucial part of local economies where it has sites across the UK. The role that the NDA performs to support net zero and decarbonisation will secure the long-term viability of jobs in support of the levelling up agenda. This ongoing role and the social value requirements in NDA procurements, and monitoring of their realisation, will need to be sufficiently demonstrated in order to secure Government approvals.
- 5.6 In this light, the Government will work with the NDA to consider whether data obtained since the launch of its new approach could be used to measure and evaluate its impact and the impact on levelling-up ambitions. It will also be used to provide assurance that the NDA's new approach is both fair and transparent and that it takes into consideration the significant impact Covid 19 may have had on the host locations of NDA's sites.
- 5.7 The NDA's annual reports and Sustainability Strategy will be expected to contain material evidencing sustainability and the NDA's ongoing support for levelling-up and regional growth.

²⁵ UK Government (2020). NDA local social and economic impact strategy 2020 update. Available at: <https://www.gov.uk/government/consultations/nda-local-economic-and-social-impact-strategy-2020-to-2026-draft-for-consultation>

Departmental Review 02(ii): BEIS should consider how it can work with the NDA to help it measure and evaluate the impact of its net zero targets ensuring that the overall strategic approach aligns with wider socio-economic priorities as well as the Energy Act requirements, and are given the right level of challenge and support by central government.

- 5.8 The Government already supports and challenges the NDA in evaluating sustainability and its net zero targets:
- BEIS is producing a strategy on operational sustainability and net zero which will complement the NDA Sustainability Strategy currently under development.
 - DEFRA has set Greener Government targets which Government departments report on annually. These cover areas such as waste reduction and transport and air pollution. They are set every five years.
- 5.9 The NDA is well placed to respond to this increased interest in sustainability as its mission is one of delivering sustainable outcomes for the nuclear sector. In 20-21 the NDA baselined carbon emissions across the NDA Group and published a sustainability report.²⁶ In 21-22 the NDA will agree a sustainability vision for the NDA Group, define a five year roadmap to achieve the vision and establish a proactive sustainability working group.
- 5.10 The Government will work with the NDA to consider how the UN SDGs can be mapped to different parts of the UK nuclear decommissioning sector and opportunities to demonstrate and improve how the sector contributes holistically. This mapping will be linked to Energy Act requirements, where relevant.

²⁶ UK Government (2021). The NDA Group: Sustainability at the NDA 2020-21. Available at: <https://www.gov.uk/government/publications/nda-sustainability-report-financial-year-april-2020-to-march-2021>

Annex A – recommendation list

Magnox Inquiry

Ref.	Recommendation from Magnox Inquiry	Summary	Page no.
4.03	I recommend that BEIS takes overall responsibility for the implementation of those of my Recommendations that relate to the NDA and ensures that it has in place a system of regular and robust reporting from the NDA Board on how these are being implemented and managed by the NDA in practice.	Agreed Ongoing	N/A
4.06	BEIS should promptly consider the scope of work that the NDA is accountable to deliver in light of the size and resources of the organisation, in comparison with industrial companies that are directly managing such complex and expensive programmes.	Agreed Ongoing	p20
4.07	...should include questioning how the NDA manages its site licensing companies, including (a) whether the PBO/SLC model (where the NDA is essentially at least one step removed from the supplier in charge of delivery), can ever adequately manage the programme, and (b) whether risk can ever be adequately passed onto the supply chain.	Agreed Ongoing	p21
4.08	Specific consideration should be given as to how, in any operating model that it puts in place, the NDA will ensure that it maintains both sufficient oversight and adequate quality assurance of the services and work performed by contractors and sub-contractors.	Agreed Ongoing	See NDA response
4.09	The review should also consider whether, and how, the NDA can attract and retain the world class expertise to be an 'intelligent' buyer of such services, and how this might be supplemented effectively with suitable external experts.	Agreed Ongoing	See NDA response
4.10	This review should be carried out in conjunction with, or as part of, any review undertaken as a result of the Public Accounts Committee Report: The Nuclear Decommissioning Authority's Magnox Contract dated 28 February 2018.	Agreed Complete	N/A
4.11	The outcome of the review should result in an action plan to be agreed with the Secretary of State.	Agreed Complete	N/A
4.12	Following the review and drawing up of an agreed action plan in Recommendation 1, I recommend that the NDA should undertake and implement a root and branch review of its organisational structure, staffing levels, and competency, and develop and implement a plan to ensure it has in place a structure with suitably qualified and experienced resources at all levels to deliver its business plan. The review should include a critical evaluation of the skills and capabilities of relevant existing staff matched against the NDA's current and future skill set requirements.	Agreed Ongoing	See NDA response

Ref.	Recommendation from Magnox Inquiry	Summary	Page no.
4.13	The NDA must, where necessary, supplement its own resources through the whole of the nuclear decommissioning procurement process with external expertise (which may include financial, technical and legal advice) to ensure that the best possible overall skill set is utilised. External providers should be encouraged to contribute widely to the successful accomplishment of the entirety of the procurement process, and thus to the success of the NDA.	Agreed Complete	See NDA response
4.14	The NDA should ensure there is an adequate diversity of background, training and experience of those individuals fulfilling leadership and other management roles within the organisation. This will help ensure that new ideas and best practices used in other industries can find fertile ground in the NDA, and encourage and support a more outward looking approach.	Agreed Ongoing	See NDA response
4.15	The NDA Board should at all times be confident that the CEO has in place an NDA Executive team with roles and accountabilities that are clear, appropriate and properly documented.	Agreed Complete	See NDA response
4.16	The commercial capability within the NDA has already been increased by the recruitment of a suitably experienced Commercial Director. Any future material changes to the scope and seniority of this role should be determined by the NDA Board and approved by BEIS.	Not agreed Context provided	p23
4.17	The role of General Counsel within the NDA should continue to be embedded at Executive level with the NDA Board agreeing the job description (and any material changes to it) for this role. As a minimum, the General Counsel shall attend Board meetings, and shall be the only Executive charged with reporting to the Board on any matters of legal risk. The General Counsel should oversee the internal legal team (which I recommend should increase its capacity and capabilities on complex procurement and contract management). External advisers, including legal advisers, should have an established route by which to escalate any concerns they may have arising out of their involvement or their advice. In appropriate circumstances, they should also have direct access at Board level.	Agreed Complete	See NDA response
4.19	The NDA Chair should be given delegated authority to decide on the mix of expertise required, and the appointment of Non-Executive Directors, to ensure that the NDA Board has a spread of expertise from within and outside the nuclear sector, which maps onto those areas of greatest risk and importance to the NDA.	Agreed	See NDA response
4.20	The NDA (and BEIS) should focus on improving the operation of the NDA Board. The Chair should also ensure that the NDA Board is able to provide an effective challenge to the NDA Executive across the entirety of its business, and not just with a focus on Sellafield.	Agreed Complete	See NDA response
4.20.1	The Board should satisfy itself that accountability for delivery of all key objectives is clearly laid down, and that the resourcing and organisation plans are appropriate	Agreed Complete	See NDA response
4.20.2	SROs for major projects should personally provide regular updates to the Board	Agreed Ongoing	See NDA response

Ref.	Recommendation from Magnox Inquiry	Summary	Page no.
4.20.3	The Board should set up a subcommittee to provide stronger oversight of all projects and assurance activities, and ensure key pieces of assurance are presented directly to the subcommittee members.	Agreed Complete	See NDA response
4.21	The governance and management structure of the NDA ought to be streamlined and simplified. I recommend that BEIS should take a more active, direct role in overseeing the NDA, and that UKGI (acting on behalf of BEIS) should be removed from the day to day oversight of the NDA.	Under review	p12
4.22	UKGI should be called upon by BEIS to provide independent advice on its areas of expertise, in particular to review and advise periodically on governance arrangements. Any recommendations UKGI make must have teeth, and either be followed through, or formally rejected with written reasons by the NDA.	Under review	p12
4.23	Corporate performance objectives and appropriate key performance measures should be agreed by the BEIS Accounting Officer (Permanent Secretary), who should take an active role in managing the NDA against these measures on a quarterly basis. Formal quarterly reports on progress against these measures should be part of the regular information reviewed by the NDA Board.	Agreed Ongoing	p15
4.24	In addition, I recommend that the NDA Chair must have annual performance objectives set by the Permanent Secretary, who should conduct a formal annual performance review of the Chair. The review should include feedback from the Senior Non-Executive Board Member, the Non-Executive Directors, and the NDA's CEO.	Agreed Complete	p16
4.25	I further recommend that the NDA CEO must have annual performance objectives set by the NDA Board, and a formal annual performance review conducted by the Chair, which should include input and feedback from the Senior Non-Executive Board Member and the Non-Executive Directors. The review should be formally documented, and sent to the Permanent Secretary.	Agreed Complete	See NDA response
4.26	In the second part of this section, I set out certain general recommendations which I consider relevant to all complex procurements being conducted by central Government and the wider public sector. The NDA Board should require the NDA Executive to demonstrate how its policies and procedures have responded, or will respond, to these recommendations in relation to future procurements.	Agreed Complete	See NDA response
4.27	In particular, as I recommended in my Interim Report, the NDA should devise a transparent, but simplified, set of competition rules, which focus on the substance of what it is looking for, rather than on process. Self-evidently this requires those responsible for devising and managing the procurement process to have a clear understanding of what they are trying to achieve, and how it will be effectively delivered.	Agreed Complete	See NDA response
4.28	The NDA should carefully consider its approach to 'thresholds', when these should be adopted and how they should be evaluated. Particular consideration should be given to the potential consequences (inclusive of the avoidance of unintended consequences) for a bidder not meeting a proposed threshold.	Agreed Ongoing	See NDA response

Ref.	Recommendation from Magnox Inquiry	Summary	Page no.
4.29	Prior to commencing further competitions, I recommend that the NDA should take all necessary steps to assure itself that the information presented to bidders is as complete and accurate as possible. Such assurance could come from appropriately qualified and experienced internal and/or external sources. This will help ensure that final tenders (and business cases) are put together on the basis of the best information available at the time and, in doing so, reduce the risk (which transpired with the Magnox Contract) of material cost escalation.	Agreed Complete	See NDA response
4.30	I further recommend that the evaluation criteria should be thoroughly tested through a range of different scenarios to ensure that they are workable, do not give rise to unintended consequences, and do indeed achieve the objectives of the NDA.	Agreed Complete	See NDA response
4.31	I also recommend the targeted use of challenge or peer reviews, whose terms of reference would be signed off by the NDA Board, and any lessons learned from the reviews would be the subject of appropriate follow up action.	Agreed Complete	See NDA response
4.32	Where risks of bidder challenge or other material bidder disputes are identified, the NDA must ensure that they are escalated appropriately, and considered at NDA Board level with the benefit of access to independent legal and commercial advice where necessary.	Agreed Ongoing	See NDA response
4.33	I recommend that the NDA should significantly enhance its own internal assurance resource, by ensuring that it has the right level capability and skills that can in turn be supplemented by external assurance of its activities. The NDA must ensure that the scope and limitations of internal and external assurance are clear upfront, and that where possible all assurance carries out sample checks, and goes beyond purely relying on interviews.	Agreed Ongoing	See NDA response
4.34	The NDA must develop annual assurance plans and programmes commensurate with its activities, and the risks to which they give rise. Assurance requirements must be specified in detail, and include a sufficiently broad scope of the activity or process to be assured. Reviews must ensure that themes can be identified, such that corrective actions and plans can be effectively developed.	Agreed Complete	See NDA response
4.35	A Board subcommittee should ensure that the full programme of assurance will cover the spectrum of possible risks. The mandate for the reviews should be to identify all reasons which might prevent a particular decision being taken, and senior management should consider and address all of those before proceeding. Thorough documentation of the relevant accountability, and the decision to proceed, must be a base requirement. External assurance should be forensic and thorough, and should stand on its own, that is, not be reliant on other assurance reviews for its conclusions.	Agreed Complete	See NDA response
4.37	The culture of an organisation is at the heart of what it and its employees do, and how they do it. The NDA has world class expertise in nuclear decommissioning, but needs to realise that 'nuclear is not an island', and that there is much to be learned from comparable sectors grappling with complex infrastructure and costly, long term commitments.	Agreed Ongoing	See NDA response

Ref.	Recommendation from Magnox Inquiry	Summary	Page no.
4.38	There has to be a change in culture in the NDA to ensure full and open dialogue, one that encourages challenge and embraces the delivery of 'bad news', and moves away from optimism bias. Individuals should be empowered to bring forward concerns, and a clear system of identifying the risks, combined with open discussion, should be integral to decision making, rather than pressing ahead in the belief that doing so accords with the particular leader's wishes.	Agreed Ongoing	See NDA response
4.39	Assurance should be an aid to and support good decision making, not just a hurdle to be crossed.	Agreed Ongoing	See NDA response
4.40	I would encourage future CEOs to keep under review the need for an injection of external, competent personnel to be seeded in the organisation to help ensure it remains dynamic and high performing, and operates with sufficient regard to current industry best practices and processes. This must be underpinned by a strong system of accountability and reporting. Tools like an annual employee survey would help focus on whether an individual's responsibilities and accountabilities are clear.	Agreed Ongoing	See NDA response
4.41	Procuring authorities should ensure that Boards or senior Departmental oversight bodies appoint a Non-Executive director (with a background in procurement) to advise on key decisions to be taken by the Board or equivalent body in relation to a complex procurement	Agreed Complete	p32
4.42	Procuring authorities should consider the composition of the steering group/ body directly involved in oversight of a complex procurement. Care should be taken to ensure that that body has a majority of members who are not directly involved in delivery of the complex procurement itself.	Agreed Complete	p32
4.43	Procuring authorities should embed appropriate involvement of senior executives with relevant responsibilities within any strategy for complex procurement from an early stage. This may avoid any subsequent perceived need to exclude senior input and oversight in order to ensure an untainted procurement process.	Agreed Complete	p32
4.44	Procuring authorities must recognise that successful procurement is materially assisted by robust and effective contract management, which, in particular, should produce sufficient, accurate quality data. This enables both the procuring authority and bidders respectively to identify, offer and assess a sustainable and affordable delivery model and pricing structure.	Agreed Complete	p33
4.45	Procuring authorities should clearly differentiate between items in their decision-making process which are compliance-related and pass/ fail, and those which are qualitative and go to the nature of the tendered proposals. A pass/ fail item should be just that i.e. an omission or mistake in a tender which is of such magnitude that the authority would want to have the ability to decline that tender	Agreed Complete	p33
4.46	Procuring authorities should decide whether pass/ fail items are mandatory or discretionary. If the latter, there should be a documented decision-making process to ensure that any discretion is lawfully and defensibly exercised.	Agreed Complete	p33
4.47	There should be clear business ownership of the award criteria with direct linkage to the procurement strategy.	Agreed Complete	p34

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4.48	The evaluation criteria should be scenario tested thoroughly to ensure that the desired business objectives are achieved, and that any unintended consequences are understood and dealt with.	Agreed Complete	p34
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4.50	Evaluators should understand that their written remarks and observations made during evaluation may be discoverable in the event of litigation. Subject to this, they should be permitted and encouraged to keep working notes so that they have an accurate record of their conclusions.	Agreed Complete	p35
4.51	Evaluation may be and often is an iterative process. Procuring authorities should ensure that their processes allow for provisional scores to be arrived at, and that systems and records clearly denote what are provisional and final scores.	Agreed Complete	p35
4.52	All evaluation processes should employ moderation to ensure consistency, and to ensure that evaluators have a common view of what good looks like.	Agreed Complete	p35
4.53	Legal advisers should be asked to assess and report on legal/challenge risk and mitigations at the outset of a complex procurement, and to review this advice on a regular basis. Such advice should be addressed to the oversight body (not simply the individual directly leading the procurement) and should be provided in its own terms to ensure legal risk is accurately reported and legal privilege respected.	Agreed Complete	p35
4.54	In the context of complex procurements where bidders may have invested many millions of pounds, procuring authorities should regard debrief interviews as a key part of the procurement process, not simply an administrative step (involving if necessary the SRO or CEO). Debrief interviews provide a significant and genuine opportunity to listen to bidders, and to mitigate concerns/risk of challenge.	Agreed Complete	p36
4.55	The relevant authority must seek legal advice on the merits, cost and timeframe for the dispute, and weigh those considerations against the prospect and size of any formal claim. It must articulate and regularly review its commercial and legal strategy in the light of material developments (for and against) which fundamentally will be whether to defend or settle the dispute.	Agreed	p37
4.56	Where the dispute involves policy considerations, carries reputational risk and/or a material cost risk, the sponsoring Department (in the case of an arm's length body) and Cabinet Office should be consulted. Their views on those matters should also be weighed carefully in the balance when devising - and revising - the commercial and litigation strategy.	Agreed Ongoing	p37
4.57	In my view, using the same law firm in litigation as has advised on a procurement should not be considered automatic. I recommend that the decision on legal representation, once legal proceedings have been brought, should be taken only after the fullest consideration of all potential implications, and should also be formally sanctioned at senior management level.	Agreed Complete	p38

Ref.	Recommendation from Magnox Inquiry	Summary	Page no.
4.58	Wider Government should review the approach it takes to public procurement litigation generally. Although a sub-species of public law litigation, this should not disguise the fact that many issues underlying public procurement litigation are comparable to those within complex commercial litigation. This accentuates the need to adopt a consciously more commercial approach to the assessment and quantification of the relevant costs and risks involved.	Agreed Ongoing	p38
4.59	Cabinet Office, with input from the Government Legal Department, should put in place suitable procedures to capture key lessons learned and best practice in the conduct of procurement litigation on an ongoing basis, and ensure these are shared across Government and the broader public sector, given the financial and wider reputational impact of such cases.	Agreed Complete	p38
4.60	I am aware that the IPA is developing improvement plans, and in this connection I recommend it should focus on fewer but deeper reviews for high risk, high complexity projects only. Reports by the IPA should be presented to the board or relevant subcommittee of the organisation, and should be clear and upfront about exclusions, and thus leave no doubt about areas where no assurance can be given.	Agreed Ongoing	p26
4.61	In light of the recommendation in the preceding paragraph, the IPA ought to undertake a skills and capability assessment of all IPA reviewers, and formally document and regularly audit the competence and capability, skills and experience required, before assigning reviewers to particular reviews.	Agreed Ongoing	p27
4.62	The IPA should clearly state the purpose of each review, and identify the prime 'customer' of any review (e.g. the SRO, the CEO or possibly the full board of an organisation). It should make it clear what actions should be taken as a result of the review.	Agreed Complete	p27

Departmental Review

Ref	Recommendation	Summary	Page no.
1	The NDA should work with government to ensure that the formally agreed definition of “value for money” as applied to nuclear decommissioning is clearly communicated and used consistently by all parties.	Agreed Ongoing	See NDA response
2	BEIS should consider how it can work with the NDA to help it measure and evaluate: (i) the impact of its socio-economic activities, including the benefits to the delivery of the NDA’s core mission; and (ii) NDA’s net zero targets; ensuring that the overall strategic approach aligns with wider socio-economic priorities as well as the Energy Act requirements, and are given the right level of challenge and support by central government.	Agreed Ongoing	p39 and p41
3	The NDA should maintain its current approach of pursuing active collaboration with overseas partners, including supporting international promotion of the UK supply chain, and where appropriate, and by agreement with BEIS, supporting broader UK interests. It should be able to demonstrate that none of these activities impact negatively upon, or distract the NDA from, its core mission. We recommend that the government periodically review how effectively these arrangements are working.	Agreed Ongoing	See NDA response
4	The NDA Board should keep under regular review, the appropriate balance between core clean-up and decommissioning and pursuing new commercial opportunities to secure additional revenue on the other, and report its findings to BEIS, who may then wish to give the NDA a clearer steer as to the desired policy outcome. This should consider: the skills, expertise and capacity available to the NDA; the level of additional risk any new commercial activity would create for the Government; the extent to which the Board and executive team would be able to dedicate appropriate oversight and control to such activity; and the direct and indirect opportunities it might create for the delivery of the core mission.	Agreed Ongoing	See NDA response
5	BEIS and UKGI should consider ways of simplifying the current multi-channel engagement with – and therefore reducing unnecessary transactional burdens on - the NDA.	Agreed Ongoing	p13
6	BEIS and UKGI should carefully consider succession plans in place to mitigate the risks to the good working relationship with the NDA associated with the turnover of key staff; and that BEIS and the NDA work together to develop a light-touch process to enable staff in both organisations to spend time working in one another’s teams, either through work shadowing or secondments, in order both to create a stronger sense of shared context, and to develop a practical understanding of one each other’s roles and the challenges they face.	Agreed Ongoing	See NDA response

Ref	Recommendation	Summary	Page no.
7	The Framework Document should be kept under regular review, and formally updated to a frequency set by BEIS/UKGI, at least every two years.	Partially agree, context above Ongoing	p18
8	The department and the NDA should consider how to facilitate more frequent and more direct conversations on matters of strategy and policy implementation. This could be led by the Chair. This would allow on the one hand the Secretary of State and junior ministers to share their priorities, insights, and expectations of the NDA, referencing their wider policy and delivery vision as appropriate, and on the other give the NDA a forum to explain both their progress and surface any challenges they wish to bring to ministers' attention.	Agreed Ongoing	p14
9	BEIS and UKGI should establish a clearer, more transparent mechanism for identifying those NDA top-level risks that merit formal reporting to BEIS' Performance and Risk Committee, and to the BEIS Director General.	Agreed Ongoing	p26
10	The revised Framework Agreement should make clear that all of the NDA's wholly-owned subsidiaries should work towards full disclosure of salaries above the normal transparency threshold for publication, from a point in time agreed between the NDA and BEIS to allow the necessary time to implement, recognising that there may be contractual or other legal matters to resolve before doing so. In addition, Government should introduce a group-level pay control total, agreeing the total number of staff that may be paid above a certain threshold across all of the NDA's subsidiaries, with the corporate centre working with the subsidiaries to allocate the roles, and Government reviewing the effectiveness of this change every year.	Agreed Ongoing	p19
11	As the NDA consolidates its understanding and management of its businesses and sites, and drives up the quality of its own performance management, Government should actively consider ways of easing the impact of the scrutiny it applies. This is likely to be over a period of several years. For example setting higher levels of delegated authority for sanctioning of projects and programmes, in recognition of measurable progress made by NDA in developing transparent, comparable management and financial information from all Group businesses.	Agreed Ongoing	p16
12	Board Effectiveness Reviews should take place at a frequency in line with current best practice (i.e. an externally facilitated review every three years, and an internal review annually). BEIS and UKGI should work with the Chair to set the terms for a skills audit to complement the externally facilitated Board Effectiveness Review in order to assess whether the Board has the right mix of skills given the evolving nature of the group model and the merits of recruiting further additional nuclear expertise. The outcome of the Board Effectiveness Review and the skills audit should be shared in writing with BEIS / UKGI.	Agreed Ongoing	p24
13	NDA should present Government with costed and evidenced options for the streamlining of the Group. This should include: (i) potential savings to the public purse of reducing the number of boards, (ii) justifying the presence of non-executive directors on those boards that are retained; (iii) achieving savings from merging functions, and demonstrating to the satisfaction of the ONR that such reform comes without risk to existing safety and security obligations.	Agreed Ongoing	See NDA response

Ref	Recommendation	Summary	Page no.
14	In order to demonstrate their continued value to the NDA group, and test whether the same level of service could be provided by the private sector at lower cost and / or more effectively and without additional risk, NDA should review the transport solutions that are likely to be required to deliver the mission over the coming years and consider make/buy options in line with operational requirements, value for money and the risk profile. The Board should ask for a first pass on this within two years and regularly thereafter.	Agreed Ongoing	See NDA response
15	NDA should look carefully at the staffing structure in the corporate centre with a view to rooting out any inefficiencies created by unnecessary shadowing of subsidiaries and providing a clear and transparent explanation of the roles and value provided by every team in the corporate centre.	Agreed Ongoing	See NDA response
16	The NDA should carry out a fundamental review of the distinct accountabilities and responsibilities of the subsidiaries, relative to those of the NDA Corporate Centre, to ensure boundaries are clear and subsidiary boards have an appropriate remit. The implications for regulatory accountabilities of the subsidiaries of any changes proposed will need to be fully understood by the relevant regulators, and where necessary formally approved by them. When reviewing the remit of subsidiary boards, a single group wide Remuneration Committee should be considered, to ensure more visible consistency with senior pay controls as agreed with government.	Agreed Ongoing	See NDA response
17	As the proposed creation of the Group Leadership team evolves, The Infrastructure and Projects Authority should work closely with the NDA to realise the opportunities for more appropriate designation of SROs for NDA projects on the Government's Major Projects Portfolio, including considering the designation of senior members of the subsidiary executive teams to ensure formal accountabilities are sited at the right level.	Agreed Ongoing	See NDA response
18	BEIS should review how its business case approvals mechanisms, including the PIC, can complement the NDA's assurance process rather than replicating it. BEIS and NDA should consider seconding staff into the Corporate Centre and/or a Site Licence Company to provide enhanced capability on the drafting of business cases.	Agreed Ongoing	See NDA response
19	We recommend that the NDA produce clearly defined terms of reference for each layer of governance in the business case approvals and sanctions process that explains the roles and responsibilities of each and highlights their additive value. Unnecessary layers should be removed. Additionally, IPA should consider formally assessing NDA's PPM capability with a view to offering advice and support as it enhances it.	Agreed Ongoing	p29
20	As part of the improvement plan being developed to raise the NDA's Equality, Diversity and Inclusion standards, we recommend that NDA review the availability, promotion and effectiveness of formal mechanisms for workers in all parts of the Group to raise concerns about bullying, harassment and discrimination in the workplace, including provision of whistleblowing helplines.	Agreed Ongoing	See NDA response
21	The NDA should consider what changes to the workforce structures and ways of working adopted the Covid pandemic could become permanent features. Additionally, the NDA should work with its businesses to agree where there is scope for further workforce efficiencies given the likely increase in home-working.	Agreed Ongoing	See NDA response

Ref	Recommendation	Summary	Page no.
22	Given the changing business model which now sees the corporate centre's commercial role more focused on assurance of the commercial activities of its subsidiaries, we recommend that the NDA keep under careful review the range of core skills and competencies in the centre, as well as those of the subsidiaries' commercial teams. This should include a mechanism for giving BEIS assurance on subsidiaries' understanding of and compliance with all relevant public sector procurement rules and standards.	Agreed Ongoing	See NDA response
23	The NDA should continue its drive to improve and standardise financial reporting by the subsidiaries, in order to create, as soon as possible, a fully-functional Integrated Financial Reporting Framework to give the NDA Board full confidence in the corporate centre's ability to allocate, prioritise and monitor spend across the whole group.	Agreed Ongoing	See NDA response

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