



Nuclear Decommissioning Authority  
response to the Magnox Inquiry and the  
BEIS Departmental Review  
**July 2021**



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# 1. Introduction and Background

Over the last three years, there have been two independent, Government commissioned, reviews of the governance and operation of the Nuclear Decommissioning Authority (NDA), namely:

1. **The Magnox Inquiry** – 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 of 2012 to 2014, related litigation (2014 to 2017) and the events leading up to the March 2017 decision to terminate the Magnox contract.
2. **The Departmental Review** – initially commissioned by BEIS in 2019 as a Tailored Review in response to a Public Accounts Committee (PAC) recommendation in its 2018 report “NDA Progress on Risk Reduction at Sellafield”.

The final reports from the Magnox Inquiry and the Departmental Review were published in March 2021 and June 2021 respectively and contained a number of recommendations for the NDA, BEIS, UK Government Investments (UKGI) and wider Government.

The purpose of this document, which is being published in accordance with Public Accounts Committee (PAC) recommendations, is to provide the NDA’s responses to the recommendations from both reviews, in a co-ordinated approach. The document sets these responses against a backdrop of progress achieved by the NDA since the reviews were commissioned and groups the individual recommendation responses under a number of themes that are aligned to ongoing development work on the new NDA group operating model.

This document includes initial responses to all recommendations specifically aligned to the NDA, or shared between the NDA, BEIS and UKGI, but does not address any recommendations that were exclusively assigned to BEIS, UKGI or wider Government. These are addressed separately by BEIS and the respective departments in a separate,



but related submission "Government Response to the Magnox Inquiry and the BEIS Departmental Review into the NDA".

### **NDA Chair's Review**

It should be noted that, in 2020, the Secretary of State's office requested a further review of the NDA. This was to include learnings and review outcomes from former and current PACs, National Audit Office (NAO), Project Investment Committee (PIC) conditions and other reviews that had been initiated by the NDA and its Site Licence Companies (SLCs) and/or requested by Government. These items were principally but not exclusively in the area of Procurement and Project Delivery and spanned reviews across the NDA group. The Director General of BEIS suggested that this should be conducted by the NDA Chair, rather than a separate externally resourced review being conducted, based on the knowledge that the recently appointed Chair has subject matter knowledge, combined with being sufficiently new to the NDA to lead the review with fresh eyes.

The Chair's review looks for common findings and lessons learnt and uses these to help determine the root cause of historic performance difficulties. The Chair's review then seeks to establish a number of recommendations, which can be implemented within the NDA Corporate Centre and group. While the Chair's review is scheduled to conclude and publish its findings in the coming weeks, its recommendations are not included in this document. They are however being integrated into the overarching NDA response plan, structured under the same themes and ongoing development work that are described in this document.

## **1.1 The Nuclear Decommissioning Authority**

The Nuclear Decommissioning Authority (NDA) is an executive Non-Departmental Public Body (NDPB) established under the Energy Act 2004 (the Act) to lead the clean-up and decommissioning work at 17 of the UK's earliest nuclear sites. Its total planned expenditure for 2021-22, as highlighted in the NDA Business Plan (published in March), is £3.494 billion, £2.530 billion of which is funded by the UK Government. Its portfolio spans ~15,000 employees. The NDA Group Chief Executive Officer (NDA CEO) is the Accounting Officer (AO) for the NDA's expenditure.



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

UKGI advises BEIS in its sponsorship of the NDA. A Senior Official of UKGI is nominated to join the NDA Board as BEIS's non-executive Board member.

Scottish Ministers are accountable to the Scottish Parliament for the activities and performance of the NDA group relating to Scotland.

## 1.2 The Magnox Inquiry

The Magnox competition, launched in 2012 by the NDA, sought a parent body organisation (PBO) to take ownership of the SLCs relating to 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 (CFP). CFP started work on 1 September 2014 under a 14-year contract.

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 amounts were £85 million for Energy Solutions and approximately £12.5 million for Bechtel.

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, in March 2017 the NDA Board concluded that it should exercise its right to terminate the contract with effect from September 2019, predominantly to avoid the risk of breaching procurement law, which places restrictions on how much contracts can be altered before they need to be re-tendered.

By letter dated 27 March 2017, the 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.

### **Interim Report**

At the request of the Secretary of State, the Inquiry Team published an Interim Report in October 2017. This report included 13 specific Immediate Recommendations relating to:

- The design of the NDA's procurement processes and setting of competition rules
- The running of the Magnox competition itself and the consequences of design failures
- How the Magnox competition was resourced by the NDA
- Governance and assurance of the Competition

The report also identified 27 Further Avenues of Inquiry.

### **Final Report**

The final report of this 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. The final report provides 57 Recommendations to the NDA and Government, with those relating wholly, or in part, to the NDA being detailed and responded to in this document.

The Secretary of State for BEIS's Written Ministerial Statement accompanying publication of the final report states: "...I will be looking to the organisation's Chair, Chief Executive and the other Board members to demonstrate that they will respond fully, effectively and in a timely manner to the findings of this report. There are also findings and recommendations for my department and UKGI as well as for Government more widely which we will consider with great care. It is my intention that the Government and the NDA will publish formal responses to the Inquiry Chair's recommendations later this year...."



### 1.3 The Departmental Review

In its report, "The Nuclear Decommissioning Authority: progress with reducing risk at Sellafield" - June 2018, the National Audit Office (NAO) made the following recommendation:

On the role and governance of the NDA, the Department should carry out a Tailored Review of the NDA, including its role, function and governance arrangements, in line with Cabinet Office guidelines, taking into account – where appropriate – recent and ongoing reviews of the NDA. The Department should use the findings of the Committee of Public Accounts' February 2018 report, alongside those of the independent inquiry into the failed Magnox contract, to:

- Clarify the respective roles and responsibilities of the NDA and Sellafield Limited (and the other site licence companies); and
- Streamline the governance and oversight of the NDA to clarify the roles and value added by each body, and ensure the right capabilities, management information systems and approvals processes are in place to support, challenge and assess the NDA's performance.

The Public Accounts Committee (PAC) supported this recommendation in its report "Nuclear Decommissioning Authority: risk reduction at Sellafield" 31 October 2018. The report notes that "The Department and the NDA agree that a 'tailored review' will identify better ways to oversee and govern the NDA". The Tailored Review of the NDA was subsequently commissioned in December 2019.

Note - In support of the Government's Public Body Transformation Programme, policy dictated that reviews of Arms-Length Bodies (ALB), including Non-Departmental Public Bodies (NDPB), should be carried out at least once within the lifetime of a department and within each parliamentary term. The NDA was therefore due to undergo such a review as a matter of Government policy.

In 2020, the Government decided to end the Tailored Review programme of ALBs and replace it with a new programme. BEIS took the decision to continue the evidence-gathering under the auspices of a Departmental, rather than Tailored, Review, given the long-standing public commitments made.





## 1.4 Response Requirements of the Public Accounts Committee (PAC)

Recommendation 6 of PAC Report (Magnox), Twenty-First Report of Session 2017–19, February 2018 states: *Within 6 months of its publication, the NDA and the Department should submit a report to us on what progress they have made on implementing the recommendations of the Independent [Magnox] Inquiry.*

Recommendation 5 of PAC Report (Sellafield), Sixty-Fifth Report of Session 2017–19, October 2018 states: *Once the tailored review [Departmental Review] is complete, the Department should write to the Committee setting out the findings and recommendations of the review, and its plan for implementing them.*

Recommendation 4 of PAC Report (Magnox), Twenty-Eighth Report of Session 2019–21, November 2020 states: *On publication of the Holliday report [Magnox Inquiry] and Tailored Review [Departmental Review], the Department and the Nuclear Decommissioning Authority should set out publicly what has been learnt from them and how the reports are being used to inform the development of the new delivery and governance models.*

This document is intended to address each of these recommendations, in conjunction with a similar submission by BEIS that is being published in parallel.

There are a number of additional PAC recommendations that, while linked to the timing of the publication of the Magnox Inquiry and the Departmental Review, are not directly associated with the specific recommendations of either. These recommendations are being addressed separately.



## 2. The NDA's Summary Response

The NDA welcomes the recommendations of the respective reviews and has been working for some time to address the underlying issues with its commercial and governance arrangements and its capability that initially led to the Magnox Inquiry and to the National Audit Office (NAO) and Public Accounts Committee (PAC) recommending a Tailored Review (which later became the Departmental Review).

Since 2017, under the leadership of a new CEO, the NDA has fundamentally changed its operating model, moving away from Tier 1 contracting with supply chain organisations, to becoming a group of wholly owned subsidiaries. This is a significant development from the organisational and commercial arrangements under which it launched and managed the Magnox competition. With the change in operating model there has been a re-design of Internal Governance arrangements, including a new Group Leadership Team that includes CEOs from the respective group operating companies.

Some of these changes were made in recognition of the issues highlighted by the PAC and were launched prior to the publication of the reports of the respective independent reviews.

These changes have, to date, been approved by BEIS through comprehensive business cases and, more recently, BEIS has requested the NDA to provide a comparative analysis of the benefits of the management approach being adopted for NDA sites, as part of the revised NDA group operating model.

In 2019, the NDA announced its new One NDA vision, describing the implementation of a group subsidiary model and new collaborative ways of working across the group. Although the NDA's mission remains the same as it was preceding the commissioning of the reviews, the way in which it is structured and seeks to behave has been changed significantly, transforming how it manages its operating companies to find more effective and efficient ways of providing nuclear clean-up and decommissioning on behalf of the tax payer.



The vision of One NDA is clear:

- To deliver our mission together safely, securely and more creatively, transparently and efficiently,
- To create great places to work and taking pride in what we do; and
- To be trusted to do more in the UK and globally

In progressing with this change to the operating model, the NDA embedded learning from the events that led up to the Magnox Inquiry and further benefitted from the Interim publication of the Magnox Inquiry report, issued in October 2017.

In response to the Magnox Inquiry Interim Report, the NDA established a programme team in early 2018, to identify the required actions and co-ordinate the input of Subject Matter Experts from across the NDA Corporate Centre to address the issues and recommendations raised in the report. This work of the programme team was overseen by a Steering Group which met on a monthly basis, with the attendance of Executive Directors who were accountable for delivery of 66 actions that the NDA had developed to address the Inquiry team's recommendations. These actions were predominantly focussed on the Legal, Commercial and Assurance functions, and Governance. Regular update reports were made available to the NDA CEO who, in turn, kept the NDA Board informed on progress.

Of particular note, as part of the response to the Interim Report, has been the introduction and appointment of a NDA Group General Counsel and Company Secretary (who attends each of the Board (and its Committees) meetings and provides legal and corporate governance advice directly to the Board) and a Commercial Director, both of whom report directly to the CEO, and an investment in the recruitment of more than 40 commercial and procurement specialists. This injection of capacity and capability has made significant improvements in the NDA's commercial and contracting practices, aligned to the recommendations of the Interim Report. In addition, the new NDA Group General Counsel and Company Secretary has re-structured the legal, company secretariat and compliance function. This has improved capacity and enhanced diversity in capability, as well as starting the process of creating a more aligned group legal community and refreshed external panel of law firms. [The Company Secretary is, under statute, an Officer of the Authority. He or she must act with independence and impartially in the best interests of the Authority



in fulfilling its statutory and legal obligations under the Energy Act and law and to protect its employees].

It is therefore pleasing for the NDA to be able to describe, in this document, the progress that has been made to date in its detailed responses to the final Magnox Inquiry Report, based on its work initiated by the interim version from 2018 to 2020. This work has helped to inform and shape additional developments that the NDA has embarked upon since 2017, including a fundamental change to its operating model, as described further in this document. This work has been delivered in parallel to the Departmental Review and the NDA is also pleased to report in the detailed responses how it has already made progress towards addressing the recommendations of that review.

The NDA has noted in its response to each recommendation if it believes that the intent of the recommendation has been addressed/concluded or is only partially addressed to date. Where items are noted as Partially Addressed to Date, the NDA has provided an update of what has been achieved and what work remains outstanding, with Target Close Out dates indicated.

As would be expected, given that the Magnox Inquiry Interim Report was issued in 2017, the items noted as Recommendation Addressed exclusively originate from this review. Based on the work completed since (and guided by) the issuing of the Interim Report, 30 (of the total 57) recommendations of the final report are noted as being Addressed or Concluded by the NDA, with another 19 being Partially Addressed to Date (the remaining 8 are assigned to BEIS, UKGI or the Infrastructure and Projects Authority (IPA)).

24 (of a total 26) recommendations from the Departmental Review are currently noted as Partially Addressed to Date, based on work that the NDA has carried out since the report was commissioned. The additional two recommendations are assigned to BEIS/UKGI and IPA.

While good progress has been made since 2017, the NDA wishes to stress that it fully accepts that further improvement is needed and the final versions of the Departmental Review and Magnox Inquiry are of great value to it as it further develops its new operating model under the One NDA vision. The insight provided



by these reviews will help the NDA to steer its forward course to becoming the organisation it aspires to be, with learning and continuous improvement at its core, and to deliver its decommissioning mission safely, securely and more creatively, transparently and efficiently.

While the NDA has responded in this document to the recommendations that were made largely in the context of the former operating model, it is keen to ensure that the learning gained from the Magnox Inquiry and Departmental Review is carried forward into the new operating model and embraced by the subsidiary operating companies, where appropriate. The NDA accepts that moving to a new operating model will bring its own new challenges and while it will be working diligently to close out the recommendations referred to in this report, the NDA believes the actions will help to minimise recurrence of issues or emergence of new ones, but will not completely eliminate the risks. The NDA is operating in a dynamic and complex environment with rapidly changing procurement laws and Government requirements, so it will be taking a broader view of the basis of the recommendations and extrapolating their intent in its actions to try to mitigate recurrence or similar issues in a new and developing operating model and environment.

In recognition of the importance of the ongoing work to address the recommendations and insights from the reviews, the NDA, in consultation and collaboration with BEIS and UKGI, has implemented an enduring governance structure to ensure that the findings of the reviews are addressed in full. This includes an NDA Steering Committee, chaired by the NDA Chair and comprising the CEO and Executive and non-Executive Board members with an independent advisor. The governance structure also includes an overseeing Independent Review Panel of diverse senior experts and a Senior Steering Committee in conjunction with BEIS and UKGI.

Beyond the responses detailed in this report, the NDA looks forward to updating Government and other stakeholders on its progress against the review's findings on an ongoing process of improvement.



## 3. Evolution of the NDA Group Operating Model

### 3.1 Overview

Following the restructuring of the UK's nuclear decommissioning programme, through the Energy Act 2004, the NDA started placing contracts, from 2008, to manage its sites based on the Parent Body Organisation (PBO) operating model. In the initial years, the PBO contracting model delivered significant value. It provided stability, moved focus onto decommissioning and clean-up and made the NDA's mission more attractive to the private sector. Through the subsequent years, the NDA built on that foundation in the pursuit of enhanced value for money.

However, whilst this PBO model brought a number of improvements, over time it became clear to the NDA that the positioning of the interface with the private sector in this way did not effectively manage the uncertainty of decommissioning aged nuclear sites where the standard of documentation, level of emergent challenges and facility design resulted in:

- Risk transfer not being realised, which was complicated by the long durations of the contracts awarded
- Not effectively tackling some of the underlying issues such as modernisation of workforce working practices
- Contractual arrangements and commercial sensitivities that inhibited optimum sharing of capability and knowledge across the NDA group, between different private sector entities
- Contractual change controls taking significant time and resource to submit and approve, as well as driving behaviours that prioritised PBO fee earning potential. These became labour intensive activities and often damaged already fragile relationships

Prior to the formation of the NDA in 2005, the focus on its sites had been largely operational and, though recognised as a huge challenge, decommissioning had been



somewhat secondary to commercial operations. It was also with the advent of the NDA that Lifetime Plans (LTP) and Life Cycle Baselines (LCB) were introduced, to provide a step change in the rigour of assessing the scope, cost and schedule of work to be delivered on its sites. Part of the purpose of bringing in the PBOs was to apply external expertise in the production of LTPs to further inform the NDA's understanding of the scope of the decommissioning challenge and the timescales and costs involved. As the decommissioning risks and scopes became clearer, the necessity to introduce revised scopes of work (irrespective of the contract change control issues cited above) also increased the risk of the NDA being legally challenged under the Public Procurement Regulations due to material variation in comparison to the scope originally tendered.

Resolving the above was recognised as being essential to drive long-term efficiency and decommissioning schedule improvements, as well as unlocking future opportunities.

Consequently, the NDA embarked upon an evolution to what is now referred to as the NDA group model, which delivers the NDA's mission through a small number of wholly owned subsidiaries.

Engagement of the supply chain remains essential to mission delivery. The revised model allows this engagement to be structured around smaller contracts in which reasonable delivery risks can be well defined and transferred only where the private sector is best able to manage them.

### **3.2 Sellafeld Limited and Magnox Limited**

Since Sellafeld Ltd (Sellafeld) became a subsidiary of the NDA in 2016, the NDA had been operating a hybrid model, with a mix of subsidiaries and PBO contracts with the private sector. This led to some stakeholders perceiving a lack of clarity in the NDA's role as it has been required to operate as a client to a contractor in some parts of the estate, while simultaneously transitioning to an owner of a subsidiary in others, where it provides assurance and oversight as its primary purpose. This lack of clarity regarding HMG's governance of the NDA and the NDA's governance of its estate was



highlighted in the National Audit Office (NAO) and Public Accounts Committee (PAC) reports of 2018/19 and ultimately led to the initiation of the Departmental Review.

In September 2019, for the reasons given in the Introduction section of this document, Magnox Limited (Magnox) became a wholly owned subsidiary of the NDA.

### **3.3 One NDA Vision**

Since the events that led to the Magnox Inquiry, and under the leadership of a new CEO, the new NDA group Executive has been driving the evolution to a new overall management structure and operating model for the totality of its estate. The One NDA vision and ways of working were introduced by the new CEO in 2019. This heralded a new and very different approach for the NDA. Although the NDA's mission remains the same, it is changing how it manages some of its operating companies to find more effective and efficient ways of providing nuclear clean-up and decommissioning on behalf of the tax-payer.

One NDA plans to capitalise on the opportunities that come from the scale and breadth of the NDA group. To achieve this, the NDA is adapting its group structure and operating model to bring the constituent parts closer together and is developing the processes and governance to enable the group to work better together, whilst recognising that it is its people and culture that are really at its heart. The benefits of the One NDA approach will come from breaking down any boundaries, thinking collaboratively and building mutual respect and trust.

This new One NDA model signifies a very different leadership and organisational approach to that which was extant at the time of the Magnox contractual issues.

### **3.4 Progress since 2019**

By 2019, with over 80% (by expenditure) of the estate being delivered through NDA wholly owned subsidiaries (predominantly Magnox and Sellafeld), there was a clear driver to consolidate the remaining licenced organisations, Dounreay Site Restoration Limited (DSRL) and Low Level Waste Repository (LLWR) Limited, to a similar arrangement. This would help to break contractual barriers associated with the PBO





contracts that were inhibiting sharing and transfer of expertise and resources from the larger organisations to these smaller entities.

Importantly, it was also recognised that, over time, procurement regulations (Public Contract Regulations 2015) that were followed to award the PBO contracts, were prohibitive to contract variations for material changes of scope through either unforeseen circumstances or emerging opportunities (as demonstrated by the Magnox contract). In particular, at LLWR, the contract did not allow for material variation to pursue the implementation of the NDA's new Radioactive Waste Strategy, which offers significant opportunities to accelerate the overall mission, by treating and disposing of waste in much more cost effective and pragmatic ways. Similar to Sellafield and Magnox (though on a reduced scale), changes to scope at DSRL were also creating excessive complications and effort in managing contractual change controls and it was becoming questionable if the position could be maintained under procurement legislation.

In March 2020, the NDA Board approved two Business Cases – one to terminate the PBO contract at Dounreay to make DSRL a wholly owned subsidiary of the NDA and another to do the same at LLWR.

Subsequently, in July 2020, following approval from the BEIS Acting Permanent Secretary, the NDA served Termination notice to its remaining two PBOs at DSRL and LLWR. Share transfer of DSRL was successfully completed, on schedule, on 1 April 2021 and LLWR share transfer is on schedule for completion on 12 July 2021.

As these two remaining PBO contracts both come to an end, the NDA can now fully transition to the NDA group operating model of wholly owned subsidiaries. This will enable greater flexibility, efficiency and consistency through leveraging group resources, which will ultimately provide a more efficient and effective route to decommissioning for the UK taxpayer.



### 3.5 Further Organisational and Governance Development

The NDA recognises that there are further benefits to be gained from consolidation of some of its smaller subsidiaries, to gain synergies and efficiencies associated with closer sharing and transfer of resources, good practice, innovations and technology.

In February 2021, the NDA's two existing Transport subsidiaries, International Nuclear Services (INS) Limited and Direct Rail Services (DRS) Limited were brought together under a single Management Board structure and rebranded as Nuclear Transport Solutions (NTS).

The NDA considers this restructuring of its Transport operating companies to represent an opportunity to create a single, consolidated world-leading transport organisation that will help to deliver the NDA mission and help solve the world's nuclear transport challenges, taking on an enhanced role for the NDA, contributing to the UK economy and growing its external revenue generation.

Once the DSRL and LLWR organisations have been transferred back to the NDA as wholly owned subsidiaries, it is NDA's intent to gain further benefits of an integrated group approach, by bringing closer together the two waste subsidiaries, Radioactive Waste Management (RWM) Limited and LLWR under a single management structure. This will enable the NDA to deliver an integrated waste management strategy and programme that will drive changes in waste management behaviour and culture, to allow waste producers to flexibly and effectively manage their waste, as well as to develop proportionate waste management solutions.

As part of the NDA's plans to simplify the group governance and reporting lines and to maximise the benefits of the group model, it is also the NDA's intention to bring Dounreay closer to Magnox, subject to necessary Government and regulatory approvals.

Ultimately, this will create the "Four Pillar" group operating model, with the NDA owning four major subsidiary operating company organisations – Sellafield, Magnox (with DSRL), an Integrated Waste Operating Company and a single Transport Operating Company. Notably, the Four Pillar model will, over time, reduce the current



number of core Boards from ten<sup>1</sup> (including the NDA Board and PBO Boards) to just 5 core Boards<sup>2</sup>, providing greater clarity of accountability through a consolidated Governance framework.

This restructuring will bring simplified decision making and governance within the NDA group structure and provide greater clarity and focus on delivering the NDA's mission. It is anticipated that this will provide more opportunities to develop staff careers across a larger, more diverse organisation and help to attract new talent and capability to the organisation, strengthening the NDA's role in the UK's nuclear decommissioning leadership and expertise. Governance and Capability are both themes associated with the specific recommendations of the Magnox Inquiry and Departmental Review.

To reflect the changes to the overall organisational model, a new Group Leadership Team (GLT), which includes the CEOs of the subsidiary operating companies, was formed in 2021 to provide leadership across the group.

The role of the GLT is to lead the entirety of the NDA group, assure the group's progress against the mission and delivery of value for money to the taxpayer, transfer good practice across the group and collaborate between all parts of the group.

Specifically, against the three major strands to the One NDA vision, the GLT will:

**'Delivering our mission together safely, securely and more creatively, transparently and efficiently.'**

- Lead and manage the NDA group
- Cascaded the strategic direction for the NDA Group (set through the NDA Chair's Letter) through the GLT to the Operating Companies

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<sup>1</sup> The NDA group currently has a further six enabler Boards that govern the Rutherford Indemnity, Energus, NDA Archives, NDA Properties, Pacific Nuclear Transport Limited, and the Northern Highland Regeneration Fund

<sup>2</sup> Small statutory Boards may be retained for legal and regulatory purposes for constituent organisations that sit under the core management Boards



- Maintain an NDA group perspective, optimising performance across the portfolio with enhanced flexibility of funding transfers
- Provide peer support and supportive challenge
- Develop and implement strategy, plans, policies, budgets and investments for the group
- Agree group operating and financial performance targets
- Identify, assess and assure mitigation of group strategic risks
- Peer Review OpCo and NDA group plans
- Facilitate the group to work effectively through implementing and overseeing the group functional matrix
- Operate Group Investment Committee to apply the Group Delegation Framework and provide financial and risk overview (including approval of capital expenditure proposals exceeding OpCo delegations)
- Promote continuous improvement and transfer of good practice
- Collaborative assurance of our mission deliverables
- Collectively own the Beacon projects

### **Creating great places to work and taking pride in what we do**

- Set the tone for the group, living the 'Leadership Standard'
- Set the 'Code of Conduct' for the group (GLT aligns around the values of the NDA, but does not impose these on the OpCos - they have their own values appropriate for their culture / environment)
- Focus on talent, leadership and succession planning for the group and leveraging group resources
- Ensure NDA group meets its obligations to wider society, local communities and our people through our socio-economic footprint and corporate conscience, including sustainability, ethics and best-practice corporate governance
- Plan and co-ordinate senior deployment
- Conduct senior level talent management for the group
- Maintain, lead and promote the NDA group Equality, Diversity and Inclusion Strategy

**Trusted to do more in the UK and globally**

- Represent the group into Government & senior regulators (maintaining and enhancing trust and confidence with all stakeholders)
- Collaborate across the group to harness the strengths, scope and scale of the group, working together to maximise opportunities for growth
- Oversee and sponsor the pipeline of new opportunities for the NDA group to generate value add for the UK taxpayer
- Promote portfolio development (for example, International, UK domestic, Transport and MoD opportunities)
- Act as a collective body to utilise group capability to address emerging group or sector issues and issues of national importance

It should be noted however that while the subsidiaries' CEOs will be key members of the GLT. There is no intention to make any change to the CEOs' Duty Holder Accountabilities to their respective SLC Boards.

Each subsidiary will remain a separately regulated legal entity and the NDA fully recognises that their directors are personally liable, according to their specific activities, under various regulatory arrangements.

The controlling accountabilities of the SLC Board does not change and neither do the accountabilities of the SLC CEOs to their respective Boards. Decisions affecting the management and operations of the SLCs remains firmly with the respective CEOs and Boards – not within the GLT.



## 4. The Thematic Approach to the NDA's Responses

In addition to providing independent detailed responses to each of the recommendations (captured in sections 5 to 11 below), the NDA and BEIS are keen to demonstrate how the insight provided by the independent reviews is being used in a broader and more proactive context to advise, shape and strengthen the work that is ongoing or planned for the future, to further develop the NDA group and ultimately deliver its mission more effectively.

The NDA has very carefully studied the recommendations of the respective reports and the context in which they are set, seeking to understand the root cause of issues so it can sustain improvements and has grouped them into a number of "Themes". This has helped the NDA to ensure that the recommendations of the two separate reviews are being addressed in an integrated way. Developing a coherent plan allows the organisation to focus on the broader, long-term changes and improvements in a way that mitigates potential 'change fatigue'. As the recommendations of the Chair's review into Procurement and Project Delivery are published, these will also be included in the thematic response approach and are expected to both strengthen the work being done under the current themes and add others, as this review is being undertaken from a different perspective and purpose.

The NDA's thematic grouping is shown below in Figure 1.



**Figure 1.** Thematic Groupings of Magnox Inquiry and Departmental Review Recommendations

The following sections are intended to provide overviews of each of the themes, highlighting what has been achieved since the independent reviews were commissioned, the work that is currently in progress and what the NDA's future plans are to further develop the group.

In each section, detailed responses are provided to the specific recommendations of the Magnox Inquiry. By grouping the recommendations under themes, the NDA aims to highlight how addressing each of the recommendations is assisting it to shape and inform the associated workstreams and how, interdependently, the findings and recommendations of the reviews are complementing the work that the NDA is currently delivering to enable the new group structure.

**Note:** Throughout this document, where reference is made to individual recommendations within the BEIS Departmental Review or the Final Magnox Inquiry report, the following abbreviations are used as a prefix to the specific recommendation number:

- 'MI' refers to the Magnox Inquiry Report published in March 2021
- 'DR' refers to the BEIS Departmental Review of the NDA published in June 2021



## 5. Governance and Interfaces

### 5.1 NDA Governance Overview

#### **The NDA as a Statutory Corporation**

The NDA's legal form is a statutory corporation, which is a corporate body created by statute. It has no shareholders but a 'sponsoring' Government department, BEIS. It has no Articles of Association and its powers are defined solely by the Act of Parliament which created it, and which can be modified by later legislation. Section 1 of the Energy Act 2004 (the Act) is clear that: "there shall be a body corporate to be known as the [NDA]".

The NDA therefore is a legal entity (with its own separate legal personality) that owns assets, owes liabilities, employs people and can sue or be sued. Its Board of Directors has legal and fiduciary responsibilities analogous to those set out in the Companies Act 2006 and Directors (Members) and the Company Secretary can incur personal liability for breach of certain duties.

As detailed in the Energy Act 2004, the Non-Executive Chair is appointed by the Secretary of State (SoS); other Non-Executive Directors (NEDs) by the SoS (after consulting with the Chair); the CEO by the NEDs (subject to the approval of the SoS); and other Executive Directors by the NEDs (after consulting with the CEO).

#### **The NDA as a Non-Departmental Public Body (NDPB)/ Arms-Length Body (ALB) of Government**

In addition to being a statutory corporation, the NDA is also an executive NDPB/ALB, in effect wholly controlled by Government, as the SoS is accountable to Parliament for NDA. The NDA's executive delegations are set by Government, and it can ultimately be wound up or its mandate changed, by Government. However, the NDA operates, to a greater or lesser extent, at arm's length or independent of Government.

The Framework Document (FWD), which describes the broad governance framework of the NDA group, how BEIS, UKGI and the NDA work together and sets out the role of the Secretary of State and Scottish Ministers, describes the NDA as an Executive





NDPB. The FWD does not convey any legal powers or responsibilities, but it is published and the parties agree to operate within its terms. In the event of any conflict, general law, including the Energy Act 2004, prevails.

As is made clear in UKGI's January 2020 Guidance for ALBs, the Law and the Board of Directors' statutory duties should always have primacy. NDPB and ALB are Government terminologies for administrative/categorisation purposes.

### **The Accounting Officer**

The role of the Accounting Officer (AO) is a construct between BEIS, as sponsoring department, and the AO of the NDA to ensure personal accountability to Parliament for spending public money. The AO has no legal standing vis a vis members' duties under the Act. However, the NDA AO is also the CEO of the NDA and thus an employee and member of the NDA Board.

In accordance with Managing Public Money, an AO is the person Parliament calls to account for the stewardship of public resources. He or she is personally responsible for fulfilling their duties, is directly accountable to Parliament for public spending and must be able to justify the actions of an organisation to Parliament if called upon to explain them. The NDA's AO is appointed by the Permanent Secretary of BEIS who, in turn, is the Department's Principal AO. The NDA's AO has historically been (and remains), the CEO but does not have to be. The AO is not permitted to transfer their duties to any other party.

### **Subsidiary Boards**

The NDA's subsidiary operating companies are limited liability companies created and regulated by the Companies Act 2006 (CA 2006). They are wholly owned by the NDA, have their own Boards and operate as distinct legal entities, making autonomous decisions for which they are directly accountable at law.

Additionally, each subsidiary is a separately regulated legal entity, and their directors are personally liable, according to their specific duties, under various regulatory arrangements such as:

- SLCs under the Nuclear Installations Act 1965
- Operators under Environmental Permits



- Operators of transport activities
- Duty holder under security and emergency plans
- Duty holder and employer under all health and safety at work legislation; and
- Employer under employment law.

Amongst the directors' statutory duties for each subsidiary is an obligation to act in a way they consider would promote the success of the relevant subsidiary for the benefit of its shareholder, the NDA. This means that the relevant directors, including the CEO, are directly accountable at law to the NDA, as shareholder.

### **Subsidiary CEOs**

In addition to the subsidiary CEO's accountabilities as Board Directors, they are held accountable to the NDA (as shareholder) for the delegations they receive (from the AO), to ensure that the principles of Managing Public Money are complied with in the running of the relevant subsidiary company, to comply as the duty-holder with their site licences and other regulatory duties (where applicable) and to ensure that there are adequate controls and co-operation across the group, to enable the AO to discharge their governance responsibilities effectively.

### **Governance and Interfaces Recommendation Responses**

As described above, NDA is a statutory corporation created and regulated by the Act. The NDA is also a NDPB reporting into its sponsoring department, BEIS and is the shareholder of its subsidiary organisations, which are created and regulated by the Companies Act 2006. These subsidiaries are separately regulated legal entities.

The NDA group therefore operates within a complex governance framework, created by overlapping and inter-related legal, governmental, and regulatory obligations. NDA has fiduciary responsibilities as a statutory corporation, with powers and duties set out in the Act. This is in addition to its role as a NDPB, with an AO, who is accountable to Parliament, subsidiaries' roles as a regulated entities with various duties imposed on their directors and the various administrative constructs that affect the NDA group's operations, such as the role of Senior Responsible Owner (SRO) for major projects.



It is therefore not surprising that a number of the recommendations of both reviews are related to governance and interfaces.

Many of the specific recommendations under this theme are directly aligned to BEIS and/or UKGI, while some are shared by all three parties. BEIS is responding to the Government recommendations in a separate submission "Government Response to the Magnox Inquiry and the BEIS Departmental Review into the NDA".

The NDA is however leading on some of the shared responses under this theme and there are of course NDA specific recommendations under the internal governance and structure of the NDA headings.

## **5.2 Government Oversight of the NDA**

While the NDA was created as a NDPB in order to separate decision making on nuclear decommissioning from everyday Government control, the high levels of public spending associated with nuclear decommissioning will always demand some level of Government scrutiny.

A number of recommendations focused on the efficiency of the relationships and formal arrangements at the interface between the NDA and Government, and the risks they carry.

A positive outcome will be a reduction in the bureaucratic burden on the NDA, whilst ensuring the NDA continues to have access to expert civil service support as needed and ensuring that Government has confidence in the robustness of its oversight arrangements.

A number of recommendations call for a change to the arrangements that Government has in place to oversee the NDA's performance.

The NDA group's mission is complex with inevitable emerging challenges to overcome. The simplification and clarity being sought in the governance arrangements and the interfaces with Government will go some way to improving the decision making and risk mitigations of the group.



The mission is decades long and ensuring strong alignment between the NDA and Government is a critical success factor. Not only is the purpose of NDA to deal with legacy civil nuclear sites, there is real opportunity for a strong socio-economic impact for the communities close coupled with the operational sites and UK industry as a whole.

Work has been going on for some time to rationalise and specify the Government's reporting requirements of the NDA. The NDA now reports both corporate performance measures and Group Key Target (GKT) performance into BEIS. The NDA Chair's performance is reviewed by the Permanent Secretary on an annual basis, which is informed by stakeholder feedback. To enhance this, the NDA now reports its top-level risks through an established BEIS platform.

In light of the transition from being a contracting client to a subsidiary owner, the NDA is currently revising its internal reporting structure and mechanisms to support Government oversight, led by the Group Chief Finance Officer (CFO). This work was initiated by the One NDA Beacon Project "Mission Progress Reporting" and is now being delivered as part of the Integrated Finance Framework (see Section 11.1).

Moving forward, a more formalised process is being implemented for the NDA Chair's performance review from 2020/21 onwards and a process will be agreed that allows for greater Government input to the development of GKTs.

## **Recommendation Responses**

**DR1 - 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.**

### **Recommendation Partially Addressed - Target Close Out March 2022**

The NDA agrees with the recommendation. There are aspects of nuclear decommissioning work which make normal definitions of value for money difficult to apply.



The NDA recognises that the National Audit Office (NAO) uses three criteria to assess the value for money of Government spending i.e. the optimal use of resources to achieve the intended outcomes:

1. Economy: minimising the cost of resources used or required (inputs) – spending less
2. Efficiency: the relationship between the output from goods or services and the resources to produce them – spending well
3. Effectiveness: the relationship between the intended and actual results of public spending (outcomes) – spending wisely

The NDA interprets this as: value for money is not about achieving the lowest cost, but rather it is about using resources in a way that maximises value.

To achieve this, the decision-making processes for strategy and business case development need to strike a very careful balance between several different factors. These factors are captured in the NDA Value Framework that has been developed in cooperation with the NDA's stakeholders. The NDA has been advocating the use of the Value Framework in business case decision-making for several years, but its practical application has so far been limited. Where it has been applied, the NDA has been more successful in demonstrating value for money for its decisions (for example in strategy development and spending review submissions).

The latest review of the NDA Value Framework conducted in 2020/21 has been carried out with input from BEIS and other key stakeholders such as regulators and local authorities.

It is the NDA's intention to publish the latest revision to the Value Framework and, using a phased approach, seek to embed its use in business case development and other decision-making processes across the NDA group, taking care to ensure an effective feedback loop of lessons learned and review, as it is gradually rolled out. This action is therefore partially complete with progress being sufficient to have confidence in a target closeout by the end of March 2022.



The NDA continues to work closely with BEIS, Treasury and other stakeholders, to ensure there is a shared understanding of what is meant by Value for Money for decommissioning.

**DR5 – BEIS and UKGI should consider ways of simplifying the current multi-channel engagement with – and therefore reducing unnecessary transactional burdens on - the NDA**

While this recommendation is assigned to BEIS and UKGI, the NDA would offer the following information.

The roles of BEIS and UKGI in relation to the work of the NDA are set out and agreed in the FWD, which has been updated and reissued in early June 2021. The FWD incorporates other policies, processes and procedures that NDA complies with.

At a senior level, the NDA Board Chair is appointed by the BEIS Secretary of State and has a relationship with various ministers and officers, as does the NDA AO/CEO.

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 (FWD), 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.

As is noted in the Government response to this recommendation, some steps have already been taken to ease the burden of reporting requirements at Executive level. The NDA looks forward to working with BEIS and UKGI to consider ways of further simplifying the current multi-channel engagement process with its Government stakeholders. This will subsequently be reflected in the next revision of the FWD.



**DR6 - 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.**

### **Recommendation Partially Addressed to Date – Target Close Out March 2023**

The NDA's Nominations Committee (NomCo) of the Board, comprising the NEDs and chaired by the NDA Chair, holds a succession planning meeting regularly. This considers the position of the Executive Directors (CEO and CFO) and Company Secretary. Furthermore, this forum is accountable for considering the NED succession, providing input through the NDA Chair to UKGI for recommendations to SoS. The NomCo reviews the output of the NDA People Strategy Team, with regard to Group Leadership Team (GLT) succession plans, the group diversity and inclusion strategy and Site Licence Company (SLC) Chairs' proposals.

In 2019, the NDA People Strategy Team established a new workstream to focus on executive and critical role succession across all NDA operating companies. In December 2019, the NDA held the first CEO talent forum where the succession plans were debated, risks identified and options to improve succession and talent were explored. This initial strategic debate resulted in the creation of an NDA group Leadership Academy as a Beacon Project for 2020/21. The rationale for the academy included the recognition that succession plans need to be strengthened, more visible mobility across the group needs to be created and that the Parent Body Organisation (PBO) model had limited the NDA group's ability to develop leaders of the future in-house.

The NDA has enhanced the capability within its people strategy team since 2017, recruiting senior HR leaders and specialists, this has provided a platform to work closer with BEIS colleagues and build successful relationships. The NDA encourages its graduates to seek secondments into BEIS and wider Government departments and



host placements from the civil service fast stream. As part of its commitment to mobility, the NDA has also encouraged its people to seek secondments into BEIS at number of levels including this year the creation of a shared role of Chief Nuclear Advisor (BEIS) and Chief Scientist (NDA).

The NDA works in partnership with BEIS colleagues on a range of national projects and initiatives including the delivery of the Nuclear Sector Deal, the Nuclear Skills Strategy Group and recently on the Nuclear International Talent Pipeline.

The recent creation of One NDA ways of working, the Group Development function and the GLT has established a better platform for collaboration across the group and in the interface into Government, enabling the NDA to develop a greater understanding of the challenges we both face and the context in which we operate.

Notwithstanding the work done to date, the NDA accepts that further development of secondment opportunities and processes to enable staff in both organisations to spend time working in one another's teams is required. Accordingly, for 2021/22 and beyond, the NDA is extending and expanding the Beacon Project to further enhance the Leadership Academy and executive / functional succession, and to increase focus on mobility and planned moves both within the group and into wider stakeholders such as BEIS.

**DR8 - 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.**

### **Recommendation Partially Addressed to Date – Target Close Out June 2022**

The NDA Chair, Board and CEO/AO support the introduction of an agenda of meetings with Ministers and Officials. A clear understanding of the expectations of





Government and an open dialogue regarding successes, constraints and issues will lead to better outcomes and an aligned understanding.

The NDA and BEIS engage extensively through a range of existing fora and interactions on matters of policy and strategy which allows NDA and BEIS officials to understand the landscapes of our respective organisations and how we can support each other to deliver policy outcomes and to support delivery of NDA strategy. The NDA strategy is formally approved by the Secretary of State every five years, following a public consultation and NDA Board approval such that the NDA objectives are clearly aligned to Energy Act and Policy outcomes.

In addition to the extensive interactions with Government officials, the NDA Chair and CEO would welcome the opportunity to routinely engage with ministers to understand the broader policy objectives and how these can be supported as well as to share perspectives on what additional help ministers may be able to provide to overcome issues challenging the NDA's mission delivery. The exact mechanism and frequency of such interactions will be considered by the NDA Board and GLT to allow discussions with BEIS to be held and agreement made on the arrangements.

**DR9 - 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. This would give the organisation confidence that it was obtaining, periodically, information in a structured form, of the NDA's top risks and confidence in how they were being managed.**

### **Recommendation Partially Addressed to Date – Target Close Out to be set by UKGI/BEIS**

Improvements in reporting mechanisms and risk management have recently been implemented. BEIS and UKGI receive monthly and quarterly performance reports from the NDA, which include key risk information. Key and emergent risks are regularly discussed at Quarterly Governance Meetings between the NDA and BEIS/UKGI/HMT officials.



The NDA will work with BEIS and UKGI to further develop and clarify the process of reporting of top-level risks to enhance confidence in how they are being managed.

**MI 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.**

The NDA welcomes the proposal for simplification of the governance and management structure within Government. The NDA awaits BEIS's proposals for future changes and will work with them to help optimise the arrangements.

**MI 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.**

All recommendations from BEIS or UKGI in their areas of expertise are carefully considered by the NDA Board and the Executive team. The NDA accepts that it should communicate in writing with any recommendations that it does not agree with.

**MI 4.24 - 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.**

### **Recommendation Addressed**

The process for a BEIS led annual performance review of the NDA Chair has been implemented. The Government proposal for resolution of this recommendation is welcomed by the Chair, Board and Executive. Clarity regarding the accountabilities of the Chair/ Board as distinct from the AO are important to recognise. The Board supports the Chief Executive in carrying out his role as CEO and as AO.



### 5.3 Internal Governance and Audit

A number of changes have been made to NDA's internal governance arrangements, with additional resources being recruited since both reviews were launched. NDA has also formed an additional Board Committee, the Projects and Programmes Committee (P&PCo), to target the areas of greatest impact and criticality. The P&PCo complements the Audit and Risk Assurance Committee (A&RAC), to allow the NDA Board opportunity to review and contribute to the oversight of major programmes and also act as a mechanism for sharing knowledge and learning between operating companies.

The NDA Chair's review, primarily focussing on Procurement and Project Delivery and due to report in the summer of 2021, has included consideration of how the effectiveness of the P&PCo can be further developed.

Risk is handled as a Matter Reserved for the Board, as is common and in accordance with corporate governance best practice and in particular, the FRC Corporate Governance Code). The risk work carried out by the Executive and reviewed at A&RAC and P&PCo is regularly considered at the Board.

#### **Internal Audit**

During 2018/19, the NDA appointed a Group Head of Internal Audit, with a particular focus on aligning and improving audit and advisory services across the group in support of strengthened A&RAC oversight. The development and implementation of a 'virtual' group internal audit function and target operating model has improved the quality and consistency of group-wide arrangements and has also further supported the NDA's overall visibility, understanding and ongoing improvement of matters of corporate governance, risk management and internal control. The A&RAC has continued to strengthen relationships and arrangements with the group's supporting Audit and Oversight Committees at the subsidiaries and site licence companies, evidenced by the group-wide representation and input at the NDA group A&RAC and Internal Audit events.

From April 2020, in response to the COVID-19 crisis, the NDA held regular group-wide sessions for the NDA and Operating Company A&RAC Chairs and members and



internal audit teams; to provide an opportunity to share challenges and good practices arising as a result of the pandemic, and to focus on emerging risks with facilitation from external subject matter experts.

During 2019/20, the NDA's group internal audit function collated and reported against a group internal audit plan for the first time. The NDA introduced the concept of group audit themes; an aligned approach to the review of significant group-wide risks and controls. This is providing valuable and strengthened oversight of pervasive challenges and examples of good practice for sharing. Key themes have included the NDA's response to the evolving cyber risk and EU Exit and improving its contract and asset management arrangements. Internal audit work is also designed to provide assurance over key business processes, along with specific corporate and business risks.

A significant focus of the group-wide work during 2020/21 was to provide assurance over the development and implementation of supplier relief schemes in response to COVID-19 – an efficient and effective response to a significant emerging risk. The findings from the internal audit reports across the group receive close attention from both the Executive / GLT and the Board via the A&RAC. Addressing these topics with a group-wide approach to risk and control is not only strengthening oversight but also enabling a collaborative and consistent approach to the development and implementation of improvement activities.

### **Further Development of Internal Governance**

At NDA Board level, further governance arrangements are being scoped for later in 2021, with the introduction of a new Board Committee, the Sustainability and Governance Committee, which will oversee sustainability, social value and governance goals and impacts. The Board is reviewing Matters Reserved for the Board and is working to enhance the clarity regarding which Matters are delegated to Board Committees, as opposed to those which will be discussed and debated at the NDA Board.

Within the broader group, the change in operating model described previously is giving the NDA the opportunity to streamline the governance processes of the group. As NDA moves towards the new group operating model, the number of core business



Boards will be reduced from 10 to 5 (including the NDA Board). This is scheduled to be achieved in 2022. In parallel, there is an opportunity to reduce the number of Independent Non-Executive Directors (INEDs) on specific Boards (while also being cognisant of the additional demands of the Magnox Board, with the proposed introduction of Dounreay from 2022 (subject to Government and regulatory approval) and staggered transfer of the seven AGR stations post-defueling). This will further help to streamline the NDA's internal governance arrangements.

## **Recommendation Responses**

**MI 4.20 - 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.**

### **Recommendation Addressed (but will be kept under review in future as the work of the NDA changes over time)**

Progress on this Recommendation has benefitted from Immediate Recommendation 6.32.2 of the Interim Report: *NDA to ensure that its governance boards have the right level of commercial and other experience to bring active and constructive challenge to the work of the NDA.*

The NDA Board is a statutory and fiduciary board with specifically defined accountabilities under the Energy Act, the Framework Document and the FRC's Corporate Governance Code (as applicable to a public body). As a publicly funded body, the NDA is required to comply with the requirements of 'Managing Public Money' and this establishes the role and responsibilities of the AO within the organisation (as does the Framework Document). The CEO (also the AO in the NDA) is accountable to the NDA Board for the day-to-day operations of the NDA.

While Sellafield is the highest risk and largest expenditure site, the Board recognises the critical importance of the other parts of the group to the successful delivery of the mission, from the multiple sites of Magnox, the complexity of Dounreay, the opportunity for integrated waste management and the critical enabler of integrated transport.



The Board respects and, through the CEO, works closely with the operating companies' subsidiary Boards. The Board recognises the subsidiary Boards' accountabilities and legal duties under general corporate law, the nuclear Site Licence Conditions and other regulatory requirements.

The NDA Board understands the statutory requirements that it must comply with and that the 'Matters Reserved for the Board' (which cannot be devolved) and matters delegated to its Board Committees cover the breadth of NDA's accountabilities. The NDA Board has agreed to benchmark itself against the FRC's Corporate Governance Code (to the extent relevant for a public body), which sets out the requirements for Reserved Matters and, in accordance with the Act and FWD, further distinguishes the role of the Chair from that of the CEO.

Expectations for the work of the NDA are provided annually from the Principal AO for BEIS to the Chair in the form of the Chair's Letter. The Chair then delegates appropriate items to the CEO and Executive for delivery and monitors performance against these items throughout the financial year. The Chair's Letter, coupled with the Framework Document, articulate the governance structure, relevant accountabilities and responsibilities across the NDA group.

**MI 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.**

### **Recommendation Addressed**

Progress on this Recommendation has benefitted from Immediate Recommendation 6.32.1 of the Interim Report: *NDA to ensure that there are clear lines of responsibility, including at a senior level, in the reporting structure for future competitions and senior line management provides active oversight of the Core Competition Team.*

The specific recommendation to ensure clear lines of responsibility in the reporting structure for future competitions has been broadened and applied across the full NDA organisation, from the most senior levels.



Objectives, directly aligned with the NDA's key targets, are established for all of the NDA's leadership team and their achievement is monitored at several points during the year. The Operating Plans developed to deliver the key targets enable the appropriate planning of resource and organisation alignment.

The annual objectives of the CEO are specifically agreed by the NDA Board and aligned with the Remuneration structure which is agreed by the NDA Remuneration Committee (RemCo). The RemCo conducts half-yearly reviews of the achievement of objectives by the NDA's Executive and leadership team. The business performance metrics, reviewed monthly, including at the Board where timing coincides, are aligned with the annual objectives of the CEO.

While the subsidiary Operational Company (OpCo) CEOs are primarily accountable to their respective OpCo Boards for delivery of their objectives, they are also accountable to the NDA AO for the delegations they receive (from the AO), to ensure that the principles of Managing Public Money are complied with in the running of the relevant subsidiary company. This accountability is delivered through quarterly formal AO Reviews and monthly GLT meetings.

The NDA Board's Nominations Committee (NomCo) reviews the organisation structure and leadership succession planning on a regular basis. Both the NomCo and RemCo include appropriate representation from independent non-executive directors to ensure appropriate levels of challenge and different perspectives are considered.

**MI 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.**

### **Recommendation Addressed**

Progress on this Recommendation has benefitted from Immediate Recommendation 6.32.2 of the Interim Report: *NDA to ensure that its governance boards have the right level of commercial and other experience to bring active and constructive challenge to the work of the NDA.*



The Board now has a Projects & Programmes Committee (P&PCo) and an Audit and Risk Assurance Committee (A&RAC), chaired by a Non-Executive Director.

The P&PCo supplements the activity of the Board and provides additional oversight and scrutiny of major programmes and projects within the NDA group. The committee advises the NDA Board on the following:

- Progress of major programmes and projects against approved business cases and funding
- Assurance that emerging issues concerning major programmes and projects are understood and that mitigations are being appropriately pursued
- Outcomes of assurance reviews (internal or external) and progress against actions plans to address any issues raised in these reviews
- The forward plan of programmes and projects/ business cases coming to the Board for approval.

The P&PCo benefits from regular updates from the Director of Assurance on delivery and performance of assurance in the group.

In particular, the NDA has mandated the Keyholder Assurance process, designed to complement the NDA's existing assurance arrangements and meet the requirements of the BEIS Keyholder process. The purpose of the NDA Keyholder Assurance process is to ensure each Sanction Request taken through NDA and Government governance has a clearly articulated Business Case that is supported by appropriate and effectively delivered assurance.

The output from the NDA Keyholder Assurance process is captured in a Keyholder Assurance Log, which is reviewed and relied upon by the highest levels of NDA and Government sanction governance. Keyholder Logs are presented to the P&PCo alongside each business case.

The Audit and Risk Assurance Committee (A&RAC) ensures continuous monitoring of the effectiveness of the financial and risk assurance control frameworks established by the NDA. It is accountable for and advises the NDA Board on the following:





- Strategic processes for risk management, control and governance across the NDA group
- Assurances relating to the management of risk and corporate governance requirements for the NDA
- Plans and performance of audit activity and
- The adequacy of the management response to issues identified by audit activity.

Both the Group Director of Risk and Assurance and the Director of Assurance attend relevant sections of the P&PCo and A&RAC to answer questions / provide feedback on assurance matters.

The committee structures will be periodically reviewed by the Chair and Board in light of changing circumstances, UK regulatory changes and emerging opportunities – see also the response to recommendation 4.20.

**MI 4.25 – 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.**

### **Recommendation Concluded**

As stated above, under the response to recommendation 4.20.1, and influenced by the Interim Report, the CEO now has annual objectives agreed by the Board and performance formally assessed by the Chair. The Chair engages with the independent non-executive directors and other stakeholders as appropriate. The reviews and discussions with the Permanent Secretary regarding performance of the CEO are not required to be formally documented as part of the Energy Act 2004.



## 5.4 Framework Document

A number of recommendations relate to the framework defining how BEIS, UKGI and the NDA work together, as captured in the NDA's Framework Document (FWD). The FWD does not convey any legal powers or responsibilities, but sets out the overall framework within which NDA, BEIS and UKGI will work together. In the event of conflict between the FWD and the Act, the Act will prevail.

The FWD broadly covers governance and accountability arrangements; accounting officer responsibilities; the construct of the NDA board; and expectations for audit and compliance, management of finances and people.

The NDA's FWD has recently been updated, however it is recognised that a further update is required to reflect the operating model changes of the group, such as clarifying the role of NDA as an owner of subsidiaries (as distinct from contracting with the private sector) and the role of the subsidiary Boards.

As such, it is intended that the FWD will be updated over the next 18 months. In future, it will be kept up to date in accordance with Cabinet Office best-practice cycle of every three years; or whenever the organisation has a period of fundamental change in purpose, direction or governance.

### Recommendation Responses

**DR7 – The Framework Document should be kept under regular review, and formally updated to a frequency set by BEIS/UKGI, at least every two years.**

#### **Recommendation Partially Addressed to Date – Target Close Out December 2022**

The 2013 FWD needed to be updated to reflect changed circumstances as well as more recent guidance and practices. The document has now been extensively reviewed and was issued in June 2021.



It is recognised that there will be further updates required to reflect the changes in operating model for the NDA group. This will be undertaken jointly between the NDA, BEIS and UKGI over the next 12-18months. After the next issue, the NDA anticipates that the FWD will be reviewed on 3 yearly update cycles (rather than 2), which is in line with wider Government advice.

**DR10 – (a) 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.**

**(b) 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.**

### **Recommendation Partially Addressed to Date – Target Close Out December 2021**

- a) The revised FWD, issued in June 2021, requires the NDA and its subsidiaries (excluding Public corporations) to provide data to the Cabinet Office (CO) regarding individuals with earnings above the 'high earners' level for onward publication. Following formalisation of the requirements, the NDA will commence discussions with its subsidiaries and all individuals affected will be informed. The NDA will submit the relevant data for the 2021 publication.
- b) A proposal for an agreed 'quota' of roles within the group, excluding public corporations, that may have a total remuneration package in excess of the £150k control threshold prescribed by HM Treasury is being prepared for a 2-year time horizon. This will show the current roles in each operating company that are above the £150k threshold, roles that are close to the threshold and may cross it due to normal salary rises, plus additional roles due to mission expansion or other reasons.



**DR11 - 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 negotiating business cases.**

**Recommendation Partially Addressed to Date – Target Close Out to be Confirmed with Government**

The NDA welcomes this recommendation. A number of changes have recently been implemented to improve the NDA's performance management. In particular, to consolidate its understanding and management of its operating companies and sites and drive up the quality of its own performance, the NDA has appointed subsidiary operating company CEOs to the GLT and Group Investment Committee (GIC) to provide greater knowledge and experience of site operations. This directly supports improved performance scrutiny and challenge and enhances the decision-making process. The reporting and review structure is being developed to align with the operating model and to ensure support to, and compliance with, the AO requirements.

In addition, a revised and improved Integrated Finance Framework (IFF) will provide clear and timely management information to more accurately reflect the delivery performance of the NDA's operating companies, projects and programmes.

A P&PCo has been formed since the draft Magnox Inquiry report was published, to monitor performance and to review specific project and programme business cases coming to Board.

It should also be noted that in 2020, BEIS commissioned an internal review by the new Chair of the NDA on the performance of Procurement and Project Delivery across the NDA group. As part of this work, which is due to be reported in the summer of



2021, the effectiveness of the P&PCo will be reviewed and any required enhancements will be made accordingly.

Furthermore, the draft Chair's letter for 2021/2 has a simpler structure which is welcomed.

As the improvement in performance management begin to show tangible benefits, the NDA will be pleased to work with Government to consider ways of easing the impact of the scrutiny it applies.

**MI 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.**

### **Recommendation Concluded**

Under the Energy Act 2004, the Secretary of State appoints the Chair and NEDs (after consultation with the Chair and technically known as Members) to the NDA Board. This process is run by BEIS, with support from UKGI. On Public Limited Company Boards, the Chair would lead the appointment of non-executive directors. However, the NDA Chair complies with the Energy Act requirements that the Secretary of State makes these appointments with clear input from, and in consultation with, the Chair (other than for their own appointment).

The current NDA Chair has provided advice and made a number of proposals to BEIS Officials and UKGI to be considered on the recruitment of future NED appointments. These proposals have been developed with the input of the CEO. The Chair has been a member of recent NED panel interviews. This arrangement is considered to be effective and is anticipated to continue for future appointments.

The NDA agrees with the Government's response on this point.



## 5.5 Structure of the NDA group

As described earlier, the structure of the NDA group has been evolving, since 2016, from a contracting client organisation to a group of wholly owned subsidiaries.

While this PBO model did bring a number of improvements, over time it became clear to the NDA that the positioning of the interface with the private sector in this way did not effectively manage the uncertainty of decommissioning aged nuclear sites with high levels of emergent challenges. The NDA has therefore been fundamentally changing the way it manages the group, the details of which are provided in section 2 above.

### Recommendation Responses

**DR13 – The NDA should present Government with costed and evidenced options for the streamlining of the Group, its associated boards, and Non-Executive Directors. 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) identifying opportunities to maximise collaboration across business boundaries to exploit strengths, scope and the scale of the group to deliver value for money, and (iv) demonstrating to the satisfaction of the ONR and the relevant environmental regulators that such reform comes without risk to existing safety and security obligations.**

### Recommendation Partially Addressed to Date – Target Close Out March 2023

In July 2020, as a condition of approval to transfer Dounreay Site Restoration Limited (DSRL) and Low Level Waste Repository Limited (LLWR) to NDA ownership, the BEIS Acting Permanent Secretary requested a comparative analysis of the benefits of the management approach being adopted for the NDA sites as part of the NDA group operating model. The analysis was requested to encompass the operating model through which the NDA manages its group with wholly owned subsidiaries holding nuclear site licences.



The document describes the future evolution of the NDA group. It sets in context the progress that the NDA has made to date in its transition from being a contracting client organisation to being the owner of a number of subsidiary operating companies and its evolution to the NDA group operating model.

The document concludes that the optimum operating model for the future management of the NDA group is a streamlined "Four Pillar" model. This will be delivered by first creating subsidiaries for DSRL and LLWR (thus eliminating the PBO Boards) and then combining the two waste subsidiaries, the two transport companies and finally (subject to Government Business Case approval and regulatory Management of Change processes) aligning DSRL with the Magnox operating company. The outcome of this restructuring results in the reduction of core Boards from 10 to 5.

In response to the specific requests:

- (i) The restructuring process will reduce the number of Boards and NEDs and associated fees. The anticipated net result of this will be a reduction from 29 to 19 core Board NEDs, with an overall forecast saving on Board related costs of over £600k per annum.
- (ii) As individual subsidiary Board NEDs' terms come to an end, NDA and its subsidiaries will carefully consider whether or not the NED should be replaced and will justify the retention of a NED position on a case by case basis, in alignment with the shareholder approved Articles. Sellafield has already reduced its NED numbers by one, having decided not to replace a NED whose contract expired in January 2021.
- (iii) The One NDA philosophy actively seeks and promotes opportunities to maximise collaboration between operating companies to deliver greater value for money.
- (iv) In accordance with the Site Licence Conditions and other regulatory requirements (including environmental), the NDA's operating companies are required to maintain adequate financial and human resources to ensure the safe operation of the licenced site, throughout any structural change process. This is achieved through the well-established Management of Change (MoC) processes, operated by each of the SLCs. All changes to the operating model to date have been assessed carefully through this process and have been



accepted by the regulators. This includes the formation of subsidiaries and the introduction of the respective SLC's CEO to the GLT. The SLCs will continue to maintain open dialogue with the regulators regarding any future structural changes.

**DR14 – 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.**

### **Recommendation Partially Addressed to Date – Target Close Out June 2023**

The NDA has recently created Nuclear Transport Solutions (NTS) by bringing together the capabilities of DRS (Rail) and INS/PNTL (Shipping and Packages) in one organisation. Transport is one of the key pillars in the revised NDA group model along with Waste and Decommissioning. The NDA Mission requires transport for ~100 years with over 50% of the strategic outcomes enabled by transport. The NDA needs confidence that high standards, knowledge and the capability to move Higher Activity Waste (HAW) are retained. NTS is the only organisation in the UK with the capability and regulatory support to transport potential high consequence radioactive materials such as spent fuel and HAW. Security risks have prevented the UK supply chain from delivering such moves.

The current group 'Make' decision supports the need to conclude the overseas High-Level Waste repatriation programme, support AGR defueling and ongoing Ministry of Defence (MOD) transports. An Integrated Transport Programme has been initiated that will consider how transport capability to support the mission is best secured long-term. In 2021/22 a model will be developed to assess transport demand to deliver the mission. Options for the transport of radioactive and bulk materials will include group Make/Buy and will be appraised to deliver greater economies, sustain capability and achieve Value for Money (VfM).





Recognising the functional competency and appropriate risk evaluation processes of the Executive, the NDA Board will schedule a review at the appropriate time.

**DR15 – 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.**

### **Recommendation Partially Addressed to Date – Target Close Out December 2022**

The NDA Corporate Centre has undergone significant change over the last few years and will continue to do so as the One NDA concept and the creation of the GLT matures. In 2018, a full Organisation Design exercise was undertaken, resulting in changes to structures and roles with assessment of capability for roles being undertaken. This has resulted in a number of people exiting the organisation and the creation of different roles with the opportunity to bring an injection of external talent into the NDA Corporate Centre.

Each functional discipline of the NDA Corporate Centre has created a strategy which articulates the role of the function both within the Centre and across the wider group. These strategies provide greater clarity and certainty of purpose and value for all roles and disciplines.

Following the successful creation of the new GLT there is now the opportunity to consider and further refine the operating model and workflows between the centre and the operating companies. The NDA will assess any potential duplication or shadowing of roles and ensure that resource is allocated to the correct locations / subsidiaries, to optimise delivery of the mission.



**DR16 – 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.**

### **Recommendation Partially Addressed to Date – Target Close Out December 2022**

This is an important aspect of the work underway across the NDA group, led by the NDA CEO. As previously described, the operating model of the group is undergoing fundamental changes with the move to wholly owned subsidiaries and the formation of the GLT. As this change of operating model has developed, the NDA and the subsidiaries have been careful to ensure that the accountabilities and responsibilities of the subsidiaries and the NDA Corporate Centre remain compliant with Companies Act 2006 legislation and all regulatory duty holdings. In accordance with Site Licence requirements, when the GLT was formed the SLCs submitted Management of Change documents to the Office for Nuclear Regulation, who raised no objections.

The group-wide Board and committee structure will evolve as appropriate combining aspects which are common across the group, whilst never encroaching on the duty holder responsibilities of the SLCs. The leading functional example is Internal Audit across the group, where the A&RAC Chair has sponsored an Internal Audit plan with common processes across the NDA group.

The need for consistency and compliance with senior pay controls is agreed. The evolution towards a potential group wide RemCo needs careful consideration. Developing group-wide networks focused on specific issues and opportunities will be the first step.



**DR18 – 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.**

### **Recommendation Partially Addressed to Date**

#### **Approvals Mechanisms - Target Close Out to be Agreed with BEIS**

The NDA has a comprehensive governance and approvals process for business cases, referred to through this document, including a Keyholder Assurance process, Group Investment Committee and Project and Programme Committee. Its subsidiaries also employ extensive and similar governance processes for approvals within their delegation or scrutiny prior to submission to the NDA approvals process.

The Chair’s review into Procurement and Projects aims to enhance these processes.

Externally, the NDA is working with BEIS and the Infrastructure Projects Authority (IPA) to streamline its business case assurance process. For example, BEIS is undertaking work, alongside the NDA, to ensure Project Investment Committee 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.

#### **Capability - Target Close Out March 2022**

The NDA Corporate Centre Sanction Team has recently established a business case development capability through external recruitment. In addition, Sellafield has established its own central Business Case writing team capability over the last twelve months.

This is being enhanced through: best practice forums, revision to Business Cases templates, strengthening internal guidance, and improved Green Book alignment. Opportunities for collaboration and sharing best practice between group organisations is being actively pursued. Additional experienced Business Case Authors have been recruited into the NDA Corporate Centre and Sellafield to support the operating companies in setting standards, sharing good practice (through forums) and by directly supporting business case writing.



The NDA is also working closely with BEIS counterparts to establish earlier engagement sessions in the business case development process to obtain input and seek feedback to help shape the cases coming forward. There have been several recent examples of successful secondments between BEIS, IPA, NDA and the operating companies and further opportunities will be pursued in future.

Upskilling, education and roll out of changes will continue and improvements are already being seen in the consistency and quality of business cases presented in the governance process.

**MI 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.**

The breadth and depth of expertise within NDA was a key feature of the Interim Report and, as described earlier in this document, the NDA has, over the last three years, significantly developed and enhanced its capability and addressed initial findings and Immediate Recommendations made by the Inquiry Team.

Consequently, whilst this recommendation is for BEIS's consideration, the NDA believes that the organisational changes implemented through the introduction of One NDA and the recently completed functional review have adequately considered this matter at this stage.

However, as the new operating model is further developed and embedded, there are likely to be further evolutions of the size and resources of the organisation. Any foreseeable changes will be reflected in the NDA's submission to BEIS for Spending Review 2021 (SR21).

The NDA understands BEIS will carry out a review between submission of SR21 and the summer of 2022 to benchmark the NDA's scope, in light of its size and resources, against other industrial companies that are directly managing such complex and expensive operations and programmes. The NDA will be happy to assist BEIS in



carrying out this review and looks forward to benefitting from the learning it will provide.

Notwithstanding this review, given the technical complexity and uncertainties associated with the NDA's mission, the NDA believes that there will be an enduring need to attract and retain specialist skills in comparison with the most advanced industrial companies in the world, with a continued need for pay freedoms that enable filling of such roles.

**MI 4.07 – [The review referenced in 4.06] 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.**

This recommendation is for BEIS's consideration. The NDA group actively considers the most appropriate contracting methodologies to deliver its mission and would be pleased to work with the Department in relation to these questions.

## 5.6 Trusted to do More

A key feature of the NDA's vision is 'being trusted to do more in the UK and globally' and its ambitions are laid out in the NDA Strategy 4 document. While the NDA recognises that the primary mission is the safe, secure and efficient delivery of its current portfolio of decommissioning work, the skills and capabilities of the NDA group represent a significant asset to the UK, which can be utilised to deliver more value for money to the taxpayer, by deploying these assets to other nuclear decommissioning work.

Third party owned nuclear materials are located on some of the NDA's sites, as a result of historic activities and inherited contracts. In addition, some other UK nuclear operators, such as the MOD and EDF Energy, have existing and predicted future liabilities. These are collectively termed non-NDA liabilities. In some instances, it may be more appropriate for the NDA group to manage these liabilities where this would deliver benefit to the taxpayer by simplifying contractual arrangements, optimising the use of existing facilities and ensuring each organisation's skills are focussed on



their respective missions e.g. the management of a quantity of Atomic Weapons Establishment (AWE) HAW.

The ownership of non-NDA liabilities remains with the third party unless or until title transfer is agreed. Where the NDA is contracted to manage such liabilities, it will consider the liability owner's needs in developing its strategy and Lifetime Plans (LTPs). If title transfer takes place, the liabilities are transferred to the NDA.

Separate to these arrangements, the NDA has a further function placed upon it to undertake specified tasks or to provide expert advice to the Secretary of State or to third parties in relation to non-NDA liabilities. These additional requirements cover both expert support and scope delivery.

The NDA's strategy for the management of non-NDA liabilities is focussed on 3 key themes:

- We will manage and deliver our existing contractual commitments, simplifying arrangements where possible
- We will take on additional liabilities where we are required to do so by UK Government
- We will work with other organisations in considering opportunities where there may be wider benefits to the UK and present these to Government for consideration.

Where any additional liability is identified to be beyond the NDA's current remit, this will be subject to vires, governance and agreement. The NDA will ensure that any liabilities that are taken on by the NDA do not detract from its mission and may generate value to the taxpayer.

The NDA has established Memoranda of Understanding with BEIS and MOD covering a range of activities where collaborative working and support is beneficial to the organisations and the taxpayer. The NDA has also provided advice and support to BEIS, as it has been negotiating revised arrangements for the decommissioning of the Advanced Gas-Cooled Reactor (AGR) fleet, with EDF Energy.



Where appropriate, any additional liabilities will be subject to a detailed assessment to determine their impact on the NDA's mission and topic strategies. The assessment will identify the appropriate arrangements, such as contracting options and pricing or title transfer for the management of new liabilities, to deliver value for the UK. These decisions will be managed using the NDA's existing governance arrangements. Opportunities to work with other operators that may provide a wider benefit to the UK and the NDA will also be considered on a case by case basis.

## **Recommendation Responses**

**DR3 – 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.**

### **Recommendation Partially Addressed to Date – Target Close Out March 2022**

The NDA welcomes the recognition of the value that its international engagements bring to primary mission delivery and to wider national agendas.

The need for a more holistic and proactive approach to International Relations, as a key strategic tool, has driven a recent expansion to the NDA Corporate Centre capability. The International Relations Team develops the strategy for international activities and acts as gatekeeper to ensure that the NDA retains mission focus by facilitating more targeted interaction internationally aligned with its strategic objectives - and with clearly understood benefits. As the NDA is asked to do more to support broader UK interests – including UK supply chain exports and the Nuclear Sector Deal – it is engaging closely with BEIS, and other Government departments, such as Department for International Trade (DIT) and Foreign, Commonwealth and Development Office (FCDO), to develop common positions based on a balancing and blending of collective needs and drivers.



Experience has shown that, handled correctly, mission-related activity and the delivery of broader UK value are complementary and can actively enhance rather than detract from the core mission (which is predominantly delivered by the subsidiary operating companies). Building on this, the NDA welcomes the opportunity to support the development of the BEIS international nuclear strategy and the 'One HMG' approach to international partnership building in nuclear. This is a key piece of work that will allow the NDA to define common priorities, define the role of the NDA in Government initiatives going forward, and ensure that the NDA has an agreed envelope within which its various sponsors and stakeholders would like it to operate. This work is ongoing and will likely be mature by the end of the current financial year.

The NDA welcomes the recommendation for Government to periodically review how effectively its arrangements are working.

**DR4 – 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.**

#### **Recommendation Partially Addressed to Date – Target Close Out March 2022**

The NDA Board fundamentally recognises the group's core mission objectives under the Energy Act 2004 and will ensure that clean-up and decommissioning are front and centre. In a number of cases, other commercial and revenue generating opportunities have been identified which are complementary to the core mission. These are reviewed by the Board and subject to consultation with BEIS prior to being pursued. Amongst other things, this review includes the consideration of strategic and tactical fit with the NDA's mission, whether the NDA has the lawful authority to undertake such work, internal and supply chain capacity, and risks.





The NDA's monthly group performance report, issued to the NDA Board, UKGI, BEIS and HMT, includes an overview of performance against plan for revenue-generating activities. Governance and sanction processes for revenue-generating activities are aligned to the NDA's standard processes, including approval by the NDA Board and BEIS where appropriate, based on their value or risk profile.

To support this approach, and as part of the Organisation Design work conducted by the NDA in 2019/20, the Commercial function at the NDA was restructured. The function is split into separate teams associated with procurement activity and revenue-generating activity, in order to allow for specialisation of skills and expertise in those areas, with appropriate levels of resources.

The organisation structure for the NDA Corporate Centre procurement function, and group-wide procurement functions, was reviewed and endorsed by the Government Commercial Organisation in 2019 as part of the review of the Commercial Blueprint. This Blueprint is due to be refreshed by March 2022 and will be reviewed by the Board.



## 6. People, Capacity and Capability

Since the Magnox Inquiry commenced, the NDA has completed a number of specific actions relating to skills and resources. It has:

- Increased the capacity and capability of the Commercial function extensively, recruiting talented commercial leaders and specialists from across the public and private sector. The NDA has benchmarked with other sectors and adopted best in class approaches to recruitment.
- Further enhanced its capability across all other functional areas but notably within critical enablers such as Legal, HR and Risk, recruiting senior leaders and subject matter experts.
- Re-written its NDA group-wide People Strategy, including focus on capability, capacity, talent, succession, leadership, reward, diversity, and inclusion.

It is important to note that subsidiary organisations also recognise the importance of skills in these functional areas and have similarly strengthened capability in all these functional areas to deliver the group mission.

The creation of One NDA ways of working and the development of a new subsidiary based operational model has enabled the NDA to develop these areas further, collaboratively designing and delivering People initiatives in support of mission delivery. Specifically, over the last 2-3 years, the NDA has launched its group-wide Equality Diversity & Inclusion (ED&I) strategy, the Early Careers Strategy, the NDA Group Leadership Academy, NDA group Mobility Principles, Functional Strategies and the NDA Group Leadership Standard as well as recruiting diverse senior and executive talent to support the successful transition of Magnox, DSRL, LLWR and the creation of NTS.

Looking forward, the people section in the NDA's recently published Strategy 4 outlines its aspiration and commitments for the future with 3 focus areas:

- Ensure we have the right people in the right roles at the right time to deliver the mission



- Create the culture in which our people can thrive
- Work in partnership with our recognised trade unions and the broader stakeholder community

As the NDA develops its strategies, people framework and delivery plans aligned to these focus areas, it will maintain its commitment to ED&I, supporting the cultural changes it aspires to across the NDA group. The NDA will be launching its group wide engagement survey to enable it to develop a baseline, which will be repeated periodically to enable it to identify priorities for intervention and to measure impact and change. The NDA will have a group wide approach to senior pay & reward with enhanced data and reporting aligned to Government guidance. The NDA's approach to stakeholder engagement and management, including its relationships with its Trade Unions and into Government, is developing and maturing. The NDA will continue its focus and efforts on leadership, talent and skills, building on the successes and impact it has achieved since 2017 and delivering the NDA that is needed now and in the future.

## Recommendation Responses

**DR12 – 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.**

### Recommendation Partially Addressed to Date –Target Close Out December 2024

The NDA agrees in principle with this recommendation, subject to the timing of the next externally facilitated Board Effectiveness Review, expected to be in 2024, three years after the 2021 external review.



The NDA conducted an externally facilitated Board effectiveness review in 2017/18 (published in April 2018) and conducted internal reviews in the intervening years. The 2018 review identified nuclear expertise as a skills gap within the Board.

In 2018, the Board's Safety and Security Committee appointed an advisor with a strong nuclear background to address the nuclear skills gap identified and this support has been retained to the current day. In 2019, a Non-Executive Director (NED) with a 20-year record in the nuclear industry was appointed to the Board, who was subsequently replaced with a NED who has a broad nuclear research background and experience of providing advice (Committee on Radioactive Waste Management, Nuclear Innovation & Research Advisory Board and Office for Nuclear Regulation Independent Advisory Panel).

In 2020, a decision was taken, due to the impending departure of the incumbent Chair, that it was inappropriate to conduct another externally facilitated review until the new Chair was in place later in the 2020/21 financial year. An externally facilitated Board effectiveness review was duly conducted from January 2021, with the final report presented to the NDA Board in March 2021. This review provided insights that are being used to enhance the Board operation.

While the 2021 review noted the diversified and relevant skill sets of the Board as a strength, there were suggestions to update the skills matrix, conduct annual appraisals (which were completed in May 2021 and reported to UKGI) and ensure effective inductions for new Board members. The Board strategy for NED succession was documented by the Chair in May 2021 as input to UKGI, who incorporated this into a recommendation for BEIS. In parallel, Board refresh is currently underway.

In recognition of the work now being done by the Board as a result of the externally facilitated Board Effectiveness Review of 2021 and the Board related recommendations of the Magnox Inquiry and Departmental Review, the NDA Board intends to conduct the next externally facilitated Board Effectiveness Review in 2023 or 2024, supported by interim annual internal reviews, in accordance with best practice.



As recommended, the Chair will work with BEIS and UKGI to set the terms for a skills audit to complement the next externally facilitated Board Effectiveness Review and will share the outcome of the Board Effectiveness Review and the skills audit in writing with BEIS/UKGI.

In the interim period, the Chair and the NDA Board will address the actions raised in the 2021 Board Review, which principally focus in other areas but which include ensuring that the Board continues to have the right mix of skills given the evolving nature of the group model and, in doing so, will assess the merits of recruiting further additional nuclear expertise.

**DR22 – 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, as well as its role in developing and managing revenue opportunities and contracts , 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.**

### **Recommendation Partially Addressed – Target Close Out December 2021**

Since the Magnox Inquiry and Departmental Review were commissioned, the NDA has significantly enhanced the skills, capability and capacity of its Commercial function. In 2019, the NDA set out a group Commercial Blueprint, articulating the plans for significant transformation of its commercial capability, recognising the changing role of the NDA Corporate Centre’s commercial team. This Blueprint was approved by the then Chief Executive of the Civil Service and investment was duly made in recruitment of over 40 commercial practitioners and experts, bringing additional capability focused on commercial skills, process and assurance as well as management of revenue contracts.

The revised organisation structure is centred around a category-based structure, with additional discrete teams in place to manage the close-out and transition of the remaining PBO contracts to a subsidiary model. There is also a separate team in place



to manage standards and systems. Recruitment criteria for the new organisation were based upon both the skills and competencies required for procurement professionals. Despite the challenges of onboarding a number of new hires remotely, due to the impact of COVID-19, considerable success has been achieved to date in staffing the new organisation. The new team has a good balance of individuals from the public and private sectors.

The NDA Corporate Centre Commercial Blueprint will be refreshed by March 2022 and each group business will also produce their own Blueprint. The Sellafield Commercial Blueprint has already been drafted and submitted for approval with Cabinet Office, while the Magnox and DSRL Commercial Blueprints are in early development. Waste and Transport operating companies' Blueprints will follow in 2022/23, following on from their respective restructuring programmes.

The NDA provides assurance to BEIS on subsidiaries' understanding of, and compliance with, all relevant public sector procurement rules and standards through Government Commercial Operating Standard (GCOS) assessments. GCOS assessments were undertaken across the NDA group in 2019 and highlighted some areas of good practice, with Sellafield achieving an overall 'Good' rating following independent review by the Cabinet Office. There were also a number of areas where improvement was required and each group operating company developed a targeted action plan for improvement, which was co-ordinated centrally. Notably, the 2019 GCOS assessment recommended restructuring of the NDA Corporate Centre procurement function, which was duly actioned as detailed above. A further assessment, using the revised assessment framework, is due to be conducted for each group business in 2021. These assessments (which look at organisational capability) will be supplemented by a new group commercial capability framework focused on individual capability and professional development, ensuring the appropriate application and deployment of intelligence, processes and systems. The overall approach is designed to drive a continuous improvement culture and reinforce learning from experience.

It should also be noted that when the new Commercial Director was recruited, reporting directly to the NDA Chief Executive, the role also carried a dotted reporting line into the central Government Commercial Function (GCF). This gives BEIS further



assurance of the NDA group's understanding of and compliance with all relevant public sector procurement rules and standards.

In terms of governance of succession planning and appointments, The NDA Board and the Nominations Committee (NomCo) have clear Terms of Reference (ToR) which states the work done regarding skills assessment and succession planning. The NomCo, comprising all of the NEDs and Chaired by the NDA Chair, holds a succession planning meeting regularly. The NomCo reviews the output of the NDA People Strategy Team, with regard to GLT succession plans, including the Group Chief Commercial and Business Development Officer, the group Diversity and Inclusion strategy and SLC Chairs' proposals.

**MI 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.**

### **Recommendation Addressed**

The NDA Board, through its Nominations Committee (NomCo), reviews the NDA People Strategy, Executive Team succession plans and all material organisational changes proposed by the CEO where the Board has accountability or an oversight requirement. This includes the role of the NDA's Commercial Director.

The NDA's Commercial Director has been in post for four years and this role is now an integral part of the GLT as the Group Chief Commercial and Business Development Officer. This role continues to report directly to the CEO in recognition of the importance of commercial matters and in line with the original recommendation from the Interim Report of the Magnox Inquiry. The Board considers that the direct reporting line to the CEO is expected to remain in place.

The NDA Board does not believe that it would be appropriate for BEIS to formally have a role in approving the make-up of the NDA GLT.



**MI 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.**

### **Recommendation Partially Addressed – Target Close Out March 2022**

Immediate Recommendation 6.23.1 from the Interim Report of 2017 stated *“for future procurements of nuclear decommissioning services the NDA should build and maintain a strong and well-resourced team (seeking external expertise and resource where necessary) to achieve both breadth and depth of expertise. That team must have both significant experience of the procurement of nuclear decommissioning services and significant experience of current best procurement practice outside of the nuclear decommissioning industry”*. NDA has made significant progress against this Immediate Recommendation as detailed below and this has positioned it well to respond to the follow up recommendation in the final report.

The NDA’s commitment to attracting and retaining the world class expertise to be an intelligent buyer is reflected in the NDA’s Strategy 4, where objective 8.8 states: *“to build commercial capability which maintains a resilient, sustainable, diverse, ethical, and innovative supply chain that optimises value for money for the UK taxpayer when sourcing goods and services. This section also cites a specific cross reference into the people section and states the ‘drive for improved commercial standards and great transparency”*

The NDA’s Group Chief Commercial and Business Development Officer has provided the professional and thought leadership for the Commercial Directorate since her appointment in 2017. Since then, the NDA has made significant investment in supplementing and enhancing its commercial capability and capacity to act as an intelligent buyer.

This has included a significant increase in headcount from 15 in 2017 to 60 in 2021, a restructure of the function and an alignment of key roles with the GCF. The NDA group has utilised the Commercial Assessment and Development Centre (ADC) process as part of the recruitment of senior commercial specialists and leaders. There





is a commitment within the Commercial Functional Strategy to implement the ADC for all executive -1 and some of the specialist executive -2 roles by the end of 2023 which is in line with the targets set for all wider Government bodies and the NDA Commercial Roadmap.

The function is committed to the personal and professional development of its people, with alignment not only to the GCF but also to the Chartered Institute of Procurement and Supply (CIPS). The NDA's performance management process supports the development of its people with a renewed focus on professional qualifications, exposure to projects across the group and chartership.

As part of the broader approach to talent and skills across the group, the NDA has increased the level of mobility and secondments across the group, including into the commercial function. The NDA legal team has also been restructured and its capability and capacity to advise on complex procurement is being improved through a combination of recruitment and a focus on strategic transactions, which includes major procurements. This work and the changing architecture of the NDA has also seen significant investment in enabling functions such as HR and Finance, which are supporting an improved and enhanced commercial function. The NDA is committed to supporting apprenticeships and graduate recruitment as a means of bringing new talent into the NDA and wider group. Since 2019, the NDA has created focussed commercial opportunities both within the NDA Corporate Centre and the group.

This commitment is enduring and there will be an ongoing need to attract and retain great people to attain this, requiring the NDA to have the remuneration headroom to do so.

Whilst the NDA (and the wider group) now has extensive internal capability, it does draw upon external expertise where necessary. Such support can include engineering / design / technical support in the development of scope documents suitable for tender, commercial expertise to design & test the competition plan, legal advice to help prepare the tender pack and financial support to develop cost modelling. The level of external expertise is driven by the complexity and risk profile of the procurement, as well as the availability of in-house capability, ensuring the NDA



continues to build its own capability whilst introducing external perspective and challenge.

In order to develop the skills and competencies for the commercial capability across the group and ensure that commercial professionals retain relevant skills, a group-wide commercial capability and talent framework is being developed, with a target date for completion of March 2022.

**MI 4.12 – Following the review and drawing up of an agreed action plan in Recommendation 1, 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.**

**Recommendation partially addressed to date –Target close out December 2022**

The NDA Corporate Centre has undergone significant change over the last few years and will continue to do so as the One NDA concept and the creation of the GLT matures. In 2018, a full Organisation Design exercise was undertaken, resulting in changes to structures and roles, with assessment of capability for roles being undertaken. This has resulted in a number of people exiting the organisation and the creation of new and different roles, creating an opportunity to bring an injection of external talent into the NDA Corporate Centre.

The organisation changes in 2018 were carried out in response to the changing nature of the NDA Corporate Centre relating to the emerging concept of One NDA. This was influenced by an external consultant review which led to the NDA adopting the role of an effective corporate centre and implementing a 'Lead, Govern, Share, Engage' framework. In the 2018 changes, each Executive Director of the NDA Corporate Centre reviewed and restructured their Directorates in line with the organisational direction of travel (i.e. One NDA) at that time, and on the formation of the GLT, a



number of key changes in accountabilities and reporting lines were made with a future review planned in six months.

Also, since the Magnox Inquiry was commissioned, each functional discipline of the NDA Corporate Centre has created a functional strategy which articulates the role of the function both within the Centre and across the wider group and allows for clarity and certainty of the purpose and value of all roles and disciplines.

After a period of embedding the newly formed GLT, there will be the opportunity to further refine the operating model and workflows between the centre and the operating companies. The NDA will then be able to ensure any shadow functions are identified and that resource is more appropriately allocated to the correct NDA Corporate Centre or subsidiary roles to optimise its delivery of the mission

**MI 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.**

### **Recommendation Addressed**

As for MI 4.09 above, the NDA has benefitted from the Immediate Recommendation 6.23.1 in the Interim Report to guide its approach to engaging external expertise. This has also been influenced by Immediate Recommendation 6.32.4 which suggested that external legal, financial and other advisors have regular exposure to the NDA Board and the Senior Responsible Officer for major projects and procurements.

The NDA builds its procurement teams based upon the specific needs of the project/ procurement, ensuring the right skills, experience and capacity is in place to achieve the required outcomes. Whilst the NDA (and the wider group) has extensive internal capability, it does draw upon external expertise where necessary. Such support can include: engineering / design / technical support in the development of scope documents suitable for tender; commercial expertise to design & test the competition



plan; legal advice to help prepare the tender pack; and financial support to develop cost modelling. The level of external expertise is driven by the complexity and risk profile of the procurement, as well as the availability of in-house capability, ensuring the NDA continues to build its own capability whilst introducing external perspective and challenge.

An additional area where external expertise is utilised is in assurance, providing the respective Executives and Boards with confidence the process is robust and will achieve the outcomes. By way of example, on the most complex group procurement in recent years (Sellafield's Programme & Project Partners) a range of external expertise was engaged: legal advisors from Pinsent Mason (supplemented by a Queen's Counsel Barrister to provide advice at key stages); Commercial expertise from Gleeds Energy; Project & Programme capability from Turner & Townsend; and Financial support from Deloitte.

**MI 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.**

### **Recommendation Addressed**

The NDA Board confirms that there is clarity of roles and accountabilities of the Executive Team.

Under the Energy Act 2004, the NDA Board is responsible for the appointment of the CEO (subject to Secretary of State approval) and the CFO (after consultation with the CEO) and has established a Nominations Committee (NomCo) – led by the Board Chair and composed of Non-Executive Members only - which oversees succession planning for the Executive team and emerging leaders. Furthermore, the Board's Chair, as per the FWD, with the support of the Remuneration Committee (RemCo), is responsible for the annual performance appraisal of the CEO, after taking account of the views from the Non-Executive Members of the Board and BEIS. The views of the Chair and Non-Executive Board Members are also taken into account by the NDA CEO in performance appraisals for members of the Executive team (whether members of NDA Board or otherwise).



On a regular basis the NomCo of the Board considers succession planning and the RemCo considers Executive performance. The outcome of these Committee activities is reported to the Board to provide comprehensive oversight of the roles, accountabilities and performance of the NDA's Senior Executives by the Board.

**MI 4.40 – 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.**

**Recommendation Partially Addressed to Date –Target close out 2022 (with Ongoing Monitoring)**

The NDA notes and agrees with the recommendation for future CEOs to keep under review the need for an injection of external, competent personnel to be seeded in the organisation. This is a key part of the existing CEO's remit and focus.

The NDA is launching an all employee Engagement Survey in 2021/22 and, in accordance with this recommendation, part of the question set will be designed around clarity of roles, contribution, responsibilities and accountabilities.



## 7. Culture

A key benefit that NDA is seeking to achieve through the One NDA approach is an improved culture for its people; working with pride, feeling respected and included. The NDA's CEO and the Group Leadership Team (GLT) are committed to inclusive leadership and a sustained strategic focus at a group and local level to put culture change at the heart of decision making. How the NDA does things is as important as what it does. As well as being compliant with laws, regulations, policies and procedures, displaying the right values and behaviours is critically important.

Since 2017, under the leadership of its new CEO, the NDA has put in place Respect at Work policies and training, and a Code of Conduct, to which all employees are expected to adhere. Each of the operating companies also have Code of Conducts in place to ensure transparency for all staff on expectations for behaviours. The Code of Conducts also enable employees to appropriately challenge when other do not behave in accordance with the standards.

### 7.1 Learning Organisation

The GLT is guiding the NDA to be a learning organisation that is actively seeking best practice from across the group and from external comparable sectors. This is being facilitated through a more diverse skills and experience base in the NDA's leadership team.

Since the Magnox Inquiry was commissioned, there have been widespread changes to the NDA Executive and senior leadership teams, predominantly involving the introduction of personnel from outside the nuclear industry. This includes the CEO and Group Chief Commercial and Business Development Officer who bring a wealth of experience from the Oil and Gas sector and the Group CFO and Group Chief Operations and Performance Improvement Officer (COO), both of whom bring a wide range of experience from the private construction and engineering sector. This has helped the NDA to broaden its thinking to learn and adopt best practice techniques from a much wider resource pool.



As described in the People, Capacity and Capability section above, the NDA has also significantly strengthened its resources below Executive level over the past three to four years, predominantly based on external recruitment. This again has broadened the NDA's base of experience and knowledge and its appetite for seeking and applying best practice from a much wider industry base.

In particular, the breadth and capability of the resources recently recruited from outside the NDA, to complement the talent within, enables timely and proactive application of learning through:

- Cross estate sharing of best practices and processes in areas such as Health, Safety and Environment, Asset Management and Technology and Innovation
- Establishment of a group wide approach to enhance knowledge transfer, synergies and investment
- External Nuclear and other industry links and association to bring industry wide learning to the estate

More recently, the NDA transition to the new group operating model and formation of the GLT, allows the NDA Nuclear Operations team to step away from performance management and delivery oversight to a focus on Operations and Performance Improvement, providing integrated and collaborative Assurance, while helping the subsidiaries improve performance and harvest cross business (internal and external) opportunities.

Culture by its nature is intertwined with everything that the NDA does; from the governance structures to the people policies, all affect the culture of the organisation. As such, the NDA sees this theme as an umbrella for all future activities as it develops the group further.

The Board takes its accountability for the oversight of Culture seriously and welcomes the work led by the CEO. A recent review of Matters Reserved for the Board has reconfirmed the Board's need for oversight and a decision has been made to add a Board Committee to lead the Sustainability and Governance agenda. A chair of the Committee has been nominated and work has started to establish the Terms of Reference (ToR), working with the Executive Learning Organisation.



In addition to the helpful feedback offered by the Magnox Inquiry and the Departmental Review, the NDA has commissioned its own independent reviews on its capability as a learning organisation. The new CEO, upon his arrival, commissioned an external advisor to implement an Organisational Health Indicator (OHI) survey into the NDA Corporate Centre, to complement a previous independent report into leadership capabilities. These reports had concluded that the NDA performed insufficient benchmarking of itself against other industries and was lowest quartile on a number of measures of 'insightfulness' such as innovation, capturing external ideas and obtaining competitive insights.

A holistic package of measures to address shortcomings in 'insightfulness' was presented to the NDA board in 2018, leading to the establishment of a new NDA function entitled Cross-Industry Learning. This function initially stimulated engagement with the Oil & Gas Authority, then with other adjacent industries willing to discuss themes of common interest, that has resulted in an ongoing series of cross-industry workshops, seminars, conferences and other more surgical interventions to encourage behaviour change across the estate. This has included not just the NDA Corporate Centre, but also, indeed principally, the business units to encourage estate-wide sharing.

The re-measurement of OHI (by McKinsey), during 2021, has demonstrated the benefits of this work over the 3 years since inception. The aspects pertaining to being externally oriented have seen the most improvement of all areas, by as much as 2 quartiles. Anecdotally, functions across the estate now instinctively arrange cross-industry events where only recently these might have been somewhat siloed.

A number of new tools and techniques proven as good practices in other industries are in the process of being imported into the NDA. Among these are;

- project shaping tools such as 'Opportunity Framing' which the NDA is working hand-in-hand with the IPA to roll-out across Government
- project assurance tools such as Project Definition Rating Index (PDRI) which measures the engineering maturity of capital projects at key decision gates





- project cost and schedule benchmarking tools such as Reference Class Forecasting, which allows estimates to be compared to analogous projects in other industries, thereby aiming to address optimism bias

The NDA is also leading, via the Nuclear Energy Agency, the worldwide nuclear industry in the establishment of a global nuclear decommissioning database which aims to aid detailed optimisation of project cost, schedule and execution approaches.

### **Beacon Projects**

To help drive the adoption and benefits of cross group learning, the NDA has introduced the concept of Beacon Projects over the last three years. A Beacon Project brings together passionate and capable people from across the group to tackle a shared challenge or to pursue a group opportunity. These projects will be led by the most appropriate part of the group and are selected on the following criteria:

- The outcomes can deliver tangible cross-group benefits
- The project can demonstrably support Government or regulatory needs, mission progress, VFM or culture change
- Requires cross-group collaboration.

Since 2019/20, the NDA Executive Team (now the GLT) has selected four Beacon Projects and provided funding and resources to deliver tangible benefits from cross-group learning and sharing.

The Beacon Projects for the last three years are summarised below.

### **Beacons 2021/22**

**Re-imagine** – to create the conditions, environment and culture in which all of the NDA’s people can thrive by taking advantage of the opportunities presented by COVID-19, and enabling new technology and changes in the group operating model. The NDA will refresh and ‘re-imagine’ a new future for its organisation, helping it continue to make the NDA a great place to work.



**Sustainability (including Net Carbon Zero)** – to provide a unified and coordinated understanding and approach to Sustainability within the NDA Corporate Centre, embedded in what it does, and to collectively have an NDA group direction of travel and definition of Sustainability that will be translated into decision-making processes thereafter.

**Leadership Academy and Group Talent Strategy** – to implement and embed the NDA Leadership Academy and develop an NDA group Talent Strategy, which will enable the NDA to attract, develop and retain the talent and leaders it needs to deliver the mission. Creating a culture and environment where people can thrive and help the NDA to make itself a great place to work.

**Respect and Inclusion** - to progress diversity and inclusion across the NDA group, in line with the NDA's strategic priorities, covering three key areas:

- Reimagine Equality, Diversity & Inclusion (ED&I) to an Inclusion Strategy, launching a 5-year plan that will set out a vision and roadmap to drive an inclusion step change across the group
- Utilise the road map targets and measures the NDA will seek to improve the diversity of its workforce as part of its journey to become representative for modern Britain, whilst seeking to meet its external commitments under the Nuclear Sector Deal
- Improve the NDA's ED&I data on different workforce characteristics to allow it to better understand its workforce, analyse gaps, opportunities, and successes.

## **Beacons 2020/21**

**Mission Progress Project** - to continue to deliver the structure for measurement of progress against the NDA Strategy, and provide the standardised terminology and strategic outcomes across the group.

**Net Carbon Zero** – the NDA is committed to undertaking its mission in a sustainable way. It shall ensure that in meeting its present needs it will not compromise the ability of future generations to meet their own needs. Mapping of current group carbon footprint and increased understanding of how the baseline will change as the mission progresses, identifying ways in which the carbon footprint can be reduced.



**Leadership Academy** - to develop and strengthen cross group leadership through the creation of a One NDA Leadership Academy for senior, future and functional leaders.

**Respect and Inclusion** - to embed a more respectful and inclusive culture across the NDA Corporate Centre and operating companies to realise the benefits of a more diverse workplace and to continue to deliver against the ED&I group Strategy. Prioritising positive mental health and employee wellbeing will underpin our approach throughout.

### **Beacons 2019/20**

**Mission Progress Reporting** - providing the NDA's stakeholders with a clear, concise, and simple story of mission progress since 2005 and collectively collaborate in the development of the Mission Progress Report, to be signed off by the NDA Board and published.

**Mental Health** - to build on the engagement and commitment across the group to embed a strong mental health culture and further enhance the wellbeing community across the NDA group, adopt 'Thriving at Work' core and enhanced standards, actively collaborate and support a group wide Mental Health Delivery group and embed its ways of operating.

**Cyber Capability** - an increase in cyber capability across the NDA group through implementation of the CSRP Operating Plan 2019/20, which sets out the NDA group activities required to protect, detect, respond and recover from cyber incidents.

**Functional Collaboration** - building on the One NDA handbook, individual functions will strengthen and develop relationships through the co-creation of functional strategies.



## Recommendation Responses

**MI 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.**

### Recommendation Partially Addressed - Target Close Out 2025

The NDA appreciates the recognition of the Inquiry team that it possesses world class expertise in nuclear decommissioning, but it fully accepts that the organisation can be somewhat insular in its perspectives and overly cautious in the potential adoption of best practices and technology from comparable sectors.

The NDA has taken this into account through its recruitment processes in recent years and, since the Magnox Inquiry was commissioned, there have been widespread changes to the NDA Executive and senior leadership teams, predominantly involving the introduction of personnel from outside the nuclear industry, with the specific intent to help the group to learn from other comparable sectors. This includes the CEO and Group Chief Commercial and Business Development Officer, who bring a wealth of experience from the Oil and Gas sector, and the Group CFO and Group Chief Operations and Performance Improvement Officer, both of whom bring a wide range of experience from the private construction and engineering sector. This has helped NDA to broaden its thinking to learn and adopt best practice techniques from a much wider resource pool.

As described in the 'People, Capacity and Capability' section above, the NDA has also significantly strengthened its resources below Executive level over the past three to four years, predominantly based on external recruitment. This again has broadened the NDA's base of experience and knowledge and its appetite for seeking and applying best practice from a much wider industry base.



In particular, the breadth and capability of the resources recently recruited from outside the NDA, to complement the talent within, enables timely and proactive application of learning through:

- Cross estate sharing of best practices and processes in areas such as Health, Safety and Environment, Asset Management and Technology and Innovation
- Establishment of a groupwide approach to enhance knowledge transfer, synergies and investment
- External Nuclear and other industry links and association to bring industry wide learning to the estate, and in particular to its delivery of major projects and programmes

More recently, the NDA transition to the new group operating model and formation of the GLT allows the NDA Nuclear Operations team to step away from performance management and delivery oversight to a focus on Operations and Performance Improvement, helping the subsidiaries to harvest cross business opportunities and external best practice.

Of course, a cultural shift such as this is not a short-term programme and will take more leadership, time and concerted effort across the group to embed into a transitioning organisation, with deep roots and a long history in the nuclear industry. While there have been significant changes to leadership as detailed above, the NDA recognises that the majority of its workforce has enjoyed a long tenure in the nuclear industry and the NDA estate in particular and does have a somewhat insular perspective. The introduction of the Leadership Academy should help to start a cultural training programme, but it will take some time before the NDA can truly claim to have addressed this issue.



**MI 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.**

### **Recommendation Partially Addressed - Target Close Out 2025**

The NDA recognises that cultural change is a slow process and involves several streams of work, that will contribute to improving the culture over time. The NDA believes it has positively made strides through several initiatives that have been delivered, or that are in development, but the work is ongoing and inherently there will never be a time when it is all done.

In 2018, the NDA launched a set of values (Respect, Openness, Collaboration, Performance and Creativity) and a Code of Conduct, championed by the CEO, in which it has trained all staff and leaders. However, it will require sustained effort over a number of years to nurture and keep these values and behaviours at the heart of what the NDA does, through leadership, honest and constructive feedback, accountability, and supported by annual training and focussed communications. The NDA continues to work to promote its value of openness in team meetings (acknowledging that this begins at Board and GLT level), staff events and general day to day interactions. The NDA is focusing on building trust, welcoming constructive challenge, and ensuring all views are heard and taken into account (themes which are also picked up in the Leadership Standard that the NDA has launched across the group in 2021). Whilst the NDA's culture is evolving through learning, it is working towards being an organisation that recognises the importance and value of 'bad news' and responds positively to that even when it is uncomfortable, in particular reflecting on what behaviours it incentivises and celebrates.

The NDA commissioned an OHI survey in early 2021 that provided a vehicle for its staff to express opinions, thoughts and concerns. The NDA received positive feedback on key areas of its organisational health, including significant improvements



in the areas of Strategic Direction and Supportive Leadership. The data also indicated that the NDA's organisational health could improve further with focus on its culture, including (as outlined above) continually reinforcing its values and standards and meeting the expectations set in its code of conduct at all levels in the organisation. Through functional level discussions and employee focus-groups, the NDA is now working to develop and target initiatives in response.

The NDA has a range of different means of engaging its employees, designed to reinforce its values (some of which have developed over this COVID-19 year as the employees have worked remotely). For example, it holds regular informal sessions (breakfasts) between Executive leaders and a cross section of staff to provide opportunities to air concerns and share learnings. The NDA has a monthly All-Hands call which the CEO uses as an opportunity to set the tone from the top on key issues that is reinforced with other management calls and briefings. The NDA's recent 'virtual' staff event over the course of a week, provided a focus on several key initiatives but also utilised a new technology platform that enabled anonymous feedback and voting. This was welcomed by employees and provide additional triangulation against the feedback from the OHI and the regular Executive breakfasts. The planned group-wide employee engagement survey will give a further opportunity for critical input in understanding the impact of the changes the NDA has made so far and what else about the way it operates it needs to focus on.

The NDA has invested further in its risk management capability and has constructed a group-wide approach to risk which is an avenue for more strategic risks and mitigations. (Refer to Risk and Assurance section of this report).

The appointment in March 2021 of a new Group Chief Ethics & Compliance Officer ("CE&CO") with experience in developing "Speak Up" programmes, is another visible change for the organisation – providing an independent route for concerns to be raised and investigated outside the management line if it is necessary, and ensuring learning is shared cross the group as a result of concerns brought forward. The CE&CO reports to the NDA General Counsel and has direct access to the CEO and Chair of the A&RAC as required. One of the benefits of embedding a speak up culture over time across the group will be the opportunity to act on information received and take steps before something more significant develops. The CE&CO will support the



Board and GLT in their accountabilities for ensuring that the NDA's culture is ethical and open. However, as for Recommendation 4.37 above, the NDA recognises that a cultural shift such as this is not a short-term programme and will take significantly more effort across the group before it can truly claim to have addressed this issue in full.

## 7.2 Equality, Diversity and Inclusion

Embracing ED&I is crucial for the NDA in its cultural journey, and also in terms of its output, and this has been recognised since 2018 when the initial ED&I strategy for the NDA was created. ED&I is a key enabler and a strategic priority for the delivery of the NDA's mission as outlined in the recent Strategy 4 publication. ED&I brings people of different experiences and backgrounds together, enabling the NDA to further embrace learning from different sectors helping to address that 'nuclear is not an island'. It is about valuing, recognising, respecting, embracing and including individual differences, and believing that by doing so this will add value. The NDA's principles and approach to ED&I is incorporated throughout the People Framework, including the Group Talent Strategy, Early Careers Strategy and the Leadership Standard.

To enable the work required, the NDA has appointed an experienced and dedicated Head of ED&I (since 2018) to work across the group in establishing appropriate strategies and work together across the different operating companies. The NDA is in the final stage of establishing a 5 year plan that will set out a vision and roadmap to drive an inclusion step change across the group to embed inclusion into the DNA and fabric of the organisations, supporting its vision of becoming a leading inclusive employer in the nuclear, STEM and engineering sectors.

The roadmap will set targets and measures which can be monitored in terms of progress for the group, with the ambition to become representative for a modern Britain whilst seeking to meet the external commitments under the Nuclear Sector Deal. There are 5 main focus areas with a key part of the plan as establishing more complete and robust data of the NDA's workforce characteristics to better understand the opportunities and interventions that the NDA needs to make:





- Inclusive culture and leadership
- Workforce diversity
- Embedding inclusion through the employee lifecycle
- Respect, dignity and employee voice
- Flexibility / agility / smarter working

The NDA has refreshed the 2021-2025 group strategy vision – ‘to create great places to work where people feel respected, included, and can perform at their best’. To support the realisation of this strategy and associated plan of work there is an ED&I council made up from senior leadership across the group to visibility demonstrate the buy-in, support and advocate for the changes that are required to continually improve ED&I across the estate.

The newly formed Sustainability and Governance Board Committee will conduct the Board oversight role for cultural enhancements, including the progress with welcoming Diversity, Inclusion and wellbeing.

## **Recommendation Responses**

**MI 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.**

### **Recommendation Partially Addressed to Date – Target Close Out 2025**

The recently formed NDA GLT will drive improved leadership, assurance, collaboration and transfer of learning and skills across the NDA group. The group comprises of 14 leaders from a blend of public and private sector backgrounds. 36% of these individuals have come from internal promotion, bringing a wealth of group knowledge and 64% have been sourced externally ensuring the NDA has a blend of internal / external and public / private sector expertise.



The NDA is also improving its gender mix. The GLT comprises 21% women as the NDA progresses towards its target of 25% women in senior leadership roles by 2025, as set out in the NDA Inclusion Strategy.

The NDA group utilises the Crown Commercial Service (CCS) framework and has access to best in class Executive Search Partners to ensure it is able to secure a high calibre individuals from both the public and private sectors, giving the NDA a wealth of experience from both inside and outside of the Energy/Nuclear/Infrastructure sector.

Each senior appointment search campaign, concludes with psychometric testing for the shortlisted candidates to ensure the NDA appoints individuals that operate in a way that is aligned to its values and the Leadership Standard, which is designed to uplift and future proof the NDA's leadership capability, enabling it to deliver its mission over the long term, and contribute to the priorities of the UK's Nuclear Sector Deal.

Diversity and Inclusion is a 'golden thread' that runs throughout every recruitment campaign. All Executive Search Partners are targeted to furnish NDA with a shortlist of a minimum of 40% female applicants for technical roles and 60% female applicants for non-technical roles. As part of the Beacon Project - group Talent Strategy – the NDA will focus on refreshing the Employer Brand / Talent Acquisition strategy with a Diversity and Inclusivity lens to ensure it can secure and retain Leaders of the future from wide ranging cultures and backgrounds.

More broadly, all recruitment campaigns follow the Fairness and Meritocracy Principles which have been designed as the foundation for improvement activities across the NDA's operating companies in the areas of recruitment, talent and progression. This principle underpins Strategy 4, One NDA, HR Functional Strategy and the NDA People Framework and indicates its collective commitment to current and future employees to ensure the NDA is aligned with leading practice in these areas in relation to Equality, Diversity and Inclusion.



The newly formed Sustainability and Governance Board Committee will conduct the Board oversight role for cultural enhancements, including the progress with welcoming Diversity, Inclusion and wellbeing.

**DR20 - 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**

### **Recommendation Partially Addressed to Date – Target Close Out December 2021**

The NDA's ED&I Strategy is currently being refreshed into an NDA Inclusion strategy which makes a clear commitment to a zero tolerance for bullying, harassment and discrimination, and encouraging its people to 'speak up'. Similar approaches pertinent to operating companies are also being adopted.

The NDA has developed a group-wide leadership standard which reinforces this zero tolerance approach and also clearly articulates the role of managers in creating great places to work, where employees are treated with dignity and respect, and encouraged to speak up and challenge the status quo.

NDA ED&I Governance ensures that the NDA Executive sponsors in each OpCo, and delivery of strategy is overseen by the NDA ED&I Council and NDA ED&I Delivery group, which has representation from across the group.

In 2018 the NDA launched a set of values (Respect, Openness, Collaboration, Performance and Creativity) and a Code of Conduct, championed by the CEO and which it has trained all staff and leaders in. Additionally, the NDA has put in place Respect at Work policies and training for all employees. The NDA Code of Conduct and Values (together with their equivalents at Sellafield) are designed to ensure clarity for all staff on expectations for behaviours. The Code of Conducts also supports



employees to appropriately challenge when others do not behave in accordance with the standards.

Across the NDA group employees have a number of methods to raise concerns employees can raise concerns about unacceptable behaviours. Employees can raise concerns with their line leader, any leader in the organisation, HR, TU rep and Employee Assistance Programme (EAP). In addition, the NDA has Employee Networks, Mental Health First Aiders and ED&I Champions / ambassadors. Where they do not feel comfortable using these routes, all employees have access to independent "Safecall" services pursuant to the NDA's whistleblowing policies, where they can raise concerns anonymously if they wish. Issues raised this way are investigated and a management response follows.

In March 2021 a new Group Chief Ethics & Compliance Officer ("CE&CO") with experience in developing "Speak Up" programmes, was appointed, and a new NDA Speak Up policy has been approved to replace the existing whistleblowing policy. The CE&CO reports to the NDA General Counsel & Company Secretary and has direct access to the CEO and Chair of the Audit Committee where specific issues or other matters require this. There is work to do to ensure the 'Speak Up' policy is aligned across the group and embedded, ensuring employees understand what happens when they speak up, that matters are efficiently investigated, appropriate action taken and learning is shared across the group as a result of concerns brought forward.

Routes for raising concerns are reinforced through the NDA's groupwide inclusion campaigns e.g. Mental Health Week, International Day against homophobia, bi-phobia and trans-phobia (IDAHoBiT), National Inclusion Week, Anti-Bullying Week etc. These campaigns share personal stories, raise awareness, promote the NDA's values and expectations of employee behaviours, and encourage a speak-up culture.

Group-wide ED&I Surveys are regularly carried out and NDA/ Magnox have also carried out a Mind Mental Health Survey and Wellbeing Surveys.



## 8. Risk and Assurance

The risk and assurance activities and capability have developed significantly since 2017, having been built on three principles:

- Good practices of integrated risk and assurance, as the basis of all developments;
- New versions of the policies, strategies, processes and procedures (now implemented in a new Quality Management System (QMS) have been co-created with the Heads of functions from across the group; and
- Developing as an NDA group, supporting the subsidiaries to be the best they can be. This supports their 3 Lines of Defence model to be effective, designing in the appropriate assurance as early as possible.

The concept model of 'Risk – Control – Assure' is at the heart of the system design for integrating risk and assurance. This covers all Lines of Defence both within the operating companies and the NDA Corporate Centre.

To support this system of assurance, a number of products have been delivered:

- Annual Integrated Assurance Plan (IAP) for the group, taking key information from each business and testing effective integration and reviewing against key themes
- Improved tools and techniques of assurance – supporting the Infrastructure Projects Authority (IPA) refresh
- Capability and competency model for both assurance and risk roles – presently being finalised
- Making available a range of training, education and awareness courses and seminars
- Communities of practice – Assurance Reviewer Community events happen at least quarterly



The risk management framework has been reset and both risk appetite matrix and statements have been approved by the Board. These are used actively in the assessment of risks in decision making.

Group Strategic Risks (GSR) are checked monthly with GLT, with more in-depth reviews completed quarterly. Deep dives of each GSR are planned with the Board and its Committees, on an 18 month cycle. The business quarterly reviews and other insights provide important input to these reviews of the GSRs. These are provided to BEIS through periodic report submissions.

## **Recommendation Responses**

**MI 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.**

### **Recommendation Partially Addressed to Date – Target Close Out March 2023.**

The NDA has moved away from the Parent Body Organisation (PBO) contracting model and therefore management of contractor delivery is predominantly the responsibility of the operating companies.

Across the NDA group, the standard 3 Lines of Defence model is implemented within the business structures and into Government. This is a widely recognised model which includes, within the third line, independent assurance. Each organisation's 3 Lines of Defence interact with those in other parts of the group. This helps to ensure that there is complete coverage i.e. NDA to Site Licence Company (SLC), SLC to Tier 1 contractor etc. This is in line with standard industry practice and includes a system of contractor assurance and audit processes.

In addition, a forum is now in place bringing together the Heads of Assurance and Heads of Risk across the group. These are already delivering benefit through shared learning and good practice. Furthermore, a Risk and Assurance skills and capability framework is in development, together with an updated QMS.



The group has excellent examples of “Lead and Learn”, where techniques are trialled in one part of the group prior to their development and application in other areas. This philosophy is currently being applied across the Magnox sites where specific sites are designated to take the lead with particular decommissioning tasks and then feedback their experiences to the group to inform future work planning and delivery.

The NDA actively promotes and sets up cross-industry learning with other sectors such as Oil and Gas. The Non-NDA Liabilities Assurance team seeks to ensure that learning is applied to the work it undertakes in scrutinising, on behalf of BEIS, EDF Energy’s qualifying costs in connection with the decommissioning of the Advanced Gas-cooled Reactor (AGR) power stations.

From the NDA Corporate Centre’s perspective, oversight is also the remit of the newly enhanced directorates of:

- Commercial, specifically the focus on issues within and between commercial and procurement categories, using the Category Management structure; and
- Nuclear Operations and Performance Improvement, specifically the Programme Managers.

Further work, to enhance and measure the impact and performance of the system of assurance, is ongoing. This will include a review confirming that this work is embedded.

Board oversight takes place through scrutiny on Board committees as appropriate, reporting to the Board.



**MI 4.33 – 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.**

**Recommendation Partially Addressed to Date – Target Close Out March 2022 (then ongoing as BAU and Continuous Improvement)**

Governance and Assurance was a key theme of the 2017 Magnox Inquiry Interim Report and since then, the NDA risk and assurance activities and capability have been significantly developed.

**Internal Capability and Skills**

The NDA has recently reviewed its assurance capability through a series of maturity assessments across the group. These are undertaken independently from the assurance process and reported to the Audit and Risk Assurance Committee of the Board. Improvement plans against these maturity assessments are agreed for all parts of the NDA group.

The NDA group has developed a network of over 50 IPA certified assurance reviewers. These individuals can be called upon to support reviews. The full subsidiary model now makes it easier to move Subject Matter Experts (SMEs) between operating companies for review purposes. There is now an intent to use cross NDA group SMEs for assurance reviews.

The NDA Corporate Centre Assurance Team now comprises individuals who are IPA qualified Review Team Leaders (RTL). To maintain their qualification, it is incumbent on RTL's to enhance their Continuous Professional Development. This is achieved by attending IPA briefings and conducting at least one (external to the NDA) review within the UK Government Portfolio per annum, to work with a broader spectrum of RTL expertise. The NDA Assurance Team is now approached directly by other Governmental Departments seeking their reviewer expertise to deliver reviews for





them. The team has also undertaken the accredited APM Assurance Practitioner Course which concludes with an exam. All of the team scored in excess of 75%.

A number of assurance practitioners from the wider NDA OpCos are also qualified IPA reviewers and have attended and passed this course. This is bringing the NDA group assurance community up to a common standard.

To facilitate further improvements, a Capability Framework for Assurance is being finalised. This will be rolled out across the group and will support both capability and competency development. It will support selection of the appropriate individuals to undertake specific assurance reviews. Training to support this is being developed and will be implemented.

### **External Support**

In order to supplement the group's internal resources and capabilities a number of assurance resource frameworks are in place in the NDA Corporate Centre and in the NDA's subsidiaries (Sellafield, LLWR and RWM), to provide external resource expertise where necessary for specific reviews. Where there are shortfalls in staffing, recruitment is being undertaken. A review of the structure of the entire system of Assurance within Sellafield is currently being undertaken.

The group Assurance QMSs (strategy, processes and procedures) have been updated. 'Lead and Learn' activities, with Cross Industry workshops and seminars regularly occur to support learning.

### **Clarity of Scope and Limitations and Sample Checks**

Assurance maturity assessments of the NDA group are undertaken independently from the assurance process and reported to the A&RAC of the Board. Improvement plans against these maturity assessments are agreed for all parts of the NDA group.

All assurance activities are described, planned and executed in accordance with a collaboratively drafted Terms of Reference document. This follows a standard template set out within the NDA's Assurance Framework and includes details of the Review Team (RT) members. The ToR set out the required documentation list aligned



to the type of review being undertaken. The RT have the opportunity to add to this as necessary.

The RT when conducting assurance activities, seek to triangulate the information heard from multiple interviewees and that obtained from documents. This is standard practice for IPA qualified reviewers. This works on the basis that detail heard from one person may be considered hearsay, however when corroborated with another individual plus the reading material, it may be taken as fact. The RT provide the Senior Responsible Owner (SRO) with a draft copy of the report, providing a further opportunity for any factual corrections before finalising the report.

Assurance activities will be further enhanced through visits to the work/subject of the review to better understand the context. Although this has been hampered due to COVID-19, a return to 'boots on the ground' approach will be encouraged from June 2021.

**MI 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.**

### **Recommendation Addressed**

Progress on this recommendation has benefitted from Immediate Recommendation 6.32.3 of the Interim Report; *"Governance boards should assure themselves that they have a clear understanding of the risks that may arise from future competitions"*.

Consequently, this action is complete and embedded in the NDA's ways of working. The first NDA group Integrated Assurance Plan (IAP) was presented to the NDA Exec Committee (now the GLT) and the A&RAC in March 2020.

There is now a process in place to produce the annual IAPs, building from the individual assurance plans of the group operating companies and the NDA Corporate



Centre. This will go forward to the GLT and the A&RAC. The NDA A&RAC recommends approval of the Internal Audit plan for the group, informed by second line assurance activities. This information is captured and presented in the IAP. Any changes are managed through a change management process. Themes from reviews are reported to GLT and A&RAC.

The NDA Corporate Centre has developed an Assurance Management System (AMS) comprising six Process Descriptions. This is headed up by the NDA's Assurance Policy with Process Description 1 (PD1) setting out the NDA group's Operating Model. This then leads into the Process Description 2 (PD2) that explains how to implement the NDA Group Assurance Framework.

All the inputs that identify possible assurance activities are captured and collated into a 'hopper'. A number of filters are then applied including risk and proportionality tests. From this is derived the content of the annual NDA Assurance Plan. PD2 sets out five procedures that are used to refine the information flow through the hopper into the annual Assurance Plan and then to conducting the actual assurance work. Process Description 3 (PD3) sets out how to deliver assurance reviews commencing with the Terms of Reference and Process Description 4 (PD4) sets out how to deliver keyholder reviews.

Process Description 5 (PD5) sets out how recommendations are recorded and action management is conducted, while Process Description 6 (PD6) sets out the assurance quality control protocols to adopt.

Disciplined application of the Process Descriptions provides the feedback loop so that 'themes can be identified, such that corrective actions and plans can be effectively developed'.

However, this remains an area of continuous improvement, particularly in 2021/22. The Heads of Assurance are working together to set the standards of what good is, informed by external benchmarks and insights. Each major project, programme or significant business decision is required to have its own Integrated Assurance and Approvals Plan (IAAP). The NDA Corporate Centre assurance team is overseeing and supporting the design of good assurance across the NDA group. This includes



prioritisation of activities based on assessed risk and uncertainty, value, complexity and a number of other factors.

**MI 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.**

### **Recommendation Addressed**

As for MI 4.34 above, progress on this recommendation has benefitted from Immediate Recommendation 6.32.3 of the Interim Report; *"Governance boards should assure themselves that they have a clear understanding of the risks that may arise from future competitions"*.

The NDA's IAP (including the Internal Audit plan) is framed around the significant NDA group risks. Assurance reviews are designed as part of the overall assurance system, with appropriate independence determined by the risk and complexity of the decision. The IPA Risk Potential Assessment (RPA) system is used to identify the projects/programmes/subjects for prioritisation and review. Where the risk, complexity and nature of decision require, external specific assurance is brought in through frameworks or through Internal Audit.

A Projects & Programmes Committee (P&PCo) has been formed since the draft Magnox inquiry report was published. As well as monitoring performance, this committee reviews specific project and programme business cases coming to Board. This includes reviewing the assurance information and the risk profile presented.

The A&RAC oversees the system of assurance and risk on behalf of the NDA Board.

Whilst IPA Reviews are also undertaken, these are not considered to be forensic for the NDA's projects and programmes. This is due to a) often limited industry, site and



project knowledge of the review team and b) minimal opportunity for 'boots on the ground' access to the project, prior to the review. Nevertheless, these reviews provide valuable additional and independent insight for project managers, Programme Managers and Senior Responsible Officers (SROs).

**MI 4.39 - Assurance should be an aid to and support good decision making, not just a hurdle to be crossed.**

### **Recommendation Partially Addressed to Date – Target Close Out March 2022**

Much of this work is complete, aided by the Interim Magnox Inquiry recommendations, but further activities are planned to reinforce the change.

Heads of Assurance and Heads of Risk forums are now in place across the group and have been occurring regularly for over 12 months. Risk & Assurance skills and capabilities frameworks are being finalised and rolled out. The approach is captured in the updated Assurance QMS. In addition, 'Lead and Learn' activities, with cross-industry workshops and seminars are regularly arranged to support learning.

Assurance is now being consciously requested and designed into significant projects, programmes, and decisions. Feedback indicates that it is now being used to positively support project development and decision-making. This will be part of continuous improvement.

SROs are being introduced within the operating companies and the roll out of MPLA training will help to position assurance in the wider context. This will assist SRO's in their role of directing assurance activities to support their project/programme.



**MI 4.60 - 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.**

### **Recommendation Concluded**

The request for a review to be conducted is jointly agreed by the SRO and IPA where appropriate. The SRO helps develop the Terms of Reference and works with the review team leader to encourage an independent test of the programme/project's health. This is entirely separate to that provided by the delivery team's regular reports. The review is conducted for the SRO and the final report includes the SRO's comments, which are provided at the conclusion of the review.

In line with IPA guidance, the report is initially confidential for the SRO. Subsequently it is expected that the report is shared with senior leaders and key stakeholders, for their awareness and attention. This will include providing the report to the site license company executive and Board, the Accounting Officer and the NDA Board's Programme and Project Committee members. The identified actions are embedded in a tracker and the output/findings are captured in an overall assurance statement.



## 9. Commercial and Contracting

### 9.1 Commercial and Procurement Practices

Since 2017, the NDA, as a group, has invested heavily in building the necessary commercial capability that was highlighted as being deficient in the events leading up to the Magnox Inquiry. The NDA has also had the benefit of the Magnox Inquiry Interim report of October 2017 and has previously responded to the interim recommendations.

As an immediate step, the NDA recruited a new Commercial Director reporting directly to the Chief Executive and with an additional indirect reporting line into the central Government Commercial Function (GCF). Approved in 2019, by the then Chief Executive of the Civil Service, the NDA set out a group Commercial Blueprint, articulating the plans for a significant model change of its commercial capability.

Key changes delivered to date include:

- New operating model implemented for the procurement function built upon industry best practice category management principles. This included significant recruitment of both public and private sector expertise to establish a central procurement & commercial function of over 40 commercial practitioners and experts. This is supplemented by additional capability focused on commercial skills, process and assurance as well as management of revenue contracts. [Subsidiary organisations have also recruited senior leadership into the Supply Chain and procurement areas to strengthen operational delivery. The group now has additional capability across the organisations to oversee the procurement and delivery of supplier contracts].
- Group-wide Government Commercial Operating Standards (GCOS) assessment undertaken in 2019 to inform areas of strength and development. This was followed-up by focused improvement plans which conclude in summer 2021. The new Commercial Continuous Improvement Assessment Framework (CCIAF) will be undertaken across the main areas of group spend in the first half of FY 2021/22.



- Development and roll-out of a new commercial toolkit for the NDA Corporate Centre, with further work now underway to establish common commercial processes and procedures across the NDA group.
- Implementation of an Enhanced Commercial Assurance (ECA) Procedure designed to give confidence on commercial proposals by undertaking second and third line assurance at key stages. It formally involves senior Commercial professionals within the NDA group, BEIS, Cabinet Office, and includes representation from other Government bodies where appropriate such as Crown Commercial Services, Government Property Agency, and Treasury in a clearly-defined assurance route, building that assurance earlier into a projects lifecycle. ECA Panels consider affordability and Value for Money criteria.

## **Recommendation Responses**

**MI 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**

### **Recommendation partially addressed to date – Target Close Out October 2021**

The NDA accepts this recommendation. At the time of the Magnox Contract, the NDA's PBO model was still in place. This has subsequently been superseded over time, such that, after 12 July 2021, there will be no PBO contracts in place and the group will operate under the NDA group subsidiary model.

The Chair and CEO will always want a Board that has the appropriate skill set to reflect the activities of the NDA, both current and future. Indeed, the committee structure of the Board is now being renewed, in recognition of the NDA's developing needs and recent guidance e.g. in Sustainability, the Task Force on Climate-related Financial Disclosures (TCFD) requirements and the current FCA consultation following CMA, Brydon and Kingman reports.

The P&PCo Chair will always have appropriate expertise and knowledge of critical aspects related to the design and delivery of major projects and programmes, including procurement as one of the key components. The Committee Chair also has





access to the recently appointed General Counsel for detailed legal advice on procurement regulations.

**MI 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.**

### **Recommendation Addressed**

For the most complex procurements (for example the Sellafield Programme and Project Partners), Steering Groups, Project Boards or Competition Boards are adopted. These oversight groups typically include Executive sponsors, key demanders/clients and functional leads to ensure the procurement and strategy reflects the ultimate needs of the organisation. Whilst there is no standardised structure to such arrangements or a requirement to adopt this approach for a particular value/classification of project, the decision is made on a case-by-case basis. The benefit of interaction between the commercial function and project/programme leads at the early stages of development is understood.

The proposed governance arrangements for complex procurements are set out and reviewed in the business case for the relevant project. In 2019, the NDA adopted the Keyholder process - for procurements where a full Keyholder review is required. In addition to the procurement specific steering group / board, the NDA adopts a tiered corporate governance structure, supplemented by independent assurance bodies. This model is replicated across the operating companies. Where procurements exceed the delegated authority of the operating companies, the NDA applies its Keyholder assurance process to ensure the case is robust from a strategic, economic, commercial, financial and management perspective. In addition, the NDA undertakes Enhanced Commercial Assurance which support the commercial aspect of the Keyholder process. This typically includes representation from BEIS Commercial and Cabinet Office.

The tiered governance model for each operating company is that of an Executive level Investment Panel, up to a Board of Directors. Where the request exceeds the authority



of the group business, this is also subject to approval at the NDA GIC. Any cases which exceed the NDA's group delegation is also subject to the NDA Board approval prior to submission to BEIS and Treasury.

**MI 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.**

### **Recommendation Partially Addressed to Date – Target Close Out March 2022**

Corporate governance processes, with significant Board and Executive input, are adopted across the group for the early development of the programme business cases, through strategic outline cases (where relevant) and into the outline business case.

For the most complex procurements (for example the Sellafield Programme and Project Partners) Steering Groups, Project boards or Competition Boards are adopted. These oversight groups typically include Executive sponsors, key demanders / clients and functional leads to ensure the procurement and strategy reflects the ultimate needs of the organisation.

It is only after this stage, having involved senior executives with relevant responsibilities within any strategy for complex procurement, that the procurement 'black box' phase commences.

A SRO is appointed to each complex procurement. This is an individual with the seniority and experience appropriate to the procurement in question. SRO training is now available via Government Commercial College and the NDA will roll out the training throughout 2021/22.

In addition, the NDA has implemented both the keyholder process and a 'deep-dive' commercial review process known as ECA for the more complex/high value procurements. These assurance processes bring wider perspectives and insight to the



procurement at the strategy development stage and ensure complex procurements are scrutinised before entering the 'black box' phase.

However, at present, there is no standard structure to such arrangements or requirement to adopt them above any particular value/classification. The NDA will review this with a view to issuing further guidance to Project/Programme Managers.

**MI 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.**

### **Recommendation Addressed**

Assessment of contract management capability is a core aspect of the GCOS assessment process, which was performed by the NDA in 2019. Whilst some areas of good practice in contract management were noted, a number of areas where improvement was required were also identified. A further assessment, using the revised assessment framework is due to be conducted for each group business during 2021.

The NDA group is participating in the Cabinet Office's Contract Management Capability Programme. 299 individuals from across the group have successfully completed the GCO's contract management foundation training to date, with a total of 678 registered to take part. A pilot is currently underway for the Expert programme. In April 21 the NDA began to perform assurance of contract management activity for Gold contracts at ECA panels.

Additionally, a group-wide IT system for procurement (known as 'Project Victory') is being implemented across the NDA group, a key feature of which is to improve the visibility, accuracy and availability of procurement data in order to support effective decision making. Furthermore, the group Legal function works effectively with the group Commercial function.



**MI 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**

### **Recommendation Addressed**

Immediate Recommendation 6.14.3 of the Interim Report recommended that *“the NDA considers afresh its approach to ‘threshold’ items which would cause a bid to fail”*. The NDA actioned this Immediate Recommendation from 2017 and, under revised NDA processes and in line with standard Government practice, Pass/Fail questions are now limited to Selection Criteria only (i.e. they are not used at the award stage), although it should be noted that minimum thresholds can, and are, used at Award Stage.

The Selection stage adopts a standardised Selection Questionnaire which aligns with Cabinet Office guidance, with pass/fail criteria generally being limited to critical legal or regulatory requirements. The impact of Thresholds at award stage is subject to stress testing to understand the potential impact and ensure that any thresholds are proportionate and relevant to the required outcomes, although it should be recognised that when and how to use thresholds is a commercial judgement.

The guidance on how and when to use minimum thresholds will be reviewed and, if necessary, amended as part of an ongoing review and update of the Commercial Toolkit available to procurement professionals.



**MI 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.**

#### **Recommendation Addressed**

As for MI 4.45 above, the NDA has made good progress on this recommendation based on the work done to address issues raised in the Interim Report. The design of the competition, including the evaluation criteria is now developed and documented as part of the procurement strategy documentation, typically the sourcing strategy and for more complex procurements, a standalone tender evaluation plan. These are developed with the evaluation team to ensure the desired outcomes are effectively tested through the competition process. Where pass fail criteria or thresholds are used, teams will consider the impact as part of stress testing to assure the final decision making. In addition, for non-routine procurements, legal advice (internal and where appropriate external) is sought on the criteria to help ensure they are fair, proportionate, unambiguous and legally compliant.

**MI 4.47 - There should be clear business ownership of the award criteria with direct linkage to the procurement strategy.**

#### **Recommendation Addressed**

Appointment of a suitably senior and experienced SRO ensures clear business ownership of award criteria. Award criteria are assured as part of the Enhanced ECA process with clear linkage back to the critical success factors in the procurement strategy / business case. Where additional policy requirements are introduced (such as social value) they are linked directly to the policies which require them.

The guidance on award criteria will be reviewed and, if necessary, amended as part of an ongoing review and update of the Commercial Toolkit available to procurement professionals.



**MI 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.**

### **Recommendation Addressed**

The NDA has made good progress in this area, guided by the Interim Report, in which Immediate Recommendation 6.14.4 said *“the relevant competition rules should be thoroughly tested through a range of different scenarios to ensure that they are workable and do indeed achieve the objectives of the NDA at that point”*.

For complex procurements stress / scenario testing is now undertaken and assurance of this activity forms part of the Enhanced Commercial Assurance process, looking at both the robustness of the defined mechanism and the appropriateness of the outcomes achieved. Standardised questions are used where relevant to apply learning to subsequent procurements. Again, for complex procurement activity, legal reviews are undertaken to ensure the criteria are clear and transparent.

The guidance on evaluation criteria will be reviewed and, if necessary, amended as part of an ongoing review and update of the Commercial Toolkit available to procurement professionals. As part of the NDA’s commitment to continuous improvement, the NDA and its group businesses undertake periodic capability reviews via the Government Commercial Continuous Improvement Assessment Framework (former Government Commercial Operating Standards Assessment), within which effective procurement policies, processes and documents are reviewed, the last of which was concluded in June 2021. In addition, group-wide learning from experience is facilitated via the group Supply Chain Board, where output from lessons learnt reviews can be shared across the group.



**MI 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.**

#### **Recommendation Addressed**

Record keeping is another aspect of the NDA's procurement process that was highlighted in the Interim Report and which has been improved accordingly since its publication in 2017. Specifically, Immediate Recommendation 6.18.1 stated that "the NDA should revise its approach to record keeping with bidders", which the NDA has done.

Contemporaneous records of dialogue meetings and sharing with bidders a record of any decisions reached or assurances given, which they may rely upon in their tenders, is part of standard approach for all Competitive Dialogue or Competitive Procedure with negotiation procedures.

For complex procurements (such as Programme and Projects Partner (PPP)) audio recordings may be made and retained to provide an additional layer of assurance. The guidance on dialogue meetings and record-keeping will be reviewed and, if necessary, amended as part of an ongoing review and update of the Commercial Toolkit available to procurement professionals.

**MI 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.**

#### **Recommendation Addressed**

As for MI 4.49 above, the Immediate Recommendations of the Interim Report have previously been addressed to make improvements in this area.



Training is provided to all evaluators on the expectations and requirements of the role, with more in-depth training provided for complex procurements. The training covers aspects such as: context and consequences of getting it wrong, key roles and obligations of the evaluation team, conflicts of interest, the evaluation process including moderation, and the importance of robust record keeping and use of objective assessments.

The guidance on evaluation processes and training will be reviewed and, if necessary, amended as part of an ongoing review and update of the Commercial Toolkit available to procurement professionals.

**MI 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.**

### **Recommendation Partially Addressed to Date – Target Close Out December 2022**

Current processes require both provisional and final scores to be recorded, but the existing IT system does not support this. Hence, the records are currently stored separately for each procurement.

As part of Project Victory (as referred to in 4.44 above), a new evaluation system will be implemented and is expected to go live by April 2022. The new system will provide a full audit trail on any iterative scoring.

**MI 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.**

### **Recommendation Addressed**

The importance of moderation in the bid evaluation process is recognised. It is now standard practice in the NDA that evaluation processes employ moderation to ensure





consistency of standards and approach. In addition, tender documents explicitly specify the mechanisms which would be used to resolve any areas of deadlock, to remove ambiguity.

In practical terms, evaluations are typically undertaken on a staged basis, with nominated suitably qualified and experienced evaluators reviewing tender responses relative to the defined evaluation criteria in isolation. This ensures that individual evaluators have a full appreciation of the tender response, its merits and potential shortcomings. Once individual evaluations are complete, a moderation session will be held with all of the evaluators assigned to that questions.

Evaluators are required to outline their assessment in turn. These sessions aim to arrive at a consensus position, with clear rationale recorded for the evaluation scores assigned. Where no consensus is arrived at, the evaluation Chair will draw upon the prescribed measures set out in the tender documents to arrive at a final position. Clear and accurate record keeping is required throughout this process to ensure robustness and transparency. The NDA considers moderation sessions as critical to ensuring common understanding and perspective across the evaluators whilst also eliminating the risk of individual human error.

The exact process adopted for each procurement is specified in the relevant procurement documentation and may vary to suit the specific considerations of each procurement.

**MI 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.**

### **Recommendation Addressed**

The NDA agrees that it is important that full and timely feedback should be provided, highlighting relative strengths, weaknesses etc. to ensure bidders can learn from procurements. To do this, the NDA ensures it provides full debrief information in



detailed written responses. This ensures the information conveyed is accurate and does not introduce any additional information which could increase the risk of legal challenge.

However, the NDA also recognises the importance of relationships and therefore there is also a role for the Supplier Relationship Management programme to ensure executive level relationships remain in good health with key suppliers. Where suppliers are not part of the formal SRM programme, similar Executive / Senior Leadership engagement can also be undertaken where appropriate.

Once the formal procurement process is complete and standstill is concluded, this approach allows further discussions to take place, allowing the NDA to maintain strong relationships and ensure that unsuccessful tenderers are given the opportunity to feedback their views to NDA and remain interested in future opportunities. The NDA Chair's review is assessing how effective these interactions are currently and will make further recommendations against any outstanding areas for improvement.

**MI 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.**

### **Recommendation Addressed**

As part of the response to these recommendations, the NDA has commissioned an independent review in order to ascertain whether its policies and procedures align with the recommendations set out in the Magnox Inquiry and other review recommendations.

Broader review and benchmarking of the NDA's procurement function has taken place in the form of GCOS assessments and the review of the NDA's commercial blueprint which is due for refresh in March 2022.



Further assurance is available to the Board by the establishment of the keyholder and ECA assurance arrangements and will be enhanced by the implementation of Project Victory, which will improve the visibility, accuracy and availability of procurement data.

**MI 4.27 – 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.**

### **Recommendation Addressed**

Since 2017, the NDA has enacted Immediate Recommendation 6.14.1 of the Interim Report, which recommended that “the NDA devises a transparent, but less complex, set of competition rules, focussing on the substance of what it is looking for, rather than on process”.

Competition rules are now defined through the critical success factors, which are defined in the business case / procurement strategy. Clear alignment to the design of the procurement stems from there. Undertaking assurance in the early phase of procurement is key and this is achieved via the keyholder and ECA processes.

**MI 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.**

### **Recommendation Partially Addressed – Target Close Out March 2022**

The impact of thresholds at award stage is subject to stress testing to understand the potential impact and ensure that any thresholds are proportionate and relevant to the required outcomes, although it should be recognised that when and how to use thresholds is a commercial judgement.



The guidance on how and when to use minimum thresholds will be reviewed and, if necessary, amended as part of an ongoing review and update of the Commercial Toolkit available to procurement professionals.

**MI 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.**

### **Recommendation Addressed**

Accuracy of information was highlighted in Immediate Recommendation 6.14.2 of the Interim Report, suggesting that *"prior to commencing further competitions, the NDA takes all necessary steps to assure itself that the information presented to bidders is as complete and accurate as possible so that bidders have a suitably reliable starting point for the scope of the tendered work. Such assurance could come from appropriately qualified internal or external sources"*.

Consequently, scope maturity, definition and uncertainty are now tested via the ECA process and factored into the design of the procurement. For large or complex procurements and contracts, independent, third-party assurance is also undertaken on the scope, schedule and estimate.

There is a risk that cost escalation and/or unforeseen events will occur between tender pack development and contract award and, therefore, it is important to minimise this time in order to reduce risk. It is recognised that further work is required in this area, with specific focus needed to streamline governance timescales. The Finance and Assurance functions are reviewing how the current process can be streamlined.



**MI 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.**

#### **Recommendation Addressed**

As for MI 4.48 above, the NDA has made good progress on stress / scenario testing, guided by the findings of the Interim Report.

As part of the evaluation design, procurement teams, supported by legal advisors now review the evaluation criteria to ensure the questions are unambiguous, transparent and suitably linked to the outcomes of the specific procurement. The criteria are often a combination of tried and tested assessment criteria and bespoke questions to address the specifics of the procurement. Once designed procurement teams will look for opportunities for potential 'gaming' by tenderers against likely scenarios to optimise the model and provide assurance that the desired outcomes can be achieved. For more complex procurements, external advisors (legal and commercial) are often engaged to provide additional perspective on both the evaluation design and gaming / scenario analysis.

**MI 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.**

#### **Recommendation Addressed**

The NDA now undertakes a systematic approach to undertaking additional assurance / peer reviews for commercial propositions. Mirroring wider Government best practice, the NDA undertakes a keyholder assurance process, with functional experts reviewing the constituent parts of business cases prior to entering formal governance; this includes the commercial case.



In addition, the NDA has an ECA process in place which undertakes thorough reviews of commercial propositions at Outline Business Case (OBC), Full Business Case (FBC) and in the contract management phase. The ECA process includes BEIS representation and Cabinet Office as appropriate.

These processes are integrated into the NDA corporate governance framework, which is overseen by the Board, with key recommendations and actions visible throughout the decision making process. In addition, the NDA (and its subsidiaries) undertake further independent peer reviews / assurance reviews where considered appropriate and reflective of the complexity and risk profile of the case. Where undertaken, these have a defined sponsor and the outputs again form part of the assurance logbook which follows propositions through governance to ensure transparency of risks and opportunities.

## 9.2 Legal Risk

**MI 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.**

### **Recommendation Partially Addressed – Target Close Out December 2022**

An experienced Group General Counsel & Company Secretary (NDA GC) was appointed in November 2019 and sits on the GLT. He attends all the NDA Board meetings and has independent access to the Board. The NDA legal team since has been restructured and its capability and capacity to advise on complex procurement is being improved through a combination of recruitment and a focus on strategic transactions, which includes major procurement. These measures have helped to ensure that there is access to experienced legal advisors by the appropriate oversight and decision-making bodies and further that the governance of protecting legally privileged advice is better understood by the organisation. Protocols for appropriately sharing legal advice, within the group and outside to Government



where appropriate, are also in progress in collaboration with the legal teams across the NDA group operating companies.

A General Counsel's Policy (GC Policy) has been developed to clarify the role of the NDA Corporate Centre legal team and how legal advice should be sought and used in the context of NDA projects, including procurements. At present, this requires further work to engage with relevant functions across the NDA Corporate Centre as well as the legal teams in the NDA group operating companies in order to embed new ways of working, and it is planned that, with the support and championing of GLT team members, the process of embedding shall commence in Q3 2021. Through the NDA sanction approval process, legal advice on risks and mitigations is presented as part of the approval process for certain categories of procurements in line with Managing Public Money and the NDA's delegations from Government, and the Group Investment Committee has direct access to the group lawyer responsible for providing that advice to the NDA itself or to the relevant NDA group operating company, as appropriate, to ask questions or seek clarifications.

**MI 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.**

#### **Recommendation Partially Addressed – Target Close Out December 2022**

Following the appointment of the NDA GC, all NDA Corporate Centre litigation is managed through the Associate General Counsel (Enterprise Risk) reporting to the NDA GC. External counsel is instructed as required, only through members of the legal team. The Associate General Counsel (Enterprise Risk) also works in collaboration with the lawyers across the NDA group operating companies to mutually share updates on material litigious or contentious matters, assists with any matters relating to Government delegation or settlement and prepares a group Quarterly Litigation Report, which is provided by the NDA GC to the NDA Board. This provides a regular update on material litigious and contentious matters and facilitates regular business partnering and support on key group litigious developments and



strategy where appropriate. All the group's operating companies have their own GCs who manage the relevant group operating companies' litigation and will provide similar updates on material developments up to the NDA GC in this regard. At present, further work is required to engage with the legal teams in the NDA group operating companies to facilitate improved collaborative sharing of learning and experience on litigation management particularly since recent implementation of the NDA's FWD 2021, and recent changes to the NDA's delegations as well as Managing Public Money. It is planned that, with the support and championing of GLT team members, this implementation starts in Q3 2021.

**MI 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.**

#### **Recommendation Partially Complete – Target Close Out December 2022**

The NDA GC, or their delegate, is responsible for ensuring that the BEIS legal team is updated on material actual or potential (within *de minimis* thresholds) contentious or litigious matters which carry reputational risk and/or material cost risk particularly given that the NDA has no authority to settle. Similarly, the NDA GC, or their delegate, will ensure that their relevant executive colleagues and the NDA Board are similarly informed of such issues and updated on material developments, within the boundaries of legal privilege, such that they can appraise their respective colleagues in BEIS and Cabinet Office.

The NDA GC, or the GCs from the relevant group OpCos where appropriate, will ensure that the litigation strategy is developed and adjusted as appropriate, as well as ensuring the commercial strategy is similarly devised and revised. The Associate General Counsel (Enterprise Risk) also works in collaboration with the lawyers across the NDA group operating companies to mutually share updates on material litigious or contentious matters, assists with any matters relating to HM Government delegation or settlement and prepares a group Quarterly Litigation Report which is provided by the NDA GC to the NDA Board. This provides a regular update on





material contentious matters and facilitates regular business partnering and support on key litigious developments and strategy where appropriate. At present, further work is required to engage with the legal teams in the NDA group operating companies to facilitate improved collaborative sharing of learning and experience on litigation management particularly since recent implementation of the NDA's FWD 2021, and recent changes to the NDA's delegations as well as Managing Public Money, and it is planned that, with the support and championing of GLT team members, this implementation starts in Q3 2021.

**MI 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.**

#### **Recommendation Addressed**

As a result of the implementation of new ways of working in the NDA legal team, following the arrival of the NDA GC, in relation to each litigation matter in the NDA Corporate Centre a separate assessment is made by either the Associate General Counsel (Enterprise Risk), Associate General Counsel (Strategic Transactions) or the Deputy General Counsel with the agreement of the NDA GC as to the appropriate external law firm to use for any litigious matters, taking into account factors including conflicts, specialism, experience, capacity and cost in relation to the matter at issue. Background knowledge of a matter arising from a procurement may be a relevant consideration but would not be determinative. The NDA Deputy General Counsel is responsible for overseeing the NDA's relationship with each of its panel law firms, and for managing the periodic panel refresh processes. The next of these is due in 2022, and a key factor for the NDA will be ensuring access to a sufficient range of firms to ensure an appropriate choice of firm can be made in relation to each piece of litigation. All the group's OpCos have their own GCs who manage the relevant group OpCo's procurement and litigation and will provide similar legal advice.



**MI 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.**

**Recommendation Partially Complete – Target Close Out March 2022**

Through the recruitment of a commercially experienced NDA GC with a multi-faceted background leading both inhouse legal teams in the public and private sector as well as partnership in a private practice law firm, working together with similarly experienced GCs and lawyers across the NDA legal team and the legal teams in the group operating companies, the NDA group is now able to provide an extensive range of specialist, commercial and risk management legal experience. This is enhanced by a selection of appropriately experienced external law firms available on its panel. The NDA group legal *modus operandi* is specifically built to benefit from wider and external commercial and risk experience and context.

**MI 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.**

NDA legal would be happy to support Cabinet Office and Government Legal Department as appropriate with these proposed procedures.



**MI 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.**

#### **Recommendation Addressed**

The role of the NDA GC is embedded at Executive level, with the NDA Board having agreed the job description for this role. The GC attends Board meetings, and is the only Executive charged with reporting to the Board on any matters of legal risk. The NDA GC oversees the internal legal team which is being significantly restructured and strengthened.

External advisers, including legal advisers, have an established route, through the NDA GC, by which to escalate any concerns they may have arising out of their involvement or their advice.

**MI 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.**

#### **Recommendation Partially Addressed – Target Close Out March 2023**

The NDA GC, or the relevant GC of the NDA operating company where appropriate, will provide or procure legal advice on the legal risks associated with procurement through the respective commercial assurance processes, the NDA's GIC and both the NDA and NDA group OpCos' board reports.



In addition, the Associate General Counsel (Enterprise Risk) also works in collaboration with the lawyers across the NDA group OpCos to mutually share updates on material litigious or contentious matters (actual or potential within *de minimis* thresholds), assists with any matters relating to Government delegation or settlement and prepares a group Quarterly Litigation Report, which is provided by the NDA GC to the NDA Board. This provides a regular update on material litigious and contentious matters and facilitates regular business partnering and support on key litigious developments and strategy where appropriate.

The NDA GC, or their delegate, is responsible for ensuring that BEIS Legal and the BEIS site facing team, as appropriate, are updated on material contentious or litigious matters which carry reputational risk and/or material cost risk. Similarly, the NDA GC, or their delegate, will ensure that their relevant executive colleagues and the NDA Board are similarly informed of such issues and updated on material developments, within the boundaries of legal privilege, such that they can appraise their respective colleagues in BEIS and Cabinet Office.

At present, further work is required to engage with the legal teams in the NDA group OpCos to facilitate improved collaborative sharing of learning and experience on litigation management, and it is planned that, with the support and championing of GLT team members, this implementation starts in Q3 2021.



## 10. Sustainability

Sustainability has been a key feature of the NDA's Beacon Projects, from the Net Carbon Zero project of 2020/21 to the Sustainability and Re-imagine projects of 2021/22, both of which are Group Key Targets (GKT). GKTs are defined as strategically important outcomes that are incentivised across the NDA group and, as such, have the GLT sponsorship to deliver. The GKTs are visible into Government with progress regularly reported. Sustainability is a Government priority and this is reflected in the Beacon project GKT status.

Sustainability is a new critical enabler in the fourth edition of the NDA Strategy (2021). Its objective in the NDA Strategy is to ensure that the mission outcomes and the journey to deliver them are sustainable. Achieving this objective is requiring a dedicated and collective effort across the NDA group.

The main ambitions of the Sustainability Beacon Project are to continue the NDA's journey:

- To provide a unified and coordinated understanding and approach to Sustainability within the NDA Corporate Centre, embedded in what we do and
- To collectively have an NDA group direction of travel and definition of Sustainability that will be translated into decision-making processes thereafter.

The extent by which Sustainability is embedded in the NDA Corporate Centre and in the decision-making process of the NDA and the operating companies will define a measurement of success of this Beacon Project.

More specifically, by the end of 2021/22, the NDA is aiming to:

- Deliver an agreed vision and narrative to Sustainability signed off by the GLT that has demonstrably influenced operating companies' Sustainability strategies and implementation plans.
- Defined five-year roadmaps for the NDA Corporate Centre and main operating companies to achieve the agreed vision on Sustainability.



In recognition of the importance of sustainability and social responsibility, the NDA Board has recently formed a new Sustainability and Governance Committee.

## 10.1 Carbon-net zero

The NDA is committed to undertaking its mission in a sustainable way. The NDA shall ensure that in meeting its present needs it will not compromise the ability of future generations to meet their own needs. Mapping of current group carbon footprint and increased understanding of how the baseline will change as the mission progresses, identifying ways in which the carbon footprint can be reduced.

### Recommendation Responses

**DR2b - 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.**

#### Recommendation Partially Addressed – Target closeout March 2023

Recognising the importance of this issue, the NDA has appointed the Director of Environment to take the lead on the NDA group Net Zero approach and a Director for Sustainability to manage and take oversight of ensuring that the overall strategic approach aligns with wider sustainability, including socio-economic, priorities for the group. The NDA's recently updated Strategy 4 commits to developing a carbon reduction strategy in order to support Government commitments on net zero carbon and wider greenhouse gas emissions but also recognises other aspects of sustainability and mission delivery. The NDA has reviewed its Value Framework which is used as a tool to aid in balancing a range of important aspects in its decision making. The Value Framework review has been produced with input from BEIS and other key stakeholders such as regulators and local authorities during 2020/21. In 2021/22 the NDA will communicate the revisions to the Value Framework and using a phased approach seek to embed its use across all the NDA and its operating companies. The NDA therefore considers this action to be partially complete with



progress being sufficient to have confidence in a target closeout of March 2023. The NDA continues to work closely with Government Departments in this regard.

## 10.2 Re-imagine Beacon Project

Like the rest of society, the NDA's response to the pandemic has changed the way we live, work and interact. Like many other organisations, the NDA wishes to capitalise on the accelerated changes it has experienced and deal with some of the constraining factors in its organisations. The NDA has a clear opportunity to invest its learning from COVID-19, to refresh and 're-imagine' a new future for the organisation. The NDA wants to create the conditions, culture and environment where people can thrive and help it continue to make the NDA a great place to work, and where it can use the opportunity to improve its delivery of nuclear operations and projects.

The NDA's response to combat the COVID-19 pandemic have allowed it to:

- Re-think and focus on what is important (people and sites);
- Consolidate its efforts across the group;
- Take the opportunity to collaborate and collectively learn from experience; and
- Be bold in a digitised environment.

A Beacon Project has therefore been initiated which offers the opportunity to focus on delivery of near-term changes that will start to build the momentum and new ways of working across the group to develop confidence and agility to meet future challenges. This Beacon Project is similarly the subject of a GKT to be delivered in 2021/22.



## Recommendation Responses

**DR21 - The NDA should consider what changes to the workforce structures and ways of working adopted during 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.**

### Recommendation Partially Addressed – Target closeout March 2022

Like many businesses, the NDA has been forced to change its ways of working as a response to the COVID-19 pandemic. In March 2020, the NDA immediately switched to remote working for all office-based workers and reduced the site work to mission critical tasks only. Over the course of the last year, as the NDA has cycled in and out of lockdown restrictions, it has continued to review its working practices (keen to optimise the opportunities presented by the COVID-19 enforced changes) whilst learning from the challenges faced. The NDA has wrapped these opportunities together under a 'Re-Imagine' initiative and this has now been taken forward as a group focused Beacon Project in 2021, recognising the importance of maximising the opportunities presented. The Re-Imagine Beacon Project covers themes including ways of working, digitisation, simplification and leadership & culture. Each of the operating companies have also created smarter working groups to help drive some of these changes into business as usual activity.

As the NDA starts to transition out of the 2021 lockdown and return staff back to the offices, it is embracing a hybrid working model across the estate for those roles that can be adapted into that model. The NDA set some principles for agile working and shared these across the group. Each of the OpCos across the group have planned to implement these in ways that meet their own operational challenges and organisational situations. For those in site-based roles, the hybrid model doesn't directly apply, however the NDA has worked to deliver more flexible working solutions and better on-site facilities to support these workers in these roles.





The NDA's agile working principles have led to drafting a new group-wide policy and guidance for its employees to follow. This builds on the 'We Trust' theme that was developed in the Agile Working project of last year.

An example where NDA has embraced the new ways of working is within its Corporate Centre where, going forward, it is able to champion a hybrid working model. This is facilitated by several initiatives including line management training, a communications campaign, policy changes etc.

It is also facilitated by the remodelling of many of the NDA's office facilities to better embrace more hybrid working and to deliver better spaces for its staff to collaborate in. At a local level, the NDA has opened a small 'hub' office as a demonstrator for new ways of working and technology that will aid collaboration. As the NDA develops its group property strategy over this next year, it will be keen to drive 'whole estate' solutions and group-wide spaces that are enabled for anyone across the group to use. These facilities will be enabled by unified communications systems that are part of the NDA's ICT improvement plan and single pass security access that is part of its Security and resilience improvement programme.

Finally, the NDA is embracing the application of new technologies to help drive its future vision and to contribute to the improved ways of working and simplification agenda. Work is ongoing to engage widely with the supply chain and with industry to find new solutions to aid the delivery of the NDA's mission. It may be that these provide greater efficiencies and further organisational changes in the future.

### **10.3 The NDA's Socio-Economic Strategy**

The NDA updated and published its Local Social and Economic Impact Strategy in 2020, following a public consultation process. This is compliant with the legal provision of the Energy Act 2004.

The NDA believes that its decommissioning work can act as a local engine of growth with companies, especially smaller ones, using decommissioning at an NDA site as a springboard into other markets and sectors. The NDA also believes that it has a role to support social and economic inclusion, and to make decisions which are sustainable and environmentally responsible.



The NDA has two means of delivering its socio-economic strategy. First, it has the ability to take local factors into its overall decision-making framework, including its large procurement pipeline. The strategy sets out how the NDA will do this. Second, the NDA has grant giving powers to fund organisations with specific social, economic or environmental projects.

However, there is a risk to local communities around the NDA's sites that they become overly dependent on NDA funded decommissioning work. Success for the NDA's socio-economic strategy is therefore a reduction on this level of dependency. Communities near the NDA's sites should not be reliant purely on the NDA's decommissioning work and should not face a cliff-edge when decommissioning work comes to an end. As a group, the NDA is committed to working closely with the UK, Scottish and Welsh Governments, local authorities, local partners, including Local Economic Partnerships (LEPs) and other agencies in the delivery of this strategy and future updates to it. The NDA will continue to engage closely with local communities and residents near its sites on all its socio-economic work and the NDA is grateful to all the people local to its sites who work so hard to make their communities better places.

## **Recommendation Responses**

**DR2a - 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;**

### **Recommendation Partially Addressed – Target closeout March 2022**

Last year, the NDA published its Local Social and Economic Impact Strategy 2020 to 2026 and further studies are being undertaken to assess the economic impact of its work. It published studies on its socio-economic impact for the Magnox sites in 2018, Sellafield in 2016 and Dounreay in 2014. An updated study covering all of its sites will be delivered by March 2022. The new Sustainability and Governance Board Committee will provide appropriate oversight, supporting the well-established work of the Executive.



# 11. Performance and Reporting

A key area of focus under the NDA group operating model is cultivating and sustaining a culture of high performance to achieve the mission effectively and deliver improved value for the taxpayer. The NDA recognises that value is not just about money, it also addresses issues such as health, safety, the environment and social responsibility.

A key benefit of the NDA group approach is enhanced performance and the successful delivery of outcomes whilst dealing with risk and emergent issues appropriately. Led by the recently formed GLT, the NDA's focus continues to be on enabling improved performance and enhanced assurance by:

- maximising opportunities from working as a group
- assuring strategies and plans are delivering value and improving performance
- Identifying and transferring good practice; and
- Identifying and sponsoring collaboration opportunities.

## 11.1 Integrated Financial Framework

Over the last 12 months, the NDA has initiated a programme to enable improved performance reporting across the group, namely the group wide Integrated Financial Framework (IFF). The IFF is being put in place with the input and collaboration of the NDA group subsidiary organisations to enable greater transparency in reporting and to enable better and more timely decision making on robust information.

The IFF is aligned to the NDA group operating model approach, containing a number of workstreams under the following 4 lenses:

- People – To promote and build a culture of collaboration, while providing the best support and development opportunities for all our community members
- Performance & Reporting – To make information on performance, more accessible, more insightful and ultimately lead to better actions



- Value for Money – To further develop the effectiveness and clarity of financial control, in order to make better and more transparent financial decisions and
- Risk and Assurance – To increase the value the NDA can add to the business through the effective use of risk led thinking and mission focused assurance.

## Recommendation Responses

**DR23 - 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 Framework to give the NDA Board full confidence in the corporate centre's ability to allocate, prioritise and monitor spend across the whole group.**

### Recommendation Partially Addressed to Date – Target Close Out December 2021

As noted in the recommendation, the NDA is focused on developing an IFF. The IFF has been established to foster collaboration and coordinate the functional strategies across the Finance, Internal Audit, Risk & Assurance, Land & Property, Pensions and Insurance communities in all of the companies within the group.

The IFF will deliver benefits in four key ways – through People, Reporting, Value for Money and Risk Management.

To date, the NDA has made good progress with the IFF and established a leadership team led by the Group CFO and with sponsorship and input from the Finance Directors of the largest operating subsidiaries.

Delivery of the reporting aspect of the IFF will provide accurate, more accessible and better presented performance information to the Executive, Board and key stakeholders. Improved and comprehensive reporting that more accurately captures the status of NDA's activities will support improved decision making at all levels of the organisation.

This phase of the work is expected to be completed and embedded during 2021 with further enhancements planned to be implemented during the next financial year.



## 11.2 Performance Management

As the NDA moves away from the PBO contracting arrangements to the NDA group operating model, first line accountability for performance management is rightly being focussed on, and is the accountability of, the OpCo Boards. However, in accordance with the accountabilities of the NDA AO, the GLT will be focussed on ensuring that the implementation of the NDA strategy is supported by sound plans being well executed.

Accordingly, the NDA is enabling strong functional collaboration that is helping it to optimise cross-group working and increase its focus on continuous improvement and standards. Everyone will know what is expected of them and proudly strive to deliver, inspired by the importance of the NDA's mission and the opportunity to make a difference.

Tangible examples of the functional collaboration to date include Internal Audit, Risk and Assurance, Cross-Industry Learning, Cyber and Security.

## 11.3 Mission Progress Reporting

During 2019, through the initiation of a Beacon Project, the NDA introduced a new approach to reporting against its mission, with the successful launch of the Mission Progress Report. This public facing document provides a consistent way of reporting performance and progress from across the NDA group. This supports the NDA's vision to work with increased openness and transparency and to increase standardisation and simplification wherever possible. The Mission Progress Reporting is now integrated into the overarching IFF and is managed as business as usual.



## Recommendation Responses

**MI 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.**

### Recommendation Addressed

Corporate performance objectives and measures form a key component in the reporting and delivery of performance across the NDA group.

The NDA group objectives are set, reported and monitored as a suite of Group Key Targets (GKTs), which align with targets established for the subsidiary companies and their respective leadership teams. The NDA Board is actively engaged in the development and approval of the GKTs, where the BEIS Permanent Secretary is represented by BEIS and UKGI delegates. The NDA welcomes the BEIS and UKGI proposal that allows for greater engagement with Government through the target development process.

The NDA has fully embedded the reporting of key targets and performance measures into its regular reporting cycle. The reports are provided to the Executive, Board and BEIS/UKGI and performance is reviewed and discussed at a series of Quarterly Performance Reviews with the group OpCos. This process culminates with a quarterly senior forum with BEIS, UKGI and HMT.

Furthermore, the Chair's letter process is in place and effective.



## 11.4 Programme and Project Governance

The breadth and capability of the resources recently recruited from outside the NDA, to compliment the talent within, has enabled an improved combination of support, advice and peer challenge by the Interface Teams associated with operating companies' projects and programmes enables:

- The "Big Picture" view and interdependencies to be managed
- 'Bad/good news' early behaviours to ensure corrective action
- Cross-estate programmes to be established; (e.g. Innovation / Asbestos / Demolition / Carbon Net Zero / Sustainability)
- Consistent, and consolidated, Key Stakeholder Engagement

The ongoing establishment of Integrated Programme Controls, to enhance transparency of performance and 'connectivity' with Mission delivery, will further support performance improvement.

### **Governance**

Since the commissioning of the Magnox Inquiry, the Board has formed a specific Projects and Programmes Board Committee, which considers the performance of major projects and major project investment decisions across the entire NDA group. This sits alongside the Board's A&RAC, which considers, amongst other things, the output of review and assurance exercises across the breadth of the group activities. Project investment decisions now require the project team to have conducted a 'keyholder' process to ensure that the relevant executive director and their team has assessed the Business Case and agreed that the content is accurate and appropriate. The output of the keyholder process is made available to the Board alongside the Business Case documentation to support decision-making.

SROs for each of the major projects within the NDA group are being progressively identified and are now undertaking the relevant MPLA training for this role. In future the SROs will systematically report directly into the GLT and also periodically report to the appropriate Board Committee.



## Recommendation Responses

**DR17 - 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.**

### **Recommendation Partially Addressed to Date – Target Close Out January 2022**

This process is in progress and an interim SRO arrangement, agreed with IPA, is currently in place for all Government's Major Projects Portfolio (GMPP) projects. The next stage of implementation will include appointments of appropriate individuals to the SRO role for all GMPP projects in Q3 2021/22.

As the OpCo with the most GMPP projects, Sellafeld have initiated a substantive review (under the leadership of the CEO) of the SRO Roles and Responsibilities and the integration of these into the Sellafeld organisation structure. The potential for the organizational changes to fall under LC36 arrangements and the need for SRO training (such as MPLA) are being considered in the timeline for full implementation. The NDA is working with the SL team to align these arrangements with a common approach for the NDA Estate, with engagement, as appropriate, with the other operating companies ongoing.

It is intended that the SROs for GMPP projects will be senior members of the OpCos' leadership teams.





**DR19a - 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.**

### **Recommendation Partially Addressed to Date – Target Close Out December 2021**

In February 2020, the NDA Board approved a refreshed set of ToRs for each of the 'layers' and committees in the sanction process. The focus for this process was governance clarity.

The review leading up to the Board discussion did not at the time consider that any of the current governance committees were 'unnecessary layers'. With the recent creation of the GLT and establishment of the GIC, there is a further review underway. This review will look at:

- Whether any 'layers' of governance can be removed/combined to simplify and reduce timelines;
- The alignment of the Scheme of Delegated Authority with the NDA Framework document, and Terms of Reference for governance committees; and
- Use lessons from the recent major project pilot through the sanction governance process.

This will result in an updated proposal to GLT and the Board, including any necessary transitional arrangements. The outline plan indicates an update in autumn 2021. Additionally, this will be supported by digitisation of aspects of the process to enhance consistency, standards and ease of implementation. This will require coordination across all the governance leads/owners.



**DR19b - 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.**

The NDA welcomes the opportunity to enhance its PPM capability by continuing to work closely and collaboratively with IPA.

**MI 4.20.2 - SROs for major projects should personally provide regular updates to the Board**

**Recommendation Partially Addressed to Date – Target Close Out January 2022**

Under the NDA group's oversight and governance arrangements, there is an increased focus on the performance management and scrutiny to be provided by the Boards of the subsidiary operating companies.

In addition, SROs for major projects are being appointed from senior operating company positions. These will be the single point of accountability and will receive the support, engagement and scrutiny of the Executive and Board members, and offers a route to gain access to required resource and expertise from across the group as required.

The NDA is currently developing the processes for SRO reporting and progress updates which will set out how these matters are escalated in both the SLCs and the NDA corporate centre, including appropriate visibility to the Board.



## 12. Glossary and abbreviations

AGR	Advanced Gas-cooled Reactor
ALB	Arms-Length Body
AO	Accounting Officer
ARAC	Audit and Risk Committee
AWE	Atomic Weapons Establishment
BEIS	Department for Business, Energy and Industrial Strategy
CA 2006	Companies Act 2006
CCS	Crown Commercial Services
CEO	Chief Executive Officer
CO	Cabinet Office
COVID-19	Coronavirus-19 pandemic
DRS	Direct Rail Service Limited
DSRL	Dounreay Site Restoration Limited
E,D&I	Equality, Diversity and Inclusion

EA	Environment Agency
ECA	Enhanced Commercial Assurance
ESG	Environmental, Social and Governance
ExCo	Executive Committee
FBC	Full Business Case
FOI	Freedom of Information
FWD	Framework Document
GCOS	Government Commercial Operating Standards
GDF	Geological Disposal Facility
GLT	Group Leadership Team
GMPP	Government Major Projects Portfolio
HMG	Her Majesty's Government
HMT	Her Majesty's Treasury
HR	Human Resources
HSE	Health and Safety Executive



IFF	Integrated Financial Framework
INS	International Nuclear Services Limited
KPI	Key Performance Indicator
LCB	Lifecycle Baseline
LLW	Low Level Waste
LLWR	Low Level Waste Repository Limited
LTP	Lifetime Plan
MOD	Ministry of Defence
MPM	HM Treasury's "Managing Public Money"
NAO	National Audit Office
NDA	Nuclear Decommissioning Authority
NDPB	Non-Departmental Public Body
NED	Non-Executive Board Director
NLF	Nuclear Liabilities Fund
NRW	Natural Resources Wales

NTS	Nuclear Transport Solutions
OHI	Organisational Health Index
ONR	Office for Nuclear Regulation
P&PCo	Programmes and Projects Committee
PAC	Public Accounts Committee
PAO	Principal Accounting Officer
PBO	Parent Body Organisation
PNTL	Pacific Nuclear Transport Limited
PP	Programme and Project
PPP	Programme and Project Partners model at Sellafield
PS	Permanent Secretary
QPR	Quarterly Performance Review
R&D	Research and Development
REMCO	Remuneration Committee Research and Development



RWM	Radioactive Waste Management Limited
SEPA	Scottish Environment Protection Agency
SLC	Site Licence Company
SME	Small and Medium-sized Enterprise
SO	Strategic Outcomes
SoS	Secretary of State
SRO	Senior Responsible Officer
ToR	Terms of Reference
UKGI	UK Government Investments
VfM	Value for Money



Nuclear  
Decommissioning  
Authority