**Annex 1**

**CONSULTATION RESPONSE QUESTIONNAIRE**

**Geological Disposal of Radioactive Waste: Working with Communities**

We want to know your views on the proposals in our consultation document

Please submit your comments by 20 April 2018

If you have any queries on this consultation, please email:

[EQR@Gov.Wales](mailto:EqualityandProsperityMailbox@gov.wales)

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| **Data Protection** |
| Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.  The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address  (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.  Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone’s name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information. |

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| **Confidentiality** |
| Responses to consultations may be made public on the internet or in a report.  **If you do not want your name and address to be shown on any documents we produce please indicate here**  **If you do not want your response to be shown in any document we produce please indicate here** |

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| **Date: 20 April 1028** | | |
| **Name** | Roy Payne | |
| **Organisation** | GDFWatch | |
| **Address** | PO Box 1107  Aylesbury  HP22 xxx | |
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| **Type**  *(please select one from the following)* | Business |  |
|  | Local Authority |  |
|  | Community Council |  |
|  | Other Public Body |  |
|  | Professional Body |  |
|  | Voluntary sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations) | X |
|  | Individual respondent |  |
|  | Other (other groups not listed above) |  |

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| **Q1** | Formative engagement is the process for identifying a potential host community as explained in paragraphs 62 to 71.  **1(a)** Do you agree with the proposed approach of identifying communities? Do you have any alternative solutions that we should consider? | **X** |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| **1(b)** Do you agree with the proposals for an independent chair and independent facilitators and evaluators to help with the formative engagement activities? Are there any other approaches we should consider? | | |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| 1(c) Do you agree with the proposed membership of the formative engagement team? Are there any other potential members that should be considered? Please give your reasons for proposing additional members. | | |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| **Further comments** | | |
| *Overview*  Formative engagement is perhaps the most difficult stage in the siting process. It is at this stage that:  a) sufficient awareness and interest is required at a local level to engender some form of initial discussion; and then,  b) subject to local sentiment/willingness, that initial interest will have to be migrated through the more detailed discussions, analysis and negotiations that will precede the establishment of any Community Partnership or drafting of any Community Agreement.  The current proposals have many positives but there may be ways in which the process can be improved to enhance the levels of reassurance, confidence and trust any community will need in order to consider formally entering into the siting process.  For example, it may be helpful to have an “early-formative engagement” stage that is centrally-funded to support bodies representing community-based interests to work collectively in developing ‘template’ terms and conditions for Community Partnerships and Agreements, so that individual communities subsequently negotiating and entering into their own local Community Agreements and Partnerships can do so with greater confidence that their underlying interests in this untested process have been evaluated by the wider community sector.  *Early-Formative Engagement: Enhancing Community Confidence through Collaboration*  The current proposals appear to place an onus on individuals or local organisations coming forward for initial discussions. The proposals envision a process in which interested communities enter into a bilateral process with the delivery body to identify local needs and to negotiate a place-specific way forward. Even if several communities entered into formative engagement, there seems to be an assumption that there would be a series of separate bilateral 1-2-1 relationships and discussions between each community and the delivery body.  This pathway may be the route taken by some communities, and it is certainly true that the local characteristics and requirements of any particular community will need to be individually accounted for and addressed. However, the GDF siting process is not just a difficult or long process, it is also a completely unique and untested approach. Feedback from a wide range of stakeholders suggests that the scale and complexity of the task could easily overwhelm the confidence of many individual communities, inhibiting them to open even initial discussions.  This confidence-deficit will only be exacerbated if a community feels ‘alone’, isolated and/or senses that the balance of knowledge, authority and power is with the delivery body. No matter how open the delivery body may try to be in these early discussions, it will inevitably be seen as a having an agenda.  To avoid communities feeling isolated or overwhelmed by the siting process, and as a way of more rapidly building trust at the community level, of enhancing community understanding of the issues, and of encouraging greater community participation in the siting process, it might be helpful if the Government considered the merits of supporting an ‘Association’ or similar representative grouping of interested communities to deliver ‘early-formative engagement’ activity. Such an approach would:   * allow knowledge and experience of the wider community sector to help shape siting process details, rather than rely upon individual small communities negotiating their own position * build confidence across engaged communities that they have an independent agent on their side, offering advice and support during the siting process * mean that generic siting and engagement issues common to any community could be identified and addressed collaboratively and collectively – enhancing the siting process’ credibility with communities * ensure best practice, and existing community programmes and approaches, were built into the siting process from the very start * provide a ‘clearing house’ for the sharing of information and knowledge between interested engaged communities * reduce duplication of costs/effort for the delivery body, by having one agency with which to work on core issues rather than multiple small individual communities. | | |

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| **Q2** | **QUESTION 2:** Do you agree with the proposed approach for defining an Search Area? Are there any other approaches we should consider? | **X** |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| **Further comments** | | |
| *Overview*  The consultation document sets out the complexity of defining ‘affected’ communities very clearly, and rightly notes that over time the identity and boundaries of any particular ‘affected’ community may change. However, given this complexity, and the need for flexibility, there do not appear to be any proposals for independently arbitrating or resolving disputes that may arise.  Basing both “search” and “host” areas on the lowest units of public administration (community councils) is a sensible basis from which to start defining a ‘community’. However, there should also be flexibility to accommodate existing non-governmental or other community-based networks and affiliations. These non-statutory groupings may not align with governmental administrative boundaries but can often more effectively reflect historic ties and relationships within and between local communities.  GDFWatch believes that flexibility is necessary when defining an affected community. Experience from other infrastructure projects indicates that specific affected communities become more self-evident as the discussion and planning processes progress. The key to successful public acceptance of how an affected community is eventually defined will be in how transparently that decision is taken.  *Arbitration/Dispute management*  Whatever criteria are adopted to define an ‘affected’ community or communities, a line is effectively drawn in which people at some point are either inside or outside. Wherever that line is drawn, there is always going to be someone just the other side of the line. That person may or may not have a justified grievance for being excluded, but there remains a probability that there will be someone with such a grievance.  It is currently proposed that defining the ‘affected’ communities will be the responsibility of the Community Partnership. However, the Partnership itself may be, or perceived to be, a conflicted party in any dispute, and therefore any decision it reaches could be open to legal challenge.  Setting aside concerns about the potential for frivolous litigation designed to frustrate the process by unrepresentative individuals or groups, any such legal actions would inevitably delay the process and could place an open-ended financial burden on the taxpayer. This is perhaps less of an issue when the initial search area is large and no specific location, site or geographic community is yet identified as a potential host area. But the situation may become more fraught as the siting process advances and becomes more focused, and particularly as the Test of Public Support approaches.  Further thought may want to be given now to identifying an independent arbiter, which could hear public representations and make final decisions on the boundaries of any designated community. An existing statutory body with expertise in defining communities, such as the Local Government Boundary Commission for Wales, may be an appropriate independent quasi-judicial arbiter. This approach would:   * provide a clear framework for the future on how detailed assessment and decisions will be made in defining an affected community, while still retaining flexibility for the circumstances at the time and in the specific location; * underpin public trust in the transparency and independence in the process of deciding how an affected community is to be defined; * limit the scope for frivolous legal challenges; * more effectively manage public funds. | | |

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| **Q3** | Do you agree with the proposed approach to forming a Community Partnership that is supported by a Community Stakeholder Forum? Are there other approaches we should consider? | **X** |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| **Further comments** | | |
| *Overview*  The basic principles to the approach are sound, and we particularly welcome the Government’s acknowledgment that funding will be required to provide communities with the capacity and capability to meaningfully engage in the process. If communities are to be at the centre of decision-making it makes absolute sense to ensure as broad a spectrum as possible of local opinion and interests are represented on the Partnership, and that the Partnership be the primary decision-making body.  Our main concerns are:   * current lack of provision for independent arbitration of any disputes over membership * proposed ‘voting’ powers of Partnership members may not be fair or equitable * establishing clear criteria for costs that are to be covered by engagement funding.   *Independent arbitration*  The consultation document is silent on how to resolve potential disputes over Partnership membership. There may be benefit in contracting with a credible and respected independent party to act as an arbitrator.  An independent arbiter could analyse results of the local stakeholder-mapping and community-profiling outputs from the formative engagement process, and if required consult publicly on potential membership, before recommending final appointments. The independent arbiter should provide an explanation for their decision, so even if elements of the community are not satisfied with that decision, they can at least see the process was fair and transparent.  *Partnership membership & voting rights*  The delivery body and principal Local Authorities are to be automatically granted seats on the Partnership. In principle there are no issues with this proposal, but it does prompt questions, eg:   * in the interest of building trust with community, should the Delivery Body have any say in others’ membership? – perhaps the Delivery Body should be kept out of any local ‘wrangling’, and not ever be seen to have, let alone actually have, a ‘veto’ over anyone’s membership of the Partnership * although principal Local Authorities are not required to be an initial participating member, if they do later take up that option will their membership be additional to existing membership? – this would be preferable to someone else being bumped-off the Partnership to keep membership at an inflexible pre-set level   More thought should be given to using existing local non-governmental representative or membership organisations when considering membership of the Partnership. It might also be beneficial to take account of bodies responsible for planning activity (at both neighbourhood and regional levels), so that the GDF Community Partnership as far as possible ‘plugs into’ existing community or business and planning activity.  Further thought should be given on how to incorporate a voice on the Partnership for anti-nuclear, environmental or other project opponents. More importantly, given the intergenerational issues, a ‘voting’ seat on the Partnership should be preserved for younger people. | | |

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| **Q4** | Do you consider the process outlined in paragraphs 100 – 102 and detailed elsewhere in the consultation paper provides a suitably defined role for relevant local authorities in the siting process? Are there alternatives that we should consider? | **X** |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| **Further comments** | | |
| *Overview*  A GDF will not be built if relevant Local Authorities (LAs) are opposed to its construction. That is simply a reflection of fact, recognising that LAs have a range of statutory duties and other legal obligations, and they need to plan for and provide a range of public services.  This critical role in the process does not therefore need any additional powers, voting rights or veto for local authorities. Indeed, there is clear evidence from around the world that giving different tiers of government some form of veto or blocking power only serves to frustrate the siting process. In effect, if the Government chooses to give such a power to principle local authorities, the new siting process will be DOA.  *Background*  All of the UK Government’s previous consultation, expert advisory groups, and open policy-making activity has recognised the need to move away from a staged siting process dependent on local authority approval, and to find a community-based, democratic process which runs alongside of but separate to traditional local decision-making models.  Given the lengthy timescales it is hard to envisage a situation when the views of LAs are not known at any and every stage of the process. These views may change over the years. However, while it is true that there would be little point in proceeding with a Test of Public Support (ToPS) if a LA was opposed to the GDF project, it would be perverse if a community (with LA support) reached the point of ToPS and then the LA sprang a surprise.  *Evidence from around the world*  The most current example of GDF siting inertia caused by different tiers of government having a blocking or veto authority is in the United States. The Yucca Mountain site has been stalled for decades. There is still considerable technical assessment of the site to be completed, which may indicate that it is not a suitable location. However, even that technical work has been stopped by the State government of Nevada. This is despite the fact that the local affected community, Nye County, overwhelmingly supports progress on the project, and that the federal government, other States, and the House of Representatives are in favour of progressing the project.  Discussions related to both a multinational repository and the siting of low-level radioactive waste facilities have been a feature of political debate in South Australia over the past five years. As in the United States, the federal government and those communities living nearest the proposed facilities are in favour of testing and discussing the issues but have been stymied by State-level players.  *Role of Local Authorities*  The scale of impact of a GDF on any area’s economic planning, infrastructure requirements, longer-term public service provision etc means that all levels of LAs will ultimately be involved in the process. They are interwoven partners. How active or passive any level of LA is at any particular stage may vary.  The community discussions and technical assessments will all take decades. LAs often have invidious choices to make with finite resources. Some LAs may initially see a GDF as threatening to their existing plans, programmes and budgets. However, given the timescales involved there will be ample opportunity for them to assess and amend the impact of the GDF on their plans and wider legal obligations (both positively and negatively) and manage the change accordingly. Such compromising between LAs increasingly occurs to help improve delivery and cost-efficiency of public services and in longer-term, strategic decision-making.  The ultimate decision on where a GDF is located is rightly being left in the hands of a specific (though not yet specified) local community. However, as explained in the consultation document, there are multiple technical and other assessments that need to be conducted before a decision is even required of a community. Not least of which is the wider infrastructure, environmental and socioeconomic impact of a facility. The sheer scale of the GDF project will have implications beyond the immediate environs of the head facilities. There will be ‘concentric’ rings of impact flowing from the facility, which will affect existing (or wished) development plans at the regional level. So the siting process does not only have to account for community’s interests in its own development, but place that in the context of wider regional infrastructure and other development and planning.  There is always tension between local community priorities/needs (micro level) and wider regional priorities/needs (macro level). It is 100% certain that on ‘day one’ of any GDF siting process these micro and macro perspectives on development will not be aligned. Thus there may be value, for example, in funding analyses to help interested communities and the surrounding region to identify how a GDF might be integrated within and support delivery of their respective longer-term development plans. Such an approach fits within industrial and regional strategy. It also helps build broader understanding of geological disposal, placing the GDF into a more appropriate context. | | |

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| **Q5** | Do you agree that, in Wales, the community council area or group of community council areas should be the basis for identifying a potential host community? Are alternative ways of identifying the boundary of a potential host community preferable? Please give your reasons. | **X** |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| **Further comments** | | |
| Basing both “search” and “host” areas on the lowest units of public administration (community councils) is a sensible basis from which to start defining a ‘community’. However, there should also be flexibility to accommodate existing non-governmental or other community-based networks and affiliations. These non-statutory groupings may not align with governmental administrative boundaries but can often more effectively reflect historic ties and relationships within and between local communities.  Please refer to our answer to Q2 for further observations. | | |

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| **Q6** | Do you agree with the proposed approach to the way community investment funding would be provided? Are there alternatives that we should consider? | **X** |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| **Further comments** | | |
| As the consultation document makes clear, the provision and distribution of community funds is a well-established process with multiple models in operation. No further comment on which is the most appropriate, other than different models may be more suitable for particular communities.  There are two areas of concern which will require clarification:   * ‘substitution’ and ‘additionality’ of these funds – some mechanism needs to be introduced to ensure there is no risk of existing community, Local Authority or other sources of public funding being withdrawn because of the availability of these funds * given the potential timescales of both the non-intrusive and intrusive phases of geological testing, there needs to be thought given to how a community might draw down longer-term funding at an earlier stage to build trust, show good faith, and keep the project progressing. | | |

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| **Q7** | Do you agree with the proposed arrangements for managing community investment funding? Are there alternatives that we should consider? | **X** |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| **Further comments** | | |
| Refer to answer given in Q6. | | |

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| **Q8** | Should the arrangements to provide communities with access to third party expert views, outlined in the UK Government and the Northern Ireland administration jointly issued 2014 White Paper and discussed above, be extended to include communities in Wales? | **X** |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| **Further comments** | | |
| Yes, but not to exclusion of any Welsh or other national or international body. | | |

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| **Q9** | Is it appropriate for the Community Partnership to decide whether to exercise the right of withdrawal and put the question to the community? Do you have views on how else this could be decided? | **X** |
| **Agree** | |  |
| **Mostly agree** | | **X** |
| **Disagree** | |  |
| **Further comments** | | |
| *Overview*  The proposed process is sound in principle. The key determining success factor will be community confidence that their right of withdrawal is protected or guaranteed in some way. A community is unlikely to enter into or remain within the process if people feel they might be forced to stay in a process they no longer wish to participate in, or forced out of a process in which they wish to remain.  Monitoring and reflecting wider community sentiment, so that any decision to remain within or to withdraw from the process is based on transparent data from multiple sources, may be the Community Partnership’s most important responsibility.  It is also worth noting, that the party most likely to initiate a withdrawal is the delivery body. The most likely situation is an assessment that geology is not suitable, or that a facility could not be built to the exacting regulatory standards required. However, the delivery body will also have a duty to the UK Parliament (through the PAC and NAO) to justify expense of taxpayer funds – there is a plausible scenario that the delivery body, for myriad reasons, becomes concerned that continued investment in a community cannot be justified or may be open to Parliamentary censure. Given the potential impact of a GDF on the wider Welsh economy and national infrastructure we would anticipate a similar level of scrutiny of the project by the Welsh Assembly.  Regardless of the grounds for withdrawal of the delivery body, the fact that multiple communities are sought for initial site assessments but only one facility is envisaged means that the majority of communities entering into the process will not be successful in eventually hosting the GDF. The delivery body will need to build ‘exit management’ into the process, and how that is to be done will need to form part of the Community Agreement. This may require, for example, phased rather than abrupt ending to community investment funding.  *Assessing Community Sentiment*  The more channels used to systematically and regularly monitor and assess public sentiment the better. Mood will fluctuate over time, even driven by boredom and lack of sense of progress. The experience of the community of Osthammar in Sweden suggests that there can be long periods (up to three years) while geological testing takes place, during which there is little to discuss, and community interest can wane.  Evaluating sentiment cannot be a precise science. The Partnership will need to regularly review and balance sometimes conflicting indicators. Establishing tracking data, over time, will give indications of trends as well as current snapshots to guide decision-making. Whenever a Partnership exercises (or declines to exercise) the Right of Withdrawal, there will always be disappointed parts of the community. It will be very important that the Partnership is obliged to transparently explain its decision and how it reached that decision.  In addition to community sentiment, there will be a range of external forces to take into account, eg:   * geological assessment results readings * loss of confidence in receiving long-term investment funding * national or local/regional economic situation * ability to align local with regional planning priorities * new environmental or other legislation and/or standards adversely impacting otherwise locally-accepted plans | | |

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| **Q10** | A test of public support must take place in the potential host community before a GDF can be developed. Is it appropriate that the Community Partnership should decide how and when the test of public support should be carried out? Do you have views on how else this could be decided? |
| **Further comments** | |
| *Overview*  Some body has to take the decision of when and how the Test of Public Support (ToPS) will take place. The Community Partnership is the best placed to do so. There seems no obviously more conclusive and public way of expressing community ‘consent’ than through a local referendum. However, once again, the consultation document is silent on independent arbitration and dispute resolution. This needs to be addressed.  *Independent Arbitration*  The consultation document makes clear that because of the timescales involved and because there will be no known specific geographic areas under consideration when the siting process starts, a high degree of flexibility is required when defining the “host” community. The same uncertainties affect definition of the ‘electorate’ if a local referendum is called. There may be an assumption today that the “host” community is the same as the ‘electorate’ – however, future circumstances may mean the two have slightly different boundaries.  It is not possible now to determine sensibly any parameters regarding the nature and extent of the electorate in any referendum being used as a ToPS. This can only be fairly assessed at the time and in the specific circumstances. What can be determined now is that such a public vote is likely to lead to disputes and challenges about who has the right to vote, and that therefore an independent arbitration process is likely to be required.  As set out in our reply to Q1 in the consultation, perhaps the best way to address this issue is to appoint an existing independent statutory body with expertise in determining electoral districts and/or managing elections, such as the Electoral Commission or the Boundaries Commission for Wales. Given the likely timescales involved (perhaps 3-4 decades before such a ToPS is required), it may be preferable to propose a statutory body like the Electoral Commission or Boundaries Commission, to allow for potential machinery of government changes, and to be able to use a successor body which has a direct administrative lineage and heritage of expertise. | |

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| **Q11** | Do you have any other views on the matters presented in this consultation? |
| **Further comments** | |
| *Overview*  The Working With Communities consultation document is to be applauded for proposing an inclusive, ‘bottom-up’ decision-making approach to help Wales and the UK make its own national contributions to a global environmental problem, while protecting the rights and respecting the wishes of those most affected by wherever the GDF is eventually located.  The proposals are right to emphasise the need for flexibility, to account not just for the particular characteristics and aspirations of different communities, but also for the intergenerational timescales involved. However, there is a risk that such well-intended flexibility is so open-ended that it can appear opaque, potentially meaning all things to all people without actually meaning anything to anyone.  Our responses to the consultation questions are intended to help improve articulation and implementation of the raw policy proposals out for consultation. We have some additional general, cross-cutting and thematic observations below.  *Interacting with other public policy areas: GDF siting process is not operating in a vacuum*  The consultation document indirectly refers to many wider issues of contemporary public discourse, without ever actively engaging with the processes or parties already involved in trying to address those issues. Issues such as:   * nationally critical infrastructure planning and long-term decision-making * devolving financial and planning responsibilities for regional economic development, so that decisions be taken closer to those impacted, but also help deliver greater parity in growth opportunity across all the UK’s regions * engaging and empowering communities to better shape their own local destinies, and to more actively understand and contribute towards their respective regional development plans * Well-Being of Future Generations * rural affairs issues * industrial and green growth strategies * Protection and development of the Welsh language and culture.   The GDF siting process should not be viewed in isolation, as a standalone process, but structured to help communities achieve their ambitions across a range of public policy issues.  *Consultation & Communities*  It is clear that those responsible for developing and implementing a wide range of community-based activity have not really been involved in this process or the policy-making to date. This could impact adversely on the effective implementation of the consultation’s proposals. The consultation may in fact be a helpful starting point for bringing these organisations ‘inside’ the implementation tent. With appropriate engagement funding, there may be value in the UK and Welsh Governments and delivery body working with a nationally-representative grouping or association of community-centred organisations to develop practical guidance and information that any community entering the process will need. Further thought will need to be given whether this can be achieved on a UK-wide basis, or would require a separate ‘association’ for Wales.  Such a collaborative approach would also help address concerns about the powers and responsibilities of the delivery body. At the moment the delivery body is responsible for developing all guidelines, for interpreting and implementing the policy, and for determining funding mechanisms.  This is a new and untested way of managing an infrastructure project in direct partnership with communities. There is much that can be learned from other infrastructure projects, but the GDF siting process proposals are unique. The current perceived imbalance of knowledge and power may be a barrier to entry for many communities. Steps are needed to bring a more ‘independent’ perspective and input into implementing the policy, so that communities feel more comfortable with the balance of power in their relationship with the delivery body. | |

**How to respond**

Please submit your comments by 20 April 2018, in any of the following ways:

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| **Email** | **Post** |
| Please complete the consultation response form and send it to :  [EQR@gov.wales](mailto:EQR@gov.wales)  [Please include **Consultation response ‘Geological Disposal of Radioactive Waste: Working with Communities’** in the subject line] | Please complete the consultation form and send it to:  Environment Quality & Regulation  Cathays Park  Cardiff  CF10 3NQ |

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| **Additional information** |
| If you have any queries about this consultation, please  Email: [EQR@gov.wales](mailto:EQR@gov.wales) |