

NFLA Policy Briefing No. 240



Date: 5 July 2022

Subject: Update on NFLA action to promote institutional divestment from nuclear weapons

1. Introduction:

On 26 April 2022, the Nuclear Free Local Authorities, in support of the Investing in Change campaign <https://investinginchange.uk/>, wrote to six financial institutions asking them to divest from nuclear weapons and then issued a media release.

Included in this briefing below is:

- The original media release
- An anonymized example of the letter sent to the six institutions
- Responses from five of the institutions. Some of these responses were erroneously

No response appears to have been received to date from Nat West.

2. Media Release:

'Just do the right thing': Nuclear Free Local Authorities join call on financiers to divest from nuclear weapons

The Nuclear Free Local Authorities (NFLA) have backed the call made upon several leading banks and pension funds by campaigners in the Investing to Change network asking them to divest from nuclear weapons.

Like the network, the NFLA wants to see an end to nuclear weapons and to further investment in them. The NFLA is a partner in ICAN, the International Campaign to Abolish Nuclear Weapons, which successfully campaigned for a new Treaty on the Prohibition of Nuclear Weapons to become law at the United Nations in January 2021, making the production, possession or use of such weapons illegal for the first time. Campaigners in ICAN won the 2017 Nobel Peace Prize for their efforts.

Recent research by ICAN, the Nuclear Weapons Financing Research Group, a coalition of UK faith groups, and PAX, a Dutch peace group, has revealed that almost US \$32 billion (or approximately UK £25 billion) is invested by UK based financial institutions in companies engaged in nuclear weapons manufacturing.

Now the NFLA has written to the Chief Executive Officers of six of them, Barclays, HSBC, NatWest, Nest, The People's Pension and Royal London, asking them to use their next Annual General Meeting to follow the lead shown by 101 other finance houses around the world and divest from the sector¹.

This correspondence has been sent in advance of six Days of Action being called by the Investing to Change network, on which they are asking customers and shareholders to contact their banks and pension providers to protest their current policies.

The Chair of the NFLA Steering Committee, Councillor David Blackburn, explained why:

"Recent events in Ukraine have shown that the use of nuclear weapons is still a very real threat when the superpowers square up to one another in a military conflict. Such weapons pose an existential threat to all living creatures on our planet. Just one such weapon, having multiple warheads, could kill millions of people in an instant and expose millions more to a slow-lingering death from exposure to deadly radiation.

"The only way to remove that threat is ultimately to remove the weapons, and one method to help bring about their demise is to starve manufacturers of the finance they require to develop and build these deadly devices".

The new UN Treaty on the Prohibition of Nuclear Weapons reflects the increasing truth that nation states and global public opinion on nuclear weapons is changing and that neither now accepts the unconscionable risk that such weapons pose. Recognising this an increasing number of financial organisations across the world are choosing to divest from nuclear weapons.

Councillor Blackburn added:

"Investing in weapons that are outlawed by the international community and seen as an anathema in the eyes of the peoples of the world is not only bad business, but at some future point it might render the investor liable for legal sanction or – worse still - lead to his destruction.

"Far better that our financial institutions should redirect our money to projects which serve a social good, such as investing in the renewable technologies we need to produce green power and limit global heating, innovative health care systems to combat pandemics, and the affordable housing that so many desperately need.

"That is why the NFLA has written to these 'big six' to 'do the right thing' and make a stand-by ending their financing of these most devastating and fearful of weapons."

3. Anonymised sample letter:

Time to do the right thing: the NFLA calls on XXXX to divest from nuclear weapons

Dear XXXX,

I am writing to you as Chair of the UK/Ireland Nuclear Free Local Authorities (NFLA) ahead of your AGM on XXXX to ask (you) to do the right thing and divest from nuclear weapons.

The NFLA has a membership of local authorities in England, Scotland, Wales, Northern Ireland and the Republic of Ireland. All are opposed to civil nuclear power and to nuclear weapons. The NFLA is a partner in ICAN (the International Campaign to Abolish Nuclear Weapons) and a supporter of the work of the Nuclear Weapons Financing Research Group (a coalition of UK-based faith groups).

Recent research published by ICAN, the Nuclear Weapons Financing Research Group and PAX (a

Dutch peace organisations) has shockingly revealed that almost \$32 billion is invested in nuclear weapons producing companies by financial institutions in the UK.

NFLA members were shocked to learn that you have invested over £XXXX billion in recent years in XXXX companies involved in the manufacturing of nuclear weapons. It does not make sense to us that whilst (you) have a complete restriction on investing in companies involved in producing cluster munitions or landmines, also weapons of indiscriminate destruction banned under international law, you chose to continue to invest in companies that produce nuclear weapons.

It has been five years since the drafting of the United Nations Treaty on the Prohibition of Nuclear Weapons (TPNW) which was, on 7 July 2017, adopted by 122 nations. Since 22 January 2021, this Treaty has now entered into force. This treaty makes illegal under international law the assistance of any State in the maintenance or development of nuclear weapons. Your investment in nuclear weapons producing companies does exactly that. It is impossible to fund a company that is producing nuclear weapons without indirectly contributing to their production and so it is not enough for you to only avoid funding nuclear weapons projects directly.

Nuclear weapons are now illegal because of their potential for indiscriminate and massive destruction: one detonation has the potential to immediately kill millions of people and in the long-term many more through long-term exposure to nuclear fallout. Such weapons pose a grave risk to all living creatures on our planet, including those people who are themselves involved in the financing, development, manufacture, maintenance and testing of nuclear weapons.

The potential consequences of the use of nuclear weapons, either deliberately or in the event of accidental detonation, would be unparalleled.

The enactment into international law of the TPNW represents proof that nation states and global public opinion is changing and that neither now accept the unconscionable risk that nuclear weapons pose.

More and more financial institutions around the world are recognising that investment in nuclear weapons is simply not good business and have made the conscious decision to bow to common sense and moral judgement by divesting from the sector. The most recent Don't Bank on the Bomb report identified 101 international financial organisations which have adopted policies precluding or restricting investment in nuclear weapons, this number having increased from 54 in 2016.¹

It is surely then now time for (you) to make a stand and end the financing of these most devastating and fearful of weapons.

The NFLA calls upon you to use the opportunity presented by your forthcoming AGM to do the right thing and make that stand.

I shall await your response with interest. Thank you for giving this matter your consideration.

Please respond to Richard Outram, Secretary, NFLA by email to richard.outram@manchester.gov.uk or by letter to the address shown in the heading.

Yours sincerely in peace,

¹ <https://www.dontbankonthebomb.com/wp-content/uploads/2022/01/RejectingRisk-Executive-Summary.pdf>
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Councillor David Blackburn,
Chair of the NFLA Steering Committee

4. Responses from the financial institutions:

Response from HSBC, 28 April 2022

Dear Sir / Madam

Thank you for your email addressed to Ian Stuart, our Chief Executive, and for your concern about the potential financing of nuclear weapons.

HSBC decided in 2000 to withdraw from financing the manufacture or sale of weapons as a whole, as set out in our [Defence Equipment Sector Policy](#). You highlight the risk that companies could redirect funds provided for another purpose, towards the production of nuclear weapons. To address this, we will not consider providing financial services to any holding company whose business relates primarily to weapons, or directly to any subsidiary company involved with weapons.

In common with other financial institutions, HSBC's name may also appear on company share registers for a number of reasons, including where a company is part of an index that has to be replicated in full, or where we hold shares on a custodial basis on behalf of institutional investors, who have made independent investment decisions. In those cases, HSBC is not the beneficial owner of the shares, and has no influence on the investment decision.

We take these issues seriously, as set out in our [Sustainability Risk policies](#), and welcome informed comments and contributions from our many stakeholders, so I do thank you for writing to us.

Yours faithfully,

Peter Taylor

Executive Complaints Manager | Customer Service | HSBC UK
1 Centenary Square
Birmingham, B1 1HQ

HSBC Defence Equipment Sector Policy

Introduction

HSBC's engagement with the defence equipment industry is underpinned by the principles and values which drive our overall approach to business. We take a long-term and responsible view of our activities and seek to ensure that our potential impacts on communities and on the environment are managed sensitively. This is evidenced by our sustainability risk policies² and by our longstanding commitment to the Equator Principles, an inter-bank initiative to manage the impacts of large projects financed by loans. In developing all these policies, we take into account the international nature of our business and the views of our stakeholders, such as shareholders,

² HSBC's sustainability risk policies are: Agricultural Commodities Policy, Chemicals Industry Policy, Energy Policy, Forestry Policy, Mining and Metals Policy, World Heritage Sites and Ramsar Wetlands Policy.

customers and non-government organisations. We also seek to understand the technical complexities of the various sectors, so that our final approach is both balanced and practical.

HSBC decided in 2000 to withdraw progressively from the financing of the manufacture and sale of weapons. The definition of a weapon and deciding which businesses may be involved in its manufacture are particularly challenging. Weapons are usually manufactured from components, necessitating a judgement on whether a component is a material part of a weapon or significant to a supplier's business. Some businesses provide products to a number of sectors, including defence, requiring detailed analysis to appreciate the full implications of any engagement by the bank. Other businesses may provide services rather than products. This document provides a public summary of our policy.

Scope.

The financial services covered by the policy include lending, other forms of financial assistance such as bonds or guarantees, debt and equity capital markets activities, advisory work, insurance and investments where HSBC acts as a principal investor (ie the investment is owned by us and for our direct benefit).

The policy applies to the defence equipment sector, which consists of businesses manufacturing, selling or purchasing weapons, and/or related products and services, for either defensive or offensive purposes. It does not apply to purely sporting or recreational weapons.

Policy Prohibitions.

Anti-personnel mines and cluster bombs HSBC does not provide financial services to customers – including holding companies - which manufacture or sell anti-personnel mines or cluster bombs. We do not provide financial services for transactions involving such weapons. These weapons can have an indiscriminate impact on civilian populations, sometimes killing and maiming people long after a conflict has ended. HSBC uses the definitions within the 1997 Mine Ban Treaty and the 2008 Convention on Cluster Bombs for guidance in implementation.

Other weapons HSBC does not provide financial services to customers who solely or primarily manufacture or sell other weapons. We do not provide financial services for transactions for the purchase of other weapons. 'Other weapons' are defined as: weapons which can be clearly identified, such as guns or missiles; platforms for weaponry, such as tanks and combat aircraft; and material parts of a weapon or a platform for weaponry with no generally accepted non-military use, such as the turret of a tank.

Policy Restrictions.

To ensure that the policy prohibitions are consistently applied in circumstances which may be complex, specific internal clearance is required as follows:

Weapon-related equipment or services

HSBC undertakes additional checks to assess: whether major capital equipment, such as military transport, is designed to use weapons; whether material components, such as aircraft engines, are designed only for military applications; whether equipment or services may support the offensive use of weapons, such as target-tracking systems; and whether personal firearms may be used by parties other than law enforcement agencies. Clearance takes into account the likely end-

use of the equipment or service and the proportion of weapon-related business conducted by a customer.

Conglomerates

Where a customer undertakes a mix of weapons, weapon-related or other business, HSBC may form a relationship with that customer, but will not provide financial services directly to subsidiaries involved with weapons. We will not establish any relationship with a holding company where subsidiaries manufacture or sell anti-personnel mines or cluster bombs or where the conglomerate's business relates primarily to weapons (ie more than one third of turnover).

Frequently Asked Questions

Stakeholders have asked HSBC how it implements the Defence Equipment Policy in certain circumstances. The following answers cover the most frequent questions.

Q: Why does HSBC own shares in weapons companies?

A: The policy does not apply to investments where HSBC acts on behalf of customers and where, consequently, the underlying investment decision is not made by us. For example, personal customers who buy shares via our electronic dealing account may have their shares registered in HSBC's name to minimise administration, while some corporate customers request that we hold shares on their behalf in nominee accounts. We do not believe that our customers want us to restrict their choice of investments other than where we offer an investment product which excludes certain sectors.

Q: Why does HSBC lend to companies which are evidently weapons companies?

A: HSBC exits relationships with customers which do not meet our policy. However, where we agreed a long-term loan which pre-dates the policy or where we inherit such a loan through an acquisition, we may be contractually obliged to continue to provide that loan until the agreed date on which it is due to be repaid. We exit the relationship at the earliest opportunity.

Q: Does the policy mean that HSBC may support business with customers supplying the armed services and with the armed services themselves?

A: Yes. We may still provide financial services to customers providing non-weaponry products and services such as unarmed vehicles, property maintenance or payroll systems or to the armed services where transactions do not involve the purchase of anti-personnel mines, cluster bombs or other weapons.

Summary

This policy sets out the terms of HSBC's engagement with the defence equipment sector. It takes into account the technical complexities of the sector and the way in which the sector engages with financial institutions. The policy is phrased so that it covers future technological advances as far as is possible and, consequently, emphasises the importance of adhering to the spirit of the policy as well as to the letter. As such, the Defence Equipment Sector Policy reinforces HSBC's commitment to responsible banking.

HSBC Sustainability Risk Policies

<https://www.hsbc.com/who-we-are/esg-and-responsible-business/managing-risk/sustainability-risk>

Response from the People's Pension 5 May 2022

Dear Councillor Blackburn,

Thank you for your letter drawing the issue of investment in companies which produce nuclear weapons to our attention. We understand your concerns and hope this email will help to explain our current position and the steps we intend to take.

I can confirm that we do not have a policy on investment in nuclear weapons manufacturing and support services at present. We have excluded some arms manufacturers from our investment portfolios to incorporate the UN Global Compact which relates to the category of arms commonly known as "controversial weapons". Unfortunately, this does not specifically include nuclear weapons at this time.

You will be aware that the legal framework governing investment by trust-based pension schemes places constraints on trustees regarding investment decision making. Among other things, the trustee must set aside their own moral concerns regarding assets in which the scheme may lawfully invest and, instead, focus on the financial interests of the beneficiaries. We are able to exclude particular categories of investment where to do so is consistent both with our members' values and where exclusions do not present a risk of significant financial detriment to the scheme. In general, this means only a small number of companies (or small proportion of the market) can be excluded from portfolios.

In the particular case of controversial weapons, the Law Commission argued persuasively that trustees should not invest in firms that manufacture cluster munitions in their 2014 report "the Fiduciary Duties of Investment Intermediaries". They argued that as the UK government was a signatory of the relevant international convention, no further inquiry into scheme members' views on the matter was required. This guidance forms part of the basis for our stance on controversial weapons. You will of course be aware of the UK government's opposition to the Treaty on Prohibition of Nuclear Weapons as one of the five permanent members of the UN Security Council.

We note that we invest in a number of the companies named on the "Don't bank on the bomb" website you refer to.

It would be common on other Environmental, Social and Governance (ESG) topics to set a proportion of revenue that could come from controversial activities, below which a company would be acceptable for investment. It is not clear whether your list takes a revenue cap into account? For example, some of the companies on the website are primarily manufacturers of civilian aircraft, for whom weapons manufacture is a minority of their business. Often a threshold for controversial activities is set at 10% of revenues. If a revenue cap has not been included this might reduce the number of companies you highlight so make an exclusion easier on materiality grounds, though we acknowledge potentially less effective for the cause of removing investment in all companies which produce nuclear weapons.

More widely, fiduciary duty points us strongly towards understanding the risks and returns available to members from investment, alternative weightings, or divestment in response to different ESG issues in the portfolio. As we detail in our responsible investment policy, available on our website, we carry out research into ESG issues to understand whether in the first instance we believe we

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can improve portfolios by taking them into account and secondly determining whether our exposure is immaterial, and they can therefore be excluded (as described above). For exposure to issues remaining in our portfolio we seek to engage with the investee companies to discuss our findings and encourage them to address the issue in their corporate plans. We will seek our members' views to prioritise ESG issues.

For our position to change we will need to be able to formulate a clear investment rationale as to why we believe that divestment from nuclear weapons manufacturers will benefit members' outcomes in the long-term, or that the issue is not material to portfolios, if either or both of these conditions are met then the relevant companies can be excluded. Rest assured, we will carry out this analysis and, if appropriate, take action.

Yours sincerely,
Patrick Heath-Lay,
Chief Executive Officer,
B&CE Holdings Limited Manor Royal, Crawley, West Sussex, RH10 9QP

Response from Barclays 10 May 2022

Dear Mr Outram,

Thank you for your email of 26 April, containing a letter from Councillor David Blackburn for the attention of our UK CEO, Matt Hammerstein. I've been asked to respond on Matt's behalf and I hope this letter finds you well.

We appreciate your contact regarding Barclays' association with the defence industry, in particular those companies involved in the production of nuclear weapons. We understand that this is a very sensitive topic, and one that is of concern to a number of stakeholders.

Barclays recognises that the bank's major impacts tend to be indirect, via business relationships, arising from the provision of financial services to business customers operating in sensitive sectors. The bank's association with the Defence sector is mandated by a strict policy framework, which includes robust internal governance. As such, appropriate risk management of these impacts is both a business imperative and the right thing to do.

As per our policy, Barclays will not finance the trade in, or manufacture of, nuclear weapons and we have strict due diligence in place to ensure that these criteria are adhered to. This is in recognition of the fact that this weapon is particularly controversial, and therefore one that Barclays is not comfortable financing.

In terms of the forthcoming ratification and entry into force of the TPNW, this is something that we will be closely monitoring in terms of its geographical reach and impact on business. Barclays reviews its policies from time to time and considers all applicable international laws, conventions and standards as part of these reviews.

I would like to take this opportunity to thank you for contacting Matt. I trust my response has helped to clarify the bank's position on this matter. Should you have any further questions or concerns, you can contact me directly via email at ruben.delimaigoncalves@barclays.com

Yours sincerely,

Ruben De Lima Goncalves,

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Senior Executive Customer Relations Manager

Response from Nest 26 May 2022

Dear Mr. Blackburn,

Thank you for your letter dated 26th April 2022. We have noted the points you raise and would like to direct you to our recently published statement on investments in nuclear weapons (see below).

In response to the UN Treaty on Prohibition of Nuclear Weapons (UN TPNW) which was mentioned in your letter, Nest reviewed its investment in companies involved in the supply chain and/or maintenance of nuclear weapons and decided not to divest from these companies. While this treaty was signed by 122 nations, the United Kingdom (or any of the other nuclear states) was not one of them and has stated that *"The treaty [TPNW] will therefore not be binding on the UK. Furthermore, the UK would not accept any argument that this treaty can constitute a development of customary international law binding on the UK or on other non-parties."*

Additionally, a divestment policy would exclude large, diversified companies in the aerospace & defence industry and other related sectors (such as Airbus, Boeing, General Dynamics, Rolls-Royce Holdings, Honeywell International, Jacobs Engineering, and others) with only small percentages of their revenues being generated from their involvement in nuclear weapons.

Nest will review its position on investing in companies involved in the supply chain and/or maintenance of nuclear weapons if there is a change in the UK law, or if there is an investment case to do so.

We understand that individuals and organisations like NFLA member authorities may have strong views about investing in nuclear weapons which is why we offer an ethical fund which excludes nuclear weapons to which any Nest member may transfer their pension into free of charge. Members wishing to switch to Nest's ethical fund may find instructions on how to do so here.

Kind regards,
Diandra Soobiah,
Head of Responsible Investment
Diandra.Soobiah@nestcorporation.org.uk

NEST statement on investments in companies involved with nuclear weapons:

Introduction Following the vote and coming into force of the UN Treaty on Prohibition of Nuclear Weapons (UN TPNW) in January 2021, Nest has reviewed and considered its investment in companies involved in the supply chain and/or maintenance of nuclear weapons.

The following points were brought up during the review: > The Law Commission's review of trustees' fiduciary duties concluded that trustees should consider ethical issues in only very limited circumstances; *"Trustees should not invest in activities which are illegal [...] or in activities which contravene international conventions"*. While the UN TPNW has been passed, it has not been signed by the UK or any of the other nuclear states. The UK has released a statement regarding the TPNW which includes the following:

"The treaty [TPNW] will therefore not be binding on the UK. Furthermore, the UK would not accept any argument that this treaty can constitute a development of customary international law binding

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on the UK or on other non-parties. Importantly, states possessing nuclear weapons have not taken part in the negotiations. As has been made clear, the UK, as a Nuclear Weapons State, has been pursuing a step-by-step approach to nuclear disarmament consistent with the NPT and its other treaty commitments.”

The UK has signed and continues to follow the UN Non-Proliferation Treaty (NPT), which aims to prevent the spread of nuclear weapons, but does not prohibit them.

> The divestment from companies involved in the production and/or maintenance of nuclear weapons is unlikely to have any real-world impact on nuclear weapon stocks, on governments’ stance/use of nuclear weapons, or on member returns.

> It is difficult to determine the exact percentage of companies’ revenues generated by the production and/or maintenance of nuclear weapons, although it is estimated to be only a small portion. For the companies concerned, the majority of their revenues are generated by a wide variety of activities, which Nest would no longer be exposed to should a nuclear weapons divestment policy be implemented. A policy on nuclear weapons divestment is not precise and would exclude some of the largest companies in the aerospace & defence industry.

Conclusion/Statement:

Nest has decided to retain in its investable universe companies involved in the supply chain and/or maintenance of nuclear weapons. The UN TPNW is not recognised as binding by the UK and divestment would likely have little real-world impact on companies’ involvement in nuclear weapons, government’s stance/use of nuclear weapons, or member returns. A divestment policy would also be imprecise and exclude large, diversified companies in the aerospace & defence industry with only small percentages of their revenues being generated from their involvement in nuclear weapons.

For members who want to avoid investing in companies associated with nuclear weapons, Nest has an ethical fund which excludes them and has made switching funds easy, quick, and free of charge. Members wishing to switch to Nest’s ethical fund may find instructions on how to do so here.

Nest will review its position on investing in companies involved in the supply chain and/or maintenance of nuclear weapons if there is a change in the UK law, or if there is an investment case to do so.

Response from Royal London 30 May 2022

Dear Mr Outram,

Thank you for the letter from Councillor David Blackburn of 26 April 2022, to Barry O’Dwyer, our Group Chief Executive Officer, in advance of our Annual General Meeting (AGM) to be held on 7 June 2022. Mr O’Dwyer has asked me to respond on this matter, as I am leading on the delivery of Royal London’s 2022 AGM.

Royal London is committed to being a responsible investor and a good steward of the assets we invest in on behalf of our customers. We share your concern regarding weapons that pose a substantial risk to people and the planet.

Our policy is that no Royal London fund will knowingly invest in corporate equity and/or debt of companies involved in the manufacture and sale of certain weapons and munitions (cluster munitions, anti-personnel landmines, and biological/chemical weapons). This policy is reviewed periodically, at least once a year, to determine if any changes are required to maintain alignment with UK and international law, our values as a purpose-led organisation, and our customers' needs and expectations.

We do not currently exclude investment in companies engaged in the manufacture and/or sale of nuclear weapons and we do not support calls to do so at this time. Our policy is based on a range of factors including:

- Engagement: Rather than exclusion, our preference as an organisation is to use our position as a shareholder to engage and influence the companies in which we invest to minimise their negative impacts on society and encourage them to make positive changes;
- Our customer proposition: We recognise that there will be some sectors where the risks associated with investment surpass our ability to influence change. In these cases, we may divest and exclude certain investments until more substantial change is made by the relevant company. Further, whereas our policy identifies minimum exclusions, it allows for the adoption of more stringent exclusionary arrangements specific to segregated mandates, funds, or products; and
- UK Government Policy: Being an organisation that is registered and has roots in the UK, we consider our policy to be consistent with UK Government policy. The UK is not bound by the United Nations Treaty on the Prohibition of Nuclear Weapons (TPNW), as it has not signed, ratified or become party to the treaty. Further, the UK does not consider the TPNW to be a development of customary international law.

Further information regarding our investment beliefs can be found on our website: <https://www.royallondon.com/mutuality/responsible-investment/>.

Thank you for the courtesy with which you have raised this important topic.

Yours sincerely,

John Odada,
Company Secretary
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Richard Outram, NFLA Secretary Email: Richard.outram@manchester.gov.uk
5-7-22
