Official Report
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Climate Action Committee

Comataidh Gnìomh air a’ Ghnàth-shìde

Thursday 19 November 2026

Session 7

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Thursday 19 November 2026

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CLIMATE ACTION COMMITTEE
11th Meeting 2026, Session 7

CONVENER

*Stuart McMillan (Inverclyde) (SNP)

DEPUTY CONVENER

*Ariane Burgess (Highlands and Islands) (Green)

COMMITTEE MEMBERS

*James Adams (North East Scotland) (Con)
*David Barratt (Cowdenbeath) (SNP)
*Martyn Day (Falkirk East and Linlithgow) (SNP)
*Sanne Dijkstra-Downie (Edinburgh Northern) (LD)
*Donald MacKinnon (Na h-Eileanan an Iar) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Sandy Bendall (Environmental Standards Scotland)
Ailsa Heine (Scottish Government)
Gillian Martin (Cabinet Secretary for Climate Action and Rural Affairs)
Jamie McGrandles (Environmental Standards Scotland)
Aidan O'Carroll (Water Industry Commission for Scotland)
Lynsay Ross (Scottish Government)
David Satti (Water Industry Commission for Scotland)

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Climate Action Committee

Thursday 19 November 2026

[The Convener opened the meeting at 09:20]

Decision on Taking Business in Private

The Convener (Stuart McMillan): Good morning, and welcome to the 10th meeting of the Climate Action Committee in 2026.

The first item on our agenda is a decision on whether to take in private item 8, which is a review of the evidence that we will hear from the Water Industry Commission for Scotland. Do we agree to take that item in private?

Members *indicated agreement*.

Subordinate Legislation

Deposit and Return Scheme for Scotland Amendment Regulations 2026 (Draft)

Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Amendment Order 2026 (Draft)

Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2026 (Draft)

09:21

The Convener: The next item on our agenda is evidence on three instruments that relate to the deposit and return scheme for Scotland. The instruments are laid under the affirmative procedure, which means that the Parliament must approve them before they come into force. Following the evidence session, the committee will be invited to consider motions to approve each instrument.

I welcome to the meeting Gillian Martin MSP, the Cabinet Secretary for Climate Action and Rural Affairs. I thank her for coming to the committee.

I also welcome the Scottish Government officials: Lynsay Ross, team leader: packaging extended producer responsibility and DRS; and Ailsa Heine, solicitor. I remind everyone that the officials may speak under this item but not in the debates that follow.

I invite the cabinet secretary to make a short opening statement.

The Cabinet Secretary for Climate Action and Rural Affairs (Gillian Martin): Thank you very much, convener, for the opportunity to discuss the draft Deposit and Return Scheme for Scotland Amendment Regulations 2026, the draft Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Amendment Order 2026 and the draft Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2026.

The introduction of a deposit and return scheme in Scotland has been a long-standing commitment of the Government. The scheme will increase recycling and tackle litter by applying a deposit to certain drinks containers that is refunded when they are returned for recycling. We know that that approach works, as more than 60 similar schemes now operate around the world.

We are less than a year from launch now. The scheme administrator, Exchange for Change, and businesses across Scotland are making huge strides towards implementation, working through the operational details and making millions of

pounds of investments to be ready for October next year.

The Scottish Parliament first approved the Scottish DRS regulations in 2020, when I sat where you are, convener. Last year, it approved amendments to ensure that the scheme in Scotland was interoperable with schemes in England, Northern Ireland and Wales. The draft legislation before the committee introduces a number of small operational amendments to the scheme. They reflect the feedback that has been received from industry and will help to ensure the scheme's effective delivery in operation. The amendments include increased flexibility for the hospitality sector, the removal of an unnecessary exemption for export shops and a measure allowing the scheme administrator to charge interest on late payment of producer registration fees.

The amendments also ensure that the Scottish Environment Protection Agency is able to recover enforcement costs and is empowered to undertake its statutory regulatory and enforcement responsibilities in relation to the scheme administrator ahead of the DRS going live. The enforcement amendment order amends the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015, which enables SEPA, where appropriate, to enforce offences under the Deposit and Return Scheme for Scotland Regulations 2020 and the Digital Waste Tracking (Scotland) Regulations 2026 by imposing civil sanctions rather than reporting offenders for criminal prosecution. Those measures complement SEPA's existing enforcement powers.

Collectively, the amendments further enhance the legislative framework to deliver Scotland's DRS, maximise alignment with schemes across the United Kingdom and create a simpler, more consistent system for consumers and businesses.

I look forward to our discussion.

The Convener: Thank you very much, cabinet secretary. Will you provide a bit more detail on the new flexibility for hospitality retailers and any examples of how it might be exercised in different hospitality settings?

Gillian Martin: Yes—I am happy to do that. The amendment regulations are a direct response to industry feedback. They give retailers the flexibility to decide how they want to approach the scheme. Hospitality retailers are currently exempt from charging deposits on drinks that are sold explicitly for consumption within the premises. That is a closed-loop system. However, the draft amendment regulations allow hospitality businesses the flexibility to choose whether they want a closed-loop system or whether they want to charge deposits on those sales as well, if that approach suits their business model better.

If a hospitality business operates a closed-loop system, it needs to inform customers that no deposit will be charged but the packaging should not be removed from the premises, because it has to be retained by the restaurant, cafe or whatever it might be. However, businesses now have the option of charging the deposit. It obviously must let the customer know that it is doing that, and the location of the nearest return point.

Basically, if a customer has bought a can of juice in a cafe, they can take it away and do with it what they will. They can return it, but, of course, they might decide not to. They might leave it there, in which case the retailer would do what it would do with all its packaging.

If the retailer operates a closed-loop system, it may return the empty drinks container and can request a free collection by the scheme administrator. However, it does not have to do that; it has the option of doing it. The retailer is no longer required to retain containers for collection, but it can ask for a collection free of charge. It would already have paid the deposit on those items and it will get that returned to it as well.

That amendment gives the retailer the flexibility either to charge the 20p at the point of sale or not to do that and have a closed-loop system, if that is what it wants. As I said, that is a direct reflection of some of the feedback that we received as the scheme was being worked out with hospitality retailers. They wanted that flexibility.

The Convener: I assume that a similar process will happen in the different nations in the UK that are undertaking a DRS.

Gillian Martin: Yes. Again, there will be consistency. People who come to Scotland will be used to what happens in the rest of the UK. Retailers will have that flexibility. The most important point is that, because hospitality businesses have that flexibility, they need to notify the customer. There will have to be signage or they will have to tell the customer at the point of sale that a deposit will be charged or that it will not be, because there is a closed-loop system, and that they are not allowed to take the drinks containers away.

James Adams (North East Scotland) (Con): Good morning, cabinet secretary. The draft Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Amendment Order 2026 provides the scheme administrator with the power to charge interest on the late payment of fees. What would happen in the event of any dispute with a Scottish producer about the use of that power? What ability do the

Scottish ministers have to intervene if there are concerns about the scheme administrator's performance?

Gillian Martin: I will take the first question first. If a retailer has an issue with the late fee payment, that is an operational matter for the scheme administrator. If there is a dispute, the scheme operator will have a process by which people can challenge a late payment. It is an operational matter between them that ministers would not get involved in at all. Of course, if a retailer fails to pay producer fees, that is an offence under the DRS regulations, and SEPA would have the power to pursue enforcement action, which would involve civil sanctions or criminal action. The environmental regulator is the bulwark against anybody who is not acting within the regulations.

09:30

If there is any ministerial discontent with how the scheme is being operated, issues can be dealt with in the interministerial group and through regular discussions between the four nations. Once the scheme is up and running, there is less likely to be discontent, but there will still be a scheme administrator that I can ask to speak to at any time—I speak to it regularly. Obviously, if the scheme administrator does not comply with the operational plan, SEPA will be able to take enforcement action against it.

Those are the safety valves that are associated with the scheme administrator.

James Adams: Thank you.

Donald MacKinnon (Na h-Eileanan an Iar) (Lab): Cabinet secretary, you outlined when SEPA may take enforcement action against the scheme administrator, but I am interested in when SEPA might take enforcement action against producers that operate across the UK. I am also interested in the engagement that already takes place between the UK environmental agencies and whether it is clear how enforcement action with regard to the DRS and digital waste tracking could be co-ordinated.

Gillian Martin: As you would expect, all the environmental agencies across the UK are in touch with one another on a range of issues associated with environmental protection. Those connections already exist, and the situation is no different in this case. They have been working very closely with their Governments as the scheme is being rolled out.

The amendments will allow SEPA to recover the regulatory enforcement costs from the scheme administrator and will enable it to undertake enforcement action in relation to it.

Effectively, the systems that are associated with digital waste tracking are similar across the whole of the UK. The only difference between them is in some of the terminology and language. That is part of the interoperability of the system, which even allows for the inclusion of glass in the scheme in Wales—all four nations are satisfied with the interoperability in that regard, too. I think that that is what you were asking about.

Donald MacKinnon: Yes, it was.

Gillian Martin: Early on, when the decision was made to go ahead with a four-nations approach, the need for the interoperability of the scheme was at the core of all the discussions about how we make this work. The environmental bodies across the UK will all work together, and the digital waste tracking system is at the core of all those operations in order to ensure there is interoperability across the four nations.

Lynsay Ross might want to add something.

Lynsay Ross (Scottish Government): The environmental regulators are very much working together across the four nations to take an interoperable approach where possible with regard to where they would intervene. It is important to note that there is different legislation in respect of the three schemes across the UK and that various enforcement powers sit with other regulators as well. The situation in Scotland is unique, as SEPA can take enforcement action via a criminal offence but can also use civil penalties. The situation is slightly different in the other nations.

Sanne Dijkstra-Downie (Edinburgh Northern) (LD): Good morning. It is less than 11 months until the scheme is due to launch across the UK. Can you provide a progress update on readiness for the scheme and highlight any outstanding milestones?

Gillian Martin: I can take you through what happens next. As I have said, we are on track to launch in October 2027. The digital waste tracking system is already operating in England and Wales and will launch in Scotland and Northern Ireland on 1 January. The launch follows a private testing phase, which took place this year. SEPA and the scheme administrator have been working with businesses on business readiness and compliance, and they will continue to do so until the launch. The next milestone is the launch of digital waste tracking, which will happen on 1 January.

Lynsay Ross can add more, if I have missed anything.

Lynsay Ross: I will cover a couple of the milestones that Exchange for Change, the scheme administrator, has already achieved and what is still to come. It has set the deposit level, which is

20p, and it has consulted on and agreed a return handling fee and a producer fee, which it has published. Most recently, it has appointed logistics partners across the four nations for the collection of DRS material and has launched phase 1 of a registration portal, where producers and retailers can start to provide their details. Other things to come include further work on information technology developments, logistics arrangements and other key elements around communications and marketing. A lot has been done to date, but more work will be done as we get closer to launch, and that all sits with Exchange for Change.

Ariane Burgess (Highlands and Islands) (Green): Given that Scotland is a nation of islands, I am interested in how, ahead of the October 2027 launch, the Government and Exchange for Change will ensure that island and rural communities in Shetland or the Western Isles have a scheme that works as well as it might in Inverness.

Gillian Martin: It is absolutely essential that that is the case. I have made some notes associated with that, because I remember that issue coming up a lot previously.

In rural and island areas, it will largely be shops that either have the reverse vending machines or take back the containers. The accessibility of return points is a major issue that Exchange for Change is working through with rural communities and retailers, which will be the main return point for customers. We want it to be as easy for people to return their drinks containers as it was for them to purchase them. It makes sense that the return point will be the local shop, as that means that customers will be returning the items to wherever they bought them from. It also means that people in rural areas will not be unfairly disadvantaged.

The scheme administrator Exchange for Change is committed to ensuring that the DRS serves rural and island communities. Indeed, I raised that issue in our interministerial group ahead of the administrator's being appointed and, when it was appointed, it was a key question that was asked not just by this Government but by the other Governments involved. We wanted a flexible, accessible and community-based system.

Exchange for Change is also required to conduct reviews. That means that improvements can be made—the provision is not set in stone. It will have to conduct reviews of its return points, including assessment of whether consumers have access to at least one return point and whether there is sufficient access to return points for people living in rural areas, villages and islands. It is required as part of its contract to conduct those reviews and, if it is the case that some communities do not have access to return points, it will need to act to provide them.

Ariane Burgess: Thanks very much for that information. I am remembering a visit to Coll, where the islanders were having problems with recycling accumulating and not being taken off island. Is there also a commitment to ensuring that, when people bring back bottles, they are taken off island regularly so that they do not accumulate?

Gillian Martin: I was just double checking this with Lynsay Ross, but Exchange for Change is responsible for collecting containers and providing return points in every area.

Ariane Burgess: Is there a way for islanders to give feedback if that is not working?

Gillian Martin: Yes. As part of its contract, Exchange for Change must provide the ability for feedback to be given. As I have said, it will have to conduct reviews, so feedback will be absolutely essential. Moreover, it will not just be the retailers with the return points that can give feedback; there will, in effect, be a service for people to give feedback. That is part of the conditions of the contract.

Ariane Burgess: Are stakeholders or local government beyond the islands raising any ongoing concerns with you on that?

Gillian Martin: The instruments before you today are, by and large, a result of such feedback. There was strong feedback, particularly from the hospitality sector, on the need for flexibility, and the issues associated with that form the reason for my bringing these three instruments to you today.

Ariane Burgess: Thanks very much.

The Convener: Just before I bring in David Barratt, I have a question of clarification on the transportation of articles from the islands to the mainland. Has Exchange for Change already engaged, as I would assume, with the variety of ferry operators?

Gillian Martin: Lynsay Ross might be able to give you more detail on that, but Exchange for Change, as the administrator, will have contracted the logistics companies to do that. If she is allowed, Lynsay can provide some more detail.

Lynsay Ross: The logistics providers have only recently been appointed—it was at the end of September, in fact—and they will be working across Scotland on the plans for how this will operate. In doing so, they will give consideration to the transport of waste, among other things, and we will also be working alongside SEPA, the regulator of the scheme.

The Convener: Thank you.

David Barratt (Cowdenbeath) (SNP): Picking up on the convener's first question, on the flexibility for hospitality retailers, I note that a retailer can choose not to take a deposit and can operate a closed-loop system instead. Can the system distinguish between items that have or have not had a deposit paid, or is it open to abuse?

Gillian Martin: Under existing regulations, a retailer that abuses the system is, in effect, breaking the law. My legal adviser, Ailsa Heine, can come in on this, but perhaps I can try to explain it.

If a cafe, for example, has already paid a deposit on the items that it is selling, it can decide whether it wants to charge the customer the 20p, and then the customer can do whatever they want with the container. However, in a closed-loop system, the cafe would have to retain the items and either recycle them however it wanted—thereby getting back its 20p per item—or arrange for the items to be picked up, free of charge. I am not entirely sure how that could be abused, but can I bring in the lawyer, please?

09:45

Ailsa Heine (Scottish Government): I am happy to answer the question. There is no distinction between drinks sold with or without the deposit in the hospitality sector. No matter whether the drinks are in cans or plastic bottles, they will still be scheme articles, and, as the cabinet secretary has said, when the hospitality retailer purchases scheme articles, under the terminology of the regulations, it will have paid the deposit. If it chooses to pass the deposit on to the customer in the hospitality setting, it will have recouped its deposit on the scheme article, and it is then up to the customer to decide what to do with the scheme packaging. In essence, that would be similar to any retail situation with regard to these drinks once the DRS goes live.

The hospitality retailer has the choice not to charge the deposit on the scheme article, but it is still a scheme article and therefore part of the deposit return scheme, just on the basis of that one transaction between the customer and the hospitality retailer. If there is no deposit charge, the customer cannot remove the scheme packaging and it stays with the retailer.

Gillian Martin: That flexibility is important. Indeed, the hospitality industry wanted the option, because previously it would have had to have a closed-loop system anyway. The feedback that we got was that the sector might lose money over this, because customers might just walk away with the scheme articles, as we call them. The option is now there to have one system or the other.

David Barratt: That was my concern. The cafe, say, will have paid the deposit, but I could then pick up the can that I have bought, which I have not paid a deposit on, walk out with it and then claim the deposit. There is a degree of that, but it is a risk to the retailers that they have asked for.

Gillian Martin: That is the feedback that we got.

David Barratt: Okay—I understand.

On a wider point, you referred to the fact that the DRS in Wales includes glass. Within the past year, the UK and Welsh Governments agreed an exclusion under the United Kingdom Internal Markets Act 2020, meaning that Wales will be able to include glass in its system under transitional conditions. Is the Scottish Government considering including, or seeking to reintroduce, glass into our system, given that it was originally part of our scheme? Indeed, facilities were built in my area with that in mind. Is glass going to be reintroduced into the Scottish system?

Gillian Martin: There are no such plans at the moment. The arrangement that we have entered into relates to the scheme articles that we have in front of us, because we need to get a DRS up and running. Wales is a really interesting case, and I do wish the Welsh well. Those of us who took forward the regulations in the previous parliamentary session—in fact, it was the session before that, because Rosanna Cunningham was cabinet secretary at the time—know for how many years we have not been benefiting from a DRS. I want it up and running; indeed, we need it to be up and running.

We have no plans to introduce glass, although, as I have said, we wish our colleagues in Wales well. Wales has very good recycling rates, and the previous Welsh Government, like the current Welsh Government, made it very clear that it needed additionality to its already very good recycling rates, so glass was the option for Wales. The Welsh now have the internal market exemption that, if we had had it a few years ago, could have allowed us to power ahead with the original plan. However, we have no plans to reintroduce glass at the moment.

David Barratt: That seems to be a bit of a missed opportunity. It is ironic that we asked for it but did not get it, and now Wales is getting it. Will it be kept under review if it is successful in Wales? Could we introduce it in later years?

Gillian Martin: Of course it will. You have to look at other countries. Others that have had a DRS that included certain articles kept it under review and decided either to keep it as is or to add other items. You have to keep absolutely every aspect of the circular economy under review. You have to look at the recycling rates for glass and the

recycling rates for all the plastics and aluminium that are associated with DRS. If you see improvements in all those areas, that is great, but, if there is no improvement in other areas, you have to come back to it.

The Convener: Is there any particular reason why Wales managed to get the exemption but it did not happen elsewhere?

Gillian Martin: It is because the Welsh Government was speaking to a Government that was open to it, whereas Scotland was speaking to a different flavour of Government that was not, to put it bluntly.

Martyn Day (Falkirk East and Linlithgow) (SNP): Exchange for Change has now entered into a number of logistics contracts. What are the opportunities for the DRS to support waste recycling capacity in Scotland?

Gillian Martin: Exchange for Change has estimated that about 700 jobs will be created as a result of the DRS across the whole UK, and a proportion of those jobs are expected to be in Scotland. We have not had numbers on that yet, but it has said that a dedicated DRS processing facility will be operational in Scotland. As Lynsay Ross mentioned, it has just entered into an agreement with Hargreaves Services, which is based in Newcastle, and, as I said, Exchange for Change has said that a collection processing network will be based in Scotland. I have also asked the question that you have asked.

There are a lot of opportunities beyond the processing that is associated with the DRS. There is potential for whatever materials are recovered as feedstock to be made available to businesses that might want to do something with that feedstock. It will be really interesting to see what arises out of the DRS and the creation of more businesses associated with the circular economy, and whether the feedstock will be collected that otherwise might have ended up in landfill, cluttering up our roadsides or entering our rivers or marine waters. That feedstock will now have a value associated with it, which means that more people will return it to the vendors in whichever way they want.

I feel very excited that the DRS will unlock an awful lot more than just the litter and recycling rates. I think that it will end up engendering quite a lot more economic activity.

Martyn Day: Do we have any indication of where the dedicated facility is likely to be?

Gillian Martin: Not yet—I am looking at Lynsay Ross—but it is early days. The logistics contractor has been appointed only in the past couple of months, and we will look to ask it that.

The Convener: We have two brief final questions.

Ariane Burgess: I want to return to the fact that Scotland is a nation of islands. Is it acknowledged, in the discussions between the four nations, that we have unique logistical issues that we have to overcome and that probably add cost? At least, I imagine that it will add cost to get things off and on island. Has that been acknowledged in discussions with the other nations?

Gillian Martin: Yes. That is probably one of the first issues that I raised in the interministerial group, and it was the first issues that I raised when the scheme administrator was appointed and we had the opportunity, in the interministerial group, to ask it questions. It was awarded the administrator position as a result of its ability to answer those questions. The ministers were not directly involved in that, but it was obviously a key consideration. Scotland is not the only one of the four nations with rural areas, but, as you say, we have many more islands than anyone else.

David Barratt: I want to pick up on Martin Day's question about the DRS facilities in Scotland. The contract has been awarded to an Australian company that is partnered with a company that is based in England. Was there any interest from Scottish firms? Has community wealth building been built into the contract in any way?

Gillian Martin: We were not involved in that decision; it was decided by the scheme administrator. I do not have that information, and I would just be speculating. However, it is important to point out that, although the company that has been awarded the logistics contract is based in England, it has been recognised that there has to be a footprint in Scotland.

I thought that Mr Barratt was about to vie with Mr Day as to whose constituency got the facility, but he did not.

David Barratt: I can, of course, make the pitch that Fife is very well placed, with a council-owned arm's-length external organisation that could operate the facilities very successfully.

Gillian Martin: You have put that on the record, Mr Barratt.

The Convener: I am sure that we could all make our pitches.

As there are no further questions, we will move to item 3, which is the formal consideration of motion S7M-01734. I invite the cabinet secretary to speak to and move the motion.

Motion moved,

That the Climate Action Committee recommends that the Deposit and Return Scheme for Scotland Amendment Regulations 2026 [draft] be approved.—[*Gillian Martin*]

The Convener: As there are no further contributions from members, I invite the cabinet secretary to sum up.

Gillian Martin: I do not think that I need to say more.

Motion agreed to.

The Convener: Item 4 is the formal consideration of motion S7M-01733. I invite the cabinet secretary to speak to and move the motion.

Motion moved,

That the Climate Action Committee recommends that the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Amendment Order 2026 [draft] be approved.—[*Gillian Martin*]

The Convener: There are no contributions from colleagues. Cabinet secretary, is there anything that you want to add?

Gillian Martin: No, thank you.

Motion agreed to.

The Convener: Item 5 is the formal consideration of motion S7M-01732. I invite the cabinet secretary to speak to and move the motion.

Motion moved,

That the Climate Action Committee recommends that the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2026 [draft] be approved.—[*Gillian Martin*]

The Convener: There are no contributions from members. Does the cabinet secretary have any comments to make?

Gillian Martin: No, thank you.

Motion agreed to.

The Convener: The committee will report on the outcome of the instruments in due course. Are members content to delegate authority to me, as convener, to approve for publication a draft of the report, covering all three instruments that have been considered today?

Members *indicated agreement*.

The Convener: I thank the cabinet secretary and her colleagues for making themselves available.

I suspend the meeting for a few moments, ahead of our next item.

09:59

Meeting suspended.

10:02

On resuming—

Water Industry Commission for Scotland

The Convener: Item 6 is an evidence session with the Water Industry Commission for Scotland, or WICS—we will probably just use "WICS" this morning, as it might be a bit easier. The committee has agreed to take evidence annually from public bodies that work within its remit. Today's session is intended to cover the work of WICS and the final determination of the 2027 to 2033 water and waste water charges, as well as Scottish Water's annual reports and accounts for 2024-25 and 2025-26.

I welcome to the meeting David Satti, who is the chief executive of WICS, and Aidan O'Carroll, who is the chair.

We will move to questions. The Public Audit Committee undertook some work on WICS in the previous parliamentary session, and I imagine that you probably expected a question to be raised about that. I was on that committee towards the tail end of the session, as you might recall. I am keen to get an understanding of the lessons that arose from the previous scrutiny of WICS's governance, financial management and organisational culture, and of the progress that has been made in response to recommendations from the Auditor General and the Public Audit Committee.

Aidan O'Carroll (Water Industry Commission for Scotland): Could I read out an introductory opening statement? I would like to have it as a matter of record, if that is all right.

The Convener: I am happy to allow it, but these things are usually agreed prior to the meeting.

Aidan O'Carroll: Sorry—I thought that it had been.

The Convener: That is okay.

Aidan O'Carroll: Having come into WICS in August to join the other commissioners and to chair the board, I found that all the work that had been done as a result of the section 22 audit report had been progressed significantly, carefully and judiciously. It had been done in an open and transparent way, which included fairly rigorous communication by David Satti with the PAC during the process. It had involved ensuring that we had a full governance framework in place, and it had taken on board all the recommendations that had been made.

I am pleased to say that those recommendations have been fully implemented and we now have the right governance framework in place. We have a new structure in the organisation, of which David

Satti was very much the architect; we have new appointees in place; and we have continued to improve the culture of the organisation, using integrity and transparency as our north star. Through that process, we have been able to turn WICS around to be much more of an exemplar regulator.

WICS is a really good example of public service reform. I give full credit to Ronnie Hinds—the interim chair—and the other commissioners, who went about addressing the issues and strengthening the governance. I have inherited a really engaged set of commissioners, a strong leader in the business and a set of directors who have very clear responsibilities, which has helped enormously to get to the final determination. There is now a really collaborative environment in the organisation.

As always, there is more to be done. There was initially a great focus on cutting costs in the organisation and then getting it into the right size and shape. WICS needed to grow its technical capabilities so that it was not as reliant on external consultants, and that is reflected in our managing to produce a surplus over the past few years, which has built up on the balance sheet.

We can give you strong assurance, and our external auditors would do the same. They have given us a clean bill of health for the 2025-26 financial reports, which are imminent. There is also internal audit, which has carried out a number of engagements with us and has moved us to reasonable assurance. I hope to get to substantial assurance in the future. It is always a goal of a chair to get to substantial assurance, which is the pinnacle or the gold standard. The organisation's ambition is to ensure that Parliament, in particular, has full confidence in what WICS does—not just in its methodology, but in the capability of the people in the organisation.

I hope that that gives you a flavour of not just the open response to the section 22 report, but the work that was done throughout 2024-25 to get us to the position that we are in today. We have a strong set of commissioners, a very strong leadership culture in the organisation and a real focus on delivery.

The Convener: That is very helpful. Thank you. The committee will not focus on that work today, but I thought that it would be useful to pose that initial question because of where the organisation was in the past.

We will touch on a few themes this morning, including WICS's functions, Scottish Water's performance in 2025-26, the environmental performance and sewage overflows, and the strategic review of charges for 2027 to 2033. Colleagues will come in with questions at different points as we move through the themes.

On your functions, I am keen to get more information on how WICS assesses whether Scottish Water is operating efficiently and delivering value for money.

David Satti (Water Industry Commission for Scotland): Building on the points that Aidan O'Carroll made about the organisation's restructuring, I note that part of the change that I made when I inherited WICS was to make distinct directorates in the organisation, two of which focus on the activities of Scottish Water. There is also a directorate that focuses on markets—primarily the non-household retail market, where licensed providers compete for retailing services. We can speak about that as well, but your question is about Scottish Water's activities.

Every six years, we set a price and a service offering, which Scottish Water agrees to. As part of that agreement and the regulatory contract, it makes commitments on the improvements that it will make for customers, and we monitor the outcomes annually. There is also a water industry investment group that looks at Scottish Water's performance quarterly. Key to that is whether it is delivering what it committed to. Is it investing in what it asked customers to fund in the way that we thought it would, and is it achieving the efficiencies that it committed to?

On efficiency, we look at Scottish Water's business and at comparators, predominantly in the UK but also more widely. That helps us to establish whether it is efficient and in which areas we believe it can improve, such as how it manages certain practices in its operations or whether certain cost items can be deemed to be efficient. We do that using a combination of econometric modelling and comparative benchmarks, and we look at the business with that commercial mindset.

The Convener: You said that, as well as making comparisons within the UK, you look more widely. Which other countries or territories do you look at?

David Satti: We look predominantly within the UK, because there is well-established econometric modelling here, but we also engage with WAREG, which is a group of water regulators throughout Europe. We are trying to align, more and more, the ways in which data is collected. There are benchmarks, but, because the data is collected in slightly different ways, we cannot always compare apples with apples. Although we look across Europe, we recognise that that work is not yet at a point that would enable us to challenge Scottish Water on the basis of that data.

The countries that I am talking about include Portugal, France and Spain. They are

predominantly in western Europe, although data is coming, more and more, from other member states as well. We also have really good links with Australia and New Zealand. When we look further afield, we engage more on best practice, rather than making comparisons of efficiency.

David Barratt: I understand that customers in Scotland pay £500 to £600 less per year than customers elsewhere in the UK, so public ownership clearly provides a financial benefit to customers. To what extent do the savings result from Scottish Water not paying shareholders? Are they due to tighter regulation? Do they mean that Scottish Water has less capacity to invest? What is the relationship between those aspects?

David Satti: Those are really good questions. Scottish Water has the second lowest bills in the UK, but it has one of the highest per capita investment programmes in the UK. There is a lot of interest in the Scottish model, partly because we do things slightly differently, including the way that we look at investment in existing infrastructure to ensure that we do not pass on assets that are in poor condition. As a result, the investment programme is larger, but it is also the case that the amount of capital maintenance is significantly different from that in England and Wales.

Is that a result of the public ownership model? Yes and no. The model means that Scottish Water does not pay dividends in the way that the water companies in England do. Any cost of equity, if we analyse it in that sense, is reinvested in delivering more investment for Scottish customers. However, I would not suggest that that is a huge element. It is more that Scottish Water operates efficiently and we ensure that it is investing in the right areas, predominantly in existing infrastructure. That, in itself, produces more efficiencies. It is a function of the economic model or the regulatory model. The public ownership model is a key element of that, but it is not the only element.

10:15

Aidan O'Carroll: I also draw attention to the fact that Scottish Water has a lot less debt on its balance sheet compared to the privately owned companies down south, which makes a significant difference. When we look at the leverage models down south compared to how Scottish Water is leveraged and at how the Scottish Government limits the amount of borrowing that Scottish Water can do, we see that that makes a positive difference to its overall results.

David Barratt: I am interested in how Scottish Water's overall performance compares with that of the water companies in England and Wales and how, on average, Scottish Water performs better in areas such as pollution incidents and sewage overflows but worse on leakage reduction and consumption. Can you cover those areas?

David Satti: I am more than happy to do that. To provide some context, the first thing to say is that we use an aggregate measure called overall performance assessment. Ofwat, the regulator in England and Wales, started with that measure in 1999. We have used it since 2002, when we were the Water Industry Commissioner for Scotland, and from 2005, when the body became WICS, and we have continued to use that measure. I give that context because, over time, the regulator in England has changed how it assesses performance and the data it collects. There was a period during which it used the OPA, followed by a period when it did not use it, and it is now collecting some of that data. Therefore, the comparators are valuable when looking at England and Wales, but we have always tried to make sure that Scottish Water is getting better, year on year, because that is where the real comparison can be made.

There are areas where Scottish Water is delivering better and there are areas where it is not delivering as well, and we are trying to understand the reasons for that when we look at Scottish Water's performance. Is it a result of management performance or targeted investment? Is it a result of regulatory incentives—in other words, what you measure is what then gets delivered—or is it just a result of national or geographical differences? In some areas, it is a combination of all those factors; in other areas, it is very specific and targeted.

You are right that, in certain areas, such as leakage, Scottish water's performance is not as good as that of the companies in England and Wales. As part of this determination, that is an area that WICS has made a concerted effort on. Historically, the reason why Scottish Water is not as strong on leakage is that we do not have as many water stress zones. It costs money for Scottish Water to employ operational teams to go out and fix leaks, so there is a bit of a cost benefit analysis done, looking at the cost of employing the operational staff to fix the leak versus the benefits of fixing the leakage points. That dynamic is starting to change, not least because water is becoming more scarce in Scotland, which I know is an area of huge interest to the committee. As we have made clear in the determination, over the next six years, Scottish Water is going to have to work really hard on some of those areas of underperformance. As part of the determination of charges, we have made very clear our expectations of improvement in those areas.

Aidan O'Carroll: Specifically, you can see two aspects to that in the determination: a fairly significant decrease in the number of physical leakages and, as such, in the megalitres lost through leaks, but also the time that it takes to fix

the leaks—the response time in getting out to fix the leak. Both of those measures are set for marked improvement over that period.

David Barratt: I suppose there is a perception that we have an abundance of water in Scotland, but I understand that Scottish Water is one of Scotland's largest energy consumers, through the treatment and conveyance of water, so there is a carbon footprint attached to the operation. Is that increasingly becoming a focus, and will you be driving down leaks, given that it is one of the areas in which you do not perform as well as others in the UK?

David Satti: Yes, absolutely, and you can see that in the way the strategic review of charges we have just conducted has played out. You can see the targets, and you can also see it as one of the areas of contention between us and Scottish Water. It has not accepted the determination yet, which we can get into when we address that theme. However, we are definitely looking for Scottish Water to do significantly more. Yes, there is an element around energy costs, which you highlight, but it is largely about looking at what the supply-demand balance looks like for Scotland over the next 25 years and what that really means for water availability.

There is a perception of water abundance, and part of dealing with that is communicating to society the impact of the water system that it relies on every day. Scottish Water has made endeavours in that area, and the new management team has really stepped up its communication with society on some aspects of that. However, we are going to have to do a lot more in relation to not only society's impact but its consumption behaviours and the like. In that way, we can alter the supply-demand balance, which will stand us in good stead for the next 10 to 20 years. That will be a focus over the next six years.

Aidan O'Carroll: The droughts in 2024-25 and 2025-26, in particular, further exposed the water scarcity in the east compared to the west. How that will be tackled over the coming six years is also an area for discussion.

James Adams: What is your assessment of Scottish Water's customer service and operational performance and how it is meeting customers' expectations?

David Satti: That is a really good question. As a result of a customer panel that we held more than a decade ago, we introduced the customer experience measure. Initially, we looked just at customer contacts, but the view was very much that we should expand that work so that it is not just about responsiveness to customer contacts but about recognising that Scottish Water touches customers' lives in many ways—not just when they have an issue. Therefore, the customer experience measure, which our peers in England and Wales then replicated, is a broader way of looking at customer contacts and the perception of the water company.

There are two elements to that—the CEM and the UK survey that Scottish Water does to test perception. In the survey, Scottish Water comes out as the most trusted utility in the UK, which is great, and we recognise that. On its CEM, we have not seen it flatline, but it has reached a very good standard and Scottish Water is now trying to maintain that. However, it has aspirations to go beyond that, so it has recently changed its organisational structure and introduced the role of director of customer service, which will be focused on further improving the relationship and engagement with customers.

If I were to characterise Scottish Water's current performance, I would say that it is very good but that the expectation is getting higher, and you will see that coming through in aspects of the determination and some of the outcomes that we will challenge it on. However, we should give credit where it is due, and this is an area in which it excels—not always, but most of the time.

James Adams: That is encouraging. Waste water treatment compliance has been identified as an area in which performance remains below expectations. From your perspective, how serious an issue is that?

David Satti: It is serious. First, it is important to recognise different roles and responsibilities in the water industry, and I appreciate that that can be quite complex for most individuals. We are the economic regulator. We look at standards and at the price and service commitments over a regulatory period. When Scottish Water is asking customers to fund investments, we make sure that it delivers on their behalf.

There are also other regulators involved in the industry, one of which is the drinking water quality regulator, which looks at water quality technical standards and compliance with those. If the quality is not sufficient, that regulator can ultimately enforce. That regulator is the one that works with Scottish Water on the investment that is required for water quality improvements. Likewise, the environmental regulator, SEPA, does the same on the environment side. SEPA looks at environmental performance, and it does the licensing and enforcement if needed.

Your question on severity and Scottish Water's engagement on compliance with standards is more one for SEPA. For us, Scottish Water has made commitments to invest in its existing infrastructure to improve compliance. We make

sure that it makes that investment and delivers efficiently, on time and on budget.

More and more, we are seeing that climate change is impacting Scottish Water's ability to operate plants. I know that that is an area of focus for Scottish Water and that there is an active conversation on that between SEPA and Scottish Water. Ultimately, that might mean greater investment in the future, so that we are not only adapting to climate change but mitigating the impacts, so that we have services that are as compliant as possible.

Aidan O'Carroll: Over the next six years, Scottish Water will be taking over a number of the waste water treatment plants that are currently subject to a private finance initiative contract. Over that period, we expect further investment in those plants, which should go towards improving the incidence of unexpected discharges.

James Adams: So, you are satisfied that Scottish Water has a credible plan in place to improve compliance.

David Satti: When it comes to waste water treatment, we are satisfied that Scottish Water has sufficient investment to make sure that the plants are being maintained and replaced in the way that is required, and therefore that it is making sure that it is delivering on that. The issue of whether Scottish Water is meeting SEPA's compliance standards is one for engagement between SEPA and Scottish Water. However, we are satisfied that, as an organisation, Scottish Water has more than sufficient capital to invest in the plants and ensure that they are maintained and operated as well as possible.

Aidan O'Carroll: SEPA has agreed with Scottish Water the targets for an increase in compliance over the next six years. As I understand it, that was a difficult conversation, but the organisations have come to an agreement.

James Adams: Thank you.

The Convener: I have a question of clarification in relation to the PFI projects and the overall programme. Inflation has had a massive impact on construction costs in every sector. Are you confident that, even with the inflationary costs affecting construction, Scottish Water will be able to undertake the work?

David Satti: Yes. You are right that that is an issue. Scottish Water is one of the most capital-intensive companies—in fact, the water industry, full stop, is one of the most capital-intensive industries in the UK. Therefore, construction price inflation impacts the water industry more than most. We have noticed that not just in relation to PFI contracts or, indeed, replacement, but across the investment programme. A large part of our engagement with Scottish Water involves trying to get underneath the impacts of construction price inflation versus scoping issues or risk allowances and so on. More and more, we are seeing construction price inflation impacting the organisation.

That was a large area of contention, if not tension, between us during the strategic review of charges, so we are trying not only to understand the impact of construction price inflation on Scottish Water's performance today, but to look at the investment programme over the next six years, including the commitments that will be made to customers, and understand how much each project will ultimately cost.

That is a large part of the strategic review of charges on which we have embarked. During the current period, construction price inflation has had a material impact, and Scottish Water has had to delay and re-scope some projects. We take that into consideration and make exceptions, because Scottish Water is trying to do the right thing by ensuring that projects deliver value before committing to them. We have seen delays as a result of construction price inflation, but it is fair to say that it is having a material impact not only on the PFI projects that Aidan O'Carroll mentioned but across the whole capital investment programme.

10:30

Aidan O'Carroll: Would it be worth mentioning the bioresource investment project and how we have tackled that within the structure?

David Satti: Yes. One of the large areas of capital investment in the next regulatory period will be the replacement of a PFI asset—a sludge treatment plant—that is being brought back into Scottish Water in Glasgow. The west central bioresource project could be a £600 million project. We are treating that, and major projects, slightly differently as part of the review, to make sure that Scottish Water is subject to greater scrutiny as it goes through different project stages. That is to ensure not only that the right solution is being scoped from value, cost and carbon perspectives, but that we understand fully the risk to customers and the risks that the supply chain and others may bear before giving approval to the project.

Our consideration of major projects will be very different, partly as a result of construction price inflation and its impact on the organisation.

Martyn Day: That leads nicely on to my question. What is your assessment of Scottish Water's ability to maintain its expenditure and investment levels despite its lower revenues? How sustainable is that?

David Satti: There are two elements to that. We can speak about revenues, customer charges and what we will do in the draft determination. However, I think—please correct me, Mr Day, if I am wrong—that your question relates to the regulatory period during which Scottish Water decided not to increase customer charges over the first couple of years, which resulted in a smaller overall capital programme than had been initially anticipated.

Scottish Water can do that; it is well within its gift. We set charge caps, but Scottish Water does not have to charge up to the cap. What we were doing, particularly in the first two years of the regulatory period, when Scottish Water was not increasing the cap by 2 per cent above inflation, was trying to understand the implications of that. We had agreed a significant capital programme with the organisation, along with the outcomes that would be delivered as a result. The decision on whether to increase customer charges was one for Scottish Water. However, we were also signalling that the effect of not increasing the charges would be a reduction in the amount that was available for capital investment. We were therefore really trying to understand the implications of that.

Scottish Water is now at a point at which outperformance over the years has mitigated some of the gap, if you like. It will not all be mitigated, but the organisation has been able to generate efficiencies, some of which are a result of management actions and some of which are not. We then enter into in a world of considering what will get prioritised should a gap remain.

The organisation has engaged with all its stakeholders on its prioritisation and investment hierarchy, including which projects will be delayed and which will not. It just so happens that some major projects will be delayed anyway and were always going to span across to the next regulatory period.

Scottish Water is managing its finances, but it has been helped, partly by interest rate costs and by an energy hedge. Those aspects have enabled it to mitigate a large part of the gap, if not all of it. We are satisfied that it is trying to do everything that it can to plug some of that gap.

Martyn Day: As you mentioned, some projects have been delayed. How can Scottish Water bring its higher operating costs under control without further delaying maintenance?

David Satti: When I was talking about projects getting delayed, I did not mean that the maintenance programmes were getting delayed. We still expect Scottish Water to deliver its full capital maintenance programme. Some of the larger projects involve certain upgrades that it is expected to do.

You are right, however, to suggest that there is a question around operating costs. As part of this regulatory period, we challenged Scottish Water in relation to a collective basket of expenses, including operating costs as well as all the normal items involving profit before tax, such as interest costs. Scottish Water has not paid tax at the rate at which we thought it would, and the interest costs have been less than we thought they would be. There have been areas of outperformance, as it were.

The area of operating costs, with the exception of the energy hedge, is where we think Scottish Water needs to do more. We recognise that and have factored that into our final determination. One of the areas of tension between us was what would constitute an efficiency challenge with regard to Scottish Water's operating costs. We were firm about the target of an annual operating cost saving of 1 per cent, whereas the organisation was proposing 0.8 per cent target. We have managed to agree a glide path around the savings that we expect to be realised over the next six years, but operating costs will be an area of focus.

Martyn Day: Your reports highlighted that Scottish Water has benefited significantly from the lower interest rate costs that we have experienced. However, Bank of England base rates have been increasing recently, so how sustainable is that position? Could such increases jeopardise future investment?

David Satti: They will not jeopardise future investment. We have made assumptions for all the line items over the coming six-year period. Scottish Water has benefited in relation to that item, in particular, over the current six-year period, but our determination for the 2027 to 2033 period has factored in a higher interest rate environment with regard to customer charges. That higher interest rate environment will not impede Scottish Water's ability to invest; it just means that it will have to charge customers more over the next six years, because that area is outwith management control.

Do not get me wrong: there are areas where Scottish Water is benefiting with regard to interest, and it still has a number of high interest rate debts that it refinances on a yearly basis, which acts as a benefit. Although interest rates are increasing, some of its embedded debt still carries a significant coupon of 6 per cent, 7 per cent or 8 per cent, so some of that refinancing produces a little bit of a tailwind to the overall interest situation. However, largely, we have factored in a higher interest rate environment for the next strategic review of charges, so that will not impact Scottish Water's ability to invest.

Aidan O'Carroll: Alongside that, we have looked closely at Scottish Water's working capital

requirements and what the position is with regard to its bad debts and so on, and we have factored those considerations into what the inflationary environment will look like, because one of the biggest costs is the manpower that Scottish Water deploys. There are a number of assumptions that we have to make and test, and then we have to challenge Scottish Water on the assumptions that are in its final business plan.

Those are areas of positive tension, but we have made it absolutely clear in the final determination that we still expect Scottish Water to deliver all the projects that were identified but at a lower cost. That is where the difference is, and that is probably where the tension is at the moment as well. We are not reducing its programme, but we are challenging it on its costs.

Ariane Burgess: Good morning. I will direct my question, in the first instance, to David Satti. I am not sure whether we are talking about a final determination or a draft determination, because we have used both terms, but I think that we have moved to a final determination that has yet to be agreed by Scottish Water. I am interested in understanding whether, in reaching it, you took into consideration the fact that we now face more droughts, storms and flooding. Will your determination give Scottish Water enough resources to cope with those extreme events?

David Satti: Your first point was about the determination versus the draft. We published the final determination last week. The draft determination went through a process of consultation in which Scottish Water made significant representations, and we then finalised the determination last week. Scottish Water is now undertaking a process to decide whether it will accept the determination or refer it to the Competition and Markets Authority for redetermination.

To answer your question about the future environment that Scottish Water will face, the starting point perhaps relates not to the determination process but to the push for Scottish Water to develop a long-term strategy. We wanted that to be committed to before the strategic review of charges, to provide the context for the next six years. We wanted Scottish Water to look at how its operating environment might change over the next 25 years and how the climate will be different. We then looked at the determination process with that context in mind.

As part of the strategic review of charges, we require Scottish Water to make a business plan. It is for the organisation to identify environmental impacts over the next six years and what investments it needs to make in order to respond to them. Scottish Water is given ministerial objectives by the Government and then sets out a plan for how it will deliver them, given the environmental challenges that it believes it will face. We scrutinised that work quite heavily. In this strategic review of charges, we did not change the scope of the investment programme; we looked at the programme from the perspective of value for money and Scottish Water's ability to deliver it, given its scale relative to the strategic review of charges. Scottish Water set out a plan that it believes will respond to those environmental challenges, and we have looked at the plan and are satisfied that the investment programme is justified and that customers should pay for it.

None of us has a crystal ball. As part of the process, we look at two things: how the investment programme can be made a lot more flexible in response to changes in environmental risks, and how we can make it so in a way that ensures that safeguards are in place for customers. That is one of the new elements of the strategic review of charges. Although Scottish Water currently has an investment programme in place, how can we ensure that it responds to the environmental challenges that we face? What processes can be put in place so that it can be flexible enough to adapt to the changing environment that you alluded to?

We have reached a good place, and Scottish Water is taking a lot of assurance that it has the ability to make changes if it needs to.

Ariane Burgess: Can I just clarify a figure? My notes say that Scottish Water's final business plan amounts to £13.4 billion. Is that correct? Is that what you have?

David Satti: No. The figure in the final business plan is just more than £8 billion of capital investment.

Ariane Burgess: Okay—I see the figure of £8.1 billion. So, the £13.4 billion figure includes day-to-day costs as well as capital investment.

Scottish Water proposes £8.1 billion for its investment plan, and your draft determination was £7.946 billion, which is a bit below that. As an MSP who represents the Highlands and Islands, I am a bit concerned that the determination will lead to Scottish Water being given considerably less funding. Where do you consider the cuts to be in the investment plan, and how can we ensure that small rural assets are protected? For example, the Highlands and Islands team manages 550 rural public septic tanks, alongside bigger works such as the Allanfearn facility, and I understand that it needs more investment in order to grow. That begs a question about what will get squeezed. You mentioned that some projects will be delayed. Maybe that will help.

10:45

David Satti: Let me explain that in full. If I do not provide a full explanation, please come back to me.

When we talk about a reduced investment programme—I made the point that we are not cutting the scope of the programme—we mean that we have looked at, project by project, the entire £8.1 billion of investment that Scottish Water is proposing. We have looked not only at what those projects will deliver, but at how they have been costed, what risk allowances have been made and when we expect the projects to be delivered. We have looked at that on a very granular basis. With some projects, we have brought in external consultancy support, which has involved engineers testing the scope and costings of the programme.

We are saying that we expect Scottish Water to deliver all the projects that it has highlighted across the whole of Scotland, including those in your region of the Highlands, but we also expect it to look at how it can deliver them more efficiently, whether by better managing its supply chain, better managing risk or looking at how it costs certain projects. One issue that I suspect will be given a lot more focus is whether it can operate slightly differently, such that it does not even need to make an investment in the first place. We are very amenable to Scottish Water coming up with different, more innovative solutions or working with other partners to mitigate the need for the investment at all, even if that would mean slightly higher operating costs.

We have made adjustments to the overall size of the investment programme, but we still expect Scottish Water to deliver that investment programme in full. Although we have made cuts to the programme and there are real challenges in relation to the outcomes that we expect that money to deliver, we expect all the projects, including those in your region, to be delivered on time and on budget. It is simply a question of whether that can be done more efficiently.

Ariane Burgess: Thank you for providing the detail on that and telling us about the granular process that you have gone through.

I want to turn to net zero issues. You indicated in your previous response that this might not be an area in which WICS takes a view, but I want to bring it up anyway. We know that sewage treatment releases nitrous oxide, which is almost 300 times more powerful than CO_2. The Intergovernmental Panel on Climate Change recently raised its estimate of how much treatment works release, which means that there will be a jump in Scottish Water's reported emissions for 2026-27 even though nothing has changed. I would like to get a sense of how the final determination will fund the action to cut nitrous oxide emissions. If you are placed to take a view, what would you recommend be done so that the overall net zero target remains achievable?

David Satti: That is an area for WICS, so I can explain in full what we do.

When we engaged in the most recent strategic review of charges—SR21—and the net zero target of 2045 was put in place, Scottish Water made a commitment to reach that target five years earlier, and it put in place a route map to change its operational emissions from a baseline of the 2006 data. That process still continues. Scottish Water still produces a net zero route map when it puts forward its business plan. It is trying to reduce not only its operational emissions but the carbon intensity of every pound that it invests. We have made sure that Scottish Water has the processes in place so that, when it is scrutinising its investment, it is doing so not just from the perspective of the lowest overall whole-life cost of an asset over 60 years, but from the perspective both of the lowest cost and of carbon, so that it is considering that at the granular level on every single project that it appraises.

You are right to highlight the emissions of nitrous oxide. It is fair to say that all water companies' understanding of the volume of nitrous oxide emitted by their waste water treatment plants is a work in progress. That science is emerging and, as you said, IPCC guidance has changed the way in which those emissions are calculated, which will have a magnifying impact. It has always been an area of Scottish Water's route map—although, granted, it is one of the toughest areas.

What we have put in place in this determination is twofold. We want to make sure that those changes do not create unintended consequences for how performance is monitored. In other words, Scottish Water's performance should not be seen negatively when those multipliers come into effect. It made an initial estimate, and that estimate has changed as a result of a change to the methodology, not as a result of management action. We are very much attuned to that when we look at Scottish Water's performance. At the same time, over this period, we want to understand its emissions, so a lot more monitors will be put in place. We will then be able to see the true emissions from those plants rather than the desktop estimate. We also want to make sure that management cannot take the credit if those numbers drop, because, again, it would not be the result of investment or management action. We are very attuned to that.

This period is very much about trying to understand that part of Scottish Water's net zero

route map. It was always one of the areas that it was going to get to last. It is part of its route map, but we are at the stage of trying to understand the true scope of those emissions before we can make investments to change things.

Ariane Burgess: Before Aidan O'Carroll comes in on this point, this period is from when to when—can you just remind me?

David Satti: It is from 2027 to 2033.

Ariane Burgess: So, your recommendation at the moment is that, from 2027 to 2033, Scottish Water is putting in monitors to understand the picture of what is going on?

David Satti: No—

Ariane Burgess: My question was about what you would recommend so that net zero stays achievable.

David Satti: This is where we need to be very clear about roles and responsibilities. We do not recommend to Scottish Water that it does that; we respond to its recommendations on what it thinks it needs to do. In this strategic review, we have accepted Scottish Water's proposals in this area. We have accepted Scottish Water's proposals in all of its investment programme when it comes to net zero; we just want to make sure that Scottish Water is delivering that programme more efficiently. For this area, in particular, Scottish Water is proposing that it needs to understand the true emissions of nitrous oxide; we will then understand what the investment implications of that are going to be.

Ariane Burgess: Thanks for that clarity. Aidan, you wanted to come in earlier.

Aidan O'Carroll: I was just going to say that that is just one aspect. Scottish Water needs to be able to measure the emissions and carbon related to the projects that it is undertaking—that is contained within the final determination—but there is also a recognition of the progress that has been made. We expect that it will not hit its target in the period up until 2027. Its target is a 60 per cent reduction, but it looks as though it is going to end up being closer to a 55 per cent reduction, though that is still a major reduction. It is about trying to bake that in to what will be different in the period from 2027 to 2033. There will be a rebasing of the nitrous oxide emissions, no doubt, because of our new understanding of those. The focus is on all the elements that will lead towards net zero by 2040, and those discussions are ongoing.

Ariane Burgess: Okay. Thanks very much.

The Convener: We will move on to environmental performance and sewage overflows.

Sanne Dijkstra-Downie: In 2021, Scottish Water published "Improving Urban Waters—Route Map", which is essentially a delivery plan for improving water and sewerage infrastructure by 2027. I know that your organisation has raised concerns about whether Scottish Water will meet the commitments that it makes in the route map. Will you share those concerns with the committee?

David Satti: Yes. I talked about a flexible investment programme versus the commitments in the determination, and the first point of context is that the route map was published after the previous determination. Some of our questions were very much about how the route map would be funded and when it would be delivered. Generally, WICS tends to take that stance. Scottish Water committed to a programme of work, and making improvements to unsatisfactory intermittent discharges was one element of the programme. It is a major focus for the organisation, and it is working hard to deliver those improvements.

I think that some of the unit costs associated with the programme have caught the organisation by surprise. That is partly due to the construction price inflation that we have been discussing and partly because of its engagement with SEPA on priorities, what should be delivered and, ultimately, the costs involved, including whether some of the costs are disproportionate. Scottish Water has undertaken a huge amount of engagement with SEPA while also seeking to deliver on its commitments.

Although Scottish Water committed to finding solutions for 108 unsatisfactory intermittent discharges, it looks as though it will not achieve that for all UIDs by the 2027 deadline. However, it is making huge inroads in that regard.

If Scottish Water makes a commitment and customers are expected to pay for it, we expect it to deliver on that commitment. That is our concern. That is not to say that the commitment will not be delivered; rather, it will be delayed. Scottish Water is articulating that to SEPA and is engaging with SEPA on that.

Consideration is therefore being given to what delivery will look like, when that will happen and, as part of the current review, what will be delivered in addition to that. The issue is not whether the work will be delivered; it will be delivered, but there will be a delay in that. One of our concerns is whether delays will lead to increased costs and what the implications of those costs might be. Could they mean that elements of the investment programme will not be delivered? When we raise concerns, it is from that perspective. What are the implications of the delay? If the 2027 deadline is not met, when will the work be delivered? What are

the cost implications? If there are cost overruns, what other work will be displaced?

We have been engaging with Scottish Water on those issues.

Aidan O'Carroll: I have just been checking the current position. Scottish Water has made significant progress during the 2021 to 2027 period compared with its starting position in 2021. Also, there will be much more investment in that area over the 2027 to 2033 period. That is to play catch-up as much as anything, but Scottish Water is focusing on the issue.

Sanne Dijkstra-Downie: We know that there were more than 100,000 spills or unsatisfactory intermittent discharges across Scotland last year. Those are just the ones that we know about, because not all sewage overflows are monitored. What would need to happen for Scottish Water to meet those commitments? I appreciate that you are talking about the timing, but what would you like Scottish Water to focus on or prioritise for those improvement targets to be met?

David Satti: I can speak about what has been learned and how that has been integrated in the determination. First and foremost, if there is to be a commitment, we must fully understand where the priority sites are, what the implications of delivering improvements at the sites are, what the costs are and whether Scottish Water has a solution in mind. Before committing to a certain number, we must have in place all of that knowledge.

On the 108 UIDs that Scottish Water committed to finding solutions for as part of its route map, it has engaged with SEPA and, in some cases, has identified a no-build solution—that is, Scottish Water has realised that it can achieve the same outcome without the need to invest.

We wanted all that work to be done up front before commitments were made, and we are satisfied that that work has been done in relation to our determination. That means that, when targets are set and money is allocated to meeting them, we have greater assurance that those targets can be delivered on time and on budget for customers.

11:00

You are right that there is ongoing dialogue with Scottish Water on the full scope of the commitment. Scottish Water has been engaging with SEPA on that work over the past three or four years—if not for longer, because Scottish Water has been investing in addressing UIDs for as long as I have been in the industry. There is ongoing engagement on targeting the priority areas that cause the most harm, so that customers get the greatest value from every pound that is invested. For the determination for the 2027 to 2033 period, a significant amount has been learned through the improving urban waters route map process.

Sanne Dijkstra-Downie: What in particular has been learned?

David Satti: It is the learning that I have been talking about. Before a number is committed to, there should be an understanding of the priority, the true extent of the harm, the interventions that might need to be made and the costs of such interventions, so that there are no surprises for Scottish Water when it goes to a site. There should be consideration of what solution might be required, its cost and the impact of construction price inflation, for example. People should think, "Is this the right solution or, now that we know the costs, would it be better to tackle those two sites over there to deliver greater value?" A lot of that understanding has been developed since the route map was produced.

Aidan O'Carroll: Scottish Water has reorganised itself and now has a whole department that considers waste water in a much more focused way. That has allowed us to have practical conversations about how to improve the project management office, the engineering and, as David Satti said, not just the output but the outcomes that we want.

The work is not happening just between Scottish Water and SEPA, because Scottish Water will be having broader conversations about what needs to happen upstream to capture more water. That is the biggest problem that results in water coming downstream and through the system. Scottish Water is actively talking to other stakeholders about major investment in upstream solutions, too.

Sanne Dijkstra-Downie: From my perspective, the priority sites, which you mentioned, should be near places where people swim, such as beaches and bathing sites. Does your organisation have a view on where the priority sites need to be?

David Satti: We do not. Discussions about that tend to take place between SEPA and Scottish Water. Earlier, we talked about the draft and final determinations. You might have noticed that, when the draft determination was produced, we knew that those discussions were ongoing and that it was likely that more investment would be needed, so we made provision for that in the draft determination. We tried to ensure that those discussions were concluded before the final determination, so that, before we made decisions on the full scope of the investment programme, the priorities were fully established.

We have not taken a view on where the priority sites should be. Those who have expertise on a site-by-site basis are best placed to make those

decisions. We just ensure that the programme is funded in full.

The Convener: In my constituency, we have had quite a few flooding problems in the past. A key intervention was an integrated catchment study between Scottish Water, the local authority and Transport Scotland. I remember reading that such studies are not common across the country. It took quite some time for the document to be published, but it now gives all public bodies a better understanding of the infrastructure that is there. Should such studies be a staple across all local authorities?

David Satti: Yes. We do not want to have a regulatory framework that creates the wrong incentives. We do not want a regulatory framework under which, if Scottish Water believes that it can have a better solution by working with partners in the way that you have just spoken about, it is penalised because its regulators say, "You must do this by this time." We fully recognise that working with partners in that way takes longer. If Scottish Water is trying to do the right thing, it should not be penalised for that.

There are pockets of really good practice at Scottish Water, which tend to come under the banner of blue-green infrastructure in particular. If anything, when WICS is looking at projects and at how Scottish Water is planning and prioritising its investment programme, more and more, we will be holding up a mirror and saying, for example, "If that worked in one constituency, why are you not considering doing it in Perthshire?" There are pockets of good work, such as the Glasgow drainage partnership and the work in Edinburgh, which have delivered greater value for money. That approach just takes longer and requires a lot of working with other partners. In short, you will see WICS holding up a mirror as a way of asking Scottish Water why it is not considering doing more of that when appraising its investment programme.

Martyn Day: On the river basin management plan, some of the related commitments seem to be a wee bit off track. How do we get Scottish Water back to where it needs to be?

David Satti: Largely, that goes back to the conversation that we had about the UID programme. SEPA puts in place the river basin management plan, and that plan does not operate to the exact same cycle as the strategic review of charges programme. The flexibility in our programme allows Scottish Water to adapt to priorities that might emanate from RBMP3. We have put in place that flexibility, which enables Scottish Water to plan, prioritise and adapt to emerging challenges that might come from the RBMP—the next one will be RBMP4.

The issue of holding Scottish Water to account for the delivery of its commitments goes back to the conversation that we just had about the removal of 108 UIDs and whether that will be delivered in full by December 2027. It looks unlikely that that will be the case, so it is then about when that will be delivered, what it means from a cost perspective and when customers will get the benefit of that investment. That is the work that SEPA and Scottish Water are engaging in—it is about when some of that will be delivered.

Martyn Day: Under the overall targets for 2027, Scottish Water has to get 81 per cent of the water environment to "good" or "better" status. What does good or better mean in that context?

David Satti: That classification is used by not just SEPA but all environmental regulators. The term "good or better" is a classification for water bodies. I am no ecologist, so I cannot get into the depths of that, but there are targets for improvement. It is fair to say that progress in the area is markedly better in Scotland than it is in other parts of the UK—by a mile—and in other parts of Europe. Scotland is recognised for its progress in that area. That goes back to the question about the differences and where Scottish Water delivers better and where it perhaps does not.

SEPA is attuned to trying to get more water bodies to good or better status, and prioritising some of the areas that do not achieve that is part of SEPA's RBMP3 process.

Martyn Day: Thank you.

David Barratt: I was going to ask about the programme's prioritisation of investment and whether it had the right priorities, with a particular focus on high-priority discharges, but I think that Sanne Dijkstra-Downie managed to extract the detail that I was looking for, so I have no further questions.

The Convener: In the final few minutes, we will move on to the final theme, which is the strategic review of water charges from 2027 to 2033.

Donald MacKinnon: You have touched on some of this in responding to questions from committee members so far, but I want to pick up on the rationale for the charge cap of 2.5 per cent above inflation and the conditional uplift mechanism in the final determination. Could you go into a little bit more detail about how you arrived at those positions?

David Satti: Sure. I could speak for days on this, but I am very conscious of the time. I will link back to the first question that the convener asked, which was about the many changes that WICS has made that have gone under the radar. We have probably not done a good enough job of articulating those

changes. One of the changes was to re-establish WICS as a commission, which involved recognising that some of the calls that are made, particularly in our strategic review charges, are judgment calls that should not be made by any one individual. WICS was created in order to get commissioners around the table and really get underneath some of those judgment calls.

The role of the executive is to provide the analysis and to look at the risks, the representations and what Scottish Water says, but it is also to hear the views of others. That is a very rigorous process that has taken almost two years and has included holding workshops with the commission to help it really understand in great depth some of the areas that we have discussed today, as well as, more generally, the implications for customers, the risks that it manages, what Scottish Water has proposed and what the likelihood would be if someone else, such as the CMA, looked at the issue. The process can come across as complex, but that is ultimately required when you are making decisions on an investment programme that is worth £8 billion or £12 billion of customer charges.

I will refer to a couple of the changes that we made in the process. First, I made a point earlier about large investment projects partly because we are seeing more of them. The west central bioresource project will be Scottish Water's largest ever project, and, if aspects of that project are managed incorrectly, even a 20 per cent increase in costs will have a massive impact on the rest of the investment programme. Safeguarding against that was one of the things that we looked at. How do we start, as part of our methodology, to articulate to Scottish Water that we will look at large investment projects slightly differently?

Secondly, you highlighted the conditional price cap. We recognise that Scottish Water does not have a crystal ball. It makes proposals and we then make decisions on the basis of the evidence that is provided, but there will be some areas in which it does not have the ability to provide such evidence. For example, we know that Scottish Water will have a pension revaluation soon. It does not know what the implications of that will be, partly because of the rising interest costs. We did not want to increase customer charges straight away, based on the assumption that the revaluation would result in the worst possible financial consequence for the organisation, so we have tried to put in a safeguard as a way of saying that, if some of the costs that are not related to management action materialise, customers can bear some of those costs.

Those were the two safeguards that we put in place. To answer your question about how we reached the final determination number, the starting point was looking 25 years out. That involved the long-term strategy and looking at the consumer prices index plus 2 per cent over a 25-year period, partly in the light of the challenges that we were facing but also recognising that it will take Scottish Water time to build up its supply chain so that it invests efficiently.

That approach was very much commended by the Cunliffe review, which was a review of the water industry in England. How do we get all industries to think about their entities over a 25-year period? In that review, the real tension was whether to continue on the path of CPI plus 2 per cent or whether we needed to increase charges further, recognising the challenges and inflationary environment that Scottish Water is facing and some of the PFI assets that were coming on board. Initially, Scottish Water put forward a business plan that was going to increase charges by 3.3 per cent, and we challenged the scope of that.

11:15

We put forward a determination of CPI plus 2.15 per cent and, as a result of some of Scottish Water's evidence, we felt compelled to make adjustments to that, so that is where we settled with CPI plus 2.5 per cent, plus the conditional price element of 0.3 per cent for the final four years. We recognise the implications of that. We are asking more of our customers, and therefore we are making sure that what our customers are going to get is a significant number of outcomes that Scottish Water is committing to.

It is a huge and rigorous process that covers many different areas, including some judgment calls, but, ultimately, where we have settled is that this is a very challenging but deliverable determination. As I said, Scottish Water's board will have to look at that and decide whether to accept it.

Donald MacKinnon: Thanks for going into the detail—it is really helpful for the committee to understand it.

I will move on to Scottish Water's costs and some of the determinations in that regard. My understanding from the figures is that, in the final determination, you have proposed a £283 million reduction on what Scottish Water had proposed for spend across operating costs and capital, and the figures I am looking at show capital as a significant chunk of that. Ariane Burgess picked up on that in her line of questioning, and, in response to her, you explained that there is no change in the scope of the capital works. I understand that figure to be about 2.5 per cent less than what Scottish Water thought was needed for investment. How did you arrive at the figure of £283 million? Is it a percentage of the capital side? Is it perhaps a

higher percentage of the capital side and a lower percentage of the operating costs, or is that decided on a project-by-project basis? Can you elaborate a wee bit?

David Satti: I am more than happy to do that. The first point is that there are two reasons why that is probably the most in-depth determination, in terms of the volume of material. First, it is a way of holding ourselves to account for our decisions, and, secondly, it shows the full extent of our scrutiny of the investment and the request for customer charge increases. We spoke at length about the capital investment programme and the project-by-project and programme-by-programme scrutiny, and about where the number settled being the result of the bottom-up assessment of all the different projects and programmes. In some areas, Scottish Water contested that quite significantly and provided better evidence—for example, on the efficiencies of some of the returning PFI assets. It believes that it can extract those efficiencies, which is why it is bringing those assets back in-house in the first place, but there was a question around the timing of that. Scottish Water provided the evidence on that, and we changed our determination on that basis.

For the capital programme, we worked project by project and programme by programme. In areas where we felt that we did not have the expertise, we brought that in from independent consultants.

Donald MacKinnon: I am sorry to jump in, David, and I am not expecting exact figures, but what is the range of percentage savings on an individual project? Does it vary quite a lot?

David Satti: It does, and there were also projects that we thought Scottish Water could not deliver at the price that it had given, so it needed to adjust that upwards. When we were looking at the costing of a programme, there were areas where would say, "Our consultants are testing it, and we think it would cost 20 to 40 per cent less. Can you give us more evidence for why the cost is higher?" In some cases, there are geographical differences. We went through the query process with Scottish Water to really understand the costs and then we settled on a number for the programme.

Therefore, the number that you have highlighted is more the aggregation of the bottom-up assessment. Something similar happens with operating costs. I am happy to go through that process, but it is slightly different, as it proceeds more line item by line item than project by project, informed by econometric modelling.

Donald MacKinnon: Thank you for that. It was very helpful.

My final question is for Aidan O'Carroll. In *The Times* last week, you were reported as saying that you wanted to take a more "muscular" approach to the regulation of Scottish Water. Can you go into a little bit of detail about what you meant by that? What do you see as WICS's priorities in the period that you are entering?

Aidan O'Carroll: Again, putting this into context, I would say that the focus in the period from 2021 to 2027 has been very much on outputs and on measuring whether the money was actually spent rather than on more qualitative aspects. In other words, what was the outcome that we expected to get and was it delivered? You will see in our determination for the period from 2027 to 2033 a significant difference in the way that we intend to monitor and assess performance across the 48 outcomes. We will not be measuring just the outputs.

My conversations with Scottish Water have been very much about gearing up WICS to be the exemplar regulator. I said that we needed to be more muscular, and as a result, we have built within the organisation additional resources and greater expertise, which will be deployed in protecting the customer's interest by measuring across the 48 outcomes. Is it 48, David? I just want to be correct.

David Satti: It is 44.

Aidan O'Carroll: It is 44 outcomes. We will be doing that on a regular basis.

We have also taken over the chair of the water industry investment group, which is where the bodies, the regulators and Scottish Water get together. As chair of the group, we will be able to intervene much earlier when we see things potentially going awry. Indeed, we specifically became the convener of the group in order to do that, to help push the progress that Scottish Water needs to make and to ensure that it does not go off target. All of that is in addition to the annual assessment of how Scottish Water is performing that you are used to.

I would describe that as a more muscular approach. You could use all sorts of adjectives to describe it, but it will be much more focused and intense.

Donald MacKinnon: Perhaps you can pick up on this question, too, David. What tools are available to you as a regulator if you think that Scottish Water is not meeting its agreed commitments over that period and you want to flex your muscles?

David Satti: I can cover that, but the point that I was also going to make—which I hope is coming across today—is that I will be Scottish Water's biggest advocate if it is doing well and I will also be

its biggest challenger under this determination. Generally speaking, we are trying to send the message that, when we are asking more and more of customers, the bar for evidence gets higher and we are not going to be shy when it comes to the data that we collect of Scottish Water or the justification that we expect when it is asking more of customers.

People can characterise that approach however they wish, but we will do it in a very congenial way in a world where regulation has generally become more adversarial. The review in England that I was talking about—the Cunliffe review—had a lot to say about how adversarial regulation has become. I will be Scottish Water's biggest challenger, but I will also be its biggest advocate, and we can get in the room and have these difficult conversations.

On your question about the tools that we can use, I am a big believer in exposing things to sunlight and highlighting areas that I think can be improved. Many questions are being asked, particularly in England, about the use of enforcement with water companies. Ultimately, that is paid for by water charges and customers, but what we want to do is focus on the right areas, be relentlessly curious as a regulator and ask all the right questions of Scottish Water. If we are not getting the right answers, we will make that very clear to Scottish Water. Ultimately, it has to explain that to customers and, if it cannot explain that to us, it will never be able to explain it to customers, the Parliament or society at large.

There are often questions about whether we need more tools, but I think that the tools that we have are sufficient. What we are getting is a publicly owned entity that is operating efficiently and delivering for customers. I would not be here suggesting that we need to expand the tools to continue to deliver.

Aidan O'Carroll: It is important to emphasise that we have very good communication with Scottish Water, and that will continue. We have open lines of communication, which goes back to the way in which the 2021 to 2027 plan was framed around ethical business regulation practices, so that we would have forums where we can have honest and frank discussions. That is important. David and the team have excelled through the process by having frank but respectful discussions with Scottish Water and keeping the lines of communication open.

Ariane Burgess: My question is connected to the tools and the muscular approach. We have already talked about leaks and sewage overflows. Your final determination sets out tougher targets for Scottish Water, with leakage down to 405 million litres a day, no more than four serious pollution incidents a year and at least 168 sewage overflows fixed. However, Scottish Water has missed its own leakage targets twice in this period, and it is behind on the overflows. I do not know whether this is about the muscular approach, the tools or communication, but what makes you confident that the targets will be met?

David Satti: My starting point is where I left off on the previous question. This is challenging, but we believe that it is deliverable. When we look across the board at other companies in England, which we triangulate with, we see that Scottish Water is investing significantly more in its existing infrastructure and capital maintenance. Therefore, we expect it to deliver more efficiently. Ultimately, what you measure gets delivered. Time and again with Scottish Water—even back in 2002, when it was created—we have seen that, if you give it targets and put the right incentives in place, it will move heaven and earth to deliver them. That was the departing message from the former chief operating officer before he left.

What is in place is definitely deliverable with the investment programme and operating costs that the organisation is producing. Scottish Water will produce a delivery plan at the beginning of next year, which will articulate how it will deliver. Given the amount that it is investing, we should expect nothing more than the outcomes that have been put forward in the determination.

Ariane Burgess: You said that it is important to provide incentives. To clarify, are the incentives the targets—is that how it works?

David Satti: It is the regulatory framework more generally. We do not want to create disincentives in the way in which I was speaking about earlier. If we were to say, "You have to deliver to time and to budget" and we were to hold up the mirror, that could be suboptimal. At the same time, we have put in place a process so that, if Scottish Water believes that some of the outcomes should be reprioritised and there is a greater risk in one area and it needs to increase the amount of outputs, we can have a discussion with it, provided that it can demonstrate that customers will get equal, if not greater, value.

It is as much about the broader regulatory framework and making sure that we are not disincentivising. The very fact that we are monitoring, scrutinising and holding it to account will provide a degree of focus. That has always been there, but we will do it in a significantly greater way.

The Convener: Words that have come up a few times this morning are "efficient" and "efficiency". From what you have said about Scottish Water, it sounds as though you are not concerned about it as an organisation but you think that there are

areas where, if it was a bit more efficient, there would be a more positive outcome. Is that fair?

11:30

David Satti: That is a fair characterisation. We highlight all of the evidence on that, including some of the things from which Scottish Water is getting a temporary benefit. Even excluding those, Scottish Water looks very good in comparison to its peers in England and Wales. I think that the conversation will evolve into being about the true potential of Scottish Water, given the rate at which it is investing and the way in which it is structured. Aidan O'Carroll spoke about the restructuring and the relative focus of different directorates. The real question is about the true potential.

In the determination, we have drawn a line in the sand in relation to the outcomes that we expect, as a way of signifying what we think that potential is. Efficiency is an element of that. We do not want Scottish Water to cut corners; we want it to deliver for customers.

The Convener: I have a final question before we close. We have heard about the proposal for the next period and the in-built considerations regarding the economy and construction price inflation. You said earlier that Scottish Water does not have a crystal ball—obviously, nobody does—but it is fair to say that the global situation is less than stable, to say the least, and that we have no idea what will happen next month, never mind over the period. What flexibility would there be, if necessary, for you and Scottish Water to re-evaluate and re-examine the final proposals that you have published and that Scottish Water will come back on in January?

David Satti: There has always been an element of our process whereby, if Scottish Water, as a result of events, believes that it cannot deliver on the regulatory contract, it can put forward what is known as an interim determination of charges. It can always press the button to invoke that if it wants to. That would mean an intense period of work, and the process has never been invoked in Scotland.

The uncertainty mechanisms that we have introduced as part of the review are a way of saying that we recognise that the world is uncertain and that there will be elements of Scottish Water's cost base that will be outwith its control. If some of those elements are realised, provided that Scottish Water can demonstrate that it cannot overcome the issues through other efficiencies, it can get that into the price. In putting the conditional price element of 0.3 per cent into the determination, I fully expect that that will be realised, but it might not be. If it is not, customers should not have to pay more. We have put that mechanism in place to deal with the uncertainty. At the same time, we have the mechanism of a much more flexible investment programme that will allow Scottish Water to flex to adapt to the uncertain environment.

I think that Scottish Water and its board have taken assurance that those two safeguards will give them some flexibility over the six years.

Aidan O'Carroll: It is also about creating a forum for early warning. That is where the water industry investment group could play an important role in anticipating issues, which will give more time for all the stakeholders to consider the best solution.

The Convener: I thank David Satti and Aidan O'Carroll for making themselves available.

I suspend the meeting for a five-minute comfort break before we move on to our next agenda item.

11:34

Meeting suspended.

11:40

On resuming—

Engine Idling (Improvement Plan)

The Convener: The next item on our agenda is consideration of the improvement plan that the Scottish Government has laid in response to Environmental Standards Scotland's investigation into engine idling laws. The Scottish Government's improvement plan is subject to parliamentary control, which means that the Parliament must approve the plan before it is published by the Scottish ministers.

We have invited the cabinet secretary to provide evidence on the plan at a future meeting. However, we agreed last week that we would like to hear from Environmental Standards Scotland before the session with the cabinet secretary. We are grateful to ESS for accepting our invitation at short notice.

I welcome our witnesses from ESS: Jamie McGrandles is head of investigations, standards and compliance, and Sandy Bendall is principal investigations officer. Before we move to questions, I invite Jamie McGrandles to make a short opening statement.

Jamie McGrandles (Environmental Standards Scotland): Good morning, everyone. Environmental Standards Scotland's investigation into vehicle engine idling examined whether the current arrangements for tackling unnecessary engine idling are operating effectively. The investigation considered the effectiveness of the existing enforcement regime and, in particular, whether the current framework provides an effective deterrent against engine idling.

Our improvement report concluded that there is a significant risk that key elements of the current framework are not operating effectively, and we noted that reform is required if the regime is to achieve its intended purpose. The recommendations in the report are intended to strengthen the framework and, in particular, to ensure that the enforcement tools that are available to local authorities remain credible, proportionate and capable of influencing behaviour.

ESS welcomes the Scottish Government's acceptance of the recommendations and its commitments to consult on increasing the level of fixed-penalty notices and to bring forward the necessary legislative amendments. We also welcome the Government's recognition that penalty levels should remain effective over time and the commitment to establish arrangements for future review.

Although ESS welcomes the direction of travel that is set out in the improvement plan, the effectiveness of the arrangements will ultimately depend on the level at which the penalty is set and the robustness of the mechanisms that are established to ensure that it remains fit for purpose over time.

I am joined by my colleague Sandy Bendall, principal investigations officer, and we look forward to assisting the committee in its scrutiny of the improvement plan.

The Convener: Thank you. The first question is from Donald MacKinnon.

Donald MacKinnon: I was going to ask whether you are satisfied with the Government's plans to review the level of fixed-penalty notices, but it sounds as if you are happy with the direction of travel. Do you have any concerns about what the Government has put on the table? Do you have any views or reflections on the plans for consultation?

Jamie McGrandles: You are right. We are broadly happy with the direction of travel, and we welcome what the Scottish Government has put on the table.

There are two things that may warrant a bit more consideration. The first is the level of the fine. The Government has proposed a number, which is fair enough, but consultation is needed to get some input on whether it represents a sufficient deterrent. Secondly, it is good that the Government has accepted the principle that there should be a review mechanism, but it is light on detail about who will do the review, what it will look at and when it will take place.

Other than those two things, however, we welcome the Government's plan.

Donald MacKinnon: That is helpful. Thank you.

Martyn Day: Initially, the Government pushed back on the level of the fixed-penalty notice. Its rationale was that idling creates only a small proportion of overall air pollution and that that proportion will decline anyway due to technological advances. Why did you reject that view and push for the improved level?

11:45

Jamie McGrandles: There were two main reasons for that. The first is that the 2003 regulations were never intended to fix air quality on a macro level; they were always about local pollution events, which still exist today, so nothing has changed in that regard. On the number of

vehicles on the road, we see that there has been an increase in the number of petrol and diesel vehicles, albeit the number of electric vehicles has increased as well.

The 2003 regulations are based on the principle of deterrence. For them to continue to be effective, the fines have to have a deterrent value. Based on what we were being told by local authorities, it was felt that the deterrent value of the £20 fine had been lost.

Martyn Day: What would be the cost to the local authority of imposing a fixed-penalty notice?

Jamie McGrandles: That is a good question. We never explored that with local authorities. We were satisfied that the feedback that we had on the £20 fine level was enough for us to conclude that the system was perhaps ineffective.

David Barratt: You have indicated that you are content, to a degree, that the fixed-penalty notice level will be kept under review but that you think that there should be some further mechanism. What kind of mechanism should be considered?

Jamie McGrandles: The mechanism should be clear about when a review should take place. There is a debate to be had about whether it takes place in two years, five years or 10 years, and views on that might come through in the consultation. It does not have to be a legislative mechanism, but I think that a commitment from the Scottish Government on those areas that I mentioned earlier would be welcome.

Sandy Bendall (Environmental Standards Scotland): If we go back to the original intent of the recommendation, we can see that it was all about preventing the situation that we find ourselves in now from occurring again five, 10 or 15 years into the future. We want to ensure that the fine level retains the deterrent effect in the future, so that the original intent and purpose that it was set for is retained.

David Barratt: So, you would not necessarily recommend that it be uprated by inflation every year or every five years, but you think that there should be some kind of mechanism to prevent it getting to the point at which councils would probably not want to fine anyone, because they would never recover their costs from pursuing the fine, which was the case with the £20 fine.

Jamie McGrandles: We would not propose a yearly review—absolutely not. Again, that is something that might come through in the consultation.

James Adams: Do you have any other comments about the improvement plan, including any suggestions for how it can be strengthened? I note what you have said about the need for the level of the fine to be a sufficient deterrent. Is there anything else that we could build on?

Jamie McGrandles: The Government has addressed head-on the main point that was identified in our improvement report, and I do not think that it can do much more in terms of the parameters of that report.

There are a couple of things that we felt that the Government has perhaps been a bit light on, but, in terms of how the system should operate, we have reached a point of resolution on those areas prior to coming here today. We think that, in the main, what has been done is positive.

Sanne Dijkstra-Downie: In your investigation, you found that local authorities are not recording or reporting on enforcement activity in a consistent or comparable way. I understand that you will be requesting data from local authorities on the recording of engine-idling offences and the enforcement action that they are taking in that regard. How do you see your organisation using that data, given the inconsistencies that you have identified?

Jamie McGrandles: That is a great question. I will give a bit of context.

When the regulations were first introduced, the statutory guidance mandated local authorities to provide that information to the Scottish Government. That was designed to assess the effectiveness of the regime, but it dropped by the wayside and here we are, 20-odd years later, trying to find the necessary data that will enable us to make decisions based on evidence. One of the problems that we found during the investigation was that that evidence was not there.

We propose to write to all local authorities in order to get a baseline once the committee has made its decision, one way or another, on the improvement plan—that will be day zero for us. Once we get that baseline, we will be able, in years to come, to request the information again and then make an assessment about the effectiveness of the regime.

Sanne Dijkstra-Downie: Is it as much about understanding the enforcement as it is about ensuring that local authorities improve the way in which they collect the data?

Jamie McGrandles: Absolutely. The enforcement regime is the means to the end.

Sanne Dijkstra-Downie: For how long will you monitor that?

Jamie McGrandles: I am not sure that I can answer that at the moment, unfortunately. It will depend on what the data tells us.

Ariane Burgess: I am interested in which lessons from your investigation should apply to the new air quality framework, which is replacing the cleaner air for Scotland strategy. The Environmental Rights Centre for Scotland found that idling is worse outside schools and hospitals and at bus stops, and that councils are not reporting enforcement. Anecdotally, since the issue came before us, I have talked to many people who did not know that idling is illegal. Do you recommend that the framework target those hotspots and require councils to report enforcement publicly? Did you have any other thoughts as you carried out your investigation?

Jamie McGrandles: Engine idling regulation is about the local rather than the national, but there needs to be joined-up thinking about the monitoring network and whether we are capable of monitoring local hotspots. We are tracking the work that is being done on that. It is not an easy issue, but, fundamentally, we think that the answer lies in better monitoring. What is the state of the air quality around schools, hospitals, care homes or wherever we want to monitor? Evidence-based decisions can then be made on what needs to be done.

The Convener: Should the consultation include questions about having the flexibility to impose different types of fixed-penalty notices, depending on the location, notwithstanding the point that you made about monitoring in some locations?

Jamie McGrandles: The Government has pushed back on—"rejected" is perhaps too strong a word—the idea of having a spectrum of fines, but there might be merit to that in particular areas. For example, historically, Hope Street in Glasgow has always had air pollution levels above the legal limits. The idea could work, so the consultation might want to ask questions about that.

The Convener: I am thinking about where some of the primary schools are situated in my constituency. In the past, we would regularly see signs around schools encouraging people not to smoke, so that the kids would have healthy lungs, and I suggest that engine idling is similar in that regard.

Jamie McGrandles: Absolutely. I do not think that we thought of or discussed that during our internal consideration, but there are probably more signs around schools about not smoking than there are about vehicle engine idling, which is interesting.

Sandy Bendall: As the committee might be aware, a law was recently passed in Wales to introduce a wider spectrum of fines ranging from £75 to £150 for engine idling, so such approaches have been adopted elsewhere in the United Kingdom.

The Convener: I understand why the Government would probably not want to introduce an automatic annual increase in the fine level, but would it be beneficial to have in-built reviews? For talking's sake, there perhaps should be a review every three years as opposed to the current situation, with fines not having changed for more than 20 years.

Jamie McGrandles: That could be an option. Environmental Standards Scotland is hesitant to suggest anything without having data and evidence, so we are doing further work to see what the data shows. We can then make more informed decisions about review periods and so on.

If, in two or three years, the evidence shows that there is no enforcement and that things have not changed on the ground, there might be a case for increasing the fine level. We deliberately did not put figures on the fine level and on the review periods, but the consultation should consider those issues.

The Convener: That brings us back to David Barratt's question and the point about what happens if the £20 penalty is not enforced. I know that you will get the data in due course, but what if it is not being enforced because it is such a low amount that local authorities think it not worth their while pursuing it? What if the fixed penalty were to be higher? Would it be accurate to say that you will be using the data that comes in over, say, a three-year period to shape any future considerations of fees?

Jamie McGrandles: Yes. I think that that would be a fair assessment. However—and just to ensure that I am not at risk of conflating two separate things to the committee—I would point out that there will be enforcement, which is when an FPN will be issued, but there will also be deterrence. In a number of ways, you will never know how many people's engines you have stopped, because that is the point of a deterrent—you just never know. Therefore, this is about more than simply understanding how many tickets have been issued; it is about looking at the broader picture and at whether the areas round about our schools, our hospitals and so on—Hope Street, even—are cleaner. That has to be part of the picture, too.

The Convener: Okay. Sure.

Ariane Burgess: I have a broader question that picks up on my point about people I have asked not knowing that idling is illegal. How would people even find that out? We love to attract people to Scotland, and when they come here they might well rent a car. I do the same for work, so I know that, when I get the car, there is nothing to tell me that idling is an illegal practice. Therefore, we are

not really helping people to act in the best possible way.

I get the point that this is an enforcement practice for local authorities, but how do we reach people in the first place, in their own personal cars? I think that I have been inspired by Jamie McGrandles's point that we need a bigger picture of joined-up connections, and I wonder whether we should try to get this information across to people not only when they hire cars but when they get or renew their driving licence.

Jamie McGrandles: I absolutely agree. It probably comes under the broad banner of education, but there is certainly a space for that sort of thing. We did not look at that specific issue, as it does not form part of environmental law, but it is just a matter of common sense. Speaking as a member of the community myself, I do not think that I was aware of it before I started working at ESS.

The Convener: As members have no more questions, I thank our witnesses very much.

That concludes the public part of the meeting, and we will now move into private to consider the remaining items on our agenda.

11:58

Meeting continued in private until 12:14.

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