

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 31 October 2001
(Morning)

Session 1

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TRANSPORT AND THE ENVIRONMENT COMMITTEE

26th Meeting 2001, Session 1

CONVENER

*Mr Andy Kerr (East Kilbride) (Lab)

DEPUTY CONVENER

*Nora Radcliffe (Gordon) (LD)

COMMITTEE MEMBERS

*Robin Harper (Lothians) (Green)

*Mr Adam Ingram (South of Scotland) (SNP)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Fiona McLeod (West of Scotland) (SNP)

Des McNulty (Clydebank and Milngavie) (Lab)

*Bristow Muldoon (Livingston) (Lab)

*John Scott (Ayr) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Bruce Crawford (Mid Scotland and Fife) (SNP)

Richard Lochhead (North-East Scotland) (SNP)

WITNESSES

Peter Bolton (Scottish Churches Committee)

Zoe Clelland (Scottish Environment LINK)

John Downie (Federation of Small Businesses)

Ian Jones (Quayle Munro Group)

Jim Lugton (Scottish Council for Voluntary Organisations)

Trisha McAuley (Scottish Consumer Council)

Lucy McTernan (Scottish Council for Voluntary Organisations)

Lisa Schneidau (Scottish Environment LINK)

Jane Todd (Federation of Small Businesses)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERK

Tracey Hawe

ASSISTANT CLERK

Alastair Macfie

LOCATION

The Hub

Scottish Parliament

Transport and the Environment Committee

Wednesday 31 October 2001

(Morning)

[THE CONVENER opened the meeting in private at 09:35]

09:47

Meeting continued in public.

Water Industry (Scotland) Bill: Stage 1

The Convener (Mr Andy Kerr): I welcome everyone along to this meeting of the Transport and the Environment Committee. We are now on agenda item 2, which is our consideration of the Water Industry (Scotland) Bill.

I extend a warm welcome to Ian Jones who, as members are aware, was our adviser on the recent inquiry into water and the water industry. Ian is the chairman and chief executive of the Quayle Munro Group and is very familiar to us.

I ask Ian Jones to make some opening remarks, then the committee will ask questions.

Ian Jones (Quayle Munro Group): I have read through the bill and the Scottish Executive's response to the committee's report. It is fair to say that it has responded to the points made in the report. I will dwell on one or two of what I would describe as the main financial areas.

I am pleased that the introduction of common carriage is going to be delayed in Scotland, to allow the English experience to be considered. The committee made that point: it is important to the health of water provision and the authorities.

I am also pleased to see the references to the setting up of the appropriate regulatory framework. The expression "full and appropriate costs" is used in the Scottish Executive's response. The committee made that point and the Scottish Executive made it to me in discussions. I am glad that it has been promulgated in that form.

I am also pleased to see the way in which the public sector model has been developed. The Executive has emphasised the need for operational and commercial flexibility, relevant boardroom experience, a more commercial approach to debt collection and the need to be closer to customers.

I have been interested in the public sector model for several years. It has been developed through privatisation in a more commercial and appropriate way, then at one stage through consideration of companies limited by guarantee. The private finance initiative is also part of that process. In the water industry in Scotland we are giving a single authority—which admittedly is a monopolistic provider—a commercial approach enshrined in legislation. That is a good model. We can still serve the public community by giving an authority those powers and letting it get on with them.

I was surprised, when I dealt with the Scottish Office as a consultant in the 1980s and 1990s, that public authorities had to go back to the Scottish Office for consent to do almost anything. Management was given, but then it was taken away again. That did not give management a chance; they became carriers out of a committee decision.

Michael Prowse wrote a good article in the *Financial Times* at the weekend, which pointed the reader to the success of the monetary policy committee. Complete authority has been given to the members of the MPC and they have done the task well. Michael Prowse said that that is one of the main achievements of this Government. The article said that authority should be given to distinguished decision takers and that they should be allowed to get on with it; they must be accountable to their authority and to Parliament, but they should be left to get on with it, not messed around. I suggest that that should be the guiding light for the new single authority. Make it more commercial, give it a proper board and the proper powers, then let it get on with using those powers, subject to regulation.

That brings me on to the role of the water commissioner, who described his existing powers well in his presentation to the committee in January. He has two main functions. First, he must protect the consumer in relation to complaints and is responsible for the complaints procedure. Secondly, and perhaps more important from a financial perspective, he has a duty to approve charges schemes. He is, in effect, the economic regulator. His regulatory discipline extends only to giving advice to ministers, which can be accepted or rejected. That is slightly different from the situation in England, where Ofwat can make a determination and does not have to go beyond its own determination.

Reading the *Official Report* of last week's committee meeting, I was interested to see Dr Sawkins's reference to what he thinks is a weakness in the Scottish system. My view is that the situation in Scotland is different from that in England. The Scottish water authority is a public authority that is accountable to the Scottish

Executive and to Parliament, not to its shareholders. That is the key difference. It would not be good for the water commissioner to have to determine Scottish Water's position on charges on his own. He has a strong voice and is, as far as I am aware, entitled to publish his views if he believes that the Scottish Executive is not properly following them. I believe that the checks and balances exist in the legislation: that is somewhat contradictory to the view that Dr Sawkins expressed to the committee last week.

On the debate that we had about the advantages to customers of the single authority, it is important for the committee and the Parliament to keep an eye on all those involved—the water commissioner and the Scottish Executive—to watch the progress that is made towards savings. During our deliberations in the spring, a lot was made of the advantages to customers of a move to a single authority. I might also add that there will also be advantages in the face of competition from English or other providers once common carriage is available.

The move to efficiency is important. We considered the model of prospective charges through to 2006 to the three authorities as against a single authority. The committee relied on the calculations of the water commissioner and his staff. More challenging assumptions were used by the water commissioner in regard to the single authority than were used by the three authorities in their strategic business plans. It is important that the committee carefully monitors the progress on achieving those savings over the next five years—they are crucial to the success of the single authority and its efficient direction.

The water commissioner is looking to savings through to 2006 of about 30 per cent on operational costs, which would be just short of £150 million, and a similar percentage on capital efficiency, which would mean a saving of around £700 million on present projections. The sums are significant. If they are achieved, they will undoubtedly benefit the company and the consumer.

I suggest that the Parliament is the appropriate body to monitor progress to ensure that the water commissioner is harrying the single authority and that the single authority is reporting properly on the steps that it is taking to achieve those all-important savings.

The Convener: Thank you. Bearing in mind your previous work with us, Mr Jones, you will have a new overview, and it was very interesting to hear how you envisage things turning out at the other end of the decision-making process.

Bristow Muldoon (Livingston) (Lab): Thank you, Mr Jones, for that comprehensive opening

statement. It was useful, particularly given the work that you have performed on behalf of the committee over recent months.

In your remarks, you spoke about the move towards the single authority. There are assumptions about the potential efficiency savings above those made by the three existing water authorities. One of the interesting pieces of evidence that we heard, which I am sure you will have read in the *Official Report* of our meeting last week, was that from Ofwat about its experience in England and Wales. It had not found a difference in efficiency between the smaller water authorities and the larger ones. Do you think that moving towards the single water authority will bring advantages through flexibility of operation? How does that affect your view about whether the expected efficiencies will be made?

Ian Jones: First, the prospective chief executive of the single authority referred to the efficiency of bulk buying. The new single authority will be a large consumer of services and will undoubtedly be able to benefit from bulk buying. Secondly, there will be overhead savings. Such savings are being made widely across financial services and industry—manufacturing and other sectors—as they devise more efficient intercommunication procedures.

I am somewhat surprised that Ofwat stated that a smaller company is more efficient. Whether small companies are more efficient is an everlasting debate that I would not wish to join. Some of them are very efficient because—this is certainly the case in very small companies—their chief executive is working beside his staff. I would be extremely surprised if the operational and overhead savings and the enhancement of management standards at all levels by virtue of the nature of companies did not produce cost savings in the water industry in Scotland. However, the best person to ask is the water commissioner, not me. The idea that a smaller company can be just as efficient as a large, well run company in this context flies in the face of all conventional wisdom. I would be very surprised if that proved to be the case.

Bristow Muldoon: You said that you are pleased on the whole with how the public sector model has been developed to provide the required flexibility of operation. Are there any ways in which that could have been improved further, to prepare the industry for competition?

Ian Jones: There is a limit to what can be done through statute. If I remember correctly, the relevant powers in the bill are wide, and give wide commercial and operational freedom. Thereafter, it is up to management: they know their company and need to set demanding standards—they cannot adopt too soft a standard. I have no doubt

that Jon Hargreaves, with his experience of private and public industry, is a good person to run the single authority and to use the powers that will be given to him by Parliament to deliver the savings to which we have already referred.

Both the community and Parliament have to scrutinise those steps carefully and to ensure that the water commissioner is doing his job properly. At present, we have a very active water commissioner who is robust in his approach to what is required of him and the objectives he is able to achieve through his office. I hope that that state of affairs will continue, but of course it depends on the individual. We need a strong water commissioner who is financially abreast of what is going on and sets demanding standards, and an Executive that responds but does not resist. As I suggested, that is a matter of continuing scrutiny.

Bristow Muldoon: One of the concerns that some of the witnesses raised last week is that the flexibility in the bill is so broad that it would allow Scottish Water to dismantle the public sector model. The chair and chief executive designate of Scottish Water refuted that. Do you have a view on whether that is a danger?

10:00

Ian Jones: I saw the references. They were from the trade unions, were they not?

Bristow Muldoon: I believe that Dr Sawkins of Heriot-Watt University said the same thing as well.

Ian Jones: I hesitate slightly on this point. As you know, I am a financial man and I therefore see financial efficiency as the first discipline to observe. Clearly, other factors are important in the running of a company, but, essentially, financial efficiency is the decisive issue.

As I said earlier, the authority will be given responsibility for delivering water of a certain standard as efficiently as possible. The way it handles relations with staff, its pension provision and so on will be subordinate to its main objectives, as is the case with any private sector company whose first objective is to carry out its commercial objectives. For such entities, the standard of fixed equipment and the provision of facilities for staff are not a prime consideration. If Scottish Water went too far down that path and the community disliked all the job losses, for example, or believed that a system that ensures that reservoirs are clean and well maintained was threatened, the community could assert its will through the democratic process—including through this committee and the rest of the Parliament—because Scottish Water will be a public body. Other than that pressure, the authority should be left to run its business in

accordance with the standards of the board and the efficiency of its management.

Bruce Crawford (Mid Scotland and Fife) (SNP): You have said a couple of times that the authority should be left to get on with running the business. Some other public sector organisations, particularly those involved in the rail industry, might provide other ways of operating that we might want to consider in relation to Scottish Water.

You mentioned a company that is limited by guarantee. If it were a public company, the main shareholder was the Government and it was a non-profit-making public service trust, would it be robust enough to do the job that Scottish Water will be expected to do? If I understand the Treasury rules correctly, such a company would be able to get on with running the business as you suggest because its affairs would no longer be on the balance sheet and it would not be constrained by the normal borrowing consents.

You said that the water commissioner should have strong powers to set standards and that the Executive should not resist that. Would it help if the Scottish Parliament appointed the commissioner? That would give the commissioner some distance from the Executive and give him the same powers. The commissioner could also be given responsibility for reporting to Parliament as well as to ministers. That might give the commissioner more freedom to operate without having to set up something similar to Ofwat.

Ian Jones: There would be no objection to the commissioner's being appointed by Parliament. Given that Parliament passes the legislation, it is ultimately up to Parliament anyway. It is open to Parliament to suggest, in cases where there is an element of having the Scottish Executive play the roles of judge, jury and accused, that Parliament should act as the jury or even as the prosecutor. That is perfectly reasonable. It would give Parliament the responsibility for staffing and for debating complex financial questions with the commissioner. There is no reason why Parliament should not have that responsibility.

About 10 years ago, I might have been responsible for suggesting that companies limited by guarantee be used in this context. We had been appointed to advise the Scottish Office as it investigated ways to introduce private sector capital to water and sewerage in Scotland. The Treasury asked us exactly what companies limited by guarantee were, which suggested to me that the idea was possibly fairly new. At that stage, we had witnessed what had happened in England and were aware that it might be possible to arrive at a better model in Scotland. What made the area financially attractive was the fact that banking finance was available on attractive terms without

the need to service shareholders. However, our suggestion was not subsequently pursued and the PFI system was introduced instead.

The situation with Railtrack was always difficult. I could not understand how the conflict between shareholder interest and the overwhelming need for investment could be resolved with genuine public sector infrastructure and no competition. It seemed a bit of a fudge at the time and since then, as we all know, it has fallen apart.

In Scotland, we have taken a course that involves a development of the public sector model. I mentioned earlier that I thought that the Scottish Executive might have been interfering too much in the authorities' business and not letting management get on with the job in hand. This morning, I have suggested that the legislation that is proposed would result in a freer public sector model that would serve the community's interests. In that situation, the vigilance of Parliament and the existence of the water commissioner as a regulator would be the safeguards. Would it be better if the role of the safeguard were played by the community without the intervention of Parliament or the Scottish Executive? I am not as clear about that as I used to be. I think that the model that is in the bill is just as good, provided that commercial freedoms are enhanced in the way that they seem likely to be.

You are right to suggest that a company limited by guarantee would be taken out of the public sector borrowing requirement. At the moment, the public sector borrowing requirement is not a problem, although it was in the early 1990s. Let us hope that that is always the case. If it is not, the development of that model might also be advantageous for other economic reasons.

Placing the company entirely in the private sector would provide no great advantage in terms of how it is run. One of the great debates that we had with the Scottish Office and the Treasury was around who appoints the directors. If something goes wrong, the state must be the ultimate determinant, so the situation never goes that far away from the state—as we have seen in relation to Railtrack.

I do not think that we need a company limited by guarantee to achieve what is sought.

Bristow Muldoon: The water authorities have a number of PFI contracts. Would there be any difficulty transferring those contracts to Scottish Water?

Ian Jones: It depends on the wording of the PFI contracts. My reading of last week's *Official Report* leads me to think that there would be no difficulty.

John Scott (Ayr) (Con): The chief executive designate of Scottish Water has indicated that the

organisation will not be disadvantaged by carrying the considerable debt that the water authorities have at present. Do you agree with that? What are the alternatives? Is there scope for the debt to be restructured in any way? For example, could a subsidiary company be created to take on all the debt? That would free Scottish Water's borrowing powers.

Ian Jones: I will deal with the last point first. An authority of this kind, even if it is incorporated under statute, will still consolidate its accounts, which means that any subsidiary's debts will go straight to the parent company. The fact that the subsidiary carries debt makes no difference. The parent still has to ensure that the interest is paid and although theoretically it could sail away from its subsidiary, that would not work because it would not get the debt on acceptable terms. If there is any risk associated with servicing the debt, we just end up paying more for the money.

As for the amount of debt, I think that we are looking at about £2 billion of existing debt, but I cannot remember the precise figure for the prospective debt to 2006.

John Scott: I think it is something like £4 billion.

Ian Jones: Yes. I think that there is about £2.4 billion of expenditure in that period—that figure might be wrong because I am just going from memory—of which a large proportion will be debt. I cannot remember precisely the figure for prospective debt in 2006. However, the financial models on which the single authority was projected show that there will be no difficulty at all in servicing the debt. It will be important to continue to monitor the clear revenue and cost sensitivities in the model. The big revenue risk is related to commercial revenue. The further slippage of big users would obviously have a detrimental effect on revenue through common carriage. That is why the single authority has to be an efficient organisation that is capable of meeting the commercial challenge.

One of the areas that caused some concern earlier in the year involved the North of Scotland Water Authority: commercial leakage on a modest domestic base, increased borrowings and greater expenditure per consumer than in the other two authorities. Such a weakness in NOSWA caused more concern than it would have done if it had been detected in East of Scotland Water or West of Scotland Water. It was considered that a single authority and the move to efficiencies would assist the necessary expenditure in NOSWA without causing undue pressure elsewhere.

Although I do not believe that there is a significant debt challenge, that question should be put to the water commissioner when the committee takes evidence from him in due course.

His prime function is to examine those models and assess their viability.

Bruce Crawford: There is obviously a close correlation between debt and charges. A great deal of concern has been expressed about the level of charges over the next few years. Last week, I asked the chairman designate and chief executive designate of Scottish Water about the impact on charges of financing capital projects from revenue. Some of the figures that I have seen suggest that that approach seems to be skewing the level of charges. Is it possible to service the debt by borrowing more money over a longer period of time—perhaps 30 years—and keeping charges down in the short term instead of financing so many capital projects from revenue?

Ian Jones: The longer the period of time for servicing debt, the better. We are still facing a catch-up period in Scottish water and sewerage. In real terms, we have probably reached the peak of expenditure in the period between 1996 and 2006, which must be slightly more than £5 billion. That fact was known in the early 1990s; that expenditure had to be financed by charges, because there was no other place where the money could come from. The water industry has to stand on its own through its consumer base without support from other sources of central Government finance. As far as water is concerned, neither 25 nor 30 years is a very long period and, as I have said, the longer the period for scheduling the debt, the better. In effect, the debt is not retired too quickly and over a shortish period of time—I would put shortish in inverted commas—the consumer does not suffer from above inflation increases that are difficult to sustain. I agree with your point.

John Scott: What are your views on the merits of funding the future spend of Scottish Water purely from borrowings, which would suggest no PFIs, as proposed by the chief executive designate of Scottish Water?

Ian Jones: The chief executive designate is the best person to answer that question, because he knows the nature of his projects.

John Scott: We are seeking your views on his comments.

Ian Jones: I may have explained to the committee before that, initially, PFI takes a bit of understanding, because what do you get? You get money being provided by the private sector, which has an extra cost of funds of at least 1 per cent and of quite heavy front-end fees. We went over this issue before, and it is well known. With PFI you have a longish period for concession—25 years—which is not disadvantageous, and is much the same as with public sector finance. You have the transmission of operational and maintenance

risk, in terms of a contract, which you must make sure you get. You have a fixed price at the outset, which of course may be available under conventional procurement. The risk transfer usually is regarded as total for a straightforward project.

10:15

PFI has never been free from doubt. The financial community and the private sector would say that right away, although they are busy doing PFI projects at the moment. I read recently of overspends on the Edinburgh royal infirmary PFI project. The reason is that hospitals are difficult buildings. They require detailed specification. The same applies to water projects. They may be simple to put up, easy to maintain, discrete projects that do not carry undue development risk during the contracting period, but risk will always get passed back to the public authority. The private sector may carry some of it, but it will tend to pass the difficult bits back to the awarding authority, so there will be escalation, and it will be the same escalation that you get under conventional procurement. The issue is whether such escalation can be controlled better by the PFI process. That determination is essentially one for the awarding authority and the PFI specialist teams in the Treasury and the Scottish Executive.

Parliament should satisfy itself about those issues in examining PFI projects, to ensure that they are being rewarded properly and to ensure that there is a genuine gain for the public. If there is no clear-cut gain, there will be no ready answer through PFI and conventional procurement will be just as good.

The Convener: Maureen Macmillan has a question on the activities of Scottish Water.

Maureen Macmillan (Highlands and Islands) (Lab): Welcome again, Ian. When we took evidence from the chairman designate and chief executive designate on how Scottish Water might diversify commercially, they did not go into much detail apart from stating the obvious, such as that cables could be put down sewers. What scope does Scottish Water have to operate in water and sewerage markets outwith Scotland, and in non-water-related markets? What are the advantages and disadvantages of the new structure? Do the advantages outweigh the disadvantages?

Ian Jones: As I understand it, the structure gives Scottish Water commercial freedom to operate within its existing remit as a water and sewerage provider. I believe in focus. I do not think that companies should go into areas that they do not understand, or of which they have limited experience. They certainly should not do so without great resources, either money or personnel. UK corporate entities have made huge

mistakes under empire-building banners—at the expense of their shareholders. There are many recent examples. Therefore, commercial freedom should be limited to areas in which companies have expertise and where they can add value for profit.

In effect, Jon Hargreaves was saying that. Scottish Water will have pipes and infrastructure that may be available. It can get the income of a rentier by providing those pipes for allied facilities. Scottish Water will be an infrastructure provider that is used to dealing with an infrastructure network. Value will be obtained in the market by selling that expertise. However, its first objective is to get its cost base down to maintain—or possibly enhance—its revenue base, where it can, through its existing processes. I hope that the so-called commercial freedoms are kept in the background in the short term and that its large job is put through into its prime function. At this stage, the commercial freedoms can be over-emphasised.

Maureen Macmillan: So you do not think that consumers need worry that Scottish Water will indulge in commercial enterprises that will fail and put up costs.

Ian Jones: I hope not. I am sure that Scottish Water will be wise enough not to do so.

Fiona McLeod (West of Scotland) (SNP): Many questions that I was going to ask about regulation have been covered, for which I am grateful.

An issue that may arise when competition or common carriage is opened up is that some of the companies involved will be English companies and will be regulated by the drinking water inspectorate, but water in Scotland will be looked after by the drinking water quality regulator. Do you foresee problems in the regulatory framework? Will roles be clear cut and geographical?

Ian Jones: That is a good question for a financial person, if you do not mind my saying so. Clearly, there must be a common standard. I presume that there will be appropriate liaison between the English and Scottish authorities to ensure that water of a satisfactory standard is delivered.

On water provision, we are aware that water is not transmitted physically by competition—it is transmitted by brokerage. If an English authority supplied water to Grangemouth, I bet that that would be Scottish water rather than English water. Although it may not therefore be a real commercial consideration, it would certainly be unsatisfactory if there were two different standards with financial implications that left the Scottish authority at a disadvantage compared with the English authority. I do not suppose that we would mind too much if

things were the other way round, but we must protect our own patch. It is important that a common standard is sustained.

The Convener: As there are no other questions, I thank Ian Jones for attending the meeting. I hope that he enjoyed being on the other side of the table. As a previous adviser, he had the privilege of sitting at this end of the table on occasion. His evidence has been useful.

I welcome John Downie and Jane Todd from the Federation of Small Businesses and Trisha McAuley from the Scottish Consumer Council.

I apologise that the sun is causing havoc by streaming through the window and into witnesses' faces. There is nothing that we can do about that, as we do not have blinds.

I understand that the witnesses would like to make short opening remarks. The committee will be happy to listen to those, after which there will be questions and answers.

John Downie (Federation of Small Businesses): I will be brief because members will want to ask questions.

The Federation of Small Businesses supports the creation of a single water authority that is run on a commercial basis with the operational flexibility that is needed in today's challenging and competitive environment. Our members recognise the need for large-scale investment in the water industry to meet the new legislative standards that have been imposed upon us.

A key issue for the business community and consumers is cost. We have received feedback in the past months about the cost implications for businesses. That is our biggest concern—the phasing-in of higher prices and how the company will operate commercially.

The other big key issues are competition and access for the small business sector to contracts when they go out to tender. There is a concern about contracts being tied up by the larger companies.

There are a number of issues, therefore, about which we are happy to take questions.

Trisha McAuley (Scottish Consumer Council): We welcome the general principles of the bill, but there are issues that we may want to address when members ask questions.

In the past couple of years, we have had three areas of real concern in respect of domestic consumers. There was concern about geographical inequity in charges and the particularly difficult situation faced by people in the North of Scotland Water Authority area, who had to pay much more for their service. Therefore, we welcome the creation of Scottish Water as a move

towards the harmonisation of charges and an attempt to have a fairer way of consumers paying for their service.

Another area about which we had concerns was the lack of an independent and strong mechanism to represent the voice of domestic consumers. We are pleased that the bill addresses that and we welcome the introduction of customer panels.

We have continuing concerns about long-term affordability. The bill does not address the long-term solution to affordability for people who genuinely cannot afford to pay their bills. We have been working with the water industry commissioner to formulate a longer-term solution, as have other groups. We are optimistic that that will happen in due course. We hope that the bill will create efficiency savings and that there may be a pot of money to help effect a solution.

The key issue for us in the bill is that Scottish Water should deliver for customers—its performance is crucial. Although we welcome the panels, they have to work. To work they must be accountable, responsive, have a high profile with consumers and be effective. It is crucial that the water industry commissioner's office provides the infrastructure and adequate resources for the panels to do that.

The general intention seems to be that the customer panels represent domestic and probably small business consumers. However, that is not specified in the bill. We are concerned that if they were to represent all consumers they could be tied up representing the interests of big business, which has the buying power and resources to lobby on its own behalf.

Bristow Muldoon: You have addressed the first area that I was going to explore. Both organisations welcome the structure that is proposed in the bill, although I note that you have some remaining concerns.

I note that one of the FSB's concerns is access to contracts. Perhaps John Downie could expand on that. Are there structural problems or is it a question of the management approach of the new body?

I note the comments about long-term affordability that the Scottish Consumer Council has made and I recognise that there are on-going discussions about that. Are there any concerns about the proposed structure of the water industry that would impact on that or is the new structure likely to help address that issue?

John Downie: Access to contracts is a management issue for the new authority. The biggest concern of our members is that they are left as subcontractors and are unable to compete on a level playing field for the contracts on offer. In

several areas, larger companies have come in and tied up the bidding process. There is a problem with the current method of procurement. The issue is wider than the water authority. Government procurement must be opened up and made more accessible to small businesses. That relates to the size of contracts and so on. We have raised that issue with the water commissioner and he is aware of our concerns. We are optimistic that he will push Scottish Water on the issue.

We had some feedback from Argyll, where the present water authority put a contract out to tender. An English company won the contract and all the local small contractors have been taken out of the equation. They have all lost business and laid off staff because the contract was won outwith the area. That is fine on a commercial basis, but no one was able to compete equally with the muscle and the finance that the other company had. That problem has been raised by several MSPs and by our members in that area.

We have to consider how to make the process open and accessible. We have to ensure that the contracts are broken down to allow small businesses to compete either individually or as a group of partners with specific areas of expertise for each business so that they can get together to access the contracts.

Jane Todd (Federation of Small Businesses):

That is a current concern for small businesses and clearly it is an issue that could be exacerbated by changing from three authorities to one. As John Downie said, it is part of a larger picture. The Government and local authority drive towards e-procurement is bringing consolidation to the procurement process and that is working against small business interests at the moment. We would like that to be taken into consideration and regard it as a management issue.

10:30

The Convener: Do the three authorities—the North of Scotland Water Authority, East of Scotland Water and West of Scotland Water—each take a different approach? I had correspondence with the chief executive of West of Scotland Water about its approach. It seemed to be largely inflexible and did not get the right result. I think that on that occasion the authority filled in a questionnaire, added all the sums up and got the wrong answer.

Is that system being applied throughout Scotland? I have had experience of only the scenario in West of Scotland Water.

John Downie: Our experience is that West of Scotland Water has been more inflexible than the other authorities. It seems to us that East of Scotland Water has been more flexible and

forward-thinking in its approach to business customers in general. The dealings that our members have had with West of Scotland Water have not been good.

The North of Scotland Water Authority has its own situation, but it, too, has been much more flexible. That is a reflection of the feedback that we have had from our members.

Bruce Crawford: You just hit the button of what some of the problems are, convener.

There have been difficulties in West of Scotland Water, but—according to the evidence that I am getting—difficulties are beginning to grow in the North of Scotland Water Authority area. There are projects in the Aviemore area in which a number of larger companies are consolidating as a new company to deliver water services. Those include a company called Stirling Water, which gives the impression of being a Scottish company but is run by Thames Water, and a number of other associated businesses.

Will John Downie confirm what I have heard from small businesses? They have said that the questionnaire and the whole decision-making process to get a company to preferred-bidder status is a key area of difficulty. That will perhaps get worse because we will have a larger organisation that will deal with even more bundled contracts.

If we get the decision-making process for preferred-bidder status right and if smaller companies can bid for smaller amounts, perhaps that will enable a freer market with better competition to develop. Do you see any way in which consultation can be built in so that people can agree that the method that is being used to get to preferred-bidder status is acceptable? That will be key to making everybody in the arena happy.

John Downie: I think that you are right; getting to preferred-bidder status is extremely difficult for smaller businesses. A number of issues surround that, including financial resources. Nigel Griffiths announced the relaxation of tendering for Government contracts the other week. That was an extremely difficult process, in which small businesses had to submit three years' accounts. The issue is whether a business can deliver and do the job. We should be judged on our ability to do the job. The problem was that small businesses were judged on their finances rather than their ability to do the job. That was a drawback in getting to preferred-bidder status.

We see the same thing in education with Scottish Quality Management Systems. Institutions have to get to certain standards to be a supplier of certain educational courses.

We have to consider how to make the process easier for small business. We have to open up the process so that it is not all based on previous accounts; it should be about what businesses can offer the customer.

Jane Todd: The potential of bundling contracts to make it harder than it is for small businesses to tender is a genuine problem. The committee has highlighted the pinch point: the access to preferred-bidder status. Over the years, quite a few of our members have complained that they have had increasing difficulty in accessing potential contracts.

The issue of consultation and how the process can be made genuinely more accessible for small businesses was also raised. It may be that the move towards one water authority will give us an opportunity to engage in consultation. That will allow us to examine how the bureaucracy and management of this process can genuinely meet the requirements of businesses and ensure the provision of an effective water service. We are very happy to engage in such consultation.

The Convener: For the benefit of members, it should be pointed out that some sizeable businesses have lost out in this process. We are not talking about Downie Todd plumbers, but about large organisations that people see in the streets every day. I hope that the new Scottish water authority will deal with that problem. I have corresponded with the new people in charge of the authority. Members should not get the impression that we are talking only about businesses that employ six people, although those are important. We are also talking about companies that I would describe as large losing out. It is important that we note that. It is good that the point is being made in evidence, because we can communicate it to the Executive and to the chief executive designate of Scottish Water.

John Downie: We have talked to members who work in industries related to the water service and who currently supply the water authorities. They include companies that employ six people, companies that employ 56 people and companies that employ 100 people. All sizes of businesses—small, medium and large—are experiencing difficulties.

The Convener: I apologise for the delay in getting back to Trisha McAuley.

Trisha McAuley: That is okay. It gave me a chance to write down some notes.

Bristow Muldoon asked whether the new structures could help us to address affordability. As I have said, we hope that there will be a bit more money in the pot. However, we also have an opportunity to create new structures that will allow us to identify vulnerable groups of consumers. The

customer service of the current water authorities could be better. We are looking to a new authority to wipe the slate clean and to put in place better customer care all round.

There are two areas in which the new structures will help. The first relates to Scottish Water. There is an opportunity for Scottish Water to be more responsive to its customers and to start from scratch. More important is the point that Alan Alexander made last week about billing. We would support any moves towards billing by Scottish Water instead of by local authorities. That would enable us to identify people who cannot pay, as opposed to those who will not pay. At the moment that distinction cannot be made. If Scottish Water went down the road of direct billing, we would look to it to introduce flexible payment methods to help its customers.

Customer panels have an important role. However, it is crucial that we know who will be represented on the panels and how they will work. The current consultative committees are made up of individual consumers who have applied to sit on them. It is valuable to have an opportunity to hear grass-roots views, but we would also like the panels to have a link to the wider local constituency—to advice agencies and to the places to which people go when they have debt and money problems. Representatives of those bodies should be members of the panels, or the panels should be required to demonstrate that they have links with other agencies and stakeholders, so that they can identify people who are in difficulty and help them.

Bristow Muldoon: I have one further question for both groups of organisations represented here. Are you concerned about the new Scottish water authority pursuing business activities that are not related to its core activities of providing water and sewerage services to customers? You were all here when we raised that issue with the previous witness. To some extent, he did not anticipate that it would be a problem. Last week both the chief executive designate and the chair designate of the new water authority indicated that they did not think that it would stray far from its core activities. As the representatives of consumers, do you have concerns about the possibility to which I have referred?

Trisha McAuley: The water authority would have to be able to demonstrate very clearly that pursuing commercial freedom did not detract from its core activities and from its task of providing consumers with a proper water service.

I was not here when the first witness gave evidence and I do not have the technical or financial expertise to be able to assess what was said. I do not think that ministerial guidance is mentioned in the Water Industry (Scotland) Bill but

in the draft water services bill there is something about guidance if companies choose to diversify from their core services. Perhaps that guidance could be picked up on to allay any concerns. As long as Scottish Water could demonstrate to Parliament and ministers that it was still providing its core function, we would be happy with that.

John Downie: In general, the FSB agrees with that. However, Scottish Water is taking on such a major job that I find it difficult to imagine how, in the first five years, it could diversify into other areas. Our members would certainly have no problem if Scottish Water diversified and competed in the UK market in water and sewerage services; but we would have major concerns if it diversified into other services in which it had no expertise. In the next five years, it will have to focus on the job in hand. It will take it that long to turn round the Scottish water industry.

Fiona McLeod: Trisha McAuley said that she would welcome direct billing from Scottish Water to the customer, but she then said that customer panels would have to demonstrate close links with debt support agencies. Is there not a worry that direct billing would remove the debt support that councils offer? Councils can support a council tax payer who cannot manage, but if we moved to direct billing from Scottish Water we would lose that support network.

Trisha McAuley: That is a very good point. We have not considered it, but it should certainly be explored. However, Scottish Water, as a public service provider, should ensure that it meets its responsibility to look after vulnerable groups. I support direct billing for the simple reason that people should know who provides their water service. At the moment, they do not know: surveys show that people think that the service is provided by their local authority. People should know who provides the service and a relationship should be established, as Alan Alexander said to the committee last week. Scottish Water should be able to work with local authorities—they are all public authorities—and use support services that are already in place.

Jane Todd: The FSB supports those comments. When bills arrive from the local authority, there can be confusion in the small business community over where the water service actually comes from. The small business community would prefer a direct relationship with the supplier of what is, after all, an essential business service. Direct billing would definitely be a benefit.

Perhaps differently from domestic consumers, small businesses sometimes have a relationship with their local authority that is not entirely happy. It may be that direct billing would help to avoid some of the difficulties that have arisen in that relationship.

Richard Lochhead (North-East Scotland)

(SNP): I would like to hear more on a couple of the concerns that Trisha McAuley raised: affordability and the role of the regulator. In recent years, affordability has been a growing problem because of the disproportionate impact on low-income households following on from massive investment. That has led to a heavy financial and social burden. What kind of scheme to help low-income households would you like to see in the bill? What do you feel about the current scheme? Should there be a longer-term scheme and, if so, what should it be?

I would like to ask all the witnesses about the role of the regulator. Do we have a customers' champion at the moment? The Scottish Consumer Council has expressed concerns over the fact that the regulator is appointed by ministers and is not an independent appointment. I think that I am right in saying that consumers' representatives have no role in that appointment. Should there be changes to the way in which that appointment is made?

The Convener: We have already discussed the Executive's scheme to support people on low incomes, but we are now talking about the bill. Would the witnesses limit themselves to what Richard Lochhead said about affordability under the bill? The committee has discussed the Executive's proposals so the issue has been dealt with.

10:45

Trisha McAuley: Because benefits are a reserved issue, we did not expect there to be much about affordability in the bill. We would whole-heartedly support any measure that the committee or the Parliament proposed to ensure that people are protected, if there is any way that that could be specified in the bill. Scottish Water would have to be given some responsibility for looking after its customers. The powers of the commissioner could be increased with respect to disadvantaged groups. I do not have any structured ideas, but we would support any such move.

There are a few issues about whether we have a customers' champion. We had concerns when the structure was set up a few years ago. In particular, there was no independent mechanism for consumer representation. The regulator has to balance the interests of the industry and the consumer. Therefore, there is no consumer champion. Over the past few years, the Scottish Consumer Council has worked closely with the water industry commissioner. In fulfilling his regulatory function, he has been able to demonstrate that he has consumers' interests at heart. He has been tough on the water authorities and he has definitely been able to demonstrate to

the Scottish Consumer Council that he is looking after the service and that he will continue to do so. However, the commissioner is only one person.

If we want to consider further how a regulator should be appointed, we should consider models in other privatised industries where the regulatory office is independent of the Government. In those instances, the regulator can refer companies who misbehave—for want of a better word—to the Competition Commission. Bearing it in mind that we are talking about a public sector industry, I am not sure how possible that idea is, but we would support such an arrangement if it could be put in place.

John Downie: We tend to agree with Trisha McAuley's comments about the water commissioner. Over the past year he has pushed the water companies on small business issues. It is a matter of scrutiny. We are happy for the water commissioner to be appointed by the Executive, as long as Parliament has the ability to scrutinise that appointment and question the water commissioner—that is the role, for example, of the committee. We are fairly happy with those safeguards. We would like there to be a mechanism whereby small businesses are represented on the customer panels and the advisory body to the commissioner. It would be easy for businesses to be represented on those bodies without overloading them. I do not see that as a problem because it is easy to work up a mechanism.

One of the issues that our members have raised is the cost and affordability issue that Richard Lochhead touched upon. Water charges are going to rise. Our members have said that harmonisation of water charging across Scotland is essential because some areas are charging much more than others. Our members say that we need harmonisation to create a level playing field. Obviously, there would have to be a phase-in period so that everyone could plan ahead to meet the increased charges. That would be the same if legislation was imposed.

Robin Harper (Lothians) (Green): The written evidence of the Federation of Small Businesses has recommended that Scottish Water act as the supplier of last resort to businesses as well as domestic customers. What is the current situation regarding the supply of services to businesses? Does the bill specifically exclude businesses from receiving supplies from Scottish Water as a last resort?

Jane Todd: The draft bill was quite explicit that the supplier of last resort applied to the domestic customer. In opening up water provision in Scotland to competition, there is the potential that, in the event of a supplier failing, a business may find that it no longer has the water and sewerage

service that it requires to pursue its business. That has implications for health and so on. We would like the section on primacy of duty, which applies to domestic customers, to apply to businesses as well. There is a weakness in the bill as it is currently drafted.

Robin Harper: You would like Scottish Water to play a proactive role in enabling businesses to minimise waste water and effluent treatment costs. East of Scotland Water is proactive in that respect—it encourages businesses with its environment awards. First, will you confirm that that is not obligatory at present, simply voluntary? Secondly, would you like the bill to include an obligation on Scottish Water, to ensure that such encouragement of environmental activity continues?

Jane Todd: You are right—we have warmly welcomed that example of best practice. When we had discussions with East of Scotland Water several years ago, when it moved down that path, our understanding was that there was no obligation; the action was a commercial decision on its part. In view of the increasing cost of waste water treatment and, in particular, effluent treatment, the company took the view that it was in its interests and the interests of its clients to act as an intermediary to minimise waste, so that the cost to the client would be reduced and—crucially—it would retain its client base.

We would like that sort of best practice to be utilised and built on throughout Scotland. I am not sure that we can comment from the small business point of view on whether that should be written in as an obligation. If that is what is required to make it happen, including it as an obligation would make sense for the small business community. East of Scotland Water found that considering the environment made commercial sense; it would be nice to think that it made commercial sense throughout Scotland, without it having to be an obligation.

Maureen Macmillan: You have spoken quite a bit about customer consultation panels—both your organisations want to be on any such panels. Trisha McAuley has talked about the inclusion of the advice agencies. Should any other bodies be included? The environment groups, for example, think that they should be included. Do you foresee conflicts on such panels between business, consumer and environmental interests, which will lead to nothing happening or being recommended?

The Convener: Trisha has been quiet for a while.

Trisha McAuley: I could foresee tensions arising between consumer and environmental interests. Environmental aims can often be

expensive, although I would not say that environmental groups should not be on the panels—the panels should represent a broad cross-section of stakeholders. If panels could not reach a decision, I would query who was chairing them and how well they were being chaired. We should recognise that there will be tensions.

John Downie: I tend to agree. The difficulty we have with environmental organisations is to do with the pace of change. Our members are supportive of green issues—that has come out strongly in our recent surveys. The biggest problem for our members are the costs that environmental legislation imposes upon their businesses. How we deal with that is an issue. We might find that there are difficulties not with the objective of sustainability but with the pace of change and the costs that it imposes on businesses.

The Convener: I do not know who will be on the panels, but if it is John Downie, he will walk into the room with the view that he is subsidising the domestic user. Trisha McAuley will walk in and say that the domestic users' charges are too expensive and must be brought down. It will be the job of business representatives and environmental interests on the panels to balance those matters. We want to pursue how effective that ability to represent and make decisions will be.

Jane Todd: That discussion must take place; the different interests must be balanced. From the business point of view, the customer panel would be an appropriate place to start that discussion. If the discussions are not resolved at that level, they will reappear at other levels. The panels offer an opportunity for compromise and resolving some of the tensions.

Maureen Macmillan: I will move on slightly. We have also had representations from church groups and charitable and voluntary organisations. As you know, historically, their water charges were cut because they are charitable organisations, but there is a question mark over that at the moment. It is especially difficult when water charges go up, because those organisations' subsidy might come from other customers. How do you feel about that?

John Downie: That is an extremely difficult question. Many of our members—for example, on the retail side—have long had concerns about rates and other relief for charity shops, which impinge on their business. We must distinguish between, for example, small church organisations and small local charities and, for example, Oxfam, which has 800 shops throughout the country and is probably the biggest retailer in the UK. We should consider the imposition of water charges on such organisations.

Business must bear some of the cost of

subsidising water charges and is happy to bear a reasonable cost as its contribution to the community. That has always happened on a range of other issues. I do not foresee a major problem, unless large increases are imposed on business. That relates to the cross-subsidy issue. Business has no problem with local charities and local church groups having their water bills subsidised, but it does have a problem with major charities being subsidised. They are vast earners and could easily pay their water bills.

Trisha McAuley: I concur with that view. The problems of the past couple of years were caused by the total lack of consultation before the subsidy measures were introduced. The customer panel will be an arena in which those matters can be discussed and consulted on. The Scottish Charity Law Review Commission is considering water charge relief. Our concern is that independent schools and nursing homes that make a lot of money are eligible for that relief. At local level, as John Downie said, people have a legitimate interest, as citizens, in the local church or charity, so there is more room for discussion and more leeway about cross-subsidy, because people have stakes in those local organisations. Water charge relief is a difficult issue, but the customer panel will be an arena in which that issue could be discussed. The caveats are, as John Downie said, the size of the organisations and the criteria by which they are defined.

Maureen Macmillan: Would you like the local council for voluntary service, for example, to be represented on a customer panel?

Trisha McAuley: Absolutely.

Fiona McLeod: I have a few follow-up points. There will obviously be tensions on the customer panels, but we all accept that they will be a good thing. I refer you to the schedule that will set them up. Ministers will appoint the conveners and the conveners will appoint the members of the customer panels. Will those conveners be able to staff those panels effectively to ensure that all views are reflected and that tensions are obviated? Is it best for a convener to appoint members to the panels? If not, is there a more effective way of ensuring that local needs or concerns are represented on the panels?

Trisha McAuley: The customer panels will be public bodies. We understand that panel members will be recruited and selected according to the Nolan procedures—with independent interviewers and assessors—as for any public body. We did not question the appointment provisions in the bill, because we assumed that they would be subject to the existing rules. However, if the appointments procedure can be strengthened then we are in favour of that, because I agree with your implication that we need a broad range of interests

to be represented on the panels. We do not want patronage or to have the usual suspects on the panels.

That is the assumption that we made. It would add lots of credibility to the panels if every member was a ministerial appointment, but we do not know how many members there will be and I am not sure how that would work in practice. We can build on the mechanism by specifying the various stakeholder groups that should be represented on the panels and ensuring that whoever makes appointments must justify them. However, we must bear in mind the fact that there are confidentiality rules when people apply for jobs and that we cannot expect the convener of a panel to say why he has not given someone a job. The matter will depend on the number of panels. We do not have a problem with ministerial appointments, but it is conceivable that hundreds of people will be involved.

11:00

The Convener: Those issues will develop as we progress with the bill.

John Downie: I am in general agreement. There must be guidelines about which stakeholders should be represented on the panels. They will provide the criteria according to which the conveners can make their selection. That raises the matter of scrutiny. If panel members are appointed by ministers or by the commissioner, the panels should be scrutinised by the Transport and the Environment Committee and by Parliament to ensure that they do their job effectively. If there are clear guidelines, it is easier for people to know which stakeholders should be represented on the panels.

Nora Radcliffe (Gordon) (LD): How do you envisage the panels operating? How many do you think there will need to be for them to be effective? Given that we expect them to be inclusive and to reflect local needs, what geographic area will they need to cover to be effective? How local will they need to be?

Trisha McAuley: Although I suspected that someone might ask that question, I have not thought of a number. There has been talk of a panel for each parliamentary region. I do not want to specify a number, but the key is to get the balance right. For example, there were a lot of small committees under the last regulatory structure for postal services in Scotland. Those committees proved to be ineffective because although they were in touch with local communities, they did not have the resources or the network to push issues further up the agenda. Members of those committees were often unaware what was happening in the marketplace at a strategic level.

The Department of Trade and Industry recently carried out a review of similar arrangements in the telecommunications sector and decided to disband the equivalent committees for a similar reason. Therefore, I caution against having a lot of small panels. I cannot give a number, but they must have enough resources. There cannot be a panel for every small area, but measures can be taken to ensure that larger panels are responsive. I am not sure whether our submission on the draft bill was circulated to members, but it outlined many such measures, which included providing enough money for research and training members so that they can identify with the wider area and not only with their interests. The panels should also be able to demonstrate that they have proactively sought consumers' views, that they have links in the community and that they are in touch with stakeholders.

Some panels might have the same convener, but another key issue is that the panels must not operate in isolation; they must come together so that the convener, or the panel, can push measures through to the commissioner and to Government. The panels should get together nationally and Parliament should require them to issue an annual report.

Jane Todd: I support those comments. The small business experience with organisations such as the water and sewerage consumer councils is that, when there is a plethora of small committees across the country, not only is there an issue with resources, but with the impact. Members of the small business community will engage with something only if they think that it is a genuine mechanism for airing views and delivering change. On that basis, the small business community would prefer a reasonably modest number of well-resourced and effective panels that consult and demonstrate links with their constituency—in the broadest sense of the word. The panels may need to be based on geographic or demographic commonalities, but we would like to see fewer of them, not more.

Robin Harper: The issue is how to balance the concerns of business and domestic consumers. Given that the water authorities have a programme to install meters in domestic properties, is it likely that your concerns about the commercial sector subsidising the domestic sector will reduce?

Jane Todd: Our concerns will reduce if the roll-out of meters to domestic consumers progresses at a reasonable pace so that meters become universally available. We have consistently advocated metered supplies for all business consumers and believe that to be an effective model for domestic consumers as well.

The Convener: Does Trisha McAuley want to

give her view on metering?

Trisha McAuley: Meters provide a way of ensuring that people pay for the service they use. However, the experience in England has shown that the installation of meters has an adverse affect on vulnerable and disadvantaged groups. Such people are liable to self-disconnect and use less water so that they do not have to pay as much. That happens to such an extent that one cannot say that there is a universal service. Those people are not supplied with what is an essential service. If we go down the road of metering, we must learn carefully from the English experience to ensure that we build in protection for such people.

The Convener: As members have no other questions, I take the opportunity to thank our witnesses. I am sure that we will correspond frequently throughout the bill's future stages. I thank them for what has been an interesting session.

We are now joined by Jim Lugton and Lucy McTernan of the Scottish Council for Voluntary Organisations and Peter Bolton and Janette Wilson of the Scottish Churches Committee. Let me explain to our new witnesses that, although we try to keep things as informal and casual as possible, our need to ask questions engenders a degree of formality. The witnesses will have an opportunity to make short opening remarks, after which members will ask questions.

Lucy McTernan (Scottish Council for Voluntary Organisations): Thank you for the opportunity to speak once again on voluntary organisations' experience of the water industry.

Our written submission highlights the developments that have taken place since the SCVO gave evidence to the committee back in December 2000. In February 2001, the water authorities announced, against all expectations, that they would remove in their entirety all reliefs for charities. Following representations to the Executive and discussions in the Parliament, it was agreed that the removal of the reliefs would be held over until April 2002.

The report of the Scottish Charity Law Review Commission, which was chaired by Jean McFadden, has been published since we gave evidence to the committee. That report clearly recommended:

"Scottish Charities should receive mandatory 80% relief from water and sewerage charges."

The commission recommended that that relief should be a benefit of a revised charitable status.

We note that the committee's report on its inquiry into water and the water industry recommended that

"a new more targeted relief scheme for voluntary organisations and charities should be established."

Both those recommendations, which come from very different committees, show that there is growing support for our continued position that there is a strong case for relief from water charges for public benefit organisations, which are known as charities. In public policy terms—and in the context of a Parliament and Executive committed to social inclusion and growing the social economy—it is counterproductive to take away reliefs from charges. The removal of the reliefs will affect all voluntary organisations, large and small. A lot of community activity, especially small-scale activity, will simply become unworkable and unsustainable.

We were pleased that ministers gave us the holdover until April 2002. That gave us a small amount of space, as the bill goes through the parliamentary process, to talk about the position in principle, rather than simply talking about the immediate impact of the staged removal of relief that we have experienced to date.

We are looking for a new ground zero. Let us start again by examining the principle of relief to charities and why that is important and must be continued, as well as considering the best way of administering that relief in future.

Peter Bolton (Scottish Churches Committee): I thank the committee for inviting us to give evidence. Our statement covers the salient points, but I would like to emphasise a specific point, which our committee has stressed for some time.

Generally speaking, churches and church halls make relatively low demands on the water and sewerage service. We do not have a plethora of toilets and the buildings—the main sanctuaries—are not in daily use. The 75 per cent rateable value reduction that is applied at present simply reflects the low use of those premises. The statutory basis for that 75 per cent reduction goes back to the repealed Water (Scotland) Act 1949. The concept, which has worked well, has been around for quite a long time and has been applied uniformly throughout Scotland by the present authorities and by their predecessors. Information on metered churches in the north of Scotland shows that the meter charge equates to roughly 25 per cent of the rateable value charge. We have documentary evidence that supports our view that the 75 per cent reduction is a proxy for low use. We will leave that point with the committee.

The 80 per cent remission that was referred to would maintain the status quo as far as churches are concerned. That would give congregations an extra 5 per cent over the present position, but it also reflects the socioeconomic arguments. There is a good case for making an express provision in

the bill for a mandatory 80 per cent remission for churches and charities on metered and unmetered charges for water and waste water services.

If the new charging arrangements, which have been deferred until next year, are allowed to proceed, they will produce inconsistency and significantly higher charges for churches. The charges will be 300 per cent higher in the west of Scotland, 200 per cent higher in the east of Scotland and 100 per cent higher in the north of Scotland. I hope that I have got those figures right.

The Convener: I would have thought that the figure for the north of Scotland was a bit higher.

Peter Bolton: The figures are: 300 per cent higher in the west, 200 per cent higher in the north and 100 per cent higher in the east.

We feel quite strongly that there is a good case for making express provision in the bill for mandatory relief. There is a precedent for that approach in the Water (Scotland) Act 1980, which had a mandatory provision for 50 per cent relief in relation to domestic water rates. Express provision was made for churches and charities in the Local Government Finance Act 1992.

The Convener: Thank you for your opening comments. We must now explore some of the bigger, structural issues around the Water Industry (Scotland) Bill, following which we will move on to more specific areas. I invite Adam Ingram to open up the questioning.

Mr Adam Ingram (South of Scotland) (SNP): You make it clear in your submissions that your fundamental concerns relate to relief for your organisations, which will not be available under the new regime. Perhaps we will return to that issue in order to identify whether you have further concerns. However, I would like you to consider the move to metering. Have you done any research on the advantages and disadvantages of the introduction of metering on premises that your organisations own or operate? How do you counter the argument that you ought to pay for the use of facilities and that, if you have a low use of water, your charges will be low?

11:15

Lucy McTernan: The voluntary organisations' experience of metering leads them to a view that the matter is one of common sense. Some organisations use premises such as village halls either sparsely or for activities that do not involve water. In such situations, a meter is probably a good idea. Other voluntary organisations—a classic example is the residential care home—use an enormous amount of water in caring for the people who use their services. It is a case of horses for courses; metering is appropriate in some cases, but not in all.

We have agreed with the water authorities that, where appropriate, water meters will be made available for charities. We await receipt—and this is even after encouragement from ministers—of a clear steer and guidance as to when a meter would be appropriate. That question is not as straightforward as common sense might suggest. There are occasions when it would not make financial sense and others when it would. We are keen to encourage meters where they are appropriate. In the case of low-income households, they are not always appropriate. Similarly, meters do not always make economic sense for voluntary organisations.

Peter Bolton: We recognise that a meter may be the best charging method for churches with large rateable values and low usage. In that circumstance, we have no difficulty with the concept of meters. One difficulty lies in the fact that standing charges for meters in Scotland are set at two and a half times the level in England and Wales. In the east and west of the country, the standing charge for water and sewerage is £120. That poses a problem for low users as, if they switched to a meter, they might incur the penalty of what are high standing charges. The practice in England and Wales has been to reduce standing charges whereas, in Scotland, it has been to increase them. That is a major disincentive for low user groups to switch to having a meter.

Jim Lugton (Scottish Council for Voluntary Organisations): I would like to add two further points. First, in 1999, East of Scotland Water began to introduce meters across all domestic properties. Unfortunately, compulsory installation of meters meant that charities that were in receipt of reliefs instantly lost those reliefs. Prior to 1996, when the water authorities assumed responsibility, some charities had reliefs withdrawn unilaterally by the forced installation of a meter. That is debatable on the grounds of ethics and public policy.

Secondly, little advice has been provided to consumers on the impact of metering. Some of us may recall the time when we were advised to put a brick into our toilet cisterns to reduce the charge. However, local village hall committees and others that have gents' urinals were not advised to install controlled measurement to reduce the flow of water. When they moved to metering, they found suddenly that they were confronted with enormous bills. That was because the same volume of water was running during the time that the premises were not in use.

Some of the basic questions about the lack and quality of information when charges are changed were discussed earlier. If information was made available, charges to charities would be

minimised. It would also prevent charities from receiving large bills that they do not understand.

The Convener: That is a relevant point. It adds weight to what John Downie and others said.

Maureen Macmillan: You heard what the witnesses from the Federation of Small Businesses said about supporting charities. They said that, because Oxfam was a national charity, it was not a good case for receiving support, but that a local church would be a good organisation to support. Mention is made of the McFadden report and the kind of charitable organisations that should be supported. Can you give me a steer on who should and should not be supported?

Lucy McTernan: It is not simply for me to give you a steer; the steer is presented clearly in the review of charity law reform that I mentioned. It is now widely acknowledged, across all parties and many interested groups, that reform of charity law is long overdue, because there are an enormous number of anomalies, particularly in Scotland, where there has never been an adequate registration and supervision system for charities. Organisations have erroneously been enjoying the benefits of charitable status, when the general view is that that status should be for organisations that exist primarily for public benefit. We have to address that system before we start to say what the benefits of charitable status should be.

For a range of reasons that we have already touched on, relief from water charges should be a benefit of charitable status, in order to encourage activities—particularly at a community and local level—that are for public benefit. The McFadden commission recommended an overhaul of charity law whereby all organisations that have charitable status should prove that they are independent of the state, that they are non-profit distributing and that they work primarily for public benefit. That is a clear-cut way, in principle, of working out who should and should not receive benefits.

We have found that arbitrary decisions to parcel up chunks of the voluntary sector have not worked. In fact, the chaos over the past four or five years arising from the removal of relief from water charges was due to the fact that the water authorities tried to slice up the sector. They said, "Shop premises aren't eligible for relief, depots aren't, offices aren't, but any premises that a service uses across a certain threshold might be." The authorities made a distinction between sensitive and non-sensitive. Our view is that it is impossible to make that kind of distinction. We need a clear, in-principle decision on which organisations are charitable and which are not. An opportunity to make such a distinction is presented by the reform of charity law, which we anticipate being on the statute book before long.

Maureen Macmillan: Yes, but some of the organisations that would still be charities will be well off. Oxfam was given as an example. Should there be a means test before charities are given relief? There is a perception that some charities—even if they are genuine charities—are less deserving than others.

Lucy McTernan: That is exactly my point. It is impossible for anything except the fundamental system of charity law to decide whether one organisation is worthy and one is not. If every authority—whether it deals with water, electricity or anything else—tries to make such a distinction, the system will be confusing.

Another distinction has been drawn—what an organisation does in its premises. We have experience of that system, which does not work terribly well either. Oxfam is an example of a large and well-known voluntary organisation with charitable status. I do not think that anyone would disagree that it exists primarily for public benefit.

The Convener: We have a problem. There is a horse and a cart and their relationship is out of order. If we had a definition of a charity, we would know what charities are and we could consider the issue in relation to the water industry, but because we do not have that definition we must ask what we have to do in the bill to protect—as we have done in our previous work on the water industry—and target resources where we feel they would be most appropriately located.

You said what is happening with charity law and the McFadden commission, but we are in the here and now—we are trying to assess the impact of the Water Industry (Scotland) Bill on charities. That is our problem. We have to pursue the issue. Jim Lugton may wish to address some of those questions.

Jim Lugton: On charity shops, John Downie's figures were a little adrift. He cited the figure of 800 Oxfam shops whereas there are actually 380 Oxfam shops throughout the UK. The number of charity shops in Scotland over the past four years has been going down for two principal reasons: first, the advent of discount traders such as B-Wise and Matalan; and, secondly, increased rates on the sorts of premises that the shops have to locate in, which means that they are increasingly unable to operate from suitable premises. Although charity shops are still a legitimate way of raising funds, we will see a serious and continuing contraction in their numbers and turnovers.

The Convener: I appreciate your points on the shop sector. I had the pleasure of working on a Saturday morning in the Cancer Research Campaign shop in East Kilbride town centre. That area has high rents and the charity awaits the next rents review with some consternation.

The committee has a problem. Although we may want to revisit the issue of charities, and although you have welcomed what we said about a targeted rates relief scheme, which we regard as a way of separating different aspects within the charities industry, we have to deal with the bill that is before us.

Lucy McTernan: I understand that problem—there has clearly been a dislocation in timing. However, I hope that the problem is no more than a technical one.

We have been addressing the charity law agenda and the water industry agenda simultaneously. A formal response from the Executive should come soon on its proposed action on the recommendations of the McFadden commission. Last week, the Executive announced the establishment of an advisory forum, involving relevant people in the regulatory system and voluntary organisations, to hold detailed discussions on the drafting of a bill on charities, so the matter will be dealt with not too far in the future. It should be possible to put interim arrangements in place and to plan for a sustainable, long-term outcome that is built on the principles of charity law.

The Convener: Would Peter Bolton like to comment at this point?

Peter Bolton: The issue seems slightly wider than the one that affects the churches. However, if there is a problem with definitions, the Local Government Finance Act 1992 contains a provision that is expressly for relief for churches and charities. Within that provision are definitions of those two bodies. I cannot remember exactly what the definitions are, but they may be sufficient for the purposes of the bill. If they are not sufficient, or if they have to be revisited, perhaps certain matters can be left to regulations, allowing ministers to take action through secondary legislation.

Maureen Macmillan: I am still trying to get some kind of handle on how much changes to relief from water charges will cost and how many organisations will be involved. Who do the witnesses think should do the subsidising? Should it be other consumers or should subsidies come directly from the Executive? Do charities just need a little more money from the local authority or somewhere else to cover their water bills?

Lucy McTernan: I will give a general answer and then Jim Lugton will go into detail. You are not alone in trying to get a handle on the figures. Members will be aware that we have disagreed with the Executive about the water authorities' figures on the amount that they think they provide in relief. Another way of considering those figures is to regard them as the cost to the voluntary

sector if the relief is removed. Our original estimate was £27 million. That, in the context of the water industry, is not a large sum of money. However, in the context of the voluntary sector, it is an enormous sum, especially when you consider bills of £200 or £300—or £3,000 or £4,000—being sent to an organisation that is trying to keep going on an income that is only about that level. We have to look at the issue from different perspectives.

Since June, we have been working closely with the finance departments of the three water authorities—once they were encouraged to do so by ministers—to try to work out reasons for the differences between our estimate and their estimate. Jim Lugton will take you through the detail of that.

You ask about reliefs as opposed to another grant from a local authority. Reliefs are in principle a comprehensive way of supporting charitable activity—activity for public benefit. The voluntary sector already has enough difficulty in identifying grant from local authorities and other forms of funding. Grant is usually tied to specific projects rather than to what we would call core costs. As for where the £11 million or £27 million—or whatever figure we finally arrive at—should come from, you have heard this morning from the small business community and consumer interests that most people feel that it is fair for the water industry to subsidise in small part charitable interests as a part of their community responsibility. We think that that should continue. However, there may be other ways of identifying the relatively small sum of money that is to be provided to voluntary organisations.

11:30

Jim Lugton: When we gave evidence last December, Robin Harper asked us what percentage of the total income of the water authorities would be formed by those charges. We have been pursuing a statement from the Executive and the water authorities on the water authorities' income from charges. However, there is a separate point on income from charges net of non-payment, but we have been completely unable to get information on that from the Executive or the water authorities.

To put that in context, NOSWA's turnover in the financial year 1999-2000 was £154 million. West of Scotland Water's turnover was £279 million and East of Scotland Water's was £208 million. That totals £641 million. If you accept the water authorities' estimate of £11 million costs or our estimate of £27 million, you can see that, given the additional capital turnover in the industry and the plans for growth of expenditure over the next four years, the figures are not significant.

We have documentary evidence of two reasons why the water authorities' estimate of £11 million may already be slightly adrift. First, we know what reliefs are being granted by each of the water authorities—they are some way ahead of £11 million. Secondly, the work that we have been doing with the water authorities has exposed difficulties in reconciling numbers of premises with numbers of bills. We are still trying to resolve those difficulties with the water authorities.

West of Scotland Water identifies 181 organisations that have multiple premises but ESW and NOSWA do not identify the same group of charities. Our belief all the way through has been that the difficulty for the water authorities is in identifying one set of premises with one bill. We are not certain what they are, but we know that multiple premises are involved. For example, the Abbeyfield Society for Scotland has 114 houses throughout Scotland. It is one of the larger organisations, but a number of national charities have multiples.

We are meeting the water authorities again this afternoon to discuss the figures. I hope that, at some stage in the not-too-distant future, we can suggest to the committee where the degrees of tolerance are in our estimates; in recognising honestly our differences of interpretation, we will try to give the committee the best figure that we can reasonably arrive at in the circumstances.

The Convener: You should take some large headache tablets along to that meeting—it sounds like a challenge.

Richard Lochhead: As we move towards the introduction of Scottish Water, there will be less discretion to help voluntary organisations and charities. Do you want the bill simply to state the principle of relief, not the details of the types of voluntary organisations and charities that should qualify for it? Is there a case for reliefs on the standing charges for meters as well as on the water rates? Finally, how do you see your sector interacting with Scottish Water?

Lucy McTernan: We would like the bill to state that there will be relief for Scottish charities, however that phrase is defined in law. I disagree with my colleagues from the Scottish Churches Committee about the basis for the interim position. We will just have to stick with the current legal definition of a Scottish charity.

Richard Lochhead: The difficulty is that, although we might like to help private schools to pay their water rates, the Executive does not want to. Is that not a case for agreeing some sort of definition?

Lucy McTernan: There is a case for introducing arrangements to cover the interim period. However, it would not help things if we got too

technical when we know that a much clearer and principled definition of a charity is just around the corner. The water industry regulator might have a role in helping to adjudicate on decisions during what I hope will be a short interim period.

We would say yes to relief on all aspects of water charging. In fact, we are seeking 80 per cent relief on all water charges including on meters and in standing charges. As for our relationship with Scottish Water, I said at the beginning that we have been talking about a new ground zero. Although that is a bit of a jargon phrase, it represents the position that we want. Many of the problems that we have experienced over recent months and years have had nothing to do with the policy of removing reliefs; they have been to do with information on which organisations are charities and which set of premises has a charity occupant. Much of that problem was inherited from the previous local authority system. We want a complete start from scratch on issues such as which bodies are charitable organisations, the premises that they occupy and the new relationship with Scottish Water, which I hope will be built on the same decent level of communication that we have recently experienced in trying to hammer out differences over cost estimates.

Jim Lugton: In case we are accused of being too hard on the water authorities, I should say that we fully recognise the difficulties that they have faced in inheriting records from the local authorities and in the turnover in non-domestic premises in Scotland. For example, the current annual turnover in occupancy of non-domestic premises is 12 per cent for ESW and 7 per cent for WSW. Those figures represent significant demands on the record-keeping staff in the water authorities. Both we and the water authorities feel that the area has been significantly under-resourced and that records are still trying to catch up even five years after the water authorities took over responsibility.

The Convener: The chief executive designate referred to that issue last week. Does the Scottish Churches Committee have any perspective on those questions?

Peter Bolton: I do not have much to say on those matters, but I did not notice any provision in the bill to address undue discrimination, even though that issue is covered in existing legislation. Such a provision might make it easier for water authorities to balance the competing interests between voluntary organisations and other groups.

Our starting point is that we want the bill to contain an express provision for 80 per cent relief. Even if such a provision caused difficulties and we had to suggest a lower figure and agree to leave the details to regulations, the bill should still

expressly provide for relief for churches and charities. Whether the detail is expressed explicitly in the bill or whether it is left partly explicit and partly to regulations and the discretion of ministers is another matter. Moreover, if low users are to be encouraged to use meters, something has to be done about the standing charges, although that matter is probably best left to the regulator.

Fiona McLeod: I was interested to find out that the issue hinges on the reform of charity law that is just around the corner. However, given that we know the legislative timetable in advance, it makes that reform look unlikely. We hope that the Water Industry (Scotland) Bill will come into force on 1 April 2002. Any charities law reform bill and act would be likely to take a year or possibly two years to produce. Can you tell us how long a corner "just around the corner" refers to, and whether voluntary organisations and churches can maintain payments after 1 April 2002?

We might have to adopt an interim position that might have to last for at least two years. Do you think that section 37, on reduced charges, gives ministers enough discretion to do what was done with Scottish Criminal Record Office checks? In that instance, ministers accepted the fact that voluntary organisations and churches could not bear a £10 million bill and last December used their discretion and said that they would not impose charges in Scotland.

Section 37 states:

"The Scottish ministers may by regulation provide that a person"

pays

"less than the amount that it would be but for the regulations".

Is that strong enough to help you at the moment, or should we consider beefing up section 37 to achieve what the ministers did with SCRO checks?

Lucy McTernan: The phrase "just around the corner" is a historical expression, as we have been waiting a long time for the kind of reform that we expect in charity law—several hundred years rather than just a couple of years. You are absolutely right to point out that even two years of dislocation of timetabling has the potential to impact seriously on very small organisations. That is why we would also like the current holdover on the removal of reliefs to be extended until the dislocation period is dealt with. It does not make sense otherwise. Scottish ministers already have the power to do that and, in principle, section 37 contains the enabling power to allow that to happen. The situation obviously needs to be dealt with on a technical level, to ensure that voluntary organisations do not become victims of dislocation of legislative timetabling.

Several organisations have already suffered adversely because they have fallen outwith even the holdover periods—of which there have been several for different classifications and categories of voluntary organisations. That has happened because they have done something as basic as moving premises after being thrown out by the local authority or because they needed a bigger space for more kids to play in, without realising that, by virtue of moving premises, they were also moving themselves out of the previous charitable reliefs. We must strive to find any way we can of ensuring that more organisations and groups of organisations do not suffer while the matter is dealt with in an unprincipled way.

Peter Bolton: The reduced charges provision does not strike me as terribly detailed. A better model might be that which is used down south for vulnerable groups—set out in section 143A of the Water Industry Act 1991, as inserted by the Water Industry Act 1999—which is a fairly detailed regulatory provision. It is certainly intended for a different purpose, but it gives the secretary of state general powers to influence charges and the charging scheme for different groups of people. It prescribes in detail the sorts of things that can be included in the regulations.

Lucy McTernan: We wondered whether the word “person” in that section would cover the categories, however.

The Convener: My recollection of the Water Industry Act 1991 is not great. We will have a look at it, now that we have that reference.

Bristow Muldoon: As was mentioned earlier, the view of the committee was that we should seek some form of more targeted relief and the submissions that we have received and the comments that have been made today show that the views that are held by the churches and the SCVO are broadly consistent with that. The view of the committee is that it does not want certain groups or categories of organisations that currently receive relief to receive relief in future. You say in your submission that it is your belief that some groups of organisations would be excluded under the McFadden definition.

In order to reassure the committee, would you expand on what types of organisation you think would fail to meet the test of the McFadden recommendations? The committee should explore further with the minister whether section 37 of the bill would give ministers sufficient flexibility to deal with what the convener said about the cart and the horse. If it would not, we should explore whether a new section would be needed. I want to find out what you understand to be the effect of the McFadden definitions.

11:45

Lucy McTernan: The first effect of those recommendations would be a complete review of organisations that currently enjoy charitable status. In Scotland, there has been since 1973 when the list was first put on computer, an Inland Revenue index of charities, which is a long list of organisations that have been recognised as charitable for tax purposes. Those organisations simply stay on the list—they do not have to provide an annual report centrally to register. In that sense, the list is not a register because it is not updated. Organisations are simply added to it and none are taken off, even if they become dormant. A wholesale review of the historical accumulation of organisations that have charitable status would take place, which would inevitably clear up many anomalies. For instance, solicitors’ offices that happen to look after charities and have charities’ addresses have gathered some benefits of charitable status along the way.

The second big group of organisations that would be cleared up would be those parts of the state that currently enjoy charitable status—quangos such as the Scottish Qualifications Authority and the Scottish Arts Council. They would not be independent of the state and would fail the McFadden test.

I do not want to group a particular type of organisation into a third category, but I should mention organisations that fail the public benefit test. Those would be organisations that could not prove on balance that they existed for the wider public benefit and in the interests of the community, rather than in the exclusive interest of private individuals. A range of different organisations might fail the public benefit test.

Some organisations that the water authorities and Scottish Executive ministers have talked about in the past months and years—such as big public limited company football grounds—would be taken into account and would clearly fall outwith the definition of charitable status.

The Convener: I think that we are pursuing the holy grail, Peter. What do you think?

Peter Bolton: I am sure we are—but we have no comment on that.

The Convener: I am sure you have not.

As there are no further questions, I warmly thank witnesses. Receiving such views is an interesting aspect of our work and I hope that the witnesses will see their answers in our report.

Zoe Clelland and Lisa Schneidau of Scottish Environment LINK have joined us. I hope that I pronounced the latter’s name correctly—I do not have any guidance on pronunciation and I hope that I have not insulted her in any way. I will stick

to referring to the witnesses as Lisa and Zoe—that will be easier for me.

Zoe Clelland (Scottish Environment LINK): Good morning, ladies and gentlemen. I am the wetland policy officer for RSPB Scotland and my colleague, Lisa Schneidau, is the freshwater policy officer for the Scottish Wildlife Trust.

We represent Scottish Environment LINK, which is the umbrella forum for Scotland's voluntary organisations that work together to care for and improve Scotland's heritage for people and nature. LINK's 33 member bodies have interests that span nature conservation, recreation, landscape and archaeology, and the organisation has about 500,000 members in Scotland.

LINK's freshwater taskforce represents the members who have experience of managing water resources and advising on water-related issues and the taskforce is concerned that the bill as introduced does not give full consideration to the environmental value of water. We urge the committee to ensure that environmental concerns are fully integrated into the bill. That would benefit Scotland's environment and be of economic and competitive benefit to Scottish Water.

We highlight the following three key points. First, Scottish Water must be publicly accountable for its stewardship of the environment. Scottish Water will accept an important role as a key manager of Scotland's water resources. That role should be one of stewardship, because water is part of Scotland's environmental heritage. That applies not only to the water itself, but to the water habitats that are affected by our water use and the species that depend on those habitats. The bill requires Scottish ministers to make a commitment to

"have regard to the interests of every person who is a customer or potential customer of Scottish Water"

It must be recognised that customer interests include environmental concerns as well as access to water services.

Our second key point is that Scottish Water must fulfil sustainability commitments. The commitment, as stated in the bill, to

"act in the way best calculated to contribute to the achievement of sustainable development",

is insufficient to ensure that Scottish Water operates sustainably. The details and implications of section 47(4) must be clarified and we urge the committee to ensure that the qualification in section 47(5) does not undermine environmental commitments.

Sustainable management means more than efficient water use; it requires that future and current environmental, social and economic needs be catered for. To fulfil such a commitment,

Scottish Water will need to think imaginatively about how it manages water resources. It will probably have to consider more use of alternative systems, such as sustainable urban drainage systems and biological effluent treatment systems, rather than relying on hard engineering approaches. Investment in such robust and flexible systems for the future would make economic and environmental sense.

Our final key point is that implementation of the bill must be fully integrated with the requirements and aims of the water framework directive. The environmental aims that I mentioned can be fulfilled only if Scottish Water's work is fully integrated with the water framework directive, yet the bill has not addressed that. Scottish Water will need to adopt the principles that are outlined by the directive, which are to manage water resources while achieving good ecological status in all water bodies, and to consider environmental effects at the river catchment level.

There are also some direct overlaps with the water framework directive. For example, management and ownership of reservoirs by the water authorities ensure that the authorities will have a key role in designating heavily modified waters and achieving good ecological potential in those water bodies.

The water framework directive also requires full recovery of costs, including environmental costs, of providing water services. Water pricing is discussed in relation to the roles of Scottish Water, yet no mention is made of that obligation to achieve full cost recovery. We urge the committee to consider the bill's role in achieving full cost recovery and the various ways in which that might be achieved. If that is not done, we are concerned that a drive to become more competitive might be undertaken at the expense of the environment.

We hope that by adopting those three key objectives, the committee will ensure that Scotland's water resources are sustainably managed in future, to the benefit of Scotland's people, environment and economy.

Fiona McLeod: I am interested in Scottish Environment LINK's three key points. I might not deal with them in the same order as you did. We can consider them in general terms and then get specific. You said that we must ensure that Scottish Water makes a clear commitment to achieving sustainable development. Instead of putting environmental matters into section 47 under the heading "General duties" at the end of the bill, would it be more appropriate to make an up-front statement on the establishment of Scottish Water at the beginning of the bill?

Scottish Natural Heritage's submission says that the duties regarding environmental and

sustainability concerns that are placed on SNH and the Scottish Environment Protection Agency are much stronger than those in the Water Industry (Scotland) Bill. Should such duties be incorporated in the bill to ensure that your key objectives are achieved?

You talked about ensuring that Scottish Water will be publicly accountable for environmental interests. How can we ensure that that happens? Would that be encompassed by including a general statement at the beginning of the bill, or should we state specifically that Scottish water is accountable for environmental interests?

Can much of what you want be achieved through the water industry commissioner having environmental as well as economic regulatory powers? Is that important?

Zoe Clelland: We agree with the idea of having sustainability up front. Sustainability should underpin everything that Scottish Water does; it should not be an afterthought, as it appears to be at present. The way in which parts of section 47 are drafted seems to indicate that environmental concerns are not placed on a level footing with economic and social concerns. We would like environmental sustainability to be the principle behind the rest of the bill. Any sustainability criteria should be applied strictly across the board. Scottish Water should not be subject to less stringent conditions than are SEPA and SNH.

Public accountability and the water industry commissioner should go together and there are various ways in which that could be achieved. For example, the water industry commissioner could require environmental data and monitoring information along with the other information that would be provided by Scottish Water. That would be a positive thing. In addition, the consumer panels should include environmental interests. That would be one means of achieving environmental accountability. The water industry commissioner has a role in water charging and we see scope for including environmental concerns in that aspect of the commissioner's work.

Robin Harper: In your submission, you urge:

"that the Executive and Scottish Water be given duties through the Water Industry (Scotland) Bill that will enable them to implement the WFD through the water industry in Scotland."

The Executive is committed to considering the water framework directive in legislation later this year. That is our next bit of work. Why do you want the extra powers in the Water Industry (Scotland) Bill?

Lisa Schneidau (Scottish Environment LINK): The water framework directive is a huge bit of legislation, which requires all member states to get their water bodies and ground waters up to good

ecological status by 2015. There will obviously be many responsibilities and duties placed on everyone who is involved in water management in Scotland. This seems to be an ideal opportunity to consider the responsibilities that Scottish Water would have under the water framework directive and to integrate them now into Scottish Water's general duties. We would welcome having the sustainability principle up front in the bill, but there are some specific areas in the bill, such as water pricing, where the duties of Scottish Water could easily bring in water framework directive considerations. We did not see many indications that that has been done, but it would seem to be common sense to do so.

Robin Harper: Are you concerned that the inclusion of water licensing issues in the proposed water services and environment bill, instead of in the Water Industry (Scotland) Bill, might mean that the later bill is not as focused as it could be on implementation of the water framework directive?

Lisa Schneidau: At the moment, there is so much to consider on the regulatory side of the water framework directive that it is quite difficult to look at the wider implications of what Europe might require Scotland to do. We strongly encourage the Executive to take a more proactive approach to the integrated management of our water resource than merely to examine the regulatory side. I agree that we need now to look at that side of things.

We are concerned that there seems to be a lack of integration of policy areas at the moment. It is considered that diffuse pollution from agriculture is going to be the biggest source of diffuse pollution in Scotland by 2010. At the moment, on the one hand, much public money subsidises farmers and almost encourages them to increase diffuse pollution. On the other hand, much public money is spent by the water authorities in addressing that problem through water treatment. That seems to be a bit silly, so we encourage integration of those policy areas.

12:00

The Convener: We might pursue some of those issues in correspondence, because we cannot deal with everything today.

Maureen Macmillan: How are the three water authorities doing at the moment in terms of the environment? Are they as efficient as they could be? Will Scottish Water be more efficient?

Zoe Clelland: The three authorities have some interesting projects and are dedicating much money to environmental projects. That is encouraging and we want to support them in that. However, the projects are specific and are run in addition to their everyday work. We want

environmental thinking to come through in everything that they do. That might develop under Scottish Water, because it might be able to learn from the experience of the three authorities and combine what they have done.

Maureen Macmillan: Are you concerned that Scottish Water will be so busy amalgamating the work of the three authorities that it will take its eye off the ball and allow environmental concerns to drop down its list of priorities?

Zoe Clelland: We do not want that to happen. We must ensure that the environmental concerns remain at the top of the list of priorities. At the moment, there are people in the three authorities who are genuinely interested in environmental concerns; I hope that their work continues.

Maureen Macmillan: How did the English and Welsh water authorities cope with environmental issues when they became privatised?

Lisa Schneidau: The wildlife trusts and the RSPB have done a lot of work with the privatised water authorities south of the border. We have been encouraged by the positive approach that has been taken. Many private water companies have developed biodiversity action plans, for example. Water UK, the umbrella body, is developing a suite of sustainability indicators for the industry. Some water companies, such as Anglian Water Services, use sustainability indicators as part of their wider business success indicators.

The approaches are patchy and we get the feeling that environmental concerns are an add-on for a lot of companies. Some companies see that such concerns have public relations implications and so on, but do not integrate them into their main work as much as we would like them to. We are concerned that increased competition in the water industry will erode the environmental sections of the water companies that perceive those sections as luxuries.

Maureen Macmillan: Your submission states that you would like an environmental representative to be on the customer consultation panel. How would that work? Who would you choose? Would it be somebody from the RSPB, the World Wide Fund for Nature or another organisation?

Your submission also says that you recognise that water prices can be a powerful incentive for water users to change their behaviour. You obviously think that, the higher the price, the better it is for the environment, which means that you are not going to be terribly popular on the panel. How are you going to cope with that?

Lisa Schneidau: There are many environmental bodies and non-governmental organisations and,

although we have many common messages, we often have differing approaches. We do not know who would be represented on the consultation panel, but it is important that a spectrum of interests is represented. One of the beauties of Scottish Environment LINK is that we represent about 500,000 people and can draw on our expertise within the individual organisations. It might be appropriate for somebody from the environmental side of the statutory sector to be on the panel as well as including someone from an environmental non-governmental organisation.

We would like representation to fit in with the public consultation on the water framework directive. A green paper on freshwater fish and fisheries has been published, under which a whole new scheme is to be set up for the management of fisheries. It would make sense for all that to fit together, but the matter is something of a moving target at the moment.

Zoe Clelland: We do not want water to be priced as high as possible—to say that we do is not a fair representation of our view. However, environmental costs should be included in the cost of water services. If those costs can be reduced, the price would be reduced; our desire to include them does not necessarily mean that we want to bump up prices. Damage that is done to the environment must be paid for, perhaps to alleviate the problems that are caused through water treatment or sewage treatment. That view might conflict with those of other people represented on the consumer panels, but we would certainly not stand in the way of relief for certain groups if that were felt necessary.

Maureen Macmillan: Indeed, some of the groups that you represent are charities.

Zoe Clelland: Yes—that is true.

Lisa Schneidau: On water pricing, surveys have been carried out by some of the water companies south of the border, which show that consumers would be willing to have environmental costs represented in water prices. A lot of work was done before the fourth asset management plan—AMP4—which recently commenced south of the border. The companies were keen for environmental costs to be reflected, but that did not happen and the amount of money that was available for environmental work was cut as a result. Some precedents have already been set on that side of things, on which we could provide more data.

Maureen Macmillan: That would be helpful.

Bristow Muldoon: Maureen Macmillan has dealt with environmental costs. I note that your submission also covers the question of where environmental considerations could result in financial savings to the industry. I can think of

obvious examples, such as the reduction of leakage, which would bring environmental and financial benefits. Your submission also refers to the use of naturally functioning systems instead of expensively engineered solutions to filter out pollutants.

I am trying to tease out whether there are any other general areas where you believe that environmental integration would produce financial benefits. To what degree should that be reflected in the duties that Scottish Water will have under the bill?

Zoe Clelland: The use of soft engineering alternatives, such as flood plains or biological effluent treatment, has proved to be cost-effective. As well as being viable methods for the water authorities to use, those also carry substantial benefits relating to biodiversity, recreation and tourism. It is not just a case of the water authority making financial savings; the wider financial benefit is often overlooked if improvements are considered to be just environmental.

Could you remind me of the other part of your question?

Bristow Muldoon: I asked what needs to be added to the bill to ensure that Scottish Water considers such alternative approaches to managing its services.

Lisa Schneidau: The bill certainly contains a duty to consider such approaches. Section 47(4) says:

“Scottish Water must ... act in the way best calculated to contribute to the achievement of sustainable development.”

We welcome that subsection, but we query the detail. Who makes the calculation and how are those matters flagged up in the beginning? We suggest that wording should be added to ensure that other options, including soft engineering options, are considered equally alongside more traditional options.

Scottish Water could perhaps be given a duty to lead on the issue of sustainable urban draining systems—SUDS—which use soft engineering options and wetlands to clean water and also create a wildlife habitat in their own right. Furthermore, they are often a cheaper alternative. It is a matter of finding some way to include in the bill—among the duties on Scottish Water and in the guidance from ministers—some provision for that approach to be considered as a matter of course, not just as an example of best practice or of something nice that gets good publicity.

Nora Radcliffe: Do you have any concerns about access under the bill?

Zoe Clelland: Environment LINK represents groups—not just RSPB Scotland and SWT—that

will be concerned about access. Our only comment on that is to do with the use of the word “desirability” in section 47, which uses the expression:

“the desirability of preserving for the public any freedom of access”.

That is perhaps not strong enough. Scottish Water will own a lot of land and it will be important to ensure that the public has access to those resources, which are not just commercial interests, but represent part of the landscape of Scotland. We would like access to those areas to be maintained.

The Convener: If there are no further questions, I thank the witnesses for coming along this morning and for their written evidence. The session has been very useful for our work.

We move now into private session to discuss the final item on our agenda, which is consideration of a draft report to the Finance Committee on stage 2 of the 2002-03 budget process. I thank members of the press and the public for coming along and taking an interest in our work today.

12:11

Meeting continued in private until 12:30.

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