

# **ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE**

Thursday 9 September 2004

Session 2

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## ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

### 19<sup>th</sup> Meeting 2004, Session 2

#### CONVENER

\*Sarah Boyack (Edinburgh Central) (Lab)

#### DEPUTY CONVENER

\*Mr Mark Ruskell (Mid Scotland and Fife) (Green)

#### COMMITTEE MEMBERS

\*Roseanna Cunningham (Perth) (SNP)  
\*Rob Gibson (Highlands and Islands) (SNP)  
\*Karen Gillon (Clydesdale) (Lab)  
\*Alex Johnstone (North East Scotland) (Con)  
\*Maureen Macmillan (Highlands and Islands) (Lab)  
\*Mr Alasdair Morrison (Western Isles) (Lab)  
\*Nora Radcliffe (Gordon) (LD)

#### COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)  
Janis Hughes (Glasgow Rutherglen) (Lab)  
Jim Mather (Highlands and Islands) (SNP)  
Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

\*attended

#### THE FOLLOWING GAVE EVIDENCE:

Bill Anderson (Forum of Private Business)  
Alan Barclay (Diageo)  
David Calder (Ciba Speciality Chemicals)  
John Downie (Federation of Small Businesses in Scotland)  
Iain Duff (Scottish Council for Development and Industry)  
Ian Jones (Quayle Munro Holdings plc)  
Dr Ray Mountford (BP Grangemouth)  
Dr John Sawkins (Heriot-Watt University)  
Alan Thomson (Chartered Institution of Water and Environmental Management)

#### CLERK TO THE COMMITTEE

Tracey Hawe

#### SENIOR ASSISTANT CLERK

Mark Brough

#### ASSISTANT CLERK

Chris Berry  
Catherine Johnstone

#### LOCATION

Committee Room 1



## Scottish Parliament

### Environment and Rural Development Committee

*Thursday 9 September 2004*

[THE CONVENER *opened the meeting at 10:01*]

**The Convener (Sarah Boyack):** Good morning. I welcome members, witnesses and members of the press and public to the first meeting of the Environment and Rural Development Committee in the new term and in the Holyrood building. I have not received any apologies.

I ask members to check that they have inserted their cards in the new sound system. I assume that all mobile phones are switched off—that is always worth checking. We are slightly new to the equipment, but I hope that everything will work smoothly. I remind members that they do not need to use the request-to-speak buttons. As usual, members should indicate to me when they would like to come in with questions, comments or other contributions.

### Item in Private

10:02

**The Convener:** Agenda item 1 is to consider whether to take in private agenda item 6, which is consideration of a draft report on sustainable development that has been prepared by CAG Consultants. Do members agree to discuss the report in private?

**Members** *indicated agreement.*

## Interests

10:03

**The Convener:** Agenda item 2 is declaration of interests. Before the summer recess, the Parliament agreed that Mark Ruskell would replace Eleanor Scott as the Scottish Green Party representative on the committee. I welcome Mark Ruskell to the committee and invite him to declare any relevant interests.

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** I do not have any farms, smallholdings or pieces of land, but I am a member of Reforesting Scotland, the Henry Doubleday Research Association and the Soil Association.

## Deputy Convener

10:03

**The Convener:** We need to decide on a new deputy convener to replace Eleanor Scott. The Parliament has agreed that members of the Scottish Green Party are eligible for nomination as deputy convener. I therefore seek nominations for members of that party.

**Mr Alasdair Morrison (Western Isles) (Lab):** I have looked at the short list and I propose Mark Ruskell.

**Alex Johnstone (North East Scotland) (Con):** I second that.

**The Convener:** That is a stunning endorsement. There are no other nominations.

*Mark Ruskell was chosen as deputy convener.*

**The Convener:** I welcome Mark Ruskell to the post.

## Water Services etc (Scotland) Bill: Stage 1

10:04

**The Convener:** Our first substantive agenda item is the Water Services etc (Scotland) Bill. This is our first major discussion of the bill at stage 1. Today, our key task is to examine the effects of the introduction of competition for the non-domestic sector and the effects of the model for regulating competition and the proposed new charge-setting regime that the Executive has suggested. We have tried to get as representative a sample of witnesses as possible, given the limited time that we have. We issued an open call for written evidence from interested parties and the written evidence that we have received has been circulated to members.

Before we commence taking evidence on the bill, I ask members to declare any relevant interests.

**Rob Gibson (Highlands and Islands) (SNP):** I am a member of the Scottish Crofting Foundation.

**The Convener:** I welcome the first panel of witnesses, who have been sitting patiently for some time. Dr John Sawkins is a senior lecturer in economics at Heriot-Watt University and is deputy convener of the south-east of Scotland water customer consultation panel. Ian Jones is chairman of Quayle Munro Holdings plc and was an adviser to the former Transport and the Environment Committee on its inquiry into the water industry. Alan Thomson is from the Chartered Institution of Water and Environmental Management. I thank them for coming this morning. As they have all submitted extremely useful written evidence, we will not have opening statements. I am grateful that they have put their thoughts in writing—members have read the comments and reflected on them. We will go straight to questions.

**Alex Johnstone:** It is clear from the bill that the Executive feels that there is a clear distinction between domestic and non-domestic supply of water and water services. It seems from the witnesses' submissions that that is not necessarily their assumption—they seem to think that the relationship is more complicated. What is the difference between domestic and non-domestic and does the bill reflect it accurately?

**Dr John Sawkins (Heriot-Watt University):** The distinction between domestic and non-domestic is clear: our normal understanding of the terms is that domestic consumers are household consumers and non-domestic consumers are any other consumers. I am not sure what the confusion is.

**Alex Johnstone:** Let me clarify. The bill treats those two groups differently. Is that appropriate and is the way in which the bill does so appropriate?

**Dr Sawkins:** I would need to know which parts of the bill you are talking about, rather than give a blanket answer.

**Alex Johnstone:** In as general terms as possible, I am talking about the fact that the bill will allow competition for the supply of non-domestic water services but seeks to deny competition for the supply of domestic services. That is a clear distinction, although the bill makes other distinctions.

**Dr Sawkins:** For the purposes of the competition that is envisaged in the bill, a clear distinction can be drawn between the household and non-household sectors.

**Alex Johnstone:** Is that distinction appropriate, or would you draw it differently if you had the opportunity?

**Dr Sawkins:** No. The distinction is good and it is well set out in the bill.

**Alan Thomson (Chartered Institution of Water and Environmental Management):** I agree with John Sawkins that the distinction in the bill is appropriate, but given what has happened in other utility markets, the bill should, if at all possible, prepare us for the domestic sector coming into the competitive marketplace in the future.

**Ian Jones (Quayle Munro Holdings plc):** I doubt whether it would be possible to do that in the bill, which is essentially a cleaning up of issues that have been hanging around for a few years, but as Scottish Water develops its customer relationship profile and as others develop that profile, change in due course would probably be a good idea for both sectors and for Scottish Water.

**Alex Johnstone:** I will extend the issue slightly. One of the bill's main planks is the assumption that domestic charges will be levied so that those who pay for water services will cross-subsidise those who are unable to pay. Does that lend itself to the future introduction of a more commercial system in the domestic water market?

**Dr Sawkins:** It is essential to be clear about what we are talking about when we talk about water services to households or non-households. As I said in my written submission, there are two aspects to the supply of water. Is it a social service, or is it just another economic input into the production process? Those are the two extremes. We can argue that, if water and sewerage are a social service, the costs of supplying that service should be met out of taxation rather than charges, and it should be given as of right. There are

arguments about health benefits and so on. If we go to the other extreme and say that water and sewerage are an economic good, in a very narrow way, people should be charged for the amount that they use and strictly metered. However, it is not as simple as that. Every household has basic needs: water for drinking, cooking, cleaning and sanitation, for example. In that sense, water and sewerage are a social service for households. However, there are also households that have swimming pools, use power jets to clean their drives and so on. I would not regard those as basic needs. We must try to hold the two things together.

At the other end of the spectrum, one could argue that for very big firms water is just another input into their production process and that they should therefore be charged for what they use. However, what about a small post office that keeps local households together and is a key part of the economic infrastructure? There might be a social dimension to what it is doing. We must first get clear in our minds what we are talking about. When we have made a decision about that, we can move on to issues of how people should pay, how we should charge and whether it is appropriate in certain circumstances for cross-subsidies to flow.

**Alex Johnstone:** That is the point that I am trying to get at. I want to know where the balance ought to lie and whether the bill has it in the right place. I refer to the balance between the two extremes that you have described.

**Dr Sawkins:** At the end of the day, the balance must be struck by ministers. The structure of the bill is right, but it is for ministers to decide what the obligations should be and what they want to achieve and to be explicit up front about the fact that they want a social dimension to be taken into account in the charging scheme. At the outset, they must be clear about that, rather than fudge the issue.

**Ian Jones:** I will add a thought to Dr Sawkins's remarks. I presume that part of the bill is looking to require Scottish Water to be thoroughly commercial. We all recognise that certain users of water will not be able to pay for it or will have difficulty doing so. I am not sure that Scottish Water is the right agency to practise social security, as it will be required to be efficient. There are other appropriate agencies that will support users who cannot pay. There may be a requirement for future legislation to provide other agencies and to take away Scottish Water's social responsibilities, as they seem to be envisaged at the moment.

**Dr Sawkins:** Ian Jones has made my point in far fewer words and has gone straight to the heart of the matter. We have to decide whether the water

and sewerage charging system is an instrument of social policy. If it is, that has implications for the charging system. If it is not, Scottish Water should not be expected to act as an agent of the social security system.

**Alan Thomson:** I will add to what Ian Jones and John Sawkins have said about whether water and sewerage are a socially based service or a commercially based service. If a decision is made that the service should lean towards the social side, that does not exclude the possibility of there being an efficient service that is driven by other drivers and frameworks within the overall delivery framework of the water service. There must be something in ministers' considerations that will drive efficiency into Scottish Water, regardless of whether the emphasis is on the commercial aspect or the social aspect of the service.

10:15

**The Convener:** I want to pursue the point of principle that we are addressing. Does Maureen Macmillan want to follow up on that issue?

**Maureen Macmillan (Highlands and Islands) (Lab):** I want to ask about competition, which Alex Johnstone mentioned at the start of his question.

**The Convener:** We will keep going on the issue of principle before moving on to that topic.

**Roseanna Cunningham (Perth) (SNP):** My question does not follow on exactly from what has just been said, but it opens up a slightly different issue in the same area—that of the philosophy behind what we are doing. I grew up in a country—not Scotland—where water conservation was an issue. In effect, every household was given 100,000 gallons a year free. Beyond that, households paid on a meter. That was a big incentive for responsible use of the water resource in a place where water was a much more problematic issue than it is in Scotland. Following on from Alex Johnstone's question, can you tell me whether there is anything at all in the bill that we will discuss over the next few weeks that would encourage the responsible use of water and lead people to regard it as a resource that they should not squander?

**Ian Jones:** I do not think so. That is a personal view. My immediate thought is that the bill does not do that.

**Roseanna Cunningham:** I do not think so either.

**Dr Sawkins:** I share that view. The critical question on which the issue turns is that of meters. Many people's hackles rise when one mentions the word meters. They are terribly expensive to install and terribly difficult to maintain—they have to be put in, ripped out and are very hard to run.

There is also the issue of low-income households cutting themselves off. When installing a meter, one can give a household a free tranche of water for basic needs and impose a steeply rising price after that amount has been used. There is no sense in the charging system that we have, which allows me to pay a flat fee even if I leave my taps on all day and all night.

**Roseanna Cunningham:** That is the point that I am trying to make. Having a flat rate in no way encourages people to be responsible in their use of this resource. As you say, people can use as much water as they want, but the charge will be exactly the same. That encourages the big swimming pools and so on that you mentioned—a use of water that is beyond what we would consider to be normal domestic consumption. Does that apply at both domestic and commercial levels?

**Dr Sawkins** *indicated agreement.*

**Alan Thomson:** There is nothing in the legislation that would drive the responsible approach that the member is seeking. We must address the mindset in Scotland that water is free, as plenty of it comes down from the sky. Having worked in the industry for more than 20 years, I know without doubt that that attitude is entrenched in the Scottish approach to water. People believe that the service is or should be free, because water comes down from the sky.

**Roseanna Cunningham:** I am more concerned with the environmental conservation and responsible use aspect of the issue.

**Alan Thomson:** The two go together.

**The Convener:** Presumably, there is also the angle of people's use of resources on the sewerage side. However, that is not addressed in the bill as drafted. Do you see any comparisons with other regulated utilities? Roseanna Cunningham has made a point about water conservation. Companies in the energy industry are required to promote energy conservation among their customers. Should there be a similar requirement in the bill?

**Ian Jones:** I wonder whether there is any point in conserving water for its own sake. Would Scottish Water benefit from such a policy, given the cost that that policy would impose? I cannot answer that question.

**The Convener:** All the witnesses indicated that they agreed that water metering would be a good thing, because it would automatically lead to a more careful use of water. Your comment almost contradicts that point.

**Dr Sawkins:** I do not say that water metering is a good thing for all households at all points in time. We must work out what the benefits and costs are

on a case-by-case basis. If a region were very tight for water and required additional water resource—if an extra plant needed to be built or some large capital works needed to be undertaken—there would be a case for metering households in that zone, because it would be the cheaper option for balancing demand and supply.

It would be very costly to install meters in every household, although there are ways of moving towards that point. One example would be to ensure that a chamber was set aside in each new-build house in which a water meter could be installed. Over time, it would be possible to move in that sort of direction. That said, I would not want to be pushed right the way down to the end of the argument that says that meters are good in all circumstances and at all points in time.

**Alan Thomson:** If we are talking about water conservation and the installation of meters as a means to deliver that, we really have to look to the other side of the water supply system—the side that is the responsibility of Scottish Water. Not only is the infrastructure and the state of the pipes poor but we have 40 per cent leakage levels. We have to look at that side of the system before we start to ask customers to look at their side; at the very least, both sides would have to be approached with equal energy.

**Maureen Macmillan:** Do we have regions in Scotland that are tight for water? Obviously, if Scotland is not tight for water, we do not need metering and conservation of water may be unnecessary. Surely we would not pursue metering for its own sake?

**Ian Jones:** The financial interest of Scottish Water is to sell as much water as possible. In a sense, the same risk component is not found in the water industry as is the case in the energy sector, in which an ecological aspect applies. I presume that there are no ecological implications in the case of water. If Scottish Water is an utterly commercial operation, its commercial interest would be to encourage people to use more water and get marginal profitability as a result of a subtle charging system.

**Maureen Macmillan:** I just want to know where in Scotland we are short of water.

**Dr Sawkins:** I struggle with the idea that there is plenty of water and that therefore we are at liberty simply to waste it. Water falls down out of the sky and is free. We have plenty of the stuff in its raw state, but it falls down in the wrong place and at the wrong time—we cannot simply hold out a cup and have a good drink of water.

Water has to be transformed in place and time and that costs money. Although water falls down from the sky, we need sewers and mains to get it to the right place at the right time. There is a cost and there is a benefit.

**Alan Thomson:** Water usage has a large ecological and environmental impact. If more water is used, more sewage goes down the effluent pipes. In turn, energy is required for treatment and pumping and for the long sea outfalls that have to be installed. There is a massive impact on the environment that is not fully appreciated in respect of water as a utility.

**Roseanna Cunningham:** Basically, the present situation is one in which no regard is paid to the middle to longer-term issue of water as a scarce international resource. Given the amount of water that we have in this country, we could choose to go down the road of treating water as a potential international commodity. However, at the moment, nobody in Scotland is officially promoting the responsible environmental use of water. Scottish Water will not do that: its job is to sell water and it wants us to buy as much water as possible. There is nothing in the bill about conservation, which means that the Executive is not thinking along those lines either. Our present mindset is that we do not have to conserve water: no one is doing so and there is no mechanism for anybody to do so.

**Dr Sawkins:** I do not know whether Scottish Water is under a statutory duty to promote the conservation of water. The committee would need to ask the civil servants that question.

**The Convener:** There is a debate about whether there should be a statutory requirement for sustainable development. It depends how the key elements are defined, but I would be amazed if water conservation was not assumed to be a part of such a requirement, along with environmental conservation. However, it is not explicit in our background papers.

**Mr Ruskell:** Clearly, more indicators of sustainability need to be in the bill. Alan Thomson pointed out several in respect of the energy costs that are involved in water treatment and in aspects of water usage. In his submission, he went quite far in saying that sustainable development is not explicit in the bill. He referred to

“the formation of the Commission, the licensing regime for retail competition, and charge determination”

and went on to say:

“All of these are related to sustainable development issues although ... The relationship is not necessarily positive nor encouraging sustainability.”

What is missing from the bill? How can we get sustainable development and the key sustainability indicators into the bill to ensure that

the new framework for the water industry points us in the right direction?

**Alan Thomson:** The way in which that could be imparted in the bill is through determination by the commission of what is important and what the priorities are for Scottish Water. I am not a legal expert and I do not know how that could be put into the legislative framework, but there is no doubt that the commission could be empowered and charged with setting sustainability and environmental targets. The targets could include a reduction in energy-use levels to encourage the use, for example, of natural waste water treatment systems rather than energy-inefficient schemes, and a reduction in water throughput. We know about leakage in the system and that there are problems in respect of sewerage collapses. Such issues could be brought to the fore if the commission were to set general targets.

**Mr Ruskell:** Does that need to be set out explicitly on the face of the bill?

**Alan Thomson:** Yes, although I qualify that by saying that it should be set out if sustainability is to be an issue in the bill—

**Mr Ruskell:**—in terms of the power of the proposed water industry commission.

**Dr Sawkins:** I do not agree with that view. We have to be careful when looking at the powers and responsibilities of the new water industry commission, as it is set out in the bill. One of the difficulties with which the industry has struggled over the past few years is that responsibilities and powers are just a little bit vague. People are not quite sure where the lines should be drawn. It is terribly important at this stage to get right this aspect of the bill. The job of the water industry commission, as it is set out in the bill, is a fairly narrow one. It does not have all the baggage that many organisations doing similar jobs have. However, I would pull back from saying that the commission should have responsibility for setting targets for leakage and so forth, as that would be an extra distraction from its main task.

**The Convener:** In your submission you say that the commission should have a “sustainable development obligation” similar to that which is held by Scottish Water.

**Dr Sawkins:** Absolutely.

**The Convener:** Would it not be quite a broad challenge for the commission to have that role as well, rather than have a single focus on economic cost?

**Dr Sawkins:** Such an approach would ensure that the way in which the commission conducts itself is in line with good principles of sustainable development.

I do not see the commission going right the way down the line towards setting leakage targets and checking up on whether they have been reached. The danger in all of that would be that the industry's economic regulator would simply get bigger and bigger. It would then be given more and more stuff to do and could begin to wander off into regions of social policy that are not its job. It is for ministers to decide what policy objectives should be achieved; the water industry commission should have a narrow focus.

**The Convener:** That was a helpful clarification.

**Ian Jones:** The key mechanism for introducing capital expenditure is the five-yearly review of charges. It is clear that Scottish Water has a role to play in sustainable development for industry and private housing development. Absence of investment will discourage such development and might even hold it back.

I understand that the Finance Committee examined that aspect and commented unfavourably on Scottish Water's achievements. The lead must come from ministers. It is unreasonable to expect the water industry commission to take that lead, because that is not its responsibility, but somebody has to do it. In the sense that Scottish Water is a key component of that development, it is ministers' responsibility to set the targets and ensure that they are achieved. I support Dr Sawkins's view on that in relation to the legislation. On the passing the parcel that might be going on with regard to the delicate question of charges, we cannot ignore the fact that some aspects of Scottish Water's operations affect the whole community, and they need to be determined by ministers taking a strong line.

10:30

**Nora Radcliffe (Gordon) (LD):** Dr Sawkins has made the point that I was going to make. Policy direction should come from ministers, not from the commission.

**The Convener:** Do members have other questions?

**Nora Radcliffe:** On other areas?

**The Convener:** Yes, moving on to another topic.

**Nora Radcliffe:** I have one or two questions for Alan Thomson about his submission. The first is a fairly minor point. On Scottish Water's move into retail services and the need for transparency, you say that such transparency would

"provide competitors with access rights to end of year accounts and audits".

Should that apply to all competitors? You say that Scottish Water should open up its books, but should everybody have to do that?

**Alan Thomson:** Company accounts are open to members of the public anyway. The reason for my comment is that the accounts could be buried within the larger Scottish Water accounts and so the transparency would be lost. My fear is that the accounts of the subsidiary operation for retail provision might be lost in Scottish Water's general accounts, in which case nobody would be able to see how the retail provision operated and what was costed against it.

**Nora Radcliffe:** So you are underlining the importance of what I thought was the thrust of the bill: if Scottish Water is to have a retail arm, it should be demonstrably distinct.

**Alan Thomson:** Yes, absolutely.

**Nora Radcliffe:** I wonder about your recommendation that a target should be set for competition in the form of a market share with a timescale attached. Other submissions said that the threat of competition would be enough. Does the panel want to explore whether we should positively drive for competitors to come into the market or whether the threat is enough?

**Dr Sawkins:** The issue that underpins competition is that when there is real competition it is hard to predict the route that it will take or what it will look like at the end of the day. It is hard for us to sit down and say, "This is the framework that we are going to set up—we are going to gaze into our crystal ball and this is what it will look like in five years' time. We are going to set a pile of targets and see whether we have achieved them." As I said in my submission, we should test whether competition has been a success not on the number of competitors that have come in but on what it has done for prices and for the retail market as a whole. In 10 years' time Scottish Water retail might be the only firm working in the area, but it will have behaved in a different way because the threat was credible—that is the key word. It is difficult to see how real competition can take place if the legislation is drafted in such a way that the threat of competition is not real, if Scottish Water has such control over its sector of the market, if competitors have one hand tied behind their backs, or if Scottish Water has one hand tied behind its back.

**Ian Jones:** I add only that competition will increase the need for cross-subsidy as prices are cut to those that can demonstrate strength and, regrettably, prices are sustained for those that cannot. The drive for efficiency might partially balance that, but I have a horrible feeling that it will not do so completely.

**Alan Thomson:** The suggestion in my submission that it might be worth while to consider a target is a reflection on other utility markets in which monopolies existed. Where targets were

suggested in the telecoms, gas and electricity markets, they worked extremely well. I agree with Dr Sawkins's view that, unless there is a real framework for competition, it will not happen, but effectively the two should go together.

**Dr Sawkins:** We must make a distinction between water and telecoms, gas and so on. The difference is that water is a bulky, non-compressible liquid that is difficult and expensive to transport. In the bill, common carriage is ruled out north of the border. South of the border, on health grounds, the view has been reached that there should be common carriage—the committee might want to explore that later. In telecoms, real competition can take place because one is no longer fixed to the copper wires that run beneath our streets, and in gas there is common carriage. We must keep it in the forefront of our minds that we are talking about water and, although we can learn from what is going on in telecoms, gas and so on, not all the tricks can be applied.

**Alan Thomson:** I hasten to add that, in terms of transportation, there is little difference between fluids, whether they are gas or water, but in relation to telecoms there is a difference. Anti-competitive behaviours by the utilities in England and Wales, particularly the water utilities, are not permitting ease of entry into the marketplace.

**The Convener:** Rob Gibson wants to move us on to another topic.

**Rob Gibson:** Given that we have to have a commission, I would like to get your views about its composition in relation to different kinds of customers and stakeholders from various parts of the country. Should the commission be technical or should it be representative of the stakeholders?

**Ian Jones:** The commission certainly needs to be independent; it should not be part of a cosy circuit. It must be rigorous and experienced in its assessments, it must support its executive and it must understand the arguments. Stakeholders, in the form of large consumers, could undoubtedly be very useful to it. They will have the time and the ability to handle the issues because they are supported by their companies—I am not referring to avoiding conflict of interest, but they have the resources for research and examination that a private individual might not have.

The composition of the commission is certainly a delicate question, in relation to its independence, its toughness and its experience. I remember that, some years ago, the Transport and the Environment Committee talked about the need for surveillance of the regulatory committee, possibly even with a Holyrood component. The way in which the commission works will be extremely important for the consumer. Balancing the various factors will be critical because it will regulate

cross-subsidy, which undoubtedly occurs, and it will assess capital expenditure and how it is funded, depreciated and applied through the charging system. There are a lot of difficult questions and there will be huge conflicts and difficulties. It will be an important and difficult task.

**Dr Sawkins:** From my reading of the bill, I have in mind a narrow role for the commission. It will be given a job to do and it will have to do that job. I return to the point that it is for ministers to set policy. The difficulty with having a commission that comprises particular stakeholder groups is that we might go back to what we have had in the past few years—stakeholder group A says loudly in the press, "We want this," and stakeholder group B says, "We want that." That does not help the poor consumer who needs to get water. My short answer to whether the commission should include representatives is no. It should be a panel of experts who conduct this narrow job. However, the wider issue of how the consumer voice is heard needs to be unpacked a little further.

**Alan Thomson:** In my submission, I have suggested an increase in numbers for the commission. It should be representative of stakeholders and having between three and five members is inadequate for that purpose.

**Rob Gibson:** We are dealing with supply to both commercial and private customers in areas in the north of Scotland and the islands that have very small, individual supplies. Those are the areas that I represent. If we had only technical experts involved in the commission at that stage, I would be frightened that the needs of such supplies—which are unique to the make-up of the water industry in Scotland—would be ignored. You say that we should have a larger commission that might take that into account. How would the technical experts deal with that situation?

**Dr Sawkins:** That is not the job that they should have to do under the terms of the bill. It is for the minister to make a decision on the basis of the social policy objectives of the water industry in Scotland. The minister should hand over those social policy objectives and it should be for the commission to work out the minimum cost of getting a level of service to the customers. It is not for the commission members—who will be appointed, not voted in—to set social policy or to make social policy on the hoof, which would be the worst of all worlds.

**Maureen Macmillan:** We also have customer consultation panels, whose relationship with the water industry commissioner has not always been terribly happy. If we have a commission rather than a commissioner, might that perhaps change?

**Alan Thomson:** The wider view that a commission would have simply by having a panel

of members rather than a single commissioner could only lead to a healthier debate. The commission is there to promote the interests of the customers of Scottish Water and needs to have ears that will listen to the various parties that have an interest in Scottish Water.

**Dr Sawkins:** As the convener said at the start of the meeting, I am the deputy convener of the south-east of Scotland water customer consultation panel. I see that the convener of the panel will speak to you later, so I will pass on that issue and leave answering that question to him.

**Karen Gillon (Clydesdale) (Lab):** I am interested in exploring the idea of the representation of stakeholders on the commission. There is already a bid for a cast of thousands to be included in the list of potential stakeholder representatives. My difficulty with the idea of expanding that list is the question who decides who is on the list and which geographical areas are represented. I could make a bid for my constituency, just as every other constituency MSP could make a bid for their constituency, every list member could make a bid for their area and every business organisation could make a bid for itself. Who represents the public sector? Who represents the health service? Who represents local government? Who are the stakeholders and who decides who those stakeholders are? How can we avoid discrimination against areas that are not included in the list of thousands? How can we avoid their being disfranchised, as I feel that my constituency would be if there was only a representative from the Highlands and Islands who had their own particular interests?

**Dr Sawkins:** You have just explained why I take the view that the commission should not comprise all the stakeholder groups. That is not its job. However, that gives rise to a further question: how are those voices to be heard? That is a question that you might like to ask other people to explore a bit further. I do not think that, as things stand, that is the job of the new water industry commission. It should not be playing that game at all, as it would get into the sort of muddle that you have just described.

**Karen Gillon:** In part, it is the role of the Parliament and its elected representatives to represent those stakeholders. However, there may be a need, somewhere underneath, to have some kind of forums and to develop the existing structures to make them more responsive and better listened to than they have been in the past. We must make that part of the transition to the new structure. The point is made in the submissions that we have received that we want a new start, not just to recreate the past under a new guise. We cannot go on as we have before; we have to have a new start to the water industry in Scotland.

**The Convener:** Over the past few years, we have had a series of different formulations of how different groups of customers are represented in the system. Going back to our initial discussion, we must be clear about the principles of the bill, how it is meant to operate and exactly who has which job. That is one of the things that we need to tease out in discussions with all our other witnesses.

I thank the three of you for being prepared to come and engage with quite a lot of difficult questions. It has been an excellent start, and we have really got to the heart of some of the tough questions that we will have to address. I thank you for coming and for your written submissions. We will take a break while the witnesses in our second panel take their places.

10:45

*Meeting suspended.*

10:48

*On resuming—*

**The Convener:** I call members to order. When members hear that “ping” noise in future, they will know that I am about to call the meeting to order. It is an advance warning system.

I welcome our second panel of witnesses, Iain Duff, the chief economist for the Scottish Council for Development and Industry; John Downie, the parliamentary officer of the Federation of Small Businesses in Scotland; and Bill Anderson, the campaigns manager for the Forum of Private Business in Scotland. As with the previous panel, we will not have introductory statements from you all, but we have your written submissions, for which we are very grateful.

**Alex Johnstone:** I will begin by asking whether each of the panellists was invited to and able to attend the water services conference that was held at the Roxburghe Hotel recently.

**Bill Anderson (Forum of Private Business):** I attended the conference, but I did not receive an invitation. I am told that it went missing. I found out about the conference the day before and rearranged my programme so that I could attend it. The consultation process, which was very well run, is the first proper consultation that we have had and I hope that it is not a one-off just to appease us and that the process will continue. As I said in our submission, I feel that consultation should be enshrined in the bill, because it has been lamentable up until now.

**John Downie (Federation of Small Businesses in Scotland):** We were certainly aware of the conference and were invited to it. Our

chairman will be chairing a seminar on water that the Executive is holding in Aberdeen on 27 September, at which the minister will be present. We have been involved in discussions on the issue with officials and ministers.

**Iain Duff (Scottish Council for Development and Industry):** The SCDI, too, was invited and attended. We have attended the conferences associated with the various consultations that are in the public domain. The consultation process seems to be in full swing.

**The Convener:** Although no other member seems to want to move on to another question, I do not think that we have run out of questions.

I have a question for Iain Duff on an issue that no one has mentioned so far—thresholds. In your submission, you spend a bit of time discussing thresholds. Will you say a little bit more about them? I get the strong impression that you do not agree with the way in which they have been set. You make a strong argument for their implementation to be phased. Why do you think that that is so important?

**Iain Duff:** Our submission was made to a previous consultation on the draft bill. At the time, we felt that there had to be careful consideration of the way in which the market was going to be opened up and how that would apply to customers. In the event, the bill mentions the opening up of the market through phased thresholds as an alternative that could be considered. We felt that that was the way things should go if the market were to open up in the way in which we had thought that it would.

As it turns out, because the market on the retail side is not to be opened up at all to common carriage—a matter that I have spoken to the Executive about since the bill's publication—thresholds are a slightly less important issue for the domestic sector. However, if, over time, the opening up of the domestic sector to common carriage began to be considered, the use of thresholds would allow us to ensure that we took a staged and measured approach to that process, so that it was conducted in a considered and sensible way. I understand that the bill does not necessarily go down the route that we envisaged, with the result that thresholds are less meaningful at this stage, but they are an issue that we should consider if the situation develops. As John Sawkins said, we do not know how competition will progress, but thresholds could be considered if a different route is taken in the future.

**Rob Gibson:** I want to return to sustainability issues, which the committee will be addressing more and more. The water framework directive requires that water charges provide an incentive for users to use water resources efficiently. How

do you, as representatives of small businesses, respond to the idea of business using its resources efficiently? How do you think that you can meet those aims?

**Bill Anderson:** Roseanna Cunningham made a good point when she mentioned her view of the situation in Australia, which seems to offer a good disincentive to overusing water. We have been advising our members that, if at all possible, they should opt for metering. That is really the only way to go.

The assessment that is based on rateable value is grossly unfair—I think that the bill acknowledges that. It depends on how the banding system works, but I cannot see that that system will provide the same disincentive that a meter provides. I know the effect that a meter has on my electricity bill and I am sure that members are all aware of the effect that meters have. When we get a big bill, we do something about it, such as turning the heating down a bit. I think that the same applies to water. Meters are the best means of ensuring that we use water efficiently. That said, if we are talking about a very small business or a very small domestic house, it might not be worth the expense of installing a meter, but there must be a break-even point somewhere.

**John Downie:** As regards sustainability, most businesses are always thinking about resource efficiency, because that is a cost issue. That is true of telecoms, gas, electricity and water.

It is probably true that, in relation to water and waste water, not enough has been done on resource efficiency. Scottish Water has a duty to act in a sustainable manner—I forget the exact wording of its responsibility—but it is probably not being as proactive in helping businesses with sustainability and reducing costs as it should be. That is especially the case with waste water.

In working with the Executive's energy efficiency office, we have made every effort to examine the whole issue of resource efficiency, which is becoming increasingly important for businesses. The figures in some of the submissions show by how much people have reduced their water costs. It makes good business sense for them to do so.

**The Convener:** I suppose the question is whether that resource efficiency duty should be included in the bill as a requirement on the water industry commission, whether Scottish Water should be responsible for it or whether it should be the job of some of the other water companies, in consultation with business users.

**John Downie:** Businesses should be acting sustainably anyway, because that makes good business sense. We do not think that such a duty should be included in the bill. Scottish Water has a duty to act in a sustainable manner and to pass

that on to its customers through its operational activities. We would probably agree with John Sawkins that the commission will have a clear role and responsibility and that to bring in different sustainability and environmental targets could mean that it would take its eye off the ball.

The Executive talks about achieving environmental sustainability through all its policies. The key to that is the operational delivery of that objective. We would leave that out of the commission's remit.

**Rob Gibson:** We will have to return to the question whether such sustainability requirements should be in the bill; other people may have a view on that. John Downie has explained those requirements in some detail but does not think that they should be in the bill.

**Bill Anderson:** We could have a look at what happens elsewhere. Last summer, I was quite surprised to find that my brother's house in Lincolnshire is metered. He said, "What's the problem? All the houses here are metered." I was quite surprised that the relevant authority in the east of England meters individual bungalows and houses. If that can be done down south, perhaps we should have a look to find out whether we can do it up here.

**John Downie:** That is the issue of cost-reflective charging. As Rob Gibson described, sustainability could be included in the bill, but the question is whose responsibility it should be to deliver on that. We would probably disagree that that should be the commission's responsibility, but if you are asking whether it should be Scottish Water's responsibility, that is a different matter. A key question is who you want to deliver on sustainability.

**Iain Duff:** An issue that arises is how easy it is to enshrine in legislation matters such as environmental targets. That may be one of the stumbling blocks to including a sustainability requirement in the bill. As Scottish Water is in the public sector and is closely accountable to ministers, ministers could give instructions to Scottish Water to take seriously the sustainability responsibilities that it must fulfil. However, it is difficult for us to get a handle on how sustainability could be sensibly enshrined in the legislation.

**Mr Ruskell:** We are talking about delivery and who is responsible for ensuring that it happens, but what kind of delivery are we talking about? Bill Anderson mentioned meters. Meters are obviously a stick, but what kind of carrots do businesses need to ensure that their water use reduces over time and that they make cost savings? Who should be responsible for ensuring delivery on that? Should it be Scottish Water? Who is best placed to give businesses what they need to

reduce their resource consumption and lower their costs?

11:00

**John Downie:** Last year, in tandem with the Scottish Energy Efficiency Office we produced an environmental toolkit for our members. The toolkit looked at a range of areas including waste, water, energy and utilities. The FSBS agrees that although every business should consider the issue the agencies should be the ones to assist businesses. We see resource efficiency more as a business development issue than an environmental issue. It is Scottish Enterprise, the business gateway and Highlands and Islands Enterprise that should be looking to help businesses reduce their costs. If businesses do so, it helps them and, at the same time, helps the Executive to meet its sustainability targets. It becomes a business development issue instead of an environmental issue. Our most recent survey of our 2,000 members in Scotland showed that they want clear information on their environmental responsibilities, including information on cost benefits and on how to reduce their costs. That is a role for Scottish Enterprise.

**Bill Anderson:** I do not want to have an agricultural argument with Mark Ruskell about the difference between a carrot and a stick. At the end of the day, however, we are talking about a carrot. The stick is when the water bill is found to be far too big; the carrot is when a reduction in consumption reduces the amount of the bill.

My brother is inhibited from washing his car and watering his garden every night because to do so would add to his water bill. As a customer in Scotland, I am not inhibited in that way. When there is a drought I can water my garden until I am told not to. However, although I could carry on using water, I do not: my car is lucky if it gets cleaned once in three months.

The carrot is the prospect of lower water bills and the stick is that, if someone does not reduce consumption, they will get a whacking great bill.

**Mr Ruskell:** Usually, the carrot dangles off the end of the stick.

**The Convener:** Let us move on from carrot-and-stick analogies. Three main issues have been raised: individual users of water services actively taking steps to reduce their own consumption costs; the water industry commission looking to reduce the overall costs of water as it is supplied in the domestic sector; and competition in the business sector bringing about lower costs. It may be helpful to think of them as different objectives, as there are different ways of delivering them.

**Alex Johnstone:** I want to ask a specific question about a problem that has been brought to my attention on numerous occasions. It relates to those who are essentially business customers, but are at the very lowest end of demand in the business community. Typically, those business people have a shop or a workshop in which there is a single sink with a single cold tap and yet they find themselves paying £400, £500 or £600 a year for the privilege. Do you see anything in the bill that would deliver some solace to the people who continually write to me on the subject?

**John Downie:** No, I do not see anything in that respect. Is that an issue for the bill or for the consultation on the principles of charging that is going on at the moment with ministers? We have said clearly to ministers that they must break the link between rateable value and water usage. We have to find another way of charging businesses like that for water, a way that charges them on a usage basis.

The problem with the water industry is that it is a heavy cost infrastructure industry. There is an issue about volumetric charging and standing charges. At the moment, as we have said, the emphasis is too much on standing charges. That is why businesses have been penalised. There is also the link to rateable value in terms of water and sewerage. Clearly, we have to break that link, but it will not be possible to achieve that in the bill as it stands at the moment. Ministers seem to be listening to our concerns on the rateable value issue, but we realise that it will take time.

**Bill Anderson:** That is absolutely right. Many people are paying huge bills for very little use—they may have just a kettle and a staff toilet and yet their bill is £450. I got a telephone call from somebody in the north-east of Scotland—I will not identify him—who said, “I have a standpipe in my yard that used to cost me 75 pounds a year and do you know what it costs me now?” I said that I did not and he replied, “450 pounds. When I go home, my water bill in my house is 450 pounds and I’ve got two quines and two sons, all using water all day long and having baths every night. It’s nay fair.” I asked him whether he had complained about it and he said, “No, I’m frightened that, if I do complain, they’ll put my house water up instead.”

We have had several complaints of that nature. That is why we have suggested that there should be some means of appealing against bills that appear to be stupid, such as a charge of £450 a year for using one standpipe to wash down a van once a week. Metering would obviously help the situation. A person might find that a bill of £800 could be reduced to £100 if they invested in a meter. That would probably be worth it. Again, however, we have to give people some incentive for doing that.

**Iain Duff:** I would agree with that. The fact that having a meter can bring down the cost of water to someone who has a small usage rate is a good case for metering. As has been touched on, investing in a meter would bring savings.

I agree that the parallel consultations on investment and on the charging regime are important and, like others, SCDI is currently consulting its members to get concrete answers to the question of how we can get a more focused charging regime that takes account of small usage by extremely small businesses. I know that that might not be a matter that relates to the bill that we are discussing.

**John Downie:** However, it will be crucial that, when the minister writes to the commission to set out his policy, he takes cognisance of the situation in relation to the principles of charging, which is probably the most important issue for the business community at the moment.

**The Convener:** We are conscious that there are links throughout this issue. When we have the minister in front of us, we will be considering the quality and standards III programme and the principles of charging. The matter will come back to us and we will pick up the points that you raise when we question the minister.

**Maureen Macmillan:** Mr Duff, in your submission you mention cross-subsidy, which is contentious with businesses because they feel that they subsidise domestic customers. With the previous panel, we discussed the balance between the social obligations of delivering water and the commercial side of the issue. I notice that you think that the bill should deal with cross-subsidy. Would you care to elaborate on that?

**Iain Duff:** The cross-subsidy from non-domestic customers to domestic customers is a fact of life. As an economic development organisation, the SCDI has a responsibility not only to our members in the business community, so we are in a position to understand that in order to provide a universal service there must be some cross-subsidy in Scottish Water. As you say, it is a question of balance, but I am not sure that I can say where that balance should lie.

As I said in our submission, the ability of Scottish Water to continue the practice of cross-subsidy in the way in which customers are charged across the board might be put under threat once the market is opened if, for example, large customers are cherry picked by other providers. I do not know what would need to be done to avoid that, but, under the Competition Act 1998, there is a threat that the current structure could be undermined and, for example, customers in rural areas and others who are more difficult to service might be penalised. However, there is a

need to take into account the fact that the balance is not quite right at the moment and is stacked against business customers. I realise that we do not have the answers, but there should be a recognition in the bill that competition and the opening up of the market might be problematic, although, of course, we cannot predict how competition will affect the situation. That is a risk of which we need to be aware and which must be addressed in some way.

**Bill Anderson:** I gave the example of the chap with the standpipe. Obviously, he felt that his business was subsidising his home. Dr Sawkins made the very good point that some businesses have a social function—he mentioned post offices. I put it to the committee that the average cafe does not provide toilet facilities for its own good, but for the good of the public, its customers. Much provision of water services has a social function, especially in businesses that may be very important to the local community. Maureen Macmillan knows that in the Highlands the local shop is sometimes on a margin. We heard from the owner of a sweetie shop in Ayrshire, who complained that she was running the shop as an annexe to her house and was being charged for water, although she never used any water in the shop but always went upstairs to use the toilet in her house. She is now paying something like £350 per year for nothing. The charge was reasonable before, but it has gone up by 600 per cent. We must consider the social dimension of businesses as well as just domestic users.

**John Downie:** The real issue as regards subsidy is clarity. As Iain Duff said, at the moment the non-domestic sector is subsidising the domestic sector. However, there are subsidies in the non-domestic sector as well as in the domestic sector. We want the principles of charging to get to the heart of the issue and to get us clarity. Whether there will continue to be subsidies is an issue for ministers. We see that there are obvious benefits to the business community in reducing subsidies. Whether we phase out subsidies is an issue to be discussed. However, ministers must say clearly where the cross-subsidies are and how much they will be, and must build that information into their policy decisions, so that we can have a debate about cross-subsidy issues. Ministers may in the end make a decision that we do not like, because we believe that the subsidies are too high, but at least we would be able to debate that with them. At the moment, there is no clarity and different figures for cross-subsidy are given by different industry experts. We would like to have some clarity.

**Maureen Macmillan:** Subsidies may be necessary. The question is, from whom should the money come to subsidise social need?

**Bill Anderson:** I am concerned because poor people do not necessarily live in the smallest houses. Council tax banding is not a good measure. Many well-off older people move to a small house. They may not need help, where quite a big family in a middle-sized council house may need it. In its submission, the Forum of Private Business mentions the need to identify the poor households that need help and cannot pay. We should not assume that the people in the smallest houses are those who cannot pay.

**John Downie:** In your social policy objectives, you have to identify the people at whom you want to target the subsidy. At the moment, cross-subsidy is a blunt instrument that is not being used effectively. The targeting of subsidies is a policy decision, responsibility for which lies clearly with ministers and the Parliament.

**The Convener:** Do you have a view on cross-subsidy between different business sections? Large water users could negotiate deals that might be good for the nation, but who decides how the pricing structures and subsidy issues should affect the business community?

**John Downie:** At the moment, very large users are able to get a fairly good deal from Scottish Water. Cross-subsidy affects medium-sized to fairly large users, which people in the industry say are subsidising smaller businesses. However, we do not know that for sure. We do not know whether the subsidy is 5 per cent, 10 per cent or 15 per cent. In order to debate the issue, we need clearer figures. Obviously, our members do not want to be subsidised and we want an efficient, effective industry. Our aim should be to phase out subsidies and to have people pay by use, especially in the business sector. Businesses want to pay for the water or sewerage infrastructure that they use.

**Bill Anderson:** If I misquote this example the BP Grangemouth representative who will give evidence later can correct me. I gather that BP Grangemouth pressed for a much lower price from Scottish Water after it was quoted a price for drawing cooling water from the Forth-Clyde canal. Scottish Water was then able to undercut that price. One wonders whether the price that was offered to BP Grangemouth is the price that my business or any other small business would pay.

11:15

**The Convener:** We can pick that up with our next panel. We may want more information from Scottish Water and possibly from the minister on how such issues are evaluated.

Karen Gillon will move us on to a new topic.

**Karen Gillon:** John Downie's submission mentions how the proposed change to the Water (Scotland) Act 1980 would mean that Scottish Water would no longer be supplier of last resort. I fully understand the point about the need to encourage entrepreneurs, but are there no circumstances in which it would be fair for Scottish Water to say, "Look, your track record has been X, Y and Z on five different occasions." If a company that does not pay its bills moves premises again, why should Scottish Water continue to supply it?

**John Downie:** It should not do so in circumstances where the person is a serial bankrupt who is serially abusing the system, but we have other concerns. At the moment, UK bankruptcy legislation is being changed to make it easier for people to get back into business if they have been put out of business for genuine economic reasons and if they are not one of the phoenix companies that we all know abuse the system. Our concern is to ensure that people can still go back into business. It is probably not necessary—in time, it might be—to enshrine a limit on the number of times that someone could do that. The point is that some people whose previous business failed will go back into business and they should have access to water services. I have no clear thoughts on whether a limit should be set, such as for people who have failed to pay their bill six times over the years, but the issue could be discussed.

**Mr Ruskell:** Clearly, there are many unknowns about how retail competition for non-domestic customers is envisaged to work. What kind of companies might supply water in the commercial retail sector? How attractive will that be as a commercial proposition for those companies? How interested will private business be in retailing water?

**John Downie:** That is difficult to judge. Different figures have been given to us about what the benefits would be, but I think that our submission mentioned that the average saving might be between £20 and £40. If a major utilities company such as Scottish Power were to enter the water industry, the benefits from having one bill for gas, electricity and water might rise, but the benefits do not seem significant to our members, so that might put new entrants off. I think that there will be a wait-and-see attitude; I have not heard that there will be a major rush of companies going into retail competition for water.

**Bill Anderson:** I think that the issue will be a bit beyond the scope of small and medium-sized businesses; it will tend to be bigger businesses that will go for it. Iain Duff will be able to give a better reply than we can, but I point out that our submission recommended that the bill should not allow the cherry picking of customers to the

detriment of the majority of business users and it should not disadvantage a particular group of business, such as those in rural areas. That should be borne in mind.

**Iain Duff:** The threat that larger companies will be cherry picked is highlighted in several of our submissions on water. A similar situation could arise in postal services when that market is opened up.

It is difficult to say how attractive water retailing will be. I have heard anecdotal evidence that the English water companies, which are obviously just on the doorstep, may be interested in stepping in. John Downie has mentioned other utility companies, but it is very difficult to tell how attractive they will find the bill and how easy it will be for them to pick up on its provisions. Each company will have to consider that and will probably wait some time before moving in—there will not be an immediate effect.

Of course, such companies are able to enter the non-domestic sector already. The committee will hear from some of the bigger companies about how they are treated and how they have sought out other suppliers for their water services. It is difficult to tell how quickly the market will expand, which companies will move in and how quickly they will do so.

**John Downie:** The market is very small—it consists of 160,000 businesses—which, on the face of it, does not make that attractive a proposition, unless one was thinking of piggybacking on electricity, gas and other utilities.

**Bill Anderson:** The committee should perhaps consider an excellent paper produced by the consultation panels—"Principles of charging for water and wastewater"—the research for which was done by John Sawkins and a colleague. Tables CS1, CS2 and CS3 use the Office of Water Services model to compare water prices for small, medium-sized and large companies in the Thames, Wessex and Wales areas, with prices in the Scottish water authority areas. The table for medium-sized companies shows that a medium-sized user—which is described as being a hotel; it could also be a factory or an office—would pay £6,815 per year in Scotland, but would pay only £2,345 per year in Wales. That means that water is three times as expensive for a company in Scotland. Welsh Water might feel that it would be worth while shipping its water up here, because companies in Wales are getting it at a third of our price. That is something that concerns business.

**The Convener:** Would it be possible for us to obtain a copy of that paper?

**Bill Anderson:** I have the tables with me.

**The Convener:** It would be helpful if you could circulate them to members.

Who has the final say on charges? The submissions express very different views. One of our previous witnesses thought that ministers should not play a part in the final decision on charges, but that they should just set the framework and then leave matters to the water industry commission, which would comprise a set of experts. The witness said that it should be for experts to deal with a debate that is necessarily complex and technical. However, the submission from the Forum of Private Business takes a totally different view. I want to tease out what is a key issue in the bill. You say:

"The Scottish Parliament must not lose control of Scottish Water by delegating control of policy and charging to an ... unelected Quango."

Why do you believe that?

**Bill Anderson:** We asked our members whether they wanted privatisation. We were quite surprised to find that only 9 per cent of them said that they wanted privatisation, whereas 66 per cent of them wanted the Scottish Parliament to have stronger powers.

I know that many MSPs had folios of complaints from very small businesses, including some in Argyll and Ayrshire, as well as several in the north of Scotland, in spite of the fact that we were told that the increases there had not been as big. I remember that there was a group of people from the Black Isle area, north of Inverness, who had files of complaints. When the issue was brought up with the minister, he told us that he could not intervene. We think that, at the end of the day, the buck must rest with Parliament. The power, which has been lost, must be taken back by Parliament. Sixty-six per cent of our members wanted the power to be reinvested in Parliament so that if they were to bring the matter up with their MSP, a power of intervention would be available.

**Karen Gillon:** How would that work? Would every person who had a problem with their bill come to Parliament so that it could arbitrate?

**Bill Anderson:** It is clear that there was a problem last May. We and John Downie's organisation had a huge folio of complaints from people who had suffered a sixfold, a sevenfold, an eightfold or even a tenfold increase in their water bills. It was not a matter of interfering in that, but something had gone wrong. When I met Allan Wilson on 23 July last year he said, "I agree with you, Bill. I am entirely sympathetic, but I can't intervene." Who do those people turn to? We have suggested that there should be some means for the man with the standpipe to say, "Look, there is a ridiculous charge for this standpipe—it's 450 pounds." He wants to tell somebody, but he cannot.

If the principles are wrong and something like that happens, and many MSPs want to raise it—and yes, the issue was raised in the debate, but the answer was always, "Sorry, I cannot intervene"—the minister should be able to say, "What's gone wrong? What can we do about it?" At the time, we proposed that we could take the sting out of the multiple increases and reduce them to a maximum of 100 per cent at a cost of £4.1 million, which is only 1 per cent of the Executive's underspend. We were given the figures by Scottish Water, which was quite prepared to do that, but when we asked the minister whether he would allocate £4.1 million he said, "I agree in principle, but I can't do anything about it."

We think—and we have asked our members, who agree—that that power should remain within the Scottish Parliament. What else do we have a Scottish Parliament for?

**Karen Gillon:** Would the same facility exist for domestic customers?

**Bill Anderson:** You did not have the problem with domestic customers. There was a 10 per cent—

**Karen Gillon:** I assure that you there was a problem with domestic customers because, as you correctly pointed out, there was an issue about whether people at the margins could pay.

**Bill Anderson:** Fair enough. I can see that now.

**Karen Gillon:** I know that there was a particular problem with the business community. I am just interested in how you think parliamentary intervention would work.

**John Downie:** The clear issue over the past two years is about roles, responsibilities and accountability. We talked to Scottish Water, the Executive and the water industry commissioner, and everybody passed the buck. The bill clarifies the issue. The minister will set the policy guidance, on which Parliament will have its say, and the commission will set the charges. As we said in our submission, the minister's policy statement will be crucial to issues such as cross-subsidy and levels of charging. The policy statement is critical for the minister, but how it is implemented operationally is a matter for the commission and Scottish Water.

In relation to the customer having their voice heard, there will still be MSPs and the minister, but we envisage an important role for water customer panels. As we said in our additional remarks, the most important issue for us is that water customer panels represent the views of non-domestic customers as well, although that is not clearly identified within the bill. That must be made clear, so that we will have a voice, through the water customer panels, to the commission. We have not

looked at this point in detail, but it is worth exploring the relationship between Ofwat and WaterVoice, which is the customer panel south of the border. Issues in relation to water customer panels have to be clarified. They must have a strong role, as the voice of all customers.

I disagree with Bill Anderson. At the end of the day, ministers will issue policy guidance and they will change their policy guidance at different times. They can intervene if they want, so the buck stops with ministers, but the issue is clarity with regard to who delivers what and roles and responsibilities. Ministers make policy, whereas the commission and Scottish Water are operational. That is how we have to see it. If we strengthen the role of the water customer panels, customers will have a voice with which to influence the charging regime and make complaints.

**The Convener:** The difference with the new legislative framework is that, at the moment, the minister can finally override the water industry commissioner, but that option will be removed by the bill. That is one of the issues that I am trying to tease out.

**Bill Anderson:** I do not disagree with John Downie, but if the bill gives the power to the minister to intervene, so that he cannot hide and say that he cannot—

**The Convener:** No, it is the other way round. He has the power at the moment, but he will not under the new regime. I am trying to tease out what you think about that.

**John Downie:** The commission must deliver a charging scheme that reflects the Executive's policy.

**Roseanna Cunningham:** Is this more an apparent difference than a real difference? Is the issue not one of ministerial direction? You are talking about policy, and policy is not direction. I think that Bill Anderson is looking for a system where the minister retains the ability to direct. The concern is that the bill would effectively remove any ministerial power to direct, which then leads us into much bigger issues such as democratic accountability.

11:30

**Bill Anderson:** You hit the nail on the head. Problems are always going to happen. The minister does not appear to have been aware that there was going to be a sixfold increase until it arrived and was publicised. The story was first published in *The Herald*, and I believe that that was when the minister first knew about it.

We raised the matter with representatives of Scottish Water, who hummed and hawed and, at the end of the day, said "We told him to look at

page 237 of the Green report". I said that he had probably fallen asleep by page 230. However, when I looked up the document—I cannot remember if it actually was page 237—with Graham Smith of the water consultation panel, we found a blank page. The information had got lost somewhere in that huge, 500-page report.

There are going to be emergencies and anomalies. During the next round, we probably will not be more involved, and someone will still say "But I've got a 600 per cent increase." When that happens, the minister has to have the power to say "Hold on folks, how did this happen? I did not know about this." If he has the power now—I was told that he had not—then he was not telling us the truth. He must retain that power.

**Roseanna Cunningham:** I have sympathy with what Karen Gillon is getting at. The minister's office cannot deal with individual bills—I do not think that that is what anyone is suggesting. However, there is an issue to do with the extent of the power that is retained by the minister when an issue is flagged up, as happened last year. Can the minister use the legislation to shrug his shoulders and say, "Nowt to do with me", or can he say, "Yes, I can see that there is a big problem that has to be dealt with and I will find a way of dealing with it"? At the moment, we are in danger of going down the road of the minister not having any responsibility or accountability.

**Bill Anderson:** That is right.

**John Downie:** Perhaps we slightly disagree on that. Our reading of the situation is that the commission performs a technical and, in a sense, financial function in setting up a charging regime under the direction of the minister, as Roseanna Cunningham said. The minister can limit the charges in his letter of direction to the commission; for example, he could say that business charges will not rise by more than the rate of inflation. How the commission delivers that is up to it and Scottish Water. The minister can influence how much businesses and domestic users pay and, as we understand it, he will still have power. However, power will no longer be invested in one water industry commissioner. There will be a commission that will have more accountability and we will have to scrutinise it much more heavily than we have done in the past. There was a failure to scrutinise the figures in the past, which was at the root of some of the problems. I agree that the issue needs clarity.

**The Convener:** We are bound to come back to this in subsequent evidence. It is clearly a key issue.

**Mr Morrison:** The proposal mirrors what happens currently in further and higher education: the minister issues a letter of guidance and then the funding councils go away and do their jobs.

**Iain Duff:** I agree with that approach. Because we are going to move from having an individual commissioner to having a commission, there should be much more consultation with others. The policy memorandum gives the impression that the commission might be more open to receiving submissions and to consulting on its work. I see parallels with Postcomm—the Postal Services Commission—which consults quite a lot on the work that it does and how it regulates the Royal Mail. I would like to see if that is the way in which the commission will work in the future and if that is how it will take on the views of stakeholders.

**The Convener:** We will have to come back to the discussion on consultation, different stakeholders and how they are involved in the process to ensure that we understand exactly how the commission will work.

**Nora Radcliffe:** A right of appeal is part of the process. There is the policy direction, the commission does its technical work, the whole thing is set up and, as I understand it, Scottish Water has a right of appeal, but nobody else has. Is having an appeal mechanism the right way to tackle the problem?

**John Downie:** There cannot be an individual appeal mechanism in the bill, as such a mechanism does not exist in any area of utilities—or anywhere else at the moment. Non-domestic customers have to have a forum where they can make their views known and influence the process.

The consultation on the principles of charging is on-going. We are running focus groups to get our members' views, and business organisations and individuals will continue to make their views known on the charging regime. If we can get the principles of charging right—how businesses are charged for their water use—we will take away many of the problems that you are referring to. If we break the link with the rateable value and find a better way to charge for surface water drainage and all the issues that are causing the current problems, we must then have a debate about the principles of how one charges. Once there is a charging regime, in a sense one cannot appeal against the charges in the same way that one can appeal against a rateable value, because—I hope—that that link will be broken.

**The Convener:** So there will be winners and losers, but it is about drawing out the principles that shape—

**John Downie:** The principles are key. In discussions with our members, we have tried to focus on the big principles of how one charges, rather than on trying to design a charging regime, because that is not what we are talking about. Once the principles have been set, the regime will be up to the commission.

**Bill Anderson:** I diverge slightly from those comments. The first thing to remember is that it will be 2010 before the banding system is introduced, so for some the unfair system will continue in operation until then. There will still be people, such as those in the sweetie shop or with the standpipe that I mentioned, who seem to have idiotic bills for very little water use. We have suggested that there should be an appeals procedure in exactly the same way that people will have next year when they receive their new rateable values. If somebody has what seems a ridiculous bill for a small amount of water use, they should have the right to appeal against it. There has to be some neutral appeal structure, and that is why we have suggested such a structure. There will always be anomalies and problems. We have to achieve a sense of fairness, rather than leave people feeling frustrated that they can do nothing about the situation.

**Karen Gillon:** I understand the point that you are trying to make. However, if a bill is based on the current charging regime and, according to that regime, the charges are right, how does one appeal against that bill?

**Bill Anderson:** I put it to you that if the guy I mentioned with the standpipe were in your constituency, he would be frustrated and would come to you because he would not know where to turn. All I am saying is that one needs to be able to vent that frustration.

The consultation panels have been good at representing the consumer's point of view, both domestic and business. They have done an excellent job. However, when I met the south-west panel members in Stirling I asked, "What now happens to all this information?" and was told, "It goes on to our website." I then asked, "Who reads the website apart from Lord God Almighty?" and the answer I got was, "Well, not the minister." If we had a complaints procedure, individual complaints would have to get through. That is why I say that we should streamline the procedure and give it more teeth through consultation panels. There must be some means by which someone with an anomalous water bill—such bills will occur no matter what we do, even after the introduction of a new regime—can have the bill corrected.

**Karen Gillon:** I understand what you are saying and I agree that people have come to me. However, if the charges in a bill are right, according to the current charging regime, against what do people appeal? Let us accept that the current charging regime is wrong, inequitable and unfair or that it should be reviewed and changed, which is the process through which we are going with the present consultation exercise. However, the regime will not have been changed by next year. In the meantime, against what can people

appeal? They might not think that the charges in a bill are right but, based on the current charging regime, those charges will be right.

**John Downie:** The fairly simple solution in the short term is to ensure that every business customer is metered. If that were the case, they would pay according to use and metering would take the rateable value out of the equation. Ministers could direct Scottish Water to do that as quickly as possible. I accept that that is a short-term solution until we break the link with the rateable value in the charging regime, but it is a way whereby businesses would pay for their water use. It would mean that the small shop about which Bill Anderson spoke, which pays £450 a year for the use of one toilet and one sink, would pay for the amount of water it uses. There is a short-term option as well as a long-term policy change. At the moment, one can appeal against one's rateable value and if one succeeds in reducing the rateable value, the water bill should go down. Although I take Bill Anderson's point, I believe that there is a short-term solution.

**The Convener:** Okay, we will return to that issue in future, particularly when we have the minister and Scottish Water in front of us. I am keen to move on to our third panel this morning. I thank the three witnesses on our second panel for their written submissions and for being prepared to answer all our questions this morning.

11:41

*Meeting suspended.*

11:49

*On resuming—*

**The Convener:** We move on to our third panel of witnesses. We welcome Alan Barclay, the general manager of Port Dundas distillery, representing Diageo; Dr Ray Mountford, the commercial development manager at BP Grangemouth; and David Calder, the head of manufacturing with Ciba Speciality Chemicals. Some of you have heard the previous discussion. Again, we are not going to take opening statements from you, but we are grateful that you have given us your thoughts in writing. Members have been able to read those submissions, which I suspect will provide the jumping-off point for a number of questions. As I look around the room, Alex Johnstone catches my eye. Would you like to lead off the questioning, Alex?

**Alex Johnstone:** I thought that I would complete the set, convener. I have a very broad opening question. Do the panellists agree that the consumption of water services should form the basis of a system of taxation?

**The Convener:** It is optional to respond to the committee's questions.

**Alan Barclay (Diageo):** I suggest that the answer is no. We should pay for our water services in the same way as we pay for other utilities such as gas and electricity.

**Alex Johnstone:** Given the fact that in effect much of the bill goes down that road, do you think that the bill provides enough protection for you from a system that is designed to be essentially redistributive in its charging mechanism? Are you adequately protected by the bill?

**Alan Barclay:** Again, I would suggest not. If anything, because of the way in which the bill is set out, it takes away some of our protection. We have a concern about the fact that the appeal procedure will go down south to the Competition Commission whereas, at the moment, it rests with the ministers. Given that Scotch whisky is an indigenous industry, we feel that it would be far better for any appeals to be decided in Scotland.

**Dr Ray Mountford (BP Grangemouth):** I echo Alan Barclay's thoughts. We do not believe that the consumption of water services should be the basis of taxation and we do not believe that the bill protects business from that. The bill is written to provide ministers the opportunity to achieve social objectives through taxation. However, we do not think that it is right that business should pay for that through water charges.

**David Calder (Ciba Speciality Chemicals):** I agree with the views of the other two gentlemen. It is clear that companies such as ours are much more incentivised by the system whereby we are metered and charged for what we use than by any general taxation method.

**Alex Johnstone:** What changes would you like to be made to the bill in order better to protect the position of larger companies in Scotland?

**Dr Mountford:** The bill needs to think hard about what its purpose is. We read the bill as a means to protect against the Competition Act 1998, not as a means of opening up competition in the water industry. If that is its purpose, it is causing a lot of heartache and hard work for businesses and for Scottish Water for no real benefit. Fundamentally, you should be asking what the bill is about.

**Alex Johnstone:** Do you feel that the availability of retail competition will benefit you in some respects, or will it bring no advantage over the current position?

**David Calder:** I believe that the impact will be fairly minimal. Any competition is good, but a big opportunity has been missed by not looking at competition in its wider sense.

**Alex Johnstone:** Do you mean by that extending the opportunities for competition within the sector in which you are involved or extending the opportunities for competition across a range of sectors, possibly including the domestic sector?

**David Calder:** I am thinking more of the principle of common carriage. There is clearly a view that the risks to public health and the risk of interruption to infrastructure would be increased if common carriage were introduced. As a business, we find that rather strange. We pride ourselves on our very strong environmental health and safety performance. Not only is that good for the community as a whole, it is good for business. Other companies could be allowed to use the network that is available. That would work, provided that the right safeguards were put in place. The risk would be no greater than it is at the moment—in fact, it could be lessened.

**Alex Johnstone:** I have a business that tests the public water supply regularly and I assure you that you are correct that that has certain aspects to it. What would you expect common carriage to deliver for your business?

**David Calder:** It would give us more choice. On our site, we are a big user of all the utilities, including energy, and water is one arm of that. We are also a big user of gas and electricity. Liberalisation of the gas and electricity markets in the past few years has given us more choice. That competition has been good, and the same would be the case with water.

**Alan Barclay:** We understand that opening up Scottish Water's infrastructure to competitors would involve huge problems. However, as the bill will open up only the retail sector, which covers payment for services that are supplied, such as meter readings and repairs, it will have only a small impact on our bill. We question whether there will be real competition from outside to challenge Scottish Water on that, because that contributes such a little part of the total bill.

**Dr Mountford:** When we asked other water providers whether they would be interested in such competition, they said that a market of 160,000 businesses for retail only was not big enough, so we do not expect competition to come into Scotland. Even if common carriage were allowed, we would not expect competition from that, either. England and Wales have common carriage, but real competition among the counties does not exist—each looks after their own—so why not just let retail competition begin and see what happens?

**Alex Johnstone:** So you take the view that the bill does not go far enough to encourage true competition in water supplies in Scotland.

**Dr Mountford:** It definitely does not go far enough—it will restrict competition. It will provide

legal protection against a challenge under the Competition Act 1998.

**Maureen Macmillan:** I will talk about cross-subsidy. An anomaly strikes me, because if businesses such as yours want to have cut-price water, I imagine that other customers will have to pay the difference. In effect, that would be a cross-subsidy to you, yet businesses by and large say that they do not want to subsidise domestic customers, for example. The previous panel also argued that small businesses should have some subsidy. Lots of people seem to be talking with different voices.

**Alan Barclay:** My company feels that it has paid a fair price over the years for the water that it receives. We have special agreements for some of our supplies. For instance, when Dalmeir treatment plant was being operated under a private finance initiative, we entered into a special agreement with the West of Scotland Water Authority for five years. That allowed the authority to be sure of the revenue and allowed us to budget more effectively. Special agreements benefit both sides.

With regard to your question about cross-subsidies, business in Scotland is at a disadvantage compared with business in the rest of the United Kingdom because down south there is less onus on water charges to businesses and charges are reflected more fairly between the domestic and business sectors.

12:00

**David Calder:** If businesses are to subsidise the domestic sector, that is fine. That is a policy decision that has to be made. However, while companies such as ours have been working hard during the past few years to try to save water, there has been no incentive for domestic users to do likewise. We have to pedal twice as hard and help not only ourselves but other users, and that does not seem entirely fair.

I understand the rationale behind not wanting to have special deals, but if costs continue to escalate as they have in the past couple of years—and the evidence suggests that they will—more and more companies will look for alternative sources of water instead of using Scottish Water. Ultimately, that will put a bigger burden on everyone else and nobody will win. We as an organisation do not want to spend time looking for alternative sources, whether on our own or by using another company. We have enough issues to deal with running our business and producing pigment, without looking for alternative water supplies. If that is what we have to do to save costs, that is what we will do, but ultimately that will just add a burden for Scottish Water's other customers.

**Maureen Macmillan:** When you talk about looking for alternative supplies, do you mean creating your own private water supply? If there is no competition, who would you go to?

**David Calder:** We have considered the possibility of drilling boreholes and we have a couple of test boreholes on our site. We are located beside the River Cart and we have considered the possibility of abstracting water from the river. Those are just two possibilities. I disagree a little with Ray Mountford; companies have come to us to discuss the possibilities that would exist if common carriage were allowed and I believe that there would be some interest in that, albeit not on a large scale.

**Alan Barclay:** The bill allows us to buy from a completely different source, as opposed to a company that supplies potable water. We, like Ciba, would consider drilling boreholes at Port Dundas, but we are more likely to use the Forth and Clyde canal, which is right next door to us, for cooling and washing water. There are alternatives open to us.

**Maureen Macmillan:** So it is likely that Scottish Water will lose big customers.

**Alan Barclay:** Yes.

**Dr Mountford:** The committee is probably aware that we were weeks away from coming off the network, with the competition—a third party—building its own private water supply to the Grangemouth area. That supply would not have been just for cooling water, as a treatment facility would have been included so that the water could be used for everything except drinking, and it does not cost much more to go on to make drinking water. Scottish Water saw that it was going to lose serious income and it came to talk to us, through its power to make special agreements. That is good competition and good common sense in business. We support the continuation of Scottish Water's ability to have special agreements because otherwise a number of businesses will leave the network and Scottish Water will have to recover its income streams from fewer people. Eventually, that will hit domestic users.

**The Convener:** Are there any other questions on that topic, or do members want to move on?

**Mr Morrison:** I have a question on another topic. In Ray Mountford and Alan Barclay's submissions, they make the case for large water user groups and businesses being on the water industry commission. In the light of what others have said this morning, do you still resolutely maintain that position? I think that it was Karen Gillon who said that if all users were to be represented on the water industry commission, there could potentially be a cast of thousands.

**Dr Mountford:** Apologies—I did not hear everything that was said this morning, but I heard part of it. I strongly believe that the commission, rather than the commissioner, is a good way forward. Businesses, especially large ones, should have a voice on the commission. Our frustration in the past has been that, although we have a large water user forum, where we discuss issues, nothing gets taken forward. There is lot of theory, but no one is listening to the real world of business. We hope that the commission listens to those points of view. It should listen to the small business forum and so on.

**Mr Morrison:** You would not have any concerns about the commission being too unwieldy.

**Dr Mountford:** That is up the commission. To be fair to the commissioner, he set up different groups to gather that information. The frustration was that the information did not seem to be used.

**The Convener:** The suggestion is that we have a commission of three to five experts. The question is whether the commission is seen as a vehicle of accountability for different sectors and types of user, or whether there is an alternative mechanism for those views to be heard. In this morning's debate, we discussed what it would do for users in South Lanarkshire if there was someone from the Highlands and Islands on the commission, or, if there was someone from the small business sector on the commission but not a representative of the big users, who would adjudge between them. Our understanding of the commission is that it is to make decisions on the most effective costs and to set a charging regime that works. The committee is trying to work out where the stakeholders should intervene, because we want the commission to include the best possible people to identify costs and charges. That is not necessarily an accountability process, though. Someone suggested that there should be six to eight people on the commission, rather than two to five. We have to work out whether we are trying to deal with accountability through the commission, and whether that is the right thing to do.

**Alan Barclay:** It should be left to the committee to decide the best way forward. One of the earlier panels said that it is important that voices are heard. I take your point about whether the commission would be able to achieve anything if it had 20 members, but whether or not the commission stays as it is, with only three or four members, I suggest that we need a small, tight group. However, there must be some mechanism for key stakeholders to have a voice.

**The Convener:** I suppose that that is the issue for us to tease out.

**Mr Morrison:** It is a relevant issue.

**David Calder:** We have not taken that view. Where do we draw the line? If the commission ended up having 20 members, a lot of technical and financial competence would be lost. Someone in one of the earlier panels mentioned that big businesses would be able to provide resource to the water commission. Over the past few years, water and other utilities have taken up an increasing amount of resource for businesses such as ours. It is easy to say, "Yes, sure, we can provide somebody for the commission," but the reality is that businesses are cost driven and do not have infinite resources to be involved in this type of activity all the time. I would much rather that the commission was made up of a small, competent team of technical and financial people.

**Mr Morrison:** And that there was an equally competent mechanism to allow people's views to be heard.

**David Calder:** Yes.

**Mr Ruskell:** I want to push that a bit further, to follow on from what Alasdair Morrison and Sarah Boyack were saying. Let us assume, for example, that you cannot have a place on the commission. What other structure for engaging your views with the process would you want? Would you want to go directly to a minister, or would you want to be involved in another stakeholder group? Would that be a business stakeholder group? What are the key elements that are needed to involve your views in the policies?

**David Calder:** There is room for a business stakeholder group. The point is not so much what mechanism is used, but how effectively it allows views to be made known.

One of our big concerns over the past few years has been the unpredictability of what is happening. For business, it is a big thing to be able to plan into the future, knowing what will be happening in two or three years' time. Last year, we were presented with the possibility of our trade effluent bills going up by 93 per cent next year. That is no good for businesses. We need to be able to plan and to know what is coming up. If we have some forum through which we can have effective communication in two directions and into which we can feed, we will get some sort of feeling about what is coming back the way and about what is likely to happen over the next few years. It is a two-way process.

**The Convener:** I suppose that you want your voices to be heard in different places. There are the policy framework and its costing to consider. There is an issue to do with how users have an input to the policy framework, which is ministerially led, and there is an issue to do with what the implication for users is and how cost is affected. That is presumably where the work of the water

industry commission kicks in. It is a matter of thinking through the various roles—thinking about who is involved where and about the appropriate place and the right time for people to make known their views. We take the point about cost stability, which was mentioned by small business users on the previous panel of witnesses.

**Nora Radcliffe:** The witnesses have been speaking about how and where they have an input. I wish to challenge Dr Mountford about the large user group. Do I understand that you had an input and that you had access to the water industry commissioner, who set up groups to collect information? Is your argument that that access was not effective or is your gripe that the answer that the commissioner came up with, having balanced all the information, was one with which you did not agree?

**Dr Mountford:** It was probably a bit of both, to be fair. I think that you should ask all the large water users that, although they are obviously not all here today. That arrangement started off as being a good idea for the sharing of information. Over time, however, it became clear to me that it was just a means of trying to find out what we were up to.

**Nora Radcliffe:** Was it not good for the water commissioner, who makes decisions about charging, to know what you were up to?

**Dr Mountford:** If the arrangement was a two-way one, that would be fine. The water users group had long debates about a policy that was, at the time, driving towards fixed costs—regardless of how much water an organisation used, 80 per cent of the costs were to be fixed costs. Representatives of large businesses said that that was absurd. It did not seem that the users group was being listened to, although that impression has diminished over time. There were of course some gripes at the time.

**Nora Radcliffe:** The water industry commissioner stepped on a lot of toes when it came to the fixed costs of the infrastructure. It was argued that that was a huge part of the whole cost of the industry and that the charging regime should reflect that. Would you accept that in principle?

**Dr Mountford:** No. We do not charge people every time they step on to a BP forecourt just because they are there. They have to buy the petrol or the food first. We do not say that we want 80 per cent of our income on the basis that we have some assets on the ground.

**Nora Radcliffe:** On the other hand, you charge people using your BP forecourts at the extremities a hell of a lot more than you charge people in urban areas.

**Dr Mountford:** I do not know about that for certain.

**Nora Radcliffe:** Some of us living on the periphery do not think that that is very fair.

**The Convener:** I think that that was what we would call an exchange of views.

**Karen Gillon:** So who pays for the infrastructure?

**Alex Johnstone:** The customer.

**Karen Gillon:** The customer does not pay for the infrastructure, according to Dr Mountford.

**Dr Mountford:** The customer pays based on their use of the system.

**Karen Gillon:** So customers do not actually pay for pipes getting put in the ground, for having the sewerage system or for having waste treatment works and all the things that are required.

**Dr Mountford:** We have paid a fair amount over the past 20-odd—indeed, 50—years.

**Karen Gillon:** But I am asking whether you think that there should be a standing charge for the infrastructure. People would pay for the amount that they use, which means that you would ultimately pay more because you use more.

12:15

**Alan Barclay:** We at Diageo believe that the fixed charge, rather than the volumetric charge, should be lower and that the emphasis should be on the amount that one uses. After all, as we said earlier, people would be encouraged to save water rather than to leave a tap running because they knew that it costed next to nothing to do so. We believe that it would be better to have a lower fixed charge for meters and so on and for people to pay for the water that they use.

**The Convener:** Presumably the issue of maintaining the existing framework has to be dealt with before we can deal with the amount of water that comes through the system.

**Alan Barclay:** One would hope that we have paid in the past for the structure that is already there. The upgrading of the Dalmeir water and sewage works, which I mentioned earlier, is an ideal example, because it was funded by private finance. There is no way that anyone else pays for that facility apart from the people in the area who use it. Again, as I said, the project gave us the opportunity to go into partnership with the then West of Scotland Water. It allowed us to maintain continuity of supply and allowed the board to maintain continuity of revenue to pay for the service.

**Roseanna Cunningham:** I want to pick up on some issues that reflect where this debate is

going. Diageo and Ciba's submissions contain explicit references to environmental policies on water reduction. Although BP Grangemouth's submission does not put the matter in quite those terms, the issue of water reduction is also raised. What are the current incentives for reducing and/or conserving water resources? What will the incentives be once the bill is passed? Ideally, what form should such incentives take?

**Alan Barclay:** Ideologically, we believe that we should not waste any of our raw materials, of which water is a main one. We have gone about reducing water usage in a number of ways. Basically, we have been less wasteful.

**Roseanna Cunningham:** Do you receive an incentive or benefit from that?

**Alan Barclay:** At the moment, where we pay for the water, our costs go down. Moreover, in the smaller distilleries up north, we see it as good practice not to waste our resource or to accept that it will be available ad infinitum. However, in certain areas—including Port Dundas, where I work—water and effluent represent one of our biggest costs. Obviously, the incentive is to reduce usage in order to reduce costs.

**Roseanna Cunningham:** So that incentive would have to be maintained.

**Alan Barclay:** At the moment, there is enough incentive to focus our minds on how much we spend on water.

**David Calder:** I agree. We have a huge incentive to save water. There is a basic conflict between the fact that Scottish Water's infrastructure costs lead to a high standing charge and the issue of sustainability, which we discussed earlier. If we really want a sustainable water supply and trade effluent network, standing charges need to be reduced. However, the tendency is for such charges to go up, which means that the incentive will not be as great.

**Roseanna Cunningham:** Do you accept that reducing the standing charge will mean an increase in the unit price?

**David Calder:** Yes.

**Dr Mountford:** I would say that that would give a great incentive to save water.

**Karen Gillon:** I take it that your unit cost is less because it is negotiated in special agreements with Scottish Water. However, if the standing charge is reduced and the unit cost rises for everyone else, medium-sized businesses which do not have special agreements because they do not consume enough water would be penalised. You guys would be okay because you have a special agreement.

**Alan Barclay:** We do, at the moment. However, the bill is saying to us that we will all be going on to the same charges next year.

**Karen Gillon:** You are obviously lobbying to have that changed.

**Alan Barclay:** Yes, we are lobbying for that. It would perhaps reduce our costs—although it might not—but one thing that we have found most useful in the past and that might be taken away is being able to go almost into partnerships with the water boards. In our submission, we give three examples of where working together has saved the whisky industry costs and saved the water boards costs. That has allowed a lower-cost solution on the domestic side as well.

**Karen Gillon:** I can see those advantages but, as Roseanna Cunningham says, every coin has a flip side. If we reduce the unit cost, the people who will be worst affected will be those who are at the high end of the market but not in the sector where they can negotiate a special agreement. We will obviously have to balance all those considerations.

**David Calder:** An issue that Bill Anderson mentioned earlier, to do with small businesses, was that all their costs were, in effect, a standing charge—there was just a fixed charge. We are not looking for special treatment; we are looking for the same thing for all businesses—a smaller standing charge and a metered charge.

**Dr Mountford:** You need to understand—and perhaps you do, Karen—that a special agreement is not just the negotiation of a number. Scottish Water had to follow clear guidelines, in our case anyway, to prove that we had a real alternative.

**Karen Gillon:** The small businesses were making the point that the people who would be penalised would be the medium to large businesses that are not at the top or bottom end but in the middle. They could be caught out in any potential changes.

**Dr Mountford:** But if there were no special agreements, those businesses would be penalised even more, because we would go and do something different.

**Roseanna Cunningham:** Damned if you do, damned if you don't.

**Karen Gillon:** Absolutely!

**The Convener:** What we really need is transparency in the process. We have discussed cross-subsidies between different groups and how charges are set; we need clarity on that. You have made a case for being able to continue with special agreements and we can test that case with the minister and with Scottish Water when they come to the committee.

**Dr Mountford:** My understanding of the bill is not, as Alan Barclay said, that special agreements will be cancelled next year. They will continue until their contractual termination.

**The Convener:** We will discuss that with the minister.

It has been extremely useful to have your papers in advance and I thank you, as I thanked the other panels, for being prepared to answer our questions today. We have roamed through quite a few topics.

12:23

*Meeting suspended.*

12:26

*On resuming—*

## Subordinate Legislation

**The Convener:** Under agenda item 5 there are two items of subordinate legislation. Copies of the instruments have been circulated to members. The Subordinate Legislation Committee has already considered the instruments and members have received an extract from the reports relating to them.

### Waste Management Licensing Amendment (Scotland) Regulations 2004 (SSI 2004/275)

**The Convener:** The first instrument for consideration is the Waste Management Licensing Amendment (Scotland) Regulations 2004. Members will recall that we initially considered the regulations before the recess, when we agreed that we would defer consideration of them while we asked the minister for further detail of how they affect the treatment and storage of sludge. The minister has now provided that information; all members have a copy of his response. Do members want to comment further on the regulations? Karen Gillon raised the matter initially. Are you happy with the minister's comments?

**Karen Gillon:** I have raised the issue with the minister and spoken to him privately. My main concern was odour. We continue to have concerns about storage of sludge on site for up to six months. I will continue to pursue the matter with the minister, because I think that it is an on-going issue. However, having received reassurances from him, I am content not to press the matter at this point.

**The Convener:** Are members happy to make no recommendation to the Parliament regarding the instrument?

I will take your silence as assent.

### Environmental Protection (Restriction on Use of Lead Shot) (Scotland) Regulations 2004 (SSI 2004/289)

**The Convener:** The second item of subordinate legislation is the Environmental Protection (Restriction on Use of Lead Shot) (Scotland) Regulations 2004. Members will recall that the committee considered the regulations before the recess. Having noted the concerns expressed by the Subordinate Legislation Committee in relation to them, we agreed to write to the minister to ask him to consider withdrawing and relaying the instrument.

I report to members that we received a positive response from the minister, who has agreed to do precisely what we suggested. A new instrument, which revokes the original instrument with effect from 31 August—the day before it was due to come into force—has now been laid before Parliament, so we do not need to consider the original regulations further. Once the Subordinate Legislation Committee has reported on the new instrument, it will be referred back to this committee, so we will have a chance to consider it. That is good news and members can look forward to the new regulations appearing on our agenda in due course.

That concludes the public part of today's committee meeting. Members agreed that initial discussion of the sustainable development report should take place in private. I thank members of the press and public and visiting members for attending. I ask you to leave at this point, at the end of our first committee meeting in the new parliamentary complex.

12:29

*Meeting continued in private until 12:48.*



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