

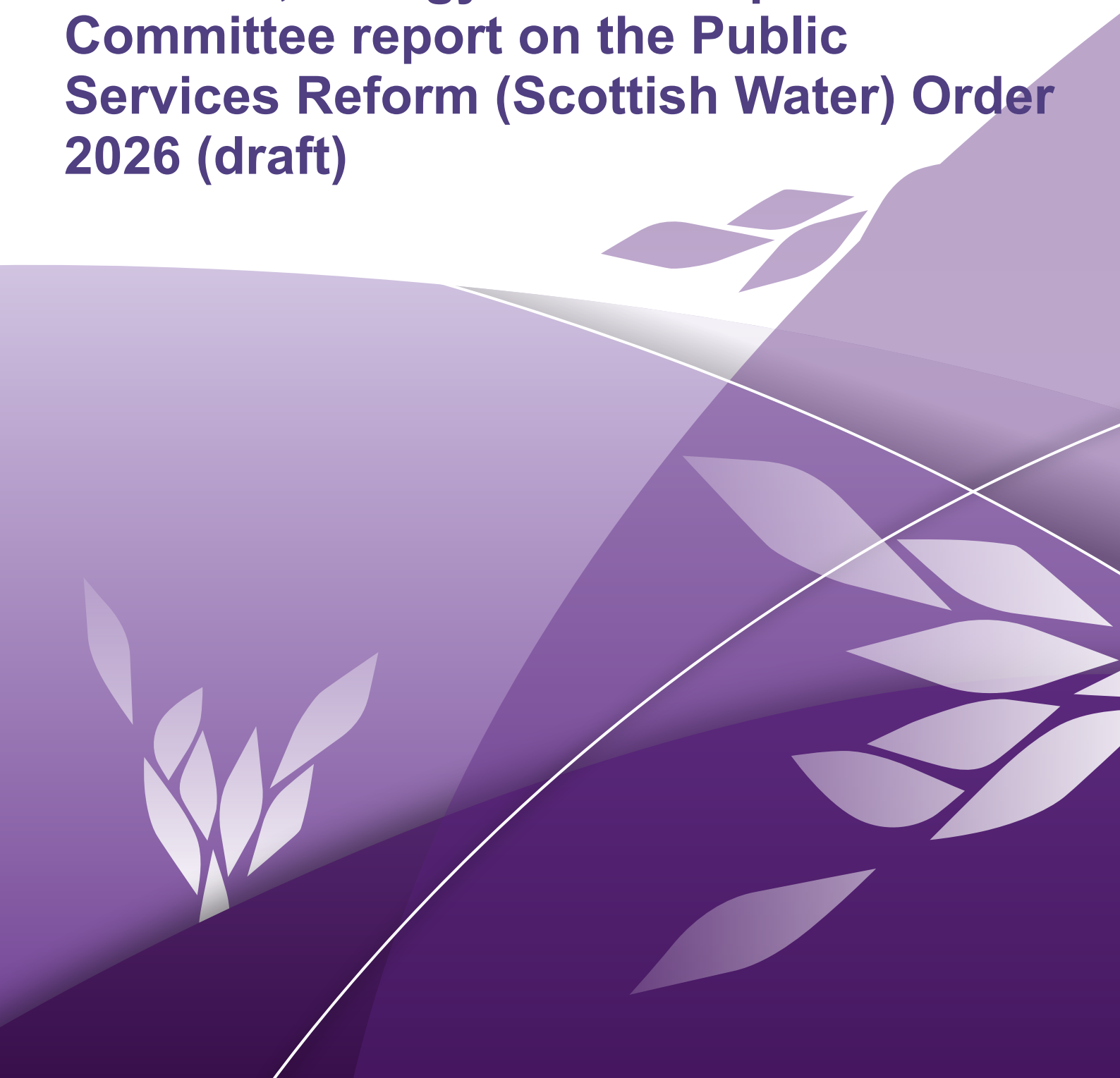


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Net Zero, Energy and Transport Committee

Net Zero, Energy and Transport Committee report on the Public Services Reform (Scottish Water) Order 2026 (draft)



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Contents

Introduction	1
About the instrument	2
Consideration by the DPLR Committee	3
Consideration by the Net Zero, Energy and Transport Committee	4
Conclusion	7

Net Zero, Energy and Transport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Transport and the Cabinet Secretary for Climate Action and Energy, with the exception of matters relating to just transition; and on matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland and Royal Botanic Garden within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands.



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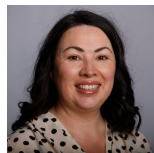
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Introduction

1. On 3 October 2025, the Scottish Government laid a proposed draft Order before the Scottish Parliament, together with an explanatory document (SG/2025/239). This was done to comply with the requirements set out in sections 26 and 27 of the Public Services Reform (Scotland) Act 2010.
2. The 2010 Act provides that, in certain circumstances, additional steps must be taken before an Order can be formally laid for approval under the affirmative procedure. This enhanced process allows for a higher level of scrutiny than the standard affirmative procedure. In particular, it gives Parliament and relevant stakeholders an opportunity to comment on the proposal before the final version of the instrument is prepared, meaning the content of the Order can potentially be influenced or amended at an earlier stage.
3. Under section 26 of the 2010 Act, Scottish Ministers are required to consult organisations representing interests that would be substantially affected by the proposal, as well as bodies whose functions would be affected, or organisations representing those bodies. Where appropriate, Ministers must also consult the Scottish Law Commission, along with any other persons they consider suitable.
4. As part of this process, Ministers must lay the proposed draft Order and an accompanying explanatory document before the Parliament and send these documents to those being consulted. A period of 60 days is then provided during which representations can be made. Ministers are required to consider any representations received during this period before deciding whether to proceed with the Order and lay a final version before Parliament for approval.
5. The Public Services Reform (Scottish Water) Order 2026 (draft) was laid before the Scottish Parliament by the Scottish Government on 27 January 2026. It is subject to the affirmative procedure, which means it cannot be made unless it has been approved by a resolution of the Parliament. The explanatory document accompanying the instrument states that no changes were made to the proposed draft Order following that consultation period, which ended on 17 December 2025.
6. It is for the Net Zero, Energy and Transport Committee, as lead committee, to decide whether or not to recommend approval. On 28 January, the Cabinet Secretary for Climate Action and Energy lodged Motion [S6M-20592](#), proposing that the Committee recommend the draft Order be approved.

About the instrument

7. The purpose of the draft Order is to amend the [Water Industry \(Scotland\) Act 2002](#), which sets the statutory requirements for the composition of the Board of Scottish Water, to reduce the minimum number of executive members required on the Board of Scottish Water from 3 to 2. It also amends the provisions on the composition of executive and non-executive members as a result. Currently, the Board of Scottish Water must include:
 - 5 to 8 non-executive members, and
 - 3 to 5 executive members,
 - with non-executive members in a majority of at least two.
8. At present, Scottish Water has three executive members, the Chief Executive Officer (CEO), Chief Financial Officer (CFO) and Chief Operating Officer (COO) and eight non-executive members. The COO is expected to retire in the second half of 2026, and the Board has agreed to move to a structure with two executive members (CEO and CFO).
9. Without legislative change, Scottish Water would be required to appoint another executive member to meet the current statutory minimum. The proposed Order would reduce the minimum number of executive members from three to two, allowing Scottish Water to adopt its preferred structure while retaining flexibility to appoint additional executive members (up to five) in future if needed
10. The Scottish Government considers that this will improve the efficiency, effectiveness and economy of Scottish Water's governance, align Board composition with industry best practice (most comparable UK water companies appoint only the CEO and CFO as executive board members), deliver financial savings of £40,000–£60,000 per year, and leave the Board's remit unchanged, with a continued non-executive majority.

Consideration by the DPLR Committee

11. The Delegated Powers and Law Reform (DPLR) Committee is required to consider every instrument laid before the Parliament and decide whether to draw it to the attention of the Parliament on any of the “reporting grounds” set out in Rule 10.3 of the Parliament’s standing orders.
12. The DPLR Committee considered the instrument on 3 February 2026 and reported on it in its [16th Report, 2026](#). The DPLR Committee made no recommendations in relation to the instrument.

Consideration by the Net Zero, Energy and Transport Committee

13. Following the laying of the proposed draft Order and the commencement of the statutory consultation period, the Committee agreed, at its meeting on 28 October, to seek the views of the Water Industry Commission for Scotland (WICS), Consumer Scotland and relevant trade unions (Unite the Union, Unison Scotland and GMB Scotland) on the draft Order. In particular, the Committee sought views on the rationale for reducing executive membership of the Board and on any potential implications for governance, accountability and workforce engagement.
14. At a subsequent meeting on 9 December, the Committee agreed to [write](#) to the Scottish Government drawing the response to its attention. A brief summary of the issues raised by stakeholders and the Scottish Government's response to them is set out below.

WICS and Consumer Scotland

15. WICS emphasised that decisions on Scottish Water's Board composition rest with Scottish Water and the Scottish Government. However, they also said their chair had written to Scottish Water seeking assurances that responsibilities previously held by the Chief Operating Officer - such as staffing, workforce engagement and health and safety - will continue to be properly overseen at Board level.
16. Consumer Scotland expressed support in principle for reducing executive Board members from three to two, considering that this could strengthen scrutiny and accountability. It highlighted the retiring COO's expertise in customer services and stated that it is "important that Scottish Water's Board continues to have the expertise to focus on achieving positive consumer outcomes, and actively consider its responsibilities with regards to the Consumer Duty on public bodies."
17. The explanatory document says that the Scottish Government has previously sought and received assurance from Scottish Water that these matters will continue to have appropriate visibility either through the CEO's ongoing executive membership on the Board, or through updates from relevant senior leaders.

Trade Unions

18. The trade unions representing Scottish Water staff argue that the Order presents an opportunity to allocate Board seats to each of the three recognised trade unions. They believe this would align with the Scottish Government's Fair Work principles by strengthening workers' voice, improve clarity around Board discussions that may affect jobs, pay and conditions, and help avoid the misunderstandings experienced during recent industrial disputes. The unions said any trade union representatives appointed to the Board should be unremunerated for the role.
19. On this, the explanatory document says that the Water Industry (Scotland) Act 2002 requires under paragraph 2(4) of schedule 3, that one of the non-executive members appointed to the Scottish Water Board must be a person appearing to the Scottish Ministers to have special knowledge of the interests of the employees of Scottish Water and the process of appointing that member involves trade union

consultation. Scottish Ministers are content that this approach remains progressive within the public body landscape and is the most appropriate mechanism for employee interests being properly considered at Board level.

20. As set out above, the explanatory document confirms that, having considered the consultation responses, the Scottish Ministers have made no changes from the proposed draft Order laid on 3 October 2025.

Committee meeting 3 March 2026

21. At its meeting on 3 March, the Net Zero, Energy and Transport Committee took evidence on the instrument from:

- Gillian Martin, Cabinet Secretary for Climate Action and Energy, Scottish Government
- James Simpson, Unit Head, Head of Sponsorship and Investment, Water Industry Division, Scottish Government
- Lucy Drummie, Lawyer, Scottish Government

22. The evidence taken at the meeting can be read in full in the Official Report, which is available here:

[Read the Official Report - 3 March 2026](#)

23. In her opening remarks, the Cabinet Secretary explained the instrument is intended to improve the exercise of Scottish Water's public functions, particularly in relation to economy, efficiency and effectiveness.

24. The Cabinet Secretary stated that the change from three to two executive board members would avoid a situation in which Scottish Water might be required to appoint an additional executive director, with associated remuneration costs, even if the board did not consider this necessary. She emphasised that oversight of the organisation's executive leadership would continue to be provided by the non-executive directors, whose composition and responsibilities would remain unchanged. The Cabinet Secretary also confirmed that the Scottish Government had consulted key stakeholders on the proposal and that no substantive concerns had been raised during that consultation.

25. The Committee questioned whether reducing the number of executive directors from three to two might lead, in future, to a reduction in the number of non-executive directors in order to maintain the statutory balance between executive and non-executive members on the board. The Cabinet Secretary confirmed that the Order would not affect the number of non-executive directors and stated that there were no plans to reduce their numbers in the future.

26. The Committee highlighted the evidence submitted to it by trade unions representing employees at Scottish Water. The unions had suggested that the proposed change presented an opportunity to introduce worker representation on the board. It was argued that trade union representatives could provide a stronger employee voice in oversight and governance arrangements and help foster more constructive industrial relations. The Committee noted that unions had cited recent industrial disputes and wider concerns about Scottish Water's direction, including

claims that it was becoming increasingly similar to privately operated water companies elsewhere in the UK.

27. In response, the Cabinet Secretary acknowledged that unions had made calls for board-level representation but stated that there were no plans to introduce trade union representatives to the board. She explained that when the Water Industry (Scotland) legislation was considered by the Parliament in 2002, the question of worker representation at board level had been examined and proposals for direct union representation had not been adopted. She also noted that other public bodies did not generally have worker representatives on their boards. However, the Cabinet Secretary highlighted that the 2002 legislation requires the appointment of a non-executive board member with specialist knowledge of employee interests. She explained that this role was currently held by Steve Dixon, who had been reappointed in May 2025. She further stated that, following a period of industrial action and strained industrial relations, the Scottish Government had sought further clarity from Scottish Water's Director of People and Director of Governance regarding their responsibilities in managing staff relations and potential conflicts
28. The Cabinet Secretary rejected suggestions that Scottish Water was being "privatised by stealth". She emphasised that Scottish Water remains a publicly owned corporation and that all profits are reinvested in improving water services in Scotland. She contrasted this with privately owned water companies elsewhere in the UK. While acknowledging that Scottish Water contracts private companies for certain capital investment projects, she stressed that the organisation itself remains publicly owned and accountable.
29. The Committee sought further information about the board member appointed to represent employee interests and asked for clarification regarding their experience. A Scottish Government official undertook to provide this information to the Committee.
30. The Committee asked who would take responsibility at board level for staffing matters previously overseen by Chief Operating Officer. The Committee also referred to concerns raised in written evidence that workforce issues, such as recruitment, pay and conditions, might receive less attention if they were no longer represented by a dedicated executive board member.
31. The Cabinet Secretary said that having three executive board members was unusual compared with other public bodies and that the change would bring Scottish Water's governance arrangements more closely into line with standard practice. She also reiterated that the board continued to include a non-executive member responsible for representing employee interests and noted that trade unions had been consulted on the scope of this role when it was advertised previously.
32. A Scottish Government official explained that, following the reduction in executive board roles, the responsibilities previously held by the Chief Operating Officer would be distributed across the senior management team. The Chief Executive Officer, as accountable officer, would oversee this structure, while specific responsibilities for staffing matters would remain with the organisation's Director of People. The official also confirmed that matters relating to workforce issues, health and safety, and wellbeing would continue to be reported to the board through the existing governance arrangements, including the Chief Executive's regular reporting.

Conclusion

33. Following the conclusion of evidence taking, the Cabinet Secretary moved motion [S6M-20592](#) in her name -

That the Net Zero, Energy and Transport Committee recommends that the Public Services Reform (Scottish Water) Order 2026 [draft] be approved.

34. There being no further contribution from Members, the motion was agreed to without division.

Recommendation

35. The Net Zero, Energy and Transport Committee recommends that the Public Services Reform (Scottish Water) Order 2026 [draft] be approved.

