



Northern Ireland
Assembly

Committee for Agriculture and Rural
Development

OFFICIAL REPORT (Hansard)

Reservoirs Bill: Northern Ireland Water

18 February 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Frew (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Thomas Buchanan
Mrs Jo-Anne Dobson
Mr William Irwin
Mr Declan McAleer
Mr Oliver McMullan
Mr Robin Swann

Witnesses:

Mr Paddy Brow	Northern Ireland Water
Mr Bill Gowdy	Northern Ireland Water

The Chairperson: I welcome Bill Gowdy and Paddy Brow from NI Water (NIW). Members will have had a chance to read your briefing paper. I invite you to take up to 10 minutes to address the Committee. Following the briefing, members will ask questions about that and might seek further information.

Mr Bill Gowdy (Northern Ireland Water): Thank you very much. Northern Ireland Water welcomes the opportunity to discuss the Bill with the Committee. I should point out that Mr Byrne and Mr McAleer have heard this presentation before.

Northern Ireland Water, like its predecessor, the Department for Regional Development (DRD) Water Service, is committed to ensuring the safety of the public in Northern Ireland. It has already been managing its impounding dams in line with the Reservoirs Act 1975 that applies in England and Wales. Northern Ireland Water has arranged for competent staff to carry out monthly, biannual and annual inspections. In addition, we employ an independent inspecting engineer to carry out 10 yearly inspections — the section 10 surveys — and provide a comprehensive report on reservoir condition, including recommendations for any work that may be required. The independent inspecting engineer holds an inspecting engineer certificate and is a member of the all reservoirs panel under the Reservoirs Act 1975. For any improvements identified in the section 10 surveys, Northern Ireland Water puts in place a programme of work to address these recommendations. The most recent round of section 10 surveys, which was carried out in 2007, is being delivered in the current price control (PC) 13 period. To comply with the new Reservoirs Bill, therefore, a new activity will fall on Northern Ireland Water, which is the preparation and maintenance of formal on-site and off-site flood plans.

As the largest single owner of structures that will be affected by the proposed Bill, Northern Ireland Water welcomes the clarity that it will bring on responsibilities and management. Overall, the

introduction of the Reservoirs Bill will not have a major impact on Northern Ireland Water, apart from that requirement to prepare on-site and off-site flood plans. Of course, we are aware that it may have a greater impact on the impoundments that are in private ownership.

Paddy will talk about the Bill and the Northern Ireland Water assets affected.

Mr Paddy Brow (Northern Ireland Water): Thank you, Bill,

Northern Ireland Water has under its ownership 71 structures that will fall within the proposed Northern Ireland Reservoirs Bill, and those are scheduled at appendix 1 of our briefing paper. There are 46 impounding reservoirs, including two operated under the Alpha public-private partnership (PPP) contract. Impounding reservoirs hold raw water, which is the water before we treat it and put it into the supply. In addition, we have 25 service reservoirs or clear water tanks at 13 sites, including two operated under the Alpha PPP contract, and they hold treated water just before it is put into the pipelines. For the majority of those sites, Northern Ireland Water will be the designated reservoir manager and carry out all related responsibilities.

In preparation for the introduction of the Reservoirs Bill, Northern Ireland Water developed an action plan to prepare for compliance when the Bill is introduced. The plan was completed in 2011 and is being implemented.

Mr Gowdy: Chair, I would like to say a few words about how the Bill will affect Northern Ireland Water's estate management plan in relation to the disposal of reservoirs declared redundant. The estate management plan lists a number of impounding reservoirs that are no longer required for operational use and, therefore, may be disposed of. That is because each reservoir has been out of service for some time and been assessed as unsuitable as a future source of raw water. Despite each being out of service and, where possible, leased for recreational uses such as fishing, these unused reservoirs do not make any money for Northern Ireland Water. Indeed, they cost money and require ongoing inspection and maintenance. As a public body, Northern Ireland Water is required, under its regulatory licence, to manage its assets efficiently and obtain best value for the release of unused assets.

Of course, we take a number of factors into account when considering the sale of surplus reservoirs. Recent economic issues, for example, have impacted on land values for property development and other commercial uses. Also, the proposed Bill is likely to reduce the potential sale value of disused impounding reservoirs where the buyer proposes to maintain the structure to retain water. That is because new owners will be required to fund and implement a legally required programme of surveys and carry out the maintenance recommended. Councils and environmental bodies are concerned that many of the impounding reservoirs should remain in public ownership because of the ecological and environmental benefits realised over the past number of years. Departments such as the Department of Culture, Arts and Leisure (DCAL) and councils are, of course, reluctant to accept the new cost responsibilities. Northern Ireland Water has included funding in the next set of section 10 surveys to be carried out in 2016-17, and we have included those in our PC15 business plan, which we will submit to the Utility Regulator in March 2015.

Finally, Paddy will say something about the Camlough dam arrangements.

Mr Brow: Camlough dam near Newry is a particular example of an impoundment that is operated by a range of bodies and will be affected by the new Reservoirs Bill. The dam's arrangements are complex, so we have provided more details in our briefing paper.

The Newry Improvement and Water Act 1871 set up the Camlough Waterworks Trustees to build a dam in Camlough lake to regulate the flow and supply of water into Camlough river. The trustees are technically the owners of the dam. However, all are deceased.

Camlough lake has been used as a raw water source since the local government reorganisation in 1973. The current rate of abstraction by Northern Ireland Water from the lake is 5 megalitres per day, which serves a population of roughly 20,000. As Northern Ireland Water does not own the bed or the dam and has not historically inspected or maintained it, there is nothing in the terms of the historical or current abstraction licence for Camlough lake that constitutes an obligation to maintain the site or the impounding structure.

In February 2010, the Rivers Agency informed Northern Ireland Water that a panel engineer had recommended that the dam be cleared of vegetation and an inspection made. In 2011, Northern Ireland Water commissioned a preliminary inspection of the main dam at Camlough lake for two reasons: to assess the assets being used by Northern Ireland Water to supply drinking water into Newry and the surrounding area as part of our 2012 water resource management plan; and to inform our consultation response on the proposed Reservoirs Bill. That report was completed in February 2012 and concluded that a high-level estimate of the cost of improving the dam's safety in accordance with the requirements of the England and Wales Act would be in the order of £3.4 million. In addition, annual operating costs of around £13,000 would be required for maintenance and inspection.

There have been a number of stakeholder meetings to address issues of ownership and responsibilities under the proposed Reservoirs Bill and the way forward for the funding of surveys and improvement works. On 3 February, URS consultants provided a report to the key stakeholders, which set out a revised and more accurate estimate of costs — £2.5 million — for the works that would be necessary to comply with the Reservoirs Bill and the annual maintenance costs thereafter. The report also considered a number of options. The report was developed further to inform discussions on how to fund and deliver the works to improve the dam and consider its future ownership and long-term maintenance. On 6 February, a meeting took place to discuss the report, and we are progressing the actions that resulted from that.

Northern Ireland Water has no interest in becoming the owner of the reservoir as it is uncertain whether it will be required as a source of raw water from 2017. Newry and Mourne District Council has stated an interest in becoming the owner. However, it needs to understand the associated operating and maintenance costs. A number of legal issues also have to be resolved.

The Chairperson: Thank you very much for your presentation. This is a very technical area and Bill that we are scrutinising. From what we have heard so far, NI Water is a massive player in reservoirs, so the Bill will have an impact on you. You have been going by the standards and the spirit of the legislation currently operating in England and elsewhere. There have been new developments, and there will have to be man management and procedural changes.

One development could be, as you touched on, flood plans, especially for the high- and medium-risk controlled reservoirs. Do you have any indication of how much the plans will cost and the difference that they will make to your organisation? What should be in a flood plan?

Mr Brow: The preparation of flood plans will cost us in the region of £60,000 for all of our reservoirs. We already hold much of the information necessary to compile them, and the Reservoirs Bill will provide a well thought out and structured approach to how the information should be provided. So, in that respect, we welcome that component of the Bill.

The Chairperson: If it will cost you £60,000 for all reservoirs and you have already compiled much of the information, what are your thoughts on the private and third sectors having to compile the same information, possibly from scratch?

Mr Brow: If there was ever an issue with a dam, this information would be invaluable. It provides information on the area that could be flooded. It provides information for first responders and the emergency services on what area could be impacted and who to contact. It is essential information. If a dam presents a risk to life and property, that information should be available, and it seems appropriate to have it in a structured format. However, it will be a mixed bag: for some impoundments, people will have the information; for others, the information will not but should exist.

The Chairperson: We heard, not so long ago, about the sale of reservoirs from NI Water. I do not know the state of play or how many have been successfully sold, but there is a risk that they could be drained. I know that certain technical terms are used to describe that. Are you of a mind to drain those reservoirs if you cannot sell them or if they are of no use to you and are costing you money? If you are, how much would it cost to drain them?

Mr Gowdy: We have 23 surplus reservoirs, which are those declared as not being used for drinking water purposes at all. We will go through a process, under our licence to operate, which demands that we offer such surplus property for sale. Of course, before we do that, the Regional Development Minister, Danny Kennedy, has insisted that we explore all the opportunities to transfer any of them to public ownership. That is the first stage, and that process will take some time, because we

understand the sensitivities. The reservoirs have, in fact, become very much part of the community and people enjoy them. So we do not take their sale lightly.

If we ever had occasion to draw down a reservoir permanently, we would take that very seriously. We would consult the Environment Agency, many other statutory undertakers and indeed residents to ensure that any draining of a reservoir was done in a proper and appropriate way. However, we are far from that at the moment. As I said in my opening statement, we are carrying out some maintenance works as part of the section 10 surveys. A number of reservoirs around the country have been drained or at least lowered a little. That was done to expose some of the mechanical equipment in the reservoir, mainly water towers, offtakes and platforms, so that we can fix it. So you may, at the moment, come across some reservoirs that have been lowered. That is only to facilitate the maintenance work; they will be refilled to their normal level. That is happening now. In future, should we ever have to drain a reservoir down, we would, as I said, take full recognition of all the requirements of all the stakeholders, including the Environment Agency.

The Chairperson: NI Water recently informed the Regional Development Committee that the average cost per reservoir was between £15,000 and £20,000 a year. Could you undertake an exercise for the Committee on the costs? Maybe you could provide a list of every reservoir, its capacity, its provisional risk designation, the costs associated with its operation and how the Reservoirs Bill will impact. We would write to you to confirm the details formally, but is it in order for you do that?

Mr Gowdy: Yes, we can do that. I will just to explain to the Committee now that the order of magnitude of £15,000 to £25,000 includes all our costs: labour; plant and equipment; and all the overall costs. I would not like the Committee to think that, if a reservoir went into private ownership, for example, those maintenance costs would be identical for a private owner. They might not be. We are taking this on a broad sweep, so it is a generalisation of all the costs associated with maintaining the reservoirs. Certainly, we can identify in general terms how much it costs to maintain and operate them. Indeed, as Paddy said, it will cost us about £60,000 to develop the on-site and off-site flood plans for them

The Chairperson: Robin, do you have any questions?

Mr Swann: Not on the presentation.

Mr Buchanan: The Bill refers to a reservoir manager as a person or organisation that owns or manages and operates all or part of the reservoir. Previously, it was assumed that clubs, societies and charities that were the main users but not the recognised owners of the reservoir were excluded from this, but there now seems to be some doubt about the particulars of a person or organisation that controls the water level. That could pull clubs and recreational societies into this sphere in which they would be classed as the manager and therefore have to operate the reservoir. What are your thoughts on that?

Mr Gowdy: For reservoirs owned by Northern Ireland Water, we are the reservoir manager, and we are responsible for all of the provisions and obligations in the Reservoirs Bill. If, for example, we were to lease out a reservoir for fishing or for some other recreational use, such as you described, we would still retain the responsibility. We are the reservoir manager, we control the levels in the reservoir, and therefore we will accept full responsibility under the Reservoirs Bill for all of those matters.

Mr Buchanan: So none of the societies or clubs that use them will be classed as a reservoir manager under the Bill. Is that right?

Mr Gowdy: For Northern Ireland Water owned reservoirs, yes. That is correct.

The Chairperson: The Bill defines operating requirements for the new supervising, inspection, administrative and maintenance regime. There are all these categories and stages of requirements, particularly for the high- and medium-risk controlled reservoirs. As an organisation, are you happy with the designation of high, medium and low, considering that England, in particular, do it differently?

Mr Gowdy: Yes, Chair. We are very happy with that. In fact, we in Northern Ireland Water take the view that the Reservoirs Bill takes a very measured and risk-managed approach to reservoirs and that the designation of high, medium and low represents a development from the Reservoirs Act 1975 in England and Wales. I believe that the reservoirs safety industry, particularly in the British Isles, is

moving in that direction. We support the designation by the Department of Agriculture and Rural Development (DARD) of reservoirs as high, medium and low.

The Chairperson: You said in your presentation that NI Water has arranged that competent staff carry out monthly, biannual and annual inspections. Will you explain a wee bit more about competent staff? It is statutory and legal term that I am aware of but what does "competent staff" mean for NI Water? Are we talking about the engineers mentioned in the Bill or others, who you would not then be able to use for inspections? If that is the case, should competent staff be able to carry out the work detailed in the Bill?

Mr Gowdy: Yes, Northern Ireland Water employs competent staff, and their competency is determined by their qualifications and experience. We have supervising engineers, and they are engineer-qualified staff who have been trained and have gained experience working with reservoirs, water towers etc. That is at our level, so they certainly tick all the boxes as far as academic qualifications, professional qualifications and experience are concerned. They are regarded as very skilled engineers for supervisory purposes.

Beyond that, the inspecting engineers referenced in the Bill have a different category of qualification. That requires a chartered civil engineer who is appointed or is on the all reservoirs panel of engineers, which, under the English and Welsh Act, is set up by the Secretary of State. The same would apply here. We have been going by the English and Welsh Act and using all panel reservoir engineers as inspecting engineers for many years. That same regime would continue.

The Chairperson: Oliver, do you want to ask a question?

Mr McMullan: No, I am happy enough with that.

Mr Irwin: Is 10,000 cubic metres the correct figure for controlled reservoirs? We know that, in England and Scotland, it sits at 25,000 cubic metres. What would be the consequences of amending the Bill to make it 25,000 cubic metres?

Mr Brow: The principle set out by the Rivers Agency is very good, whereby they are categorised by risk. A smaller reservoir could constitute a risk depending on the way that it breached and released water. We are happy to support that. For us, it will not really make much difference. Most of our concrete tanks, clear water basins and service reservoirs are in the region of 10,000 to 25,000 cubic metres. However, we think that most will end up being classified as low risk because they are heavily engineered concrete boxes that are monitored 24 hours a day. We do not know yet, but, whatever way it works out, we are not concerned.

Only one of the impounding reservoirs is below 25,000 cubic metres. Most are above 25,000 cubic metres. For us, the classification process and looking at each one in turn is more important. You could have a smaller reservoir that presents a much higher risk depending on its location and where it sits above properties.

Mr Byrne: I am sorry that I had to nip out. I welcome the presentation. It seems that a plethora of engineers will be required. What can NIW do to soften the blow for private reservoir owners — some might not have the expertise to comply; others might be worried about the cost — and ensure the continuity of NIW's work?

Mr Gowdy: A number of engineers in Northern Ireland Water are on the panel and have advised us on reservoir inspections over several years. As well as that, there are quite a number of engineers available from the panel in GB. So quite a number of engineers are ready to do that, and Northern Ireland Water has employed a number of them. We would be willing to give private owners advice and point them in the direction of inspecting engineers. It might be up to those private owners to club together and, in some way, make particular commercial deals with any inspection engineers that they may wish to employ to help them to comply with the Bill.

Mr Byrne: Are we now talking about a sharing of the cost for such engineering inspections or advice? Given that NIW is the main user of the water from these reservoirs, will it, in any way, take the burden of the costs associated with inspections?

Mr Gowdy: I am talking about reservoirs owned by Northern Ireland Water. We will conduct the inspections of reservoirs owned by Northern Ireland Water. We could give advice to someone who owns a private reservoir, but we would not share the cost of any inspections that they have to do under the Reservoirs Bill.

Mr Byrne: I want to follow up on the information that Bill provided to the Committee for Regional Development last week. Camlough lake has been a major source of water in the past. Do I take it that NIW wants to cease using that source of fresh water for that part of the world? What volume of water does NIW currently take from that reservoir or lake? What are the likely consequences if NIW walks away from using the lough?

Mr Brow: Joe, we try to supply most of our large towns from a number of sources. At the moment, Newry has two sources of water. One is Fofanny treatment works in the Mourne. It draws water from three reservoirs, and that water is blended and pumped round. The second supply is Camlough. At the moment, Camlough lake is the lesser supply. In the summer, we drew only about 2-5 megalitres a day. We can draw up to 5 megalitres, which would provide for a population of 10,000 to 20,000. To improve the resilience of supply, we are bringing a pipeline from our very large treatment works at Castor Bay, which is on the south edge of Lough Neagh. We are bringing it south in stages. That means that, in 2015, we will be able to supply Newry from three sources — two very large, state-of-the-art treatment works and the very small works at Camlough, which will then be one of our smallest treatment works.

At that point in 2015, we will be able to discontinue the use of Camlough, but, at this stage, we do not know whether that is the right thing to do. We have started a long process of detailed assessment of all of our sources of supply to see whether they should be rationalised. That will consider various factors such as droughts and freeze/thaw events, which can stress the distribution network. We will look at resilience, climate change and operating costs, because one of Northern Ireland Water's values is providing the services that we offer at the best value for money. That will go out to public consultation, and that will tell us whether or not Camlough water treatment works should be disused. At this stage, to be honest, I do not know. Had you asked me five or 10 years ago, I would have said, "Absolutely, let's stop using it". Now, however, energy prices are increasing year on year and the projections are that they will continue to increase, which may mean that Camlough comes back into the mix, but it is a very small works and expensive to operate compared with some of the larger works.

The Chairperson: I just want to touch on the designation again. When we had officials from the Rivers Agency up last week, it was very clear that the risk designation was more about the potential impact than the state of the reservoir. I have nothing to suggest that all NI Water reservoirs are in anything other than a very good state and are modern and up to date. You have looked after them well and have had a responsibility to do that. You know exactly what you own and who is responsible. You could have the most modern, state-of-the-art reservoir in Europe, but, because of the population downstream and because it could result in the loss of one life, it could be deemed high risk, with all the burden that that brings. Do you agree with that?

Mr Brow: Thank you for that question, Paul. You used the word "burden". In Northern Ireland Water, we do not see it as a burden and never have. We see it as good practice. These dams, even if they are in good condition, have a complex network of pipes and valves below them, so inspecting them is good practice. In some dams, the earth can move or other things can happen, and it is good just to keep an eye on them. So, even if there is only one life downstream from a reservoir, we think it the right thing to do.

With a smaller dam that is poorly maintained, the inspecting engineer would probably require it to be looked at much more often. That would be appropriate until it was brought up to standard. We think that introducing the Bill is good because at least every one of the impounding reservoirs in Northern Ireland would be looked at. With some, the panel engineer will say that they will come back in 10 years' time; with others, they might say that they will come back in a year's time. If the panel engineer comes back and says that they need to inspect it more frequently, it is because there is a risk that needs to be managed, and we think that that is a good thing.

The Chairperson: There will be a register, built up by the Rivers Agency and DARD. By the sound of things, the cost of that will be borne by the reservoir owners. There could well be cost recovery. Have you any difficulties or issues with that?

Mr Brow: No. Fortunately, we have been engaged by Rivers Agency at every stage of the development. We support their proposals and how they are going about it.

The Chairperson: You will know your areas and your reservoirs better than anyone. Do you envisage a time when you will sit down with Rivers Agency and DARD, and the panel of engineers for that matter, and say that they have designated you as high risk but you believe that you should be moved to medium or low? If you were confident in your own structures, that would be a valid debate to have. There would be nothing wrong with that. However, if you get to the point at which you disagree with the Department's designation, you could go to a review and appeals process. Do you envisage Northern Ireland Water entering into that bartering debate of wanting reservoirs to be designated as lower risk? Are you confident that the review and appeals process would be fit for purpose and serve its purpose?

Mr Gowdy: I do not think that, in any form of dispute, we would say to DARD that we disagreed with its designation. I cannot foresee that happening at all. From reading the Bill and knowing a little bit about the structure of the appeals mechanism, I can say that those who disagree with DARD's designation will find that the appeals system that is built into the Reservoirs Bill is very strong and robust, and provides good assurance to the observer that the appeals process works very well.

To go back to Northern Ireland Water, I do not see us getting into any dispute about the designation of reservoirs as high, medium or low risk. We will use the full force of the legislation to conduct our business and will comply with our obligations under it.

The Chairperson: There are issues around maintenance. You will know better than anyone how to maintain a reservoir, and we will hear from the Northern Ireland Environment Agency (NIEA) very soon on the dangers and cost to the environment of draining a reservoir in order to replace valves or pipes in the reservoir bed. There could well be cases in which, downstream, because the water has to flow somewhere, there could be developments. Things could have moved on. The river may have changed course and not take the same route of travel, and that could put jobs at risk if not managed right. How big an issue is that for NI Water?

Mr Gowdy: First, not too many of our reservoirs have been drained completely. At the moment, most of our reservoirs are drained by whatever is required to expose the equipment that we have. In saying that, however, should we ever have occasion to drain a reservoir significantly or completely, we will undertake a full risk assessment and look at the impact of the discharge of water from a public safety point of view and an environmental point of view. At all times, we will take on board whatever recommendations come from residents or residents' groups, other stakeholders and, in particular, the Environment Agency to ensure that the release of water does not cause any damage. We would do that well in advance of ever contemplating drawing down a reservoir.

The Chairperson: OK. Grant aid to help bring reservoirs up to standard is a massive issue. What is NI Water's position on grant aid? I assume that you should be able to apply — maybe not — being the body that you are, connected to government but not in government. Should there be something there, and will Northern Ireland Water hope to avail itself of it?

Mr Gowdy: That, regrettably, is outside Northern Ireland Water's competence. If grant aid is available, we might wish to avail ourselves of it, but I cannot comment on grant aid for private owners.

Mr McMullan: I want to ask about grant aid. If you were to lease out a reservoir, could you enter into an agreement with the owner on a 50:50 basis?

Mr Gowdy: We will lease for recreational purposes only. That could be mostly for fishing or sailing or some sort of surface recreation-type activity. I cannot foresee us leasing the reservoir out or entering into some sort of agreement with the person for any other purpose. I think that it will be for recreational purposes only.

Mr McMullan: I thought that I heard here last week that the reservoir managers were responsible for the reservoirs, yet you tell me today that, if you lease a reservoir out, you are still the reservoir manager.

Mr Gowdy: No, to clarify, we are not leasing out the reservoir; we are giving a lease to people to fish or to sail. Northern Ireland Water will retain ownership of Northern Ireland Water's reservoirs, and we will comply with the Bill fully. As I said, the leasing that we do will be for recreational purposes.

Mr McMullan: Is that a good deal for the local community? I use this as an example: you could let the local community use the reservoir, but, at the same time, there are a lot of grants out there that authorities, such as the water authority, cannot apply for, or on which you would not comment. However a local organisation or group, or even a local council, could apply for those grants to improve the facilities that you lease out for sailing, recreation and all of that. This is around the whole idea of improving the lifestyle of a community or providing more recreational facilities. If you do not mind my saying so, your present plan will hinder that.

Mr Gowdy: No, I do not think that it does, because a number of community groups will lease out reservoirs for, for example, fishing, and those community groups have access to funds from various means. I know that they avail themselves of those funds, and good luck to them. In some cases, they have acquired funds from, say, the lottery, and been able to carry out some works on the embankments of some of our reservoirs — with our permission, of course — to help put in fishing stalls, for example.

Mr McMullan: That is what I am talking about. You go into an agreement with them. You have to, because they could not apply for funding if they did not have any ownership of what they are applying for funding for.

Mr Gowdy: Yes, our agreement with them will be to lease a reservoir out for fishing, for example, and they will then seek permission from us to put in a fishing stall. Generally speaking, we will give that permission. We benefit from local communities using our reservoirs, because the people are usually very interested in recreation and are very particular, and, as such, they protect the reservoir. Therefore, we benefit from the community leasing it out, or from sailing. It is good for us and good for the community. If they can, they normally access whatever funds they can from wherever, and we certainly encourage them to do that.

Mr McMullan: That is better explained now, because now we know what can be done. Do you require groups to comply with the Disability Discrimination Act (DDA), etc?

Mr Gowdy: Yes, we have conditions. Part of the lease contains all the provisions that make sure the water is kept safe, not contaminated, and so on. There are a number of conditions in the lease. Communities sign up to these things and the arrangement works well, and it has worked well for many years.

Mr McMullan: In keeping with the Disability Discrimination Act, do you leave the reservoirs disability-friendly when you lease them out for recreational purposes, ?

Mr Gowdy: Indeed. For example, we have been asked to put in access to fishing stalls for disabled fishermen and fisherwomen, and we have done that for a number of reservoirs. We always look sympathetically at doing that and have done so with a number of reservoirs that we lease out for fishing. We want to try to be as diverse as possible in the leasing arrangements.

Mr McMullan: That sounds very good. My last question is this: you have 23 surplus reservoirs —

Mr Gowdy: Yes.

Mr McMullan: When you do a flood risk assessment, how many are near built-up areas?

Mr Gowdy: The 23 that we have form part of your briefing. I suppose that there are a number near built-up areas in Conlig, which is not too far from here, and Church Road in Ballysallagh. In Conlig, there are some housing developments near reservoirs, but a number of the others are reasonably well out of towns or villages. Generally, the reservoirs are outside built-up areas. Over the years, there has been some encroachment by housing developments. As I look down my list, Conlig is probably the one that is closer than others to a development.

Mr McMullan: What plans are in place for getting information to residents about whether they are at high, medium or low risk? How do you get information out to people if something happens?

Mr Gowdy: We would not normally go out and tell people about high-, medium- or low-risk assessments. Rivers Agency would assess our reservoirs, and we would take whatever steps are required based on that. We would comply with all the measures in the Reservoirs Bill. The assurance given would be that we have protected and maintained our reservoirs properly. I am not sure that going to residents, for example, and telling them that we have carried out a risk assessment and that this is the category of reservoir nearby is necessarily something that Northern Ireland Water would do. We feel that there is no risk at all. Although the Reservoirs Act in England and Wales does not apply here, we follow it. Our compliance with the Reservoirs Bill will enable us to provide very good public safety assurances for all our reservoirs.

Mr McMullan: Where and with whom do you see responsibility for that lying?

Mr Brow: With us. One of the things in the Reservoirs Bill that I think is a good idea is that a sign providing contact details should be erected at reservoirs. That will benefit us, because, when they see anything, people will know who to phone. As Bill said, members of the public phone to report problems at our reservoirs such as vandalism and littering.

Mr McMullan: To finish, does the developer contact you or do you contact the developer? Surely prospective residents must be told that there is a reservoir in the vicinity of the house that they are buying. We cannot simply rely on them being told, "There's a notice up there. Go and have a look at it before you buy that house". There has to be something in there. Has Planning Service brought it up? That is where am coming from. I do not hear an answer to that.

Mr Gowdy: That certainly happens. If a new development is to be built, Northern Ireland Water, as a statutory consultee, will submit its comments on the building. We point out where there are sewers, water mains, pumping stations, reservoirs and whatever other infrastructure we have in that vicinity. The developer is well aware of that. The full planning process is gone through.

Mr McMullan: That is good. I am glad to hear that.

The Chairperson: I have a question on reservoir management, which Tom Buchanan touched on. Forgive me if he has already asked this, because my concentration has slipped. In the context of the Bill, who will be reservoir manager for an organisation such as Northern Ireland Water?

Mr Gowdy: The reservoir manager is the corporate body, which is Northern Ireland Water. That is a corporate designation. We would be the reservoir manager. It will not be a named individual. We will, of course, have named individuals, but the corporate responsibility is on Northern Ireland Water.

The Chairperson: If, God forbid, something were to go wrong, who would be liable? I am speaking hypothetically, and I hope that that remains the case. The Bill is needed to protect the life and property of 66,000 people. In that context, were something to happen — God forbid, a death — who would be prosecuted as reservoir manager?

Mr Gowdy: A number of things flow from that. First, Northern Ireland Water, as reservoir manager, would be the corporate "person" that would hold civil liability for the problem. Northern Ireland Water could also be guilty of corporate manslaughter. That could extend down to the officials in Northern Ireland Water who may be responsible for managing the reservoir. Furthermore, it could even fall under health and safety legislation, whereby individuals and the company could become civilly and criminally liable. The matter of something such as that happening, and, as you say, God forbid that it does, is a corporate and an individual responsibility. Corporate first, and, if there were negligence on behalf of any person, it would apply to that person as well.

The Chairperson: Right. Thank you very much for the clarification. Are you content, looking through the Bill, with the enforcement measures? By that I mean the offences, fines and prison terms? The Bill is different from legislation in Scotland and England, of which you have following the spirit. Do you think that the difference in terms is adequate?

Mr Gowdy: We have had experience of the England and Wales Reservoirs Act 1975, which was extended into Scotland. We have had long experience in dealing with that and assisting with its

development over a number of years. You may know that Scotland is pursuing something similar under the Reservoirs (Scotland) Act 2011. Over the years, we have built up experience and learnt lessons. The Reservoirs Bill takes all the good lessons, experience and maturity of the development of the Scottish legislation. What we have here is a very good Bill that is being promoted by DARD and Rivers Agency. It reflects all the modern thinking of reservoir engineers based on public safety and risk assessment.

The provisions containing enforcement, inspection and appeal, etc, are very good indeed. The Bill represents a very good piece of legislation for Northern Ireland and public safety.

The Chairperson: I want to ask about timescales. Clause 11 requires a reservoir manager to register a controlled reservoir not later than six months after the commencement date of clause 10, which concerns the register. A reservoir manager is to be given six months. Clause 12, which relates to structures or areas that become controlled reservoirs after the relevant date, allows for 28 days. I imagine that yours are all established reservoirs and that you have no new reservoirs, so you have the six months.

When you get into issues around risk designation, however, there is no responsibility or time pressure on DARD or Rivers Agency in clause 17 to designate a risk, yet there are time pressures if you want to review and appeal that. Is that proportionate?

Mr Gowdy: From a Northern Ireland Water point of view, we are comfortable with supplying information, getting the register up to date and moving within the times specified. As I read it, the other provisions that you mentioned do give some measure of flexibility within DARD. I am not speaking on behalf of DARD. I am just thinking that, as I look at it, the clause gives some measure of flexibility so that those who have privately owned reservoirs can look to negotiate with DARD to make sure not only that the provisions are complied with but that there is a degree of reasonableness in the Bill. It is an important Bill for Northern Ireland and will cause some issues for private owners, so that shows a measure of flexibility and reasonableness.

Mrs Dobson: Point 31 of the NIEA submission states:

"Following an assessment of the environmental risks NIW should agree with NIEA the order in which reservoirs will be emptied."

Can we clarify the issue of draining or emptying reservoirs and whether that in itself poses any risk to their structure?

Mr Gowdy: That is a very good point. Thank you for raising it. Should we ever have occasion to drain a reservoir down, or down significantly, as I said before, we will take into account any discharge of water into watercourses. We will consult with all the statutory undertakers, including the Environment Agency, to ensure that there is no ecological or environmental damage or threat to public safety. That is a given. However, when doing that, we would normally take the advice of the inspecting engineer, as mentioned in the Bill, to ensure that any draining down did not affect the stability of the dam, and, if it did, what measures we would have to take to rectify the situation or what contingency plans we would need to have in place. However, you are quite right: there are certain dams that, if we chose to lower the water level in them or empty them, would require a structural inspection.

Mrs Dobson: I am happy that you have considered that possibility.

Mr Gowdy: Very much so.

The Chairperson: There are no further questions from members. Thank you very much for your time. It was good to get to speak to you on the Bill, and we wish you all the best.