



Northern Ireland  
Assembly

Committee for Agriculture and Rural  
Development

# OFFICIAL REPORT (Hansard)

Reservoir Community Asset Survey:  
Rivers Agency Briefing

30 April 2013

# NORTHERN IRELAND ASSEMBLY

## Committee for Agriculture and Rural Development

### Reservoir Community Asset Survey: Rivers Agency Briefing

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**Members present for all or part of the proceedings:**

Mr Paul Frew (Chairperson)  
Mr Thomas Buchanan  
Mr William Irwin  
Mr Declan McAleer  
Mr Kieran McCarthy  
Mr Ian Milne  
Mr Robin Swann

**Witnesses:**

Mrs Averil Gaw	Rivers Agency
Mr David Porter	Rivers Agency

**The Chairperson:** I welcome David Porter, director of development, and Averil Gaw, principal officer. Thank you very much for your attendance here today. Of course, you are no strangers to the Committee. David, are you starting off with a presentation?

**Mr David Porter (Rivers Agency):** Thank you for the opportunity to present to the Committee on this subject again. I want to do three things: first, I will remind you of the context of the work that we are doing; secondly, I will give you a little insight into some of the findings of the recent work that we have done on the reservoirs; and thirdly, I will give you some information on the way forward with those findings. After that, we can certainly answer any of your questions.

I will give you a very quick overview of the context. Historically, reservoirs have been built for all sorts of purposes. In Northern Ireland, a lot of them were connected to mill power and the public water supply. It was identified, through their development, that they are complex structures, because they hold water and because, if that water is released, they can cause harm. As a result of this, there is reservoir legislation in GB dating back to 1930. However, there has been no regulation of reservoirs in Northern Ireland to ensure their safety. I have to draw your attention to an important point: in the new legislation, we are focusing on the safety of the structures, so that an uncontrolled release of water will not happen, because that is what will cause harm.

When we were here last, on 24 September, it was identified that an owner may well choose to draw down their water in order to avoid the burden of the new legislation. Although that would remove the risk of an uncontrolled release and the direct impact on the public, removing water may impact on the wider community in a slightly different way. The Committee asked us to find out what types of activities takes place on these reservoirs and whether their loss would cause a wider loss to the community.

The last time we spoke, we said that we knew roughly that the split in ownership was in the ratio of one third: one third: one third. One third is owned by Northern Ireland Water, one third is loosely in public ownership, and one third is loosely in private ownership. This is the first thing that I will draw to your attention in our paper. As a result of our work, we have now managed to tie down a lot of the ownership. At this moment, there are only 10 reservoirs out of the 151 that still remain unknown to us. We know where they are, we know their size, and we know some detail about how they got to where they are, but we are not quite sure of their ownership. It is a good step forward. The last time, we talked about roughly one third being in private or unknown ownership, and we are now down to 10 ownerships either being unknown or yet to be established.

With regard to the reservoir safety community assets, I draw members' attention to table 5 on page 14 of our submission, which gives a very good snapshot of the community assets. You can clearly see the top-line figure. It gives a snapshot of the research findings, which show that 90 reservoirs are considered to be community assets and 33 are not. That is 123 out of the 151 reservoirs, so there is still some information that we are still not clear about. We issued survey forms to owners and district councils. We had a relatively low return. Most of the research was down to leg-work by a Rivers Agency officer doing newspaper and ownership searches as well as going out and speaking to a considerable number of people.

The reservoirs considered to be community assets are put to a variety of uses. For example, 48 are considered to have tourism benefits, 79 are used for recreational and leisure, 19 for economic purposes, 58 for social activities, and 45 for their visual amenities, because of where they are situated. This gives us a good snapshot of the sort of uses that the structures are put to and, therefore, the potential knock-on loss if they were drained or drawn down.

We were able to determine through this work that 130 reservoirs have environmental or built heritage protections. This is important, because the last time I spoke to the Committee I said that we were going to make some of classifications of impact compliant with the floods directive. So, we have to think of not just the direct impact but also the environment and cultural heritage. This piece of information is important because it will allow us to classify a reservoir as having high, medium or low impact.

The table also tries to give a sense of the impact of discontinuing or abandoning a reservoir. Discontinuance would have a significant impact in 75 cases and an insignificant impact in 28. Abandoning a reservoir would have a significant impact in 85 cases and an insignificant impact in 17. We propose to put that information on the web.

We developed a second report, which some members referred to, that provides background information that we were able to glean on each reservoir. We propose to put that information on the web to make it publicly available because we feel that it is good reference material for the scrutiny stage of the Bill and puts in context the potential loss of some of those structures.

We will also use the information to inform our evidence and as justification for having the power to introduce a grant aid scheme to help owners who find themselves unable to afford to bring their structures up to a good condition and whose loss would be a wider loss. We are taking the primary power to enable us to bring forward a grant scheme but, as I said last time, that does not mean that a grant scheme will be brought forward. There is a bit of lobbying and discussion as we develop the Bill. We will look at the next Budget period to see whether this is a priority and needs funding. However, the research gives us a good evidence base to inform those decisions.

Hopefully, this has given you some insight into the context and some of the findings. Our view of the way forward is to make the community asset survey and the detail on individual reservoirs publicly available. The surveys will also provide a useful reference for the scrutiny stage of the Bill and evidence to enable a grant aid scheme to be, at least, considered.

**The Chairperson:** OK, thank you very much, David. Averil, are you content at this point?

**Mrs Averil Gaw (Rivers Agency):** That is fine, thank you.

**The Chairperson:** David, I commend you on your work. You are right that last time you appeared before the Committee we were concerned about issues that could greatly impact on council facilities as well as leisure and tourism. Where are we in comparison with the others regions of the UK? Have they implemented a reservoir Bill?

**Mr Porter:** Yes. England, Scotland and Wales have had primary legislation since 1930. There was a significant change to that legislation in 1975, and that is the current legislation applying in England, Scotland and Wales. There are proposals for England and Wales to change that through the Flood and Water Management Act 2010. They are working through that at the moment. Scotland is still subject to the 1975 legislation but has brought forward a stand-alone reservoir Bill. It is on the statute book but has not commenced yet. Therefore, the position is changing, but the fundamental point is that they have all had some sort of regulation or legislation to ensure the safety of their reservoirs since 1930. That is the big gap, although the position is slightly different among the three.

**The Chairperson:** It is great that you have broken the survey down into district and borough areas. That is very good. I note some of the reservoirs near me, such as Quoile in Ballymena, which I know very well having walked the area extensively in my 20s.

I value the strength of value of some of the reservoirs for the people who use them. I note that you have ticked all the boxes: tourism, recreation, economic, social and even view. You stress, at times, in your survey that there would be a significant impact if water were reduced in a lot of the reservoirs. You also talk about there being a significant impact if they were put beyond use. I do not want to get into a debate about the merits of the Bill before we even see it. However, this is about managing risk as much as anything. Life is about managing risk. Are you sure that, although you will provide legislation for safety, you will not distort things so much that it will affect people's lives? What do you mean by "significant impact" if water levels are reduced? What are those significant impacts?

**Mr Porter:** There are a few points. Although we have identified the reservoirs, I am not sure whether a lot of them will be removed. We have tried to make the judgement about loss to the community if they are removed. I would not like people to think that 90 reservoirs that are considered to be a community asset are at risk. A lot of them are well managed and are in quite good condition.

The new Bill will not be an unnecessarily heavy burden on those owners. One of the challenges on this side of the table is to make sure that what we bring forward in the policy and Bill is proportionate. We have gone to great lengths to make sure that it is proportionate, so that a reservoir that will have a high impact will be subject to a high level of regulation, but that we will be proportionate in our approach to those with a lower impact.

Equally, where there is little or no impact, the regulatory touch should be very light. The only requirement in those cases will be to register and put up some information about ownership and what to do in case of emergency. There will be no requirement for ongoing maintenance, other than whatever you have to do to satisfy yourself regarding your own risks. There will be no legislative requirement.

The important point is that we do not want to miss the point that they are a risk, because they can kill people in the event of failure; but we do not want to be solely focused on that to the extent that we cause an unnecessary burden on people in how they have to manage the structure and either stop or make the other ongoing activities in the reservoir not viable because of the financial burden of engineers and maintenance.

**The Chairperson:** I suppose that trying to get that into legislation will be a challenge. If we are going to use a sliding scale, there will be a job of work to get that articulated into the black and white of legislation. Do you have any thoughts on that? How do you measure risk in that regard?

**Mr Porter:** There is a range of measures, but for the sake of example we could focus on the impact on people, because I think that that gives a very clear example of how we can ensure that the approach is proportionate.

We know that a lot of these reservoirs are in built-up areas or have developments downstream; our flood inundation maps, which show a total loss, prove this, because the water spills out and impacts on property. However, some properties will be on the edge of the inundation area or quite far down, which means that the water will not be so deep and will be moving slowly. We consider such cases to be medium risk. If there were deep, fast-flowing water, we would consider that to be a high risk. Imagine a reservoir or dam with a property immediately below it. In the event of failure, you will have a wall of water. In that case, death is foreseeable and likely. However, if there were a failure near a similar house, which is on the edge of the inundation area, although there would be an impact, death is probably unlikely in that situation. That is how we will make the difference between high-impact and

medium-impact reservoirs. If there are no houses in the inundation area, any reservoir would clearly be low impact. We have set out how we think we will do it in our policy, and that will be tested through the scrutiny stages.

**The Chairperson:** Excuse my ignorance, but the last time you were here we talked about what actually qualifies as a reservoir compared to a pond. Are you clear on that? Have you already established that? There is a measurement of cubic metres involved.

**Mr Porter:** There is a list of things involved. The first threshold is that it has to be capable of holding 10,000 cubic metres of water. However, there could be a combination, whereby you could have a number of small reservoirs that, in and of themselves, do not hold 10,000 cubic metres each but do so collectively. You could get a domino effect there.

It is important that there has to be impounded water. There has to be a physical, man-made structure that holds the water back. A naturally occurring pond is not an impoundment. There has to be a man-made structure; something that holds the water back by artificial means, because that is the thing that fails. Natural ground tends not to fail; it tends not to be a risk because it has been there for a long time and is well established. However, when man comes along and builds a physical structure to hold back more water, either to enlarge it or to capture a river and impound it, that is where the risk is: it is in the man-made structure. That is potentially what will fail and that is what we are focused on. Natural ponds, lakes and so on are out unless they have an impoundment associated with them.

**The Chairperson:** You have built up a good information bank of ownership, but there are still 10 reservoirs for which ownerships are yet to be established. How do you see that going forward in legislation? Who will be culpable and responsible for them? Will this be a case of asking another public body to take ownership of them in order to make them safe, and will the onus fall on it? What is your thinking on this?

**Mr Porter:** We are taking the primary power to step in and carry out works in the interest of public safety, and we will be able to do that in two different situations: first, where an owner does not live up to or step up to their responsibilities; and secondly if we simply do not know who the owner is. Where there are elements that must be done in the interests of public safety, to enable the safety of the structure, we will have the primary powers to do so. We will also then have the power to recover the costs from the owner we are aware of, or we can place it as a burden against the owner whenever we find out who it is.

We will, at least, have the power to bring safety issues into line and to give reassurance to the public that there will not be an uncontrolled release of water. However, that will not necessarily change the long-term ownership of the reservoir. A question remains over that. In some cases in GB, they have been adopted into the Environment Agency portfolio, and it is now managing them because that is in the greater interest of the public. It recognises that there is a hazard associated with the reservoir and it has to not only bring it up to a standard but maintain it. It would have to be done on a case-by-case basis, and we expect those cases to be relatively small in number.

**The Chairperson:** I want to ask about your survey and the 10 structures for which ownership has not been established. Have you surveyed the state of the structures in detail? In other words, are you prepared to have an upfront cost? When the Bill passes into law, will you step in immediately to make those structures safer? If there is a cost, will it be borne by the Rivers Agency?

**Mr Porter:** We have not done any formal condition surveys of any of the 151 structures. At present, the onus in common law to keep structures safe rests clearly with the owner. We have recognised that they are not doing that and, therefore, we are going to regulate their activity.

We will have to make provision for the 10 structures for which ownership has not been established. If they remain ownerless after registration, we will have to make a choice; first, to carry out a survey on them to determine what works need to be done in the interests of public safety, and, secondly, to prioritise that work and get it carried out.

It is difficult, because it is hard to know at the moment how big the provision is. We are just going to have to deal with it as and when we come to it.

**Mr Swann:** Are the 10 structures for which ownership has not been established included in table 5 in the survey document or are they still separate?

**Mrs Gaw:** They are all included.

**Mr Porter:** Any of them on which we had information are included. If we were able to determine a use for them they were included, irrespective of whether we knew who the owner was.

**Mr Swann:** Are any of the 10 reservoirs more prevalent in any one geographical area or are they spread over several areas?

**Mrs Gaw:** We are not aware that that is the case; they seem to be spread. In the table on page 15 of the survey document, you can see that ownership of one of the reservoirs that is regarded as a community asset is unknown. However, from the research that we have done, we know that it is regarded as a community asset because it is beside a canal. People use the towpath for walks and so forth.

**Mr Buchanan:** My question has already been touched on. Where the ownership of a reservoir is unknown, you may have to step in and work on them. Do you have a contingency fund for that?

**Mr Porter:** Not at the moment. We are hoping that we will still be able to reduce that number by going out to public consultation and because the Bill will contain a requirement to register. In addition, work is ongoing in the Rivers Agency to tie down that number so that we can get it down as low as possible.

We do not have a contingency fund at present, but we will make provision to carry out inspections of those structures when the legislation comes in and after registration. As I said, making a provision for works is very difficult to do at present, because we genuinely do not know the condition of the structures, in the same way that we do not know the condition of any of the reservoir stock at the moment.

**Mr Buchanan:** One of the 10 structures is regarded as a community asset. If you cannot establish who the owner is, but you have to step in and do works on that structure, will it still be regarded as a community asset? Does that cause any difficulties for you?

**Mr Porter:** That particular structure is at Broad Water, between Aghalee and Moira. People can walk past it at the moment. We would have to take on board the fact that it is a community asset if we had to step in and do works in the interests of public safety. We would have to see whether those works could be accommodated in a way that maintains that community asset. That decision would be made at that stage.

It would be our desire not to see any loss of community assets either as a result of our works or as a result of the legislation. The purpose of this piece of work was to inform us of the consequences of bringing forward the Bill and to minimise the risk of people drawing water down just to avoid the legislation.

**Mrs Gaw:** It is also worth pointing out that, if we need to, we can use a legal search agency to help us, because some of the files are so old and some of the land transfers may have happened before we had Land Registry here. We will also take a power in the legislation so that if we step in and do works, it will not convey manager or owner responsibilities, so we will not become the owner.

**Mr Irwin:** I think that we are using a sledgehammer to crack a nut. I do not think there are that many of these reservoirs, and a very small number of them pose any threat. I was looking at the ones in my constituency, and I do not think there are any — the ones that I know do not have any real concern, I would have thought. Would it not be wise to just pick the ones that are causing concern? I would have thought that there would be a smaller number of those, but I may be wrong about that. At a quick glance, I do not think that there are any in my constituency, but I may be wrong about that too.

**Mr Porter:** It was an eye-opener to us when we looked at some of the flood inundation maps. You are dealing with quite a volume of water, and, in the event of failure, some of the footprints of the flood inundation areas are quite large and may not be in places that are obvious when you just drive past them. Water has this way of finding a route through. We have carried out that assessment, and, in the event of the 156 reservoirs that we produced flood inundation maps for all failing, in some bizarre scenario, we have calculated that they would impact on 66,000 people. So there is a considerable impact, albeit that the likelihood of that situation is catastrophic and very bizarre. However, you are

right in the point that you are making. We need to make sure that those reservoirs that have a low or medium impact have less burden placed on them. That is what we are trying to do through the legislation, so that people will actually recognise that they have something that could cause harm, but it would only cause a smaller amount of harm than those high risk ones, and because of that, they can see a benefit by having fewer inspections or a lower requirement in terms of engineering. Through the process, we are striving to make sure that it is proportionate to the risk.

**Mr Irwin:** Fair enough.

**The Chairperson:** OK. There are no further questions from members. Can you give us a timescale with regard to the Bill?

**Mr Porter:** At the moment, we have a draft Bill. We have a couple of minor points to get tidied up, and it is the intention then to get that cleared and introduced immediately after the summer recess, so that will allow the formal introductory stage to begin, and then the Committee Stage can start. It is our intention that it will be available and introduced first thing after summer recess.

**The Chairperson:** OK. Thank you very much for your time here today.