



Northern Ireland
Assembly

Committee for Agriculture and Rural
Development

OFFICIAL REPORT (Hansard)

Reservoirs Bill:
Local Government Representatives

25 February 2014

NORTHERN IRELAND ASSEMBLY

Committee for Agriculture and Rural Development

Reservoirs Bill: Local Government Representatives

25 February 2014

Members present for all or part of the proceedings:

Mr Paul Frew (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mrs Judith Cochrane
Mr William Irwin
Mr Declan McAleer
Miss Michelle McIlveen
Mr Oliver McMullan
Mr Ian Milne
Mr Robin Swann

Witnesses:

Mr Ian Bowden	Belfast City Council
Ms Rose Crozier	Belfast City Council
Dr Marcus Malley	Craigavon Borough Council
Mr Gerry McGibbon	Craigavon Borough Council
Mr Jonathan McGilly	Newry & Mourne District Council
Mr Eamon McManus	Newry & Mourne District Council

The Chairperson: I welcome Ian Bowden, who is a senior civil engineer with Belfast City Council; Rose Crozier, Belfast City Council's assistant director of parks and leisure; Jonathan McGilly, Newry and Mourne District Council's assistant director of district development; Eamon McManus, Newry and Mourne District Council's deputy director of technical and leisure services; Marcus Malley, who is a conservation officer with Craigavon Borough Council; and Gerard McGibbon, who is a contracts manager with Craigavon Borough Council. You will not have to go through the introductions; I have done them for you.

Members have already had a chance to read your briefing paper, so I will ask you to take up to five minutes for each council to address the Committee. I remind you that we are time-bound; we have to be out of here at 2.00 pm. We want to be rid of you by 2.00 pm so that we do not have to detain you for half an hour and then ask you to come back again. Members will have specific questions for you, so, without further ado, I will ask you to commence. Maybe Belfast can start off.

Ms Rose Crozier (Belfast City Council): Thank you, Chair. We really appreciate the opportunity to address the Committee today. I will defer to my colleague Ian to make the presentation.

Mr Ian Bowden (Belfast City Council): Belfast City Council (BCC) currently owns and manages five reservoirs across the city: the Waterworks upper and lower, Alexandra Park pond, Boodles Dam in Ligoniel and Half Moon Lake. In November 2011, the council agreed to the establishment of an

inspection process in line with current best practice for all appropriate water-retaining structures. Following this agreement, the council appointed external consultants to undertake inspections at four of the reservoirs. At this point, Alexandra Park pond had not been identified as an impoundment, and when it was identified by Rivers Agency in 2012 we included it in our inspection process.

To date, the council has spent in the region of £57,000 on preparations and inspections of our reservoirs. As a result of the inspections, a number of recommendations were made in relation to each of the five reservoirs. We received the final reports on each site in late 2013 and, in January this year, the council gave authority to the director to proceed with works to implement the various recommendations. We are currently commencing the process of undertaking the work.

Several of the recommendations relate to ongoing maintenance such as grass cutting, tree pruning and general clearance, which will be included in our regular maintenance schedules. However, there are several other recommendations that will require the council to acquire the services of external specialist consultants, and we estimate that this work will cost in the region of £24,000. We are currently working on the costings for ongoing annual professional fees, and we anticipate that these will be approximately £10,000 across all five sites. This figure does not include BCC maintenance figures.

The inspection reports include dates for recommended follow-up inspections. It has been recommended that inspections are undertaken every 10 years, which for Belfast City Council will require expenditure in the region of £20,000. Annual inspections will also be required and, eventually, these may be undertaken by council staff. The findings of these inspections must be presented to the supervising engineer, which may result in further inspections and works that could incur costs.

Belfast City Council has not taken a policy position on the size of reservoir according to cubic capacity that should be included within the scope of the Bill. However, we have taken the view that, due to the location of our reservoirs in urban areas and the potential number of people who would be affected should there be a breach, all our reservoirs should be included in our inspection programme, regardless of size. Alexandra Park pond and Half Moon Lake each have a capacity under 10,000 cubic metres, but due to their location they have been included in our inspection programme. As a public authority, Belfast City Council strives to follow best practice in all its operational practices and will continue to minimise the risk to residents by ensuring that we have good maintenance schedules for our reservoirs.

We also believe that reservoirs can provide much-needed recreation opportunities. We currently provide angling opportunities in the Waterworks and are exploring opportunities to develop Half Moon Lake. In addition, many reservoirs provide good freshwater habitats for biodiversity and contribute to the beauty of the landscape. Reservoirs also serve a flood relief function, holding water at times of high rainfall rather than allowing flood surges which, in themselves, cause damage and devastation.

There are another five reservoirs within our council boundary that are not in our ownership. It is our view that they also should be maintained to a high standard to ensure that the risk to all our residents is minimised. However, we recognise that this can place a large burden on private individuals and third-sector organisations, so there is a need to balance risk minimisation with a process that is not overly bureaucratic or burdensome. Given the cost associated with inspection and maintenance, a grant scheme should be developed to assist reservoir owners to meet any legal obligations placed on them.

The council's emergency planning unit is aware of the requirement in the legislation to produce flood plans for the council's impoundments. These will be developed in due course. The council is a key member of the Belfast Resilience Forum, a multi-agency emergency planning forum for the city of Belfast. The forum has a flood working group with membership that includes the emergency services, Rivers Agency, Northern Ireland Water, Roads Service, the Met Office, the Red Cross and Castlereagh Borough Council. The group has developed an extensive multi-agency flood plan and coastal flooding protocol for the city. In the light of the Reservoirs Bill, the intention of Belfast City Council's emergency planning team is to request the forum's steering group to allocate a further task to the flood working group to develop the multi-agency reservoir flood plans.

I am happy to take any questions.

The Chairperson: That is lovely. Thank you. We will take all the presentations before we have questions, but thank you very much. Do any of the other councils want to take the next step?

Mr Jonathan McGilly (Newry & Mourne District Council): Thanks for the opportunity, on behalf of Newry and Mourne District Council, to present. Within the council area, 11 reservoirs have been identified and considered as controlled reservoirs under the proposed legislation. The Rivers Agency has identified ownership ranging from public sector to private sector to not registered. Whilst the council has a direct involvement in a number of reservoirs in the district, a number are in the ownership of other agencies or the private sector. There being no management of a number of the reservoirs represents an unknown risk to local communities.

Whilst analysis is available on a small number of these reservoirs, no detailed assessment is available on the condition of them all. Any remedial actions, long-term maintenance and the number of people potentially affected downstream are unknown. With a lack of detailed information on the reservoirs, the burden on reservoir managers in the district is unknown. The concern will be both financial and for the skills capacity to meet the requirements of the Bill.

Given the council's experience to date, the impact of the Bill on controlled reservoirs is likely to place a significant financial burden on the reservoir operator. The ability of the operator to meet the financial requirements is a significant concern. It is important that the Department considers making a grant-aided scheme for reservoir operators across sectors.

Camlough dam was discussed briefly by the Committee on 18 February as part of Northern Ireland Water's presentation. The ownership of Camlough dam is unclear. The Newry Improvement and Water Act 1871 gave ownership and control of Camlough lake to the Camlough Waterworks Trustees. However, it would appear that all the trustees have died, and no successors were appointed.

Both Northern Ireland Water and Newry and Mourne District Council have an interest in the lake. Northern Ireland Water utilises the reservoir for public water supply. Historically, the council has a twofold interest in the dam. First, the Newry Improvement and Water Act 1871, part of which remains part of our legislation, stated that:

"And whereas during the summer months there is frequently in the Newry Canal an insufficient depth of water for the navigation of the same",

sufficient water was to be taken from Camlough lake to protect the canal. Secondly, the lake is widely used as a local amenity, with activities from canoeing to angling and waterskiing. The lake is becoming increasingly renowned for swimming and hosts the annual Camlough triathlon and Camlough water festival, among other events. This year, it will host the national triathlon championships.

The council manages recreational access by virtue of a licence from the Richardson estate. The council has no title to Camlough lake. The council also manages recreational access to the lake through a subcommittee that includes the council, local user groups, environmental groups and the community sector. The facility is very much regarded as a community asset. The lake is designated as an area of special scientific interest. It is one of the few remaining mesotrophic lakes in Northern Ireland. It is a special place because of its aquatic flora and fauna; a wide range of birds and invertebrates are found at Camlough. Its shoreline includes an area of wet woodland that supports several species of willow and downy birch, as well as fenland and marshy grassland habitats.

In the context of the Reservoirs Bill, councils have been working in partnership with every agency in Northern Ireland Water. An article 10 report on Camlough has been completed in accordance with the good practice of the Reservoirs Act 1975. The inspection identified a number of serious deficiencies in the existing dam structure. Therefore, a report investigating the works necessary to bring the dam to a safe standard was produced. A copy of the 'Camlough Reservoir Improvement Options Report: February 2014' is available, and the addendum report, a supplementary abandonment scoping report, is also enclosed.

The report recommends the rehabilitation option, at a cost of £2,510,000. That capital cost assessment is identified in paragraph 8.8 on page 24 of the report. Northern Ireland Water has indicated that it will apply to the Department for 50% of the cost. There is therefore a budget of £1.25 million to be found. Given the council's present activities at Camlough lake, for the purpose of the Reservoirs Bill, when enacted, the council will be the reservoir manager. If Newry and Mourne District Council were to continue to use Camlough lake, the cost could fall to the council.

Clause 105 of the Bill provides as follows:

"(1) The Department may by regulations make provision as to the payment of grants to reservoir managers of controlled reservoirs for the purpose of enabling or assisting the managers to comply with their obligations arising by virtue of this Act.

(2) Regulations made under subsection (1) must require such grants to be subject to such terms and conditions as the Department may determine (including conditions as to repayment in the event of contravention of the other terms or conditions on which the grant is made)."

The requirement —

The Chairperson: Sorry, John, I have to rush you. Can you just finish up for me? We are tight for time.

Mr McGilly: OK. I was concluding. I just wish to say that, in the event of half of the costs in relation to Camlough falling to the council, we request that a multi-agency approach be taken, and the council will approach central government to look at sharing those costs.

The Chairperson: OK. Thank you very much, and I am sorry for having to cut you off. Marcus or Gerry, do you want to pick it up?

Dr Marcus Malley (Craigavon Borough Council): Thanks very much for the opportunity. Craigavon Borough Council owns and manages two reservoirs: Lurgan Park lake and Craigavon lakes. Craigavon lakes comprises the north lake and south lake, which are linked. We are appointing external consultants to establish an initial inspection process, which is likely to cost about £10,000 for both reservoirs. Craigavon lakes were excavated in the 1970s to reduce flood risk by attenuating the run-off from the newly built urban area around the then new town of Craigavon.

In both Lurgan Park lake and Craigavon lakes, at least part of the dam banks are not in council ownership. Private housing is built on them and, in the case of Lurgan Park, a public road. The council has concerns about its responsibility for a dam bank that is outside its control.

Both Lurgan Park and Craigavon Park lakes are important recreational facilities that provide a vital function in improving the water quality of the streams that drain from the urban areas, thus reducing the pollution of the Lough Neagh special protection area. They are important sites for wildfowl and biodiversity in general, with Craigavon south lake forming part of the city park's local nature reserve. The Craigavon lakes have a flood relief function.

The lakes contribute to the green space at Craigavon and are well regarded by the people in the borough. Craigavon lakes and Lurgan Park lake are run as fisheries, and funding was obtained recently to further develop that facility. While Craigavon will endeavour to maintain best practice in relation to inspection and the running of its reservoirs, we believe that the likely cost of the Bill will be onerous on private individuals and other organisations. So there is a need to balance risk minimisation with a process that is not too bureaucratic, burdensome or expensive. Given the costs that are associated with registration, inspection and maintenance, it is our opinion that a grant scheme should be developed to assist reservoir owners to meet any legal obligations placed on them. We are aware that some reservoirs have already been decommissioned in anticipation of the Bill, and there are likely to be consequences in flood mitigation if the process is accelerated.

We understand that, in the Bill, the risk has been assessed on the basis of the likely damage to life and property rather than the likely failure of the dam bank or wall. An assessment of the risk based on the likelihood of failure should be adopted, as we understand has happened or is happening in other countries. Furthermore, while the Department tells us that it is not possible to assess with absolute certainty the risk of a failure, it should be possible to identify those reservoirs with a high or low risk of failure, and the need for inspection and the frequency of its occurrence should reflect that. The requirement for a supervising engineer to visit every six months and report yearly could then be reduced to a more practical schedule if the reservoir is a low risk.

It is proposed in the Bill that risk is based on the likely damage to property or the loss of life in the flood inundation map. Building works outside council control within a flood inundation area may potentially increase the risk level of the reservoir and hence the costs for the reservoir manager. That has not been addressed in the Bill and may need to be addressed by Planning Service. The council has concerns about how that will be insured against. We understand that the flood inundation maps need to be updated and are based on data and assumptions that are no longer current.

Rivers Agency identified two significant flood risk areas in the Craigavon borough. The Neagh Bann flood forum has been established, and Craigavon Borough Council is represented at member and officer level due to the significant area affected by the strategic flood risk assessments (SFRAs) within its boundary, and especially given the risk posed by the flooding of lands and property in the vicinity of the River Bann and the impact on levels in Lough Neagh. The risk assessment also acknowledges that, unlike the rest of the UK, Northern Ireland does not currently have legislation for the management of reservoir safety. There is an obvious impact on the community living in an at-risk area from the perspective of emergency planning, and that is why the principal administrative officer, who also acts as the emergency service coordinator for the borough, serves on the Neagh Bann flood forum.

The Chairperson: Thank you all very much for your presentation. We will go straight into questions. I remind members that, if you feel that your question has been answered through the presentation, there will be no need to ask it. However, if you need it on the record or want detail on specifics, ask the question.

Mr Irwin: The Bill refers to controlled reservoirs holding 10,000 cubic metres of water. In England and Scotland, it is 25,000 cubic metres. What is your feeling about that?

The Chairperson: I am going to have to try to manage this in some way, because I do not think that we can have three answers. Belfast mentioned that in its presentation, so maybe its representative can answer that. If the other councils do not agree, they can chip in at the end, if that is OK?

Mr Irwin: I should have been more specific in regard to whether it poses a threat or not, and the reason for the controlled reservoir and the amount of water that it holds. You said that, in areas where it poses a risk, it should be lower than 10,000 cubic metres.

Mr Bowden: Two of ours are lower, but we went ahead and carried out our inspections anyway simply because they are in urban areas. We feel that a risk-based analysis is probably better because, with a huge reservoir in an area where there is open farmland, it might get away, whereas, in an urban area, there is more risk to human life. That is where we were coming from.

Mr Irwin: I believe that many of the reservoirs pose little or no risk even though they may have 25,000 cubic metres in country areas, as you say. There is a fear among many of us that the legislation could be too harsh on some of those. It is difficult to get the balance.

The Chairperson: Do the other two councils agree with that?

Mr Gerry McGibbon (Craigavon Borough Council): We agree. We think that it should be more based on the risk. You could have a very small reservoir in a built-up area and need to consider that, but you could have a bigger reservoir in a rural area that is lower risk.

The Chairperson: There is provision in the Bill to do that for a lower-capacity reservoir. DARD could pick that out. Is Newry and Mourne content?

Mr Eamon McManus (Newry & Mourne District Council): Yes, Newry and Mourne has Bessbrook pond, which has a capacity in excess of 25,000 cubic metres. We also have a small reservoir in the Donaghaguy area and our interest in Camlough lake. So, we have no issue with the 10,000 cubic metres capacity and the dividing line between what is included and what is not.

Mr Byrne: I have a generic question; the risk has been addressed, more or less. Belfast City Council is in charge of five reservoirs in its ownership. What percentage of the water is taken from you by NIW?

Mr Bowden: None. They are all recreational.

Mr Byrne: I ask the same question to the Newry and Mourne District Council people. What volume of water is taken from Camlough lake by NIW? What earnings do you make from NIW?

Mr McManus: I understand that NIW takes up to five megalitres a day. The council does not own Camlough lake, so it does not benefit in any way from the abstraction that Northern Ireland Water takes from Camlough lake.

Mr Byrne: So, the Newry and Mourne council has used the lake in some ways for the replenishment of the level of the water in the canal, it uses it for recreational purposes, and NIW takes fresh water from the lake.

Mr McManus: Those are the arrangements at present, yes.

Mr Byrne: There is a grey area about what NIW pays for the water that it takes.

Mr McManus: I cannot comment on that; I do not know what the relationship is between Northern Ireland Water and its abstraction with Camlough lake, or who it might pay. It does not pay Newry and Mourne District Council, anyway. I can categorically say that.

Miss M McIlveen: In your presentation, you mentioned the issue around cost, and also grant aid. I will look specifically at Belfast City Council in the first instance. You have started to do a piece of work from 2011. Obviously, the burden of that cost has lain with the ratepayer for Belfast, and likewise for the other councils. Are you aware of the ownership of the reservoirs that are outside your responsibility, and also what burden that may have? Are they community organisations, or are they other public bodies?

Mr Bowden: Of the five, there are three of them we do not know. One of the others is DSD, and the other is a community group in Wolfhill. There are three dams up in Wolfhill, just above Ligoniel: upper, middle and lower. The middle own is owned or managed by a community group.

Miss M McIlveen: What about the other council areas? Are there community groups involved in the use of the reservoirs that you do not have control of?

Mr McGilly: Not that I am aware of, in Newry and Mourne council, but I am not exactly sure who owns all of them. I am not aware of any other community interests similar to that in Camlough lake.

Miss M McIlveen: Obviously, if we are moving forward to look at a grant scheme, we need to look at how that should be developed and accessed. Have any of you given any thought to that, other than that there is a need for one?

Ms Crozier: Not really, other than the need.

Mr McManus: Through our presentation, we have made clear that Newry and Mourne council will certainly seek to turn to central government for the funding of the £1.25 million capital works that will be necessary to fund even 50% of the rehabilitation of Camlough dam. Unless that level of funding was available, Newry and Mourne council feels that it could not, financially, take on the responsibilities that the Reservoirs Bill would currently assign to the reservoir managers. Thereafter, we would certainly seek to secure funding for the running costs for the annual maintenance if Newry and Mourne was the only interested body in relation to Camlough lake. We very much ask the Committee to consider the means by which a grant aid scheme could be available to those reservoir managers in the future.

Mr McGibbon: Likewise, we use Craigavon balancing lakes for recreational purposes, but Craigavon council has no option but to maintain that, because the Rivers Agency depends on those lakes for flood attenuation. We do not have an option to decommission those lakes, because they are relied heavily upon for flood attenuation. That has been the plan for Craigavon since before Craigavon council became what it is now. Because it is a shared resource between us and the Rivers Agency, there needs to be some help coming forward in terms of maintaining that for the attenuation purposes that it serves

Miss M McIlveen: There is a myth that the council has responsibility for everything. Has anyone approached you about the proposed Bill?

Mr McGilly: No, but I think that any intervention should be applied equally. If there is risk associated with a reservoir in private sector ownership, that needs to be looked at. We are not saying that it would be a scheme open solely to the public sector. The private sector should, if it likes, be equally open to apply should it be available. Again, that would be on the basis of the risk element.

Miss M McIlveen: For council-owned reservoirs, for example, those owned by Belfast City Council, are you insured against the risk or are you self-insured?

Mr Bowden: I honestly do not know.

Dr Malley: I mentioned the decommissioning of reservoirs. Two of our council employees own reservoirs, although not in the Craigavon area. One reservoir is in the process of being decommissioned because the owner is so frightened by the tenor of the Bill, and the other is being considered for decommissioning.

The Chairperson: Can you name them?

Dr Malley: I can. The one being decommissioned, and I know that consultant engineers have produced a plan, is, I understand, called Whitehead town lake. The other one is Straid dam in County Antrim.

Mrs Cochrane: A number of you mentioned multi-agency reservoir flood plans. Do you think that a multi-agency approach should be the norm instead of the individual reservoir owner being responsible for a flood plan? If so, is that because the plan should be about more than having administrative details in place; it should include a response plan? Are private individuals in the third sector likely to have the capability to do that?

Ms Crozier: Belfast City Council is a member of the Belfast Resilience Forum, which is a multi-agency emergency planning forum for the city. The group has worked very effectively in planning for emergencies such as the recent coastal flooding and has established a protocol for that. We see this as another tool in the box for how we deal with such emergencies and intend using a similar multi-agency approach because we feel that that works. We will apply a similar template to how we come up with a plan to address the risk of the impoundments breaching.

Mr Milne: I have a point on the contribution from the private sector. Joe Byrne asked how much water NI Water takes from the reservoirs. Surely NI Water should face some of the bill.

Mr McManus: In the case of Newry and Mourne, NIW played a part in the Camlough dam discussion, and we would seek funding for up to 50% of the capital costs. For as long as it has an interest in Camlough lake, we believe and hope that it will contribute to annual running costs. So there might be a partnership approach between Newry and Mourne District Council and Northern Ireland Water while both bodies have an interest in Camlough lake.

Mr Milne: You talked about consultation with the planning department. Are you talking about the decommissioning?

Dr Malley: No. My concern is that, if somebody builds in the flood inundation area below a dam, it will potentially increase the risk for the dam and, therefore, the cost to the reservoir owner. There does not seem to be any consideration of that. I am not sure how we as a council will insure against that.

Mr Milne: That is a very interesting point.

Mr McGibbon: Another issue is the effect on property owners. When we assess a dam, people are unaware of it. When they bought their property, they were unaware of it. Then, all of a sudden, we present this risk, and they are downstream from it. How does that affect the price of their property? Both of our dams — Lurgan lake in Craigavon and Donaldson lake near Holywood — are earth dams. The land has been sold not by the council but by other Departments for private development. The residents have paid their money. Are they aware that they have bought into this risk and the associated ongoing fee? As the local authority, we have to try to work with them and get their agreement to do the investigations, and they have to share the cost. If we try to approach all the owners of residential properties and bring this up with them, it will present us with difficulties.

Mr McManus: Also, there is the question of who is liable.

Mr Milne: Have any of your dams been breached? You talked about the likelihood of failure. What is that based on? Is it because many are over 100 years old?

Mr McGibbon: We have no idea.

Mr McManus: In Newry and Mourne, we understand that the flood inundation studies carried out project the consequences of a catastrophic failure of Camlough dam. We have to bring to the Committee's attention the fact that there would be serious consequences. There are somewhere in the region of 1,600 properties downstream of Camlough dam, and they would, in the event of a sudden dramatic failure, be at risk, and there would be the potential for loss of life. Newry and Mourne District Council wants to stress to the Committee that, although the dam is in the council's area and it has an interest in it, the consequences of failure go far beyond the council's responsibility. Therefore, we seek central government intervention to deal with the risk identified with the possible failure of Camlough dam.

Mr McMullan: I apologise for being late. I was caught up in another meeting. What are your views on the mechanism for disputes, third-party appeals etc and the costs involved? Have you looked at that?

Ms Crozier: We have not considered that yet.

Mr McGibbon: We could.

Mr McMullan: I think that you should. I just wanted to get your views on it.

You talked about the danger to people living downstream of the dam. I have not heard any mention of anybody else's responsibility in this. We are talking about people buying houses and then being told that there is a dam above them that might have risk attached to it. The dams are classified as high, medium or low risk. Does the estate agent or the legal representative involved in the conveyance not have a responsibility? When a person buys a house, a legal representative has to look at all such issues. I do not understand why nobody is coming at it from that angle. You seem to take this on as your responsibility; I see it as the responsibility of those involved in buying or selling the house of behalf their client. Have you a view on that?

Mr McGibbon: It is more about how we are now being forced to assess the risk: we have to assume catastrophic failure and its consequences. If we took a more measured approach and factored in some more likelihoods, that could result in a lower risk, which might have a lesser effect on the value of those properties.

Mr McMullan: That goes back to my point about the high, medium or low classification of a dam. Do we need to talk to the people who are involved in the selling of property and land, such as the planning authority etc? Given that they pass ground as fit for building, should this not be in planning law?

Mr Bowden: In the case of Belfast City Council, no matter which dam, houses are involved.

Mr McMullan: I am scared that this will become another piece of red tape for the house owner or someone building a house and that they will have to pay to get the information. That information should be there. You can get flood plain maps, and you should now be able to get a map showing high-, medium- and low-risk dams.

Ms Crozier: Clearly, there is an impact on planning and properties anywhere near impoundments. We have taken a view purely about the registration, inspection and maintenance of the dams in our ownership and how we manage the risk.

Dr Malley: If a house is built below the dam, as well as potentially creating a liability for the house owner, it may increase the risk level of the dam. Therefore, it adds a liability to the dam owner as well. The fact that a house could be inundated might increase the risk level.

Mr McMullan: It would also increase the insurance paid by the dam owner. Has all this been factored into your community plans?

Mr McGilly: We will have to look at that. In the event of something happening, the council's emergency plan would kick in. It will need to be taken into account in any new district plan. However, we are where we are. It is about moving forward in light of the legislation and trying to sort out what position people will be left in once the Bill is enacted.

Mr McMullan: Does it not need to be in community plans now? We are only a couple of months away from elections to the shadow councils. Surely you need that as part of the pro forma for the councils to work on.

Ms Crozier: It will impact on planning considerations and planning decisions.

Mr McMullan: You are also getting planning powers.

Ms Crozier: Yes.

Mr McMullan: If we are not careful, the poacher will become gamekeeper, or vice versa.

The Chairperson: How do councils feel about the operational procedures and the panel engineers on whom you will need to rely to get the work done? There are operating procedures for the high-, medium- and low-risk dams. Jonathan, in his presentation, mentioned the at-least-twice-a-year regime. Do we think that the detail of the Bill is sufficient, or is it too stringent and too much of a burden on councils? Does Belfast City Council have a view?

Mr Bowden: There is no doubt that it is a burden. We have produced reports on our five dams, and they include a date on which we have to come back with the section 10 inspection required by the 1975 legislation. We have to go back based on what we have, and that is in the public domain. In the meantime, we have to inspect annually. Some of our dams cannot be inspected in that way by council staff; they have to be inspected by a supervising engineer. Currently, as there is only one in Northern Ireland, the lack of competition is a problem. We would like more competition.

The Chairperson: You, as public bodies, will, of course, have done everything efficiently and to the letter of the law. You could have a state-of-the-art dam or reservoir that, because of the risk to the life of the population below it, will be classed as a high-risk reservoir.

Mr Bowden: All of Belfast's are high risk.

The Chairperson: If you have done everything to the letter of the law and inspected a dam to the point of it being a state-of-the-art facility, do you think that the inspection regime is too much of a burden?

Mr Bowden: It is certainly an ongoing burden. You have no idea of the costs. It is a movable feast. We reckon that, in 10 years' time, it will cost £20,000 simply to repeat the inspections. So that is hanging over us, and from those inspections may come further required works. That element is unknown.

Dr Malley: I question the basis for this way of assessing risk. We have one dam, Craigavon lake, which has an extremely low failure risk because of the nature of it. Yet, it will still be classified as high risk because there are properties below it. I think that some cognisance should be given to the likelihood of failure as well as to the risk areas below the dam.

The Chairperson: If your dam is deemed to be high risk, you can go into a dispute and appeals mechanism. Do you feel that that is sufficient, bearing in mind that, if you ask for a review of a decision and then appeal that, you have to pay for it? How do you feel about that? Have you studied it yet? Perhaps you have not, because it relates to Oliver's initial question. If you do not yet have a position on that, is it in order to ask you to consider it and write back to us, at your own leisure but in a timely fashion, with your thoughts? Would that be possible? I know that, at present, you may be unsighted and unable to answer the question that I asked, but do you have any initial views on the disputes mechanism?

Mr McGilly: We have not looked at that.

The Chairperson: My advice is that you each check out your council position.

Ian, you mentioned the lack of engineers and bringing in other expertise. How big an issue will that be? Do any of the councils have what could be classed as in-house competent people to deal with it?

Mr McManus: Newry and Mourne council employs engineers who are competent in their field of expertise, but none of them is a member of the all reservoirs panel. So our council will have to seek to acquire those professional services from the qualified people on that panel. We advocate that those engineers and services be available on a competitive basis.

The Chairperson: There is an issue with the transparency involved in getting people on to the list for you to use. That will have to be in line with your procurement restrictions and regulations. Have you looked at the actions that the council will have to take to enlist these engineers?

Mr McGibbon: It looks like we will have to look further afield than —

Ms Crozier: There is a possibility that we could look at a collective regional tender for that kind of expertise to make it more competitive.

The Chairperson: OK.

A reservoir manager will be liable for the reservoir. If there were a breach or failure, he would be responsible. From your understanding of the Bill, who in the council is the reservoir manager?

Mr McManus: It is my understanding that Newry and Mourne District Council as the corporate body is the reservoir manager. There is not any one named individual. The council corporately has to accept, share and deal with that responsibility.

The Chairperson: If a breach led to, God forbid, manslaughter, would the responsibility fall on a chief executive and then trickle down to the culpable person?

Mr McManus: In the event of any failure, all relevant officers in the council structure would potentially be liable, but I think that negligence would have to be established in the first instance: some person, at whatever level in the organisation, would have to be proven negligent in their actions or lack of actions. The council is mindful of its responsibilities under corporate manslaughter and is certainly mindful that this would potentially apply in a Reservoirs Bill situation.

The Chairperson: On enforcement, offences, fines and prison terms, do you feel that they are proportionate, notwithstanding anything that could happen to your council? In the Bill, a standard scale 4 is a £2,500 fine and a scale 5 is a £1,000 fine, depending on the offence, or up to six months' or two years' imprisonment. Have you looked at the scale of offences and penalties?

Mr Bowden: No. At this stage, we are dealing more with the risk and the inspection process. We have not looked beyond that.

Mr McMullan: One of the driving forces for new clusters when councils amalgamate under RPA is the sharing of personnel. There is, for example, to be one accountant in each cluster and so on. Have you looked at sharing an engineer?

Ms Crozier: Just before we came in here, we were talking about that opportunity and saying that, because there is only one panel member in the region, we should perhaps look at tendering collectively for a professional resource.

Mr McMullan: I think that that would go with the ethos of sharing services that is built into RPA, the idea being to save money. Some will argue against that, but that is the ethos. I think that, if there are not enough engineers, you could be held over a barrel. That applies right down the line from you to other council employees. Having your own engineer in shared services across local government is an option that we have not explored yet.

The Chairperson: We can send the Hansard report of the meeting to the Northern Ireland Local Government Association and ask it, as the umbrella body, to respond to the issues raised.

Thank you very much. We were limited for time, and I did not want you to have to hang about for 45 minutes and then come back, so we rushed through that slightly to let you away. I hope that the time was sufficient for you; it was certainly very useful for us. If, as you go through the Bill with your officers

and chief executives/ directors, there are any other issues to which you need resolution or questions to which you need answers, please write to us.

Marcus, is there any chance that you could send Committee staff details — I do not want you to tell me publicly — of the reservoirs that are to be decommissioned so that we can write to the owners to ask for their thoughts and maybe give them an opportunity to come before us?

Dr Malley: Yes, certainly. I will speak to the people concerned. Obviously, they would have to agree.

The Chairperson: Absolutely. Thank you all very much.