



Northern Ireland
Assembly

Committee for Regional Development

OFFICIAL REPORT (Hansard)

Sewer Bonds:
Research and Information Service (RaISe)

11 November 2015

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Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
Mr Seán Lynch (Deputy Chairperson)
Mr Adrian Cochrane-Watson
Mr John Dallat
Ms Claire Hanna
Mr Declan McAleer
Mr David McNarry
Mr Stephen Moutray

Witnesses:

Mr Desmond McKibbin Research and Information Service

The Chairperson (Mr Clarke): I advise members that, following their request for additional research on the issue of sewer bonds, Des McKibbin, who is familiar to you all, will speak briefly to the matter. His paper may be found in members' tabled packs.

Mr Desmond McKibbin (Research and Information Service): Thank you, Chair. As you will remember, the Construction Employers Federation (CEF) briefed the Committee on 7 October and raised a number of issues. You asked me to look into them in further detail.

The first is bond value. CEF was concerned that NI Water takes a 40% bond, when undertakers in GB ask for 10%. Welsh Water recently increased its bond to 33%, but I will get on to that later. There is an industry standard inspection fee of 2.5%, but I suppose there is a bigger issue there, namely, what methodology is used to estimate the work? The CEF was concerned that NI Water overestimated the value of the work that needed to be done. I should start by saying that NI Water's powers to set these charges are contained in the Water and Sewerage Services (Northern Ireland) Order 2006 and not in the Bill. This Bill requires developers to enter into an article 161 agreement that the sewers will be adopted and to consult NI Water before starting construction.

Bonds were introduced in England and Wales when the industry was privatised in 1989, and it has become apparent over the years that the 10% value has been insufficient. Because of the remedial works that needed to be done, a large number of sewers have remained unadopted. The UK Government therefore brought in legislation in 2011 forcing all sewer undertakers in GB to adopt existing private sewers that were connected to public sewers. This has had two major impacts on consumers. First, in England the liabilities that the undertakers have taken on have been added to the sewage bills of English consumers. Welsh Water has just increased its bond value from 10% to 33% in recognition of the increased risk that it is taking on.

With the benefit of hindsight, Northern Ireland Water, which was only formed in 2007, has been able to take an informed decision that a bond value of 10% was too low and set the value at 40%. I am sure that NI Water will expand on its reasons during its presentation. I spoke to the Utility Regulator when I was doing the research. It did not result in a paper; it is more of an email that I sent to the Clerk. The Utility Regulator was satisfied that the level was fair; they also informed me that they would handle any complaints, and, although they would not have a role in setting the bond value, they would handle any complaints from the industry. They carried out some mediation between NI Water and the Construction Employers Federation from 2010 to 2012 and came up with ways of working round the scheme, breaking down large developments into smaller developments, and enabling developers to move along and keep their bond values down.

The inspection fee is an industry standard 2.5%, but 2.5% of what? The CEF's contention was that NI Water is estimating the work based on what it describes as a "catastrophic failure". At the time, I thought that that might be an industry term, but I have since found out that it is not; it is a term coined by the Construction Employers Federation. Having spoken to NI Water, I understand that the methodology that they use is referred to as an installation and finished surface, which is basically what it would cost them to reinstall the sewer and refinish the road surface. According to them — this has to be confirmed, and I will talk a bit about it in a second — 65% of sewerage undertakers in GB follow that methodology, and 35% would apply a sewer installation on greenfield site methodology, which would be at a slightly lower rate. I do not have the exact figures on that, to be honest.

The Committee would probably have to write to the sewerage undertakers in England to get a clearer picture of how they set their construction cost estimates. I asked NI Water if it would provide that to me to help me with the paper, and it cited commercial sensitivity as a reason not to do that. However, it provided some tables, but they are of a very technical nature. I thought that it might be better if NI Water could expand on those during its presentation.

It is worth noting that Cambridge University carried out significant research just last year on sewer bonds and how they affect the construction industry in GB. It was a qualitative study, so they basically interviewed a number of stakeholders. Many stakeholders viewed the bonds in England as restrictive and set too high, but a similar number said that it was set too low, and they understood the problems caused by a low bond value. I guess that it is an interpretation. How it has affected other people will impact on how they view it. That is all that I have to say on the issue, unless anybody has any questions.

The Chairperson (Mr Clarke): Thanks for that, Des. You talked about the 65% and the 35%, and you found that two different methods were being used in England: did you get any rationale for that?

Mr McKibbin: Sorry, Chair, I did not. As I said, I needed to confirm that. I got that from a discussion with NI Water officials. As I said, the Committee would probably need to write to the undertakers. I attempted to contact the sewerage undertakers in GB, but I did not receive any emails or phone call replies. It was difficult to pin anybody down. I guess that it is because they are private companies.

The Chairperson (Mr Clarke): If members are content, dare I say it, we should strike that from the research, given that it has come from NI Water and it is not independent of the mainland and try to get that information from the mainland. You could use that as a reason to keep the cost higher here if that is what they are telling you; it is not part of your research coming from the rest of the UK. If members are content, we should follow that up rather than just taking the word of the officials here, if that is appropriate.

Mr McKibbin: That would be appropriate, Chair. I could draft some wording for the letter, and, if it were sent on official Committee note paper, it might get a better response. As I said, I tried emailing and phoning, but nobody was willing to speak to me.

The Chairperson (Mr Clarke): Given that this is an issue, members, are we content for Des to do that in consultation with the Clerk when he comes back? If the Deputy Chair and I see that, it will speed that up. Are members content with that?

Members indicated assent.

Mr McKibbin: I should say, Chair, that the issue of the bonds is separate from what is in the Bill, so it might take a bit of time to get a response.

The Chairperson (Mr Clarke): It is separate, but, given that the industry has raised it with us here and raised it when we talked about the Water and Sewerage Services Bill, it would be useful to feed back to it whatever outcomes we can find. I will open it up to the Floor.

Mr McNarry: This is helpful. Do we need to know the stage the work would have to be at for the inspection fee to be charged?

Mr McKibbin: The inspection fee is paid up front by the developer.

Mr McNarry: Are there any problems with the time limits within which payment has to be made?

Mr McKibbin: I am not aware of any. I did not look specifically at that issue, but I could.

Mr McNarry: Just to find out how binding that is. It has to be paid up front, what does that mean? Does it mean that, if a contractor does not pay, they cannot start? I would like to know more about that.

Finally, have we any idea of how much cash has changed hands annually over the past three years for bonds? What is the rake-off on that?

Mr McKibbin: I do not have a breakdown of that. Surety bonds provided by the National House Building Council (NHBC) account for about 50% of the bonds in Northern Ireland. That does not involve the developer handing over any cash; it is included in their annual subscription. There are also bonds provided by insurance companies, which, again, are an insurance payment. An increasing number of developers have to pay in cash because they have too much liability on their cards or because their credit is not —

Mr McNarry: It would be helpful if we could put it out of our heads that there is a big rake-in of cash for NI Water in this.

Mr McKibbin: I do not think so. NI Water would not really benefit, because it has to hold any cash that it brings in and pay it back. Often, they have to pay it back at a rate of interest set by the Utility Regulator that often exceeds the commercial rate of interest.

The Chairperson (Mr Clarke): Reading over your paper again, Des, I go back to the point that I made about trying to get that from the evidence from the mainland. A real concern from the industry was the "catastrophic failure". Another criticism was that NI Water did not do inspections once work on a site had started. In essence, if they did the inspections at the start, the catastrophic failure would not come into the equation. We need to do more work on how that is done in England, because they did cite — it is coming back to me now — that that was not the case in England and that inspections were done routinely over there.

Mr McKibbin: Speaking to NI Water might help to drill down into how it carries out its inspection process. The term "catastrophic failure" was, as I said, coined by the Construction Employers Federation; it is not an industry recognised term. I had no reason to doubt the engineers from NI Water whom I spoke to, but I included the word "caution" and said that I would need to confirm it. It was just not possible to do so within the time limit.

The Chairperson (Mr Clarke): Thank you, Des. I am sure that we will come back to that.