



Northern Ireland
Assembly

Committee for Regional Development

Report on the Water and Sewerage Services Bill

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Contents

Powers and Membership	3
List of Abbreviations and Acronyms used in the Report	5
Executive Summary	6
Introduction	9
Summary of Recommendations	13
Consideration of the Bill	14
Clause by Clause Scrutiny of the Bill	17
Links to Appendices	19

Printable version of Report

Memoranda and Papers from the Department for Regional Development

Memoranda and Papers from Others

Minutes of Proceedings

Minutes of Evidence

Written submissions

Research Papers

Other Documents relating to the report 17

Powers and Membership

Powers

The Committee for Regional Development is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Assembly Standing Order No 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Regional Development and has a role in the initiation of legislation. The Committee has 11 members, including a Chairperson and Deputy Chairperson, and a quorum of 5.

The Committee has power to:

- consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
- approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
- call for persons and papers;
- initiate enquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister of Regional Development.

Membership

The Committee has 11 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows

Mr Trevor Clarke MLA (Chairperson) ¹²

- Mr Sean Lynch MLA (Deputy Chairperson) ³
- Ms Claire Hanna MLA ¹¹
- Mr Adrian Cochrane - Watson MLA ¹⁰
- Mr John Dallat MLA ²
- Mrs Brenda Hale MLA ^{5, 12}
- Mr Chris Lyttle MLA ⁸

- Mr Declan McAleer MLA ⁴
- Mr David McNarry MLA ¹
- Mr Stephen Moutray MLA ⁹
- Mr Cathal Ó hOisín MLA

¹ With effect from 06 February 2012 Mr David McNarry replaced Mr Michael Copeland

² With effect from 23 April 2012 Mr John Dallat replaced Mr Joe Byrne

³ With effect from 02 July 2012 Mr Seán Lynch replaced Mr Pat Doherty as Deputy Chairperson

⁴ With effect from 10 September 2012 Mr Declan McAleer was appointed as a Member

⁵ With effect from 16 September 2013 Mrs Brenda Hale replaced Mr Ian McCrea

⁶ With effect from 07 October 2013 Mr Joe Byrne replaced Mrs Dolores Kelly

⁷ With effect from 24 September 2014 Mr Trevor Clarke replaced Mr Jimmy Spratt as Chairperson

⁸ With effect from 29 September 2014 Mr Chris Lyttle replaced Mr Kieran McCarthy

⁹ With effect from 06 October 2014 Mr Stephen Moutray replaced Mrs Brenda Hale

¹⁰ With effect from 30 June 2015 Mr Adrian Cochrane - Watson replaced Mr Ross Hussey

¹¹ With effect from 07 September 2015 Ms Claire Hanna replaced Mr Joe Byrne

¹² With effect from 05 October 2015 Mrs Brenda Hale replaced Mr Alex Easton

List of Abbreviations and Acronyms used in this Report

CEF	Confederation of Employers Association
CCNI	Consumer Council for Northern Ireland
CIRIA	Construction Industry Research & Information Association
DRD	Department for Regional Development
ICE	Institute of Civil Engineers
NILGA	Northern Ireland Local Government Association
NIW	Northern Ireland Water
PfG	Programme for Government
SuDS	Sustainable Drainage Systems
FWTF	Freshwater Task Force

Executive Summary

1. The Committee for Regional Development (the Committee) welcomes the Water and Sewerage Services Bill (the Bill) on a number of fronts. In the first instance, it continues the Executive Programme for Government (*PfG*) commitment to ensure that households do not incur additional water charges during this Programme for Government. Clause 1 of the Bill ensures this is the case.
2. The Committee welcomes the inclusion of clause 6 of the Bill which will introduce a statutory requirement for developers to enter into an agreement with Northern Ireland Water (NIW), under article 161 of the Water and Sewerage Services (Northern Ireland) Order 2006 (an 'article 161 agreement), to adopt the sewer. This was a recommendation made by the Committee in its 2012 report on the *Inquiry into Unadopted Roads*.
3. The requirement to enter into a 161 agreement will also require Northern Ireland Water to collect a guarantee or cash bond from developers that protects the consumer should Northern Ireland Water need to carry out remedial works prior to adoption. The value of these bonds, though not a direct consequence of this Bill, has been considered at length by the Committee and the fact that the Department has initiated a review of its current policy is welcomed. The Committee believes that there needs to be a balance between the level of the sewer bond applied to the developer and the risk to the consumer.

4. The Committee welcomed the inclusion of sustainable drainage systems (SuDS) in the Bill but was concerned by the focus that was put on engineered or “hard” SuDS. The evidence taken by the Committee convinced it of the benefits of including provision for “soft” SuDS within the Bill and the Committee submitted a recommendation to the Department to consider amendments on this basis.

5. Based on the Committee’s recommendation, the Department has agreed to amend clause 5 of the Bill; this will enable Northern Ireland Water to refuse a surface water connection on the basis that consideration has not given to the use of SuDS, including “landscaping, natural features or any other kind of arrangement”. The Committee would seek assurances from the Minister that this amendment will have a genuine role in increasing the use of SuDS. To facilitate this, **the Committee recommends the Department publish guidance on approaches to SuDS in the Northern Ireland context, based on authoritative industry standards, such as those published by the Construction Industry Research and Information Association (CIRIA).**

6. The Committee does remain concerned with the outstanding issues relating to the adoption and future maintenance of soft SuDS and the potential negative impacts this will have on encouraging uptake. It is particularly concerned at the reluctance of the Department and Northern Ireland Water to adopt or consider adopting soft SuDS systems. It has taken evidence from relevant stakeholders in both the Northern Ireland Assembly and the National Assembly for Wales on this issue and remains unsatisfied with the Department’s and Northern Ireland Water’s lack of

preparedness around the matter of soft SuDS adoption and future maintenance.

7. Whilst the Committee is minded to recommend that the Department and Northern Ireland Water should be the bodies responsible for adopting soft SuDS, it does accept that there is a role for the property owners, the private sector and other public bodies in the future management of SuDS. **The Committee would recommend that the Minister provide an assurance that all due consideration be given, in a prompt manner, as to who should ultimately take responsibility. This information should be included in the Northern Ireland specific SuDS guidance alluded to in paragraph five.**

8. Further amendments have been proposed by the Examiner of Statutory Rules and the Committee as a result from the Northern Ireland Local Government Association (NILGA) in respect of clause 3 of the Bill which has been accepted by the Minister and her departmental officials.

Introduction

9. The Committee conducted pre-legislative scrutiny of the Bill on 3 June 2015. The Water and Sewerage Services Bill was introduced into the House on 16 June 2015 and entered the Second Stage on 29 June 2015, after which it was received into the Committee Stage.

10. The Committee received Written Responses from the following organisations:
 - The Confederation of Employers Association (CEF);
 - The Consumer Council or Northern Ireland (CCNI);
 - The Northern Ireland Local Government Association (NILGA);
 - The Freshwater Task Force (FWTF);
 - The Institute of Civil Engineers (ICE);
 - Northern Ireland Water (NIW); and
 - The Department for Regional Development (the Department).

11. The Bill, as introduced, contains 9 clauses and 2 schedules. Clause 1, the Extension of period for which grants to water and sewerage undertakers can be paid amends Article 213 (grants by the Department to relevant undertakers) of the Water and Sewerage Services (Northern Ireland) Order 2006 (“the 2006 Order”) to allow the Department to continue to pay subsidy to

Northern Ireland Water on behalf of domestic customers up to 31 March 2017. This aligns with the Executive's commitment not to introduce household charges during the current mandate. The clause also enables the 2006 Order to be further amended by order, with the affirmative approval of the Assembly, so that the subsidy can be paid until such other date as the Department decides.

12. Clause 2, the combining of water resources management plans and drought plans, brings into effect schedule 1 of the Bill. The Schedule aligns the existing requirements on Northern Ireland Water to prepare, review and revise water resources management plans and drought plans under Articles 70 to 73 of the 2006 Order so that Northern Ireland Water may prepare a single plan instead of two, which may be known as a water resource and supply resilience plan. If made, the single plan shall be reviewed every two years and revised at least every six years, unless the Department permits a longer period of up to eight years.

13. Clause 3, the power to remove or relax duty to install water meters when making domestic connections, enables the Department to make regulations to remove or amend the requirement within Article 81 of the 2006 Order (conditions of connection concerning metering) for Northern Ireland Water to install water meters at domestic properties connecting for the first time to the public water supply. It also allows the requirement to be reinstated or any amendments to it to be reversed. It provides that the Department must consult certain stakeholders before making the regulations, and requires the regulations to be subject to affirmative resolution.

14. Clause 4 amends Article 2 (interpretation), Article 159 (adoption of sewers and waste water treatment works) and Article 161 (agreements to adopt sewer, drain or waste water treatment works at a future date) of the 2006 Order. The clause defines a “sustainable drainage system” for the purposes of the Order and extends Northern Ireland Water’s power to adopt infrastructure, and to enter into agreements about adoption, so as to include such systems. It also confers a power for Northern Ireland Water to require the construction of sustainable drainage systems as a condition of agreeing to adopt a drain or sewer. Clause 4 also applies schedule 2 of the Bill, which sets out other necessary amendments to the Order to take account of the inclusion of sustainable drainage systems within Articles 159 and 161. Finally, the clause confers a power to make other consequential amendments.

15. Clause 5, refusal of surface water connection introduces new restrictions to the right to connect surface water sewers to the public sewer network. At present Northern Ireland Water has power under Article 163 of the 2006 Order to refuse to allow a surface water connection on the grounds of unsatisfactory construction of the drain or sewer proposed for connection or that making the connection would be prejudicial to the existing public sewerage system. The clause extends this power so as to enable Northern Ireland Water to take account of any upstream sustainable drainage system which is connected to the drain or sewer which is it is proposed to connect to the public sewer. Clause 5 also sets out a further ground for refusal, on the basis

that there is a suitable alternative means of dealing with the surface water or that such a means could reasonably be provided.

16. Clause 6, the connection of drains and private sewers to public sewers: adoption agreements, limits the right, conferred by Article 163 of the 2006 Order, to connect to a sewer. The clause introduces a requirement to enter into a sewer adoption agreement within the meaning of Article 161 of the 2006 Order (agreements to adopt sewer, drain or waste water treatment works at future date) as a condition of that right.
17. Clause 7 to 9 (inclusive) are technical clauses relating to Interpretation, Commencement and Short Title (respectively).

Summary of Recommendations

18. The Committee recommends the Department publish guidance on approaches to SuDS in the Northern Ireland context, based on authoritative industry standards, such as those published by CIRIA.
19. The Committee would recommend that the Minister provide an assurance that all due consideration be given, in a prompt manner, as to who should ultimately take responsibility. This information should be included in the Northern Ireland specific SuDS guidance alluded to in paragraph five.
20. The Committee welcomes the fact that the Department is undertaking a review into the issue of bonds and recommends that the cost and calculation of sewer bonds is included in the review.
21. The Committee also recommends that the review into bonds considers the cost and benefits of adoption of private unadopted sewers.

Consideration of the Bill

22. In response to its call for evidence, the Committee received five written submissions and took oral evidence from eleven organisations. Four of these organisations provided oral evidence during the Committee evidence session held in the National Assembly of Wales. Minutes of Evidence relating to oral evidence sessions can be found *here*.
23. The Committee is content with clause 1, the extension of period for which grants to water and sewerage undertakers can be paid as this is in line with the Executive's commitment not to introduce household charges during the current mandate.
24. Clause 2, the combining of water resources management plans and drought plans, is, in the Committee's view, a sensible and less bureaucratic process.
25. Five amendments are made in respect of clause 3. These are as follows:
- Page 2, line 11, at the beginning insert "suspend (whether indefinitely or for a specified period or"
 - Page 2, Line 12, leave out "(a)"
 - Page 2, line 16, leave out "re-enact" and insert "revive"
 - Page 2, Line 16, leave out "repealed" and insert "suspended"

26. The Department is agreeable to these amendments and the Examiner of Statutory Rules has confirmed he is content with the drafting of the amendments.
27. In addition, clause 3(7) is amended to include District Councils as statutory consultees.
28. The Committee had concerns that Clause 4, Sustainable Drainage Systems focussed too significantly on “hard”, engineered sustainable drainage systems (SuDS), a view supported by the Construction Employers Federation. The Committee sought to amend the clause to make reference to soft SuDS.
29. The Department did not agree to the Committee’s proposed amendments to clause 4 and brought forward an amendment to clause 5 which would include the use of *“landscaping, natural features or any other kind of arrangement.”* Further legal advice to the Committee indicated that this would achieve the Committee’s objective of including “soft” SuDS within the Bill. The Committee agreed the Ministers alternative amendment at the meeting of 11 November 2015.
30. The Committee would wish to record their gratitude to Mr Daniel Greenberg for his advice and guidance in respect of the Committee’s proposed amendments.
31. Clause 5, refusal of surface water connection, has been amended to include natural landscaping as an alternative drainage method to hard SuDS. As indicated, the Committee is in agreement with regards to the amendment. The Committee does have concerns that these softer SuDS are not being adopted by the Department

or Northern Ireland Water. It does, however, accept that there is a role for the property owners, the private sector and other public bodies in the future management of SuDS.

32. **The Committee recommends the Department publish guidance on approaches to SuDS in the Northern Ireland context, based on authoritative industry standards, such as those published by CIRIA.**
33. **The Committee would recommend that the Minister provide an assurance that all due consideration be given, in a prompt manner, as to who should ultimately take responsibility. This information should be included in the Northern Ireland specific SuDS guidance alluded to in paragraph five.**
34. **The Committee welcomes clause 6 of the Bill as it introduces a requirement to enter into a sewer bond agreement. This was a recommendation made by the Committee in its 2012 *Inquiry into Unadopted Roads*.**
35. **There was, however, considerable debate over the cost and calculation of sewer bonds. Members remain concerned that these are set at too high a level in comparison with other parts of the UK.**
36. **The Committee welcomes the fact that the Department is undertaking a review into the issue of bonds and recommends that the cost and calculation of sewer bonds is included in the review.**
37. **The Committee also recommends that the review into bonds considers the cost and benefits of adoption of private sewers.**

Clause by Clause Scrutiny of the Bill

Clause 1 - Extension of period for which grants to water and sewerage undertakers can be paid

38. *Agreed:* the Committee is content with clause 1 as drafted.

Clause 2- Combining of water resources management plans and drought plans

39. *Agreed:* the Committee is content with clause 2 as drafted.

Clause 3 - Power to remove or relax duty to install water meters when making domestic connections

40. *Agreed:* the Committee is content with clause 3 as amended.

Clause 4 - Sustainable drainage systems

41. *Agreed:* the Committee is content with clause 4 as drafted.

Clause 5 - Refusal of surface water connection

42. *Agreed:* the Committee is content with clause 3 as amended.

Clause 6 - Connection of drains and private sewers to public sewers: adoption agreements

43. *Agreed:* the Committee is content with clause 6 as drafted.

Clause 7 - Interpretation

44. *Agreed:* the Committee is content with clause 7 as drafted.

Clause 8 - Commencement

45. *Agreed:* the Committee is content with clause 8 as drafted.

Schedule 1 - Combining water resources management plans and drought plans

46. *Agreed:* the Committee is content with Schedule 1 as drafted.

Schedule 2 - Sustainable drainage systems: Further amendments

47. *Agreed:* the Committee is content with Schedule 1 as drafted.

Long Title

48. *Agreed:* the Committee is content with Long Title as drafted

Links to Appendices

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