



Northern Ireland
Assembly

Committee for Regional Development

OFFICIAL REPORT (Hansard)

Water and Sewerage Services Bill:
Consumer Council

7 October 2015

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Members present for all or part of the proceedings:

Mr Trevor Clarke (Chairperson)
Mr John Dallat
Ms Claire Hanna
Mr Chris Lyttle
Mr Declan McAleer
Mr David McNarry
Mr Stephen Moutray
Mr Cathal Ó hOisín

Witnesses:

Mr John French	Consumer Council
Mr Graham Smith	Consumer Council

The Chairperson (Mr Clarke): Gentlemen, you are very welcome. This seems like a regular occurrence now, John. We have received your presentation. I do not know whether you want to speak to the presentation again or just move straight into taking questions.

Mr John French (Consumer Council): I will give an introduction, and we can then take questions just to say where we are.

As I set out to the Committee when I was up a few weeks ago, the primary duty of the Consumer Council is to promote and safeguard the interests of consumers in Northern Ireland. In doing that, over the past 20 years, we have been researching consumers' views on water and sewerage. That has enabled us to represent consumers on those issues and to develop specific and strategic priorities for water reform and water management in Northern Ireland.

We have conducted several pieces of consumer research, interviewing around 2,000 consumers and businesses to inform the Department for Regional Development's development of the proposals for new water legislation and drafting of the long-term water strategy. We support the majority of the proposals put forward by the Department in its original consultation of August 2014, and we support the proposals that are being brought forward in the Bill. Overall, we believe that it is a progressive set of measures designed to tackle or prevent issues causing consumer detriment. The overall package as it stands is aligned with our research on consumer reviews. As you may have seen in our written submission to the Committee, we were seeking clarification from DRD on four points, and Graham will cover those briefly now. To give you the full picture, we went to see DRD officials on 22 September and received clarification on the points.

Mr Graham Smith (Consumer Council): I will quickly go through the four points. In paragraph 12 of our presentation, we were asking the Department for clarification on the circumstances under which the time span will be expanded on the management plan for drought and water resilience. The explanation given was that it is just to give the Department a bit of freedom to keep the consolidated plan in line with the price control process.

We sought clarification on the removal of the condition that property developments of fewer than five houses get the protection that would be provided under the adoption scheme before connection. We got confirmation that there will not be a difference in the consideration of sustainable drainage systems (SuDS) and adoption agreements between residential and non-residential properties. We felt that that was important as well.

Finally, we have just received clarification on the two different start dates in the Bill. Clauses 1, 2 and 3 can start immediately, but there will be a two-month delay for clauses 4, 5 and 6, to allow the Department to do a bit of finalising of processes and procedures and to raise awareness of the new requirements, predominantly among developers, as they come through from the Bill. We are happy to take questions.

The Chairperson (Mr Clarke): Thank you for that, John and Graham. Graham, you said in your latter points that you sought clarification. I take it that you were content with the clarification that you received.

Mr Smith: Yes.

The Chairperson (Mr Clarke): Do you believe that the Bill as it stands is prescriptive enough to prevent any ambiguity? Given that you thought that it contained ambiguity to begin with, do you believe that there is anything that should be done to amend it so that others see no ambiguity in it going forward?

Mr Smith: No, not now that we have had clarification from DRD. The questions derived more from the original consultation that came out in 2014. There were a few hangover questions from that that had not been answered to my satisfaction, so I wanted to get clarification from DRD. Now that I have it, I do not think that the wording of the Bill needs to be altered to reflect that. It was for my peace of mind.

The Chairperson (Mr Clarke): OK. Therefore, you are content.

Mr Smith: Yes.

Mr McNarry: You are welcome again. You probably have an equally important role to play in the Bill as we do. Have you identified a high level of expertise in the field of SuDS, hard or soft? If so, where?

Mr Smith: There is a small collection of people in Northern Ireland with expertise on SuDS, and there is more expertise on hard SuDS. They can be set, engineered and constructed to standards.

Mr McNarry: You have identified them. Can you provide us with the names of those whom you consider to be experts in both categories?

Mr Smith: I can do that. There needs to be more education and training on SuDS and how they can be brought into plans. With the councils taking on the new planning roles, I would want assurances that council planners and new planning powers in councils are brought fully up to speed with what SuDS are and how they can be brought in.

Mr McNarry: I fully understand that, and I am glad to hear you say it. It will not drop on the desk tomorrow, but, when the Bill has completed its legislative passage, would you want to be in a position then to answer my question about whether you believe that the level of competency required on SuDS lies in the councils?

Mr Smith: Yes, I would. If legislation is in place to mandate the consideration of SuDS, that is one thing, but we need to make sure that we can do that and not in a way that will inadvertently cause more detriment to consumers.

I know that the Committee has had some discussions about hard SuDS being in and soft SuDS being out. I still have questions on soft SuDS that I would like answered so that we do not inadvertently create a situation in which we build houses and put in soft SuDS but their ownership, maintenance, upkeep and liability are not clear.

Mr McNarry: That is interesting. Would you mind providing us with your concerns about soft SuDS again?

Mr Smith: What I will add is that I do not think that any of the problems with soft SuDS are insurmountable. We can resolve them. There are working groups looking at it, setting guidance and so on, and I am sure that you have heard from others on that.

Mr McNarry: We are not over the moon with what we have heard from others. Well, I am not anyway.

Mr Smith: Hard SuDS are easier. Engineers can build them. Northern Ireland Water can do them. It is good that we are doing that, and it is right and proper. We know from our research that consumers support SuDS being promoted and developed. On soft SuDS, the Committee is well versed in the problems of unadopted drains and sewers. I would not want us to get to a situation where we have unadopted soft SuDS. I would want that to be clarified before the legislation drives it forward.

Mr McNarry: Good point.

Mr Smith: To make efficient legislation that excludes soft SuDS now, instead of going through the process again in three or four years, why not make the best use of this window to change the primary legislation?

Mr McNarry: The Chair may address a decision that we took just before you came in. In the light of what you said, are you in a position to give us your best guess of who should assume overall responsibility for the delivery of SuDS? Should it be developers, a single Department or the councils?

Mr Smith: The construction of the SuDS, whether hard or soft, would be down to the developer. With hard SuDS, it is relatively straightforward. They can be designed and, if built to standard, Northern Ireland Water will adopt them as it would any other asset. On soft SuDS, it is not as clear. The questions that we have seek clarity on that. Councils, through their community plans, have a role to play. If we approach soft SUDs as a community-owned recreational space, there is definitely a role for the council. If we are focusing on the draining attributes, the formation of the new Department of Infrastructure will certainly help by having all the drainage agencies within one house so that they can sort things through. I do not think that it is going to be as straightforward as saying, "You are responsible for SuDS". We need to think it through a little more before charging —

Mr McNarry: How about I ask you whether you will be responsible for SuDS to the consumer?

Mr Smith: Our role so far has been in speaking to consumers, and we know that they want SuDS. We have been putting pressure on the Department and Northern Ireland Water, etc, to bring SuDS in. I would be uncomfortable taking on the role as the body that is to be responsible for SuDS. To be quite honest with you, I do not think that we have the expertise in the Consumer Council to take that on. We are not engineers; we are not drainage experts; we are not hydrologists etc. There are experts out there. The coordination of that to look at, protect and manage SuDS needs to be looked at.

Mr McNarry: I think "coordination" is a key word.

Finally, at paragraph 19 of your written presentation, you say:

"We recognise that more work is required on the implementation of the provisions of Clause 4 such as options if SuDS are not viable, providing guidelines on planning, construction, maintenance, discharge licensing etc."

Could you expand on the phrase:

"such as options if SUDs are not viable"?

Could you spell out where there may not be a good enough case for SuDS, just in case somebody might see a loophole and want to get around it?

Mr Smith: The point that we are making there is that, if SuDS, whether hard or soft, are viable, that should be pursued once the questions around ownership and so on have been resolved. We support a mix of SuDS. We are looking for clarification and cohesion around a situation where they are not viable and traditional methods of drainage are provided —

Mr McNarry: To make this observation, have you identified where they will not be viable? In which cases would SuDS not be an option?

Mr Smith: SuDS are not the silver bullet for everything. There will be situations where SuDS cannot work. I am thinking particularly of brownfield site developments.

Mr McNarry: That is interesting.

Mr Smith: We are seeking to ensure that, by bringing SuDS in through the proposed legislation, we are not inadvertently curtailing the ability to use more traditional routes.

Mr McNarry: They are not a panacea.

Mr Smith: They certainly offer benefits. We support them, and consumers support them, but we have to remember that the traditional digging a ditch or putting a drain will still be the method that has to be used on some sites.

Mr McNarry: That is helpful. Thank you, gentleman.

The Chairperson (Mr Clarke): No other members have indicated that they want to ask a question, so that seems to have covered that. Your submission is reasonably clear, and more of it was actually about clarification. We have an assurance from you, Graham, that you are content with the clarifications that you have sought.

Mr Smith: Yes, absolutely.

The Chairperson (Mr Clarke): That has been useful. Thank you, John, and thank you, Graham.