



Northern Ireland
Assembly

Committee for Infrastructure

OFFICIAL REPORT (Hansard)

Price Control 21:
Department for Infrastructure

25 November 2020

NORTHERN IRELAND ASSEMBLY

Committee for Infrastructure

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Members present for all or part of the proceedings:

Miss Michelle McIlveen (Chairperson)
Mr David Hilditch (Deputy Chairperson)
Ms Martina Anderson
Mr Roy Beggs
Mr Cathal Boylan
Mr Keith Buchanan
Mrs Dolores Kelly
Ms Liz Kimmins
Mr Andrew Muir

Witnesses:

Mr Damian Curran	Department for Infrastructure
Ms Linda MacHugh	Department for Infrastructure

The Chairperson (Miss McIlveen): We welcome Linda MacHugh, who is the deputy secretary of the resources, governance and EU group, and Damian Curran, who is the acting director of the water and drainage policy division. You are both very welcome to the Committee this morning; it is good to see you. If you would like to start off with a presentation, members will follow up with some questions.

Ms Linda MacHugh (Department for Infrastructure): Thank you, Chair, for the opportunity to brief the Committee on price control 21, which is the process for the water and sewerage services sector in Northern Ireland and is commonly known as "PC21". I am aware that the Committee has received a briefing from Northern Ireland Water (NIW) and the Utility Regulator (UR) on this subject. I would like to build on that briefing and the written briefing that we, as a Department, have provided to you. In particular, I would like to focus on the Department's role in the process and the importance of the social and environmental guidance that the Committee agreed for this price control, and then I will hand over to my colleague Damian, who will cover the step change required on funding for water and sewerage services, as advocated in PC21.

I will start by stressing the Department's support for the regulatory price control process. The regulator provides a scrutiny and challenge role, and the benefits of that process are clear. Since becoming a regulated company in 2007, Northern Ireland Water has achieved impressive results in improved service and efficiency. Today, Northern Ireland Water provides a much improved service, to many more customers. It has reduced its operating costs by around £65 million in real terms, compared with the old Water Service, and has closed the efficiency gap with leading water companies in England and Wales to just 8% today. It is delivering more, better, with less, and that is to be commended.

The starting point for the PC21 process was the Minister's social and environmental guidance, which was agreed by the Executive and issued to the Utility Regulator. It was developed in partnership with Northern Ireland Water and all of its statutory regulators; so, not just the Utility Regulator but the Northern Ireland Environment Agency (NIEA), the Drinking Water Inspectorate (DWI) and the Consumer Council (CC). It sets the policy context and direction for Northern Ireland Water's investment priorities over the six-year price control period.

The guidance built on the Executive's 'Sustainable Water — A Long-Term Water Strategy for Northern Ireland (2015-2040)'. The strategy considers the legal obligations governing water management in Northern Ireland and focuses on priorities in relation to drinking water supply and demand, flood risk management and drainage, environmental protection and improvement, and water and sewerage services. All of those are highly relevant for the price control process.

The social and environmental guidance sets the priorities for Northern Ireland Water to ensure that it meets environmental obligations, including drinking water quality, waste water quality and the reduction of pollution. It also advocates improvements in service delivery, sustainability and adaptation to climate change, all while continuing to drive through ever greater efficiencies.

The Committee will be aware from the briefing paper that we provided of some of the significant issues that face our water and sewerage services. In particular, in the development of the PC21 business plan, Northern Ireland Water has advised the Department that the waste water network and treatment system is significantly overstretched. That fact was acknowledged in 'New Decade, New Approach' (NDNA), which commits to urgent investment in waste water infrastructure, including specifically the Living with Water programme.

As you will be aware from the briefing from my colleagues last week, the Living with Water programme is a major element of PC21 and is critical to addressing the waste water and drainage constraints affecting the greater Belfast area. As you heard last week, that programme is a great example of cross-sectoral collaborative working, where we seek to create sustainable, integrated solutions rather than to rely wholly on traditional engineering. That approach has now been rolled out to other areas.

On the scale of the waste water capacity issues, around 116 areas in Northern Ireland face limited or no waste water capacity. The plans set out in the draft determination, if fully funded, will address around 49 of those areas. It will take several price controls to fully catch up with years of underinvestment.

The regulator published its draft determination for consultation at the end of September this year, and that was an important step in the regulatory process. Northern Ireland Water is possibly unique as a public body in that its plans are forensically scrutinised by an expert independent body. That process provides the Department and, indeed, the wider Executive with an added level of independent assurance on Northern Ireland Water's funding requirements.

There is much common ground between the regulator and Northern Ireland Water at this point in the process, with the regulator broadly in agreement with the investment requirement. The draft determination is calling for a capital investment of around £2 billion in real terms over the six-year price control period, as opposed to Northern Ireland Water's estimate in its business plan of £2.2 billion.

On operational costs and the provision of resource DEL, the PC21 draft determination calls for the Department to provide around £700 million between 2021 and 2027, while Northern Ireland Water states that it will require nearer to £760 million. Those figures might differ slightly from the published figures, because, in our budgeting terms, we are required to add in inflation, whereas, in the draft determination, all the figures are at current prices. That explains why there is a slight differential. Over the next months, clearly, there will be a bit more negotiation to reach the final determination. When it is final, we expect it to be somewhere between the ranges that I have outlined.

Security and certainty of funding is critical to enabling the most efficient delivery of capital projects and to delivering the services that people deserve. I will pass over to my colleague Damian, who will cover the funding matter in a bit more detail.

Mr Damian Curran (Department for Infrastructure): Thank you, Linda, and thank you, Chair. I will provide the Committee with some further detail on the Department's funding of water and sewerage services in the price control process.

As a non-departmental public body (NDPB) and under the sponsorship of DFI, Northern Ireland Water is largely dependent on the Department for budget allocation and for access to borrowing. It is well known that water and sewerage infrastructure has been affected by historical underinvestment. For example, in PC15 — the current price control — Northern Ireland Water initially requested investment cover of £1.7 billion in its capital budget. However, following the price control process ahead of PC15, the Utility Regulator determined on a price control of £990 million. The Department has been able to provide only £945 million of that; a shortfall of about £45 million. Added to that is a process of annual Budget settlements, which means that Northern Ireland Water has only single-year budget certainty to work within. That has created a system where planning is limited, efficiency is curtailed and delivery is slowed.

PC21 represents a step change in the funding requirement, with a draft determination of £2 billion, representing an uplift of over 100%. On options for providing the funding, as stated, Northern Ireland Water is dependent on budget allocation from the Department and the wider Executive. The budget requirement is submitted as part of the Department's total budget bid to the Department of Finance and onwards to the Executive for voting.

Northern Ireland Water's uplift in capital budget in PC21 is significant from 2021-22 onwards. For example, Northern Ireland Water's baseline capital allocation in 2020-21 was £150 million; from 2021-22, the PC21 draft determination recommends an allocation of around £220 million. That requirement increases as the PC21 delivery programme gathers pace, to reach the total of £2 billion over the six years.

It should be noted that the PC21 draft determination does not make any allowance for any longer-term financial impact of the current COVID pandemic. It also makes no allowance for the current shift in many working practices, with a lot of us working from home and a corresponding impact on domestic water supplies. It also does not make any allowances for the potential for cost fluctuation or additional operating costs as a result of the EU exit, both of which are risks.

We are also aware that the Northern Ireland Environment Agency plans to introduce more stringent environmental standards and procedures, which may introduce a greater risk of failing compliance and more frequent prosecution. That will only increase the pressure to adequately fund Northern Ireland Water.

To expand on Northern Ireland Water's funding dependency: the company avails itself of borrowing exclusively from the Department for Infrastructure. Access to borrowing is essential for Northern Ireland Water to deliver its capital programme, but spending of borrowed funds is limited by public expenditure levels. While Northern Ireland Water, as a company, may have sufficient headroom to justify access to additional borrowing, that must come with the corresponding budget cover to be of any use to allow it to spend it.

Other sources of funding have been explored, but they need to be carefully considered, for a number of reasons. For example, financial transactions capital (FTC) is generally available only to entities in the private sector. European Investment Bank (EIB) loans, for example, are not likely to be available following the EU exit. Market borrowing or bond finance is not an option, given Northern Ireland Water's status as an NDPB and reliance on government subsidy for much of its revenue. The reinvestment and reform initiative (RRI) borrowing facility could provide additional capital funding and Budget to the Executive. If it were utilised for the water sector, it could go a way to addressing the funding gap. However, the RRI facility comes with an additional cost to the Executive in the form of interest payments. We imagine that there would be competition right across the board for access to RRI borrowing. That would be a decision for the Executive to take.

The option of changing Northern Ireland Water's status in order to access alternative sources of funding was also explored, and we looked at how other water companies are funded across Great Britain and Ireland. However, that work concluded that changes would not be possible without a shift in domestic charging policy. Our Minister has been clear in stating that she will not oversee the imposition of domestic water charges, and that policy has been endorsed by the First Minister and deputy First Minister and agreed by the Executive.

The Utility Regulator's draft determination sets out the size and scale of the investment required for Northern Ireland Water to meet its statutory and regulatory obligations and to start addressing historical capacity issues. The benefits of the investment are cross-sectoral, in that improvements in water and sewerage infrastructure benefit the economy, the environment and public health and make positive moves towards addressing climate change. The Minister has received letters of support from

Ministers Poots, Weir, Long, Swann and Dodds in acknowledging the importance of investing in water and sewerage services. Our Minister has also had a number of discussions and correspondence with Minister Murphy and the wider Executive on the subject of funding water and sewerage services.

The funding challenge is great, but the consequences of not funding this price control are even greater. There would be a deterioration in environmental standards and service levels and ever-growing constraints to economic growth. Our Minister has made it clear that water and sewerage services are fundamental to our green recovery and to rebuilding the economy post COVID, and that requires investment.

Linda and I thank you for the time and opportunity to give you this briefing. We welcome questions.

The Chairperson (Miss McIlveen): We are probably all united in the view that investment is key to all of this. Thank you very much for your detailed presentation. The challenge is that, in the last price control period, you fell short of £990 million. Now, we are looking at a figure in excess of £2 billion. It is not just what the Utility Regulator is recommending. You have highlighted challenges in relation to COVID and perhaps to Brexit as well. How will we square the circle with the other challenges that we have in regard to how the budget is set? Then, there is the question of the status of Northern Ireland Water. I appreciate that you have explored various options and that that is a political decision. Are there other options to look at this in a way that does not include domestic charging, or has that really been bottomed out as an option?

Ms MacHugh: I will take the first part, and then maybe Damian can talk to you about some of the work that he led recently on looking at alternatives.

You are absolutely right: there is a huge challenge for the Executive. We are all clear that this is only one of many competing priorities for what will be a limited Budget. We await with bated breath what the Chancellor of the Exchequer will announce later today for the funding envelope for Northern Ireland.

We had hoped, at one point, for a three-year comprehensive spending review, but, as you are aware, it is now just one year. That is not helpful, but we all understand the position that the Government are in and that they are unable to commit to three years. Once we know what the funding for the Northern Ireland block will be, it will be a matter for the Executive to decide how they prioritise. We are fully aware that we are only one of a number of serious pressures on the Budget.

Damian, do you want to run through some of the work that was done on alternatives?

Mr Curran: Yes, certainly. The Committee will be aware that Northern Ireland Water has been classified as a non-departmental public body since 2010. It was set up as a government-owned company at a time when the policy direction was to introduce domestic water charging. Clearly, that did not happen. Government subsidy persisted. Northern Ireland Water receives about 70% of its revenue through government subsidy. That practice classified Northern Ireland Water as an NDPB because of its reliance. NDPB status brings with it a governance regime. It brings with it responsibilities for the Department and the Minister to be answerable for Northern Ireland Water to the Executive and the Assembly.

As for how we can flex that, it starts with the policy on how Northern Ireland Water is funded. We have looked at other models across Great Britain and Ireland. Sometimes, Welsh Water is brought up as a good example. It is a company, but it is run along mutual lines, in that it does not pay a shareholder. It reinvests all its profit back into services for customers. It accesses the bond market for financing, and it achieves a lot through that. However, it follows a practice of full water charging. Equally, Scottish Water is sometimes flagged up as another example. It is owned by the Scottish Government. It is a public corporation. It borrows from the Scottish Government much the same as Northern Ireland Water does in Northern Ireland. However, Scottish Water also follows a policy of full water charging, so it receives the vast majority of its revenue through payment for services.

It is that notion of where the revenue comes from and who pays for the services that triggers the status of an organisation within government. The status of that organisation brings with it all the rules that you expect government to have when they are trying to have oversight of how public money is used and spent.

The Chairperson (Miss McIlveen): Have any international models been looked at, or has it very much been localised around the UK regions?

Mr Curran: Northern Ireland is probably unique in Europe and much of the world in having a model that is still subsidised by government where universal domestic charging has been ruled out. It is that uniqueness, if you like, that we see whenever we try to compare it against other models globally or even locally.

Ms MacHugh: We were unique until the Republic of Ireland rolled back on its decision to introduce domestic charging. So, the island of Ireland is unique in the EU. There is no other country in the EU that does not have domestic charging, as we were reminded by the European Commission at one point. However, as I said, the policy on domestic charging is absolutely a matter for the Executive, and they are clear that there will be no introduction of domestic charging.

The Chairperson (Miss McIlveen): Most of our constituencies will have been affected by a moratorium of types on waste water treatment, hence, limited development as a consequence of the capacity there. I am curious about how quickly funds are then released to Northern Ireland Water when there is a situation where planning has been agreed and land acquisition is in place for projects to commence. I am very mindful of one where I live that is ready to go. What are the processes for Northern Ireland Water and the Department to release funds for those projects? How quickly can we expect those to begin?

Ms MacHugh: The prioritisation of investment is something that the regulator would look at. The first priority has to be areas where the treatment works or the waste water system are in non-compliance and where they are at risk of being taken to court or have been taken to court and told to fix it. Those have to be the first priorities. The regulator will then look at other areas, where there will be a geographical spread. Our Minister does not sit and determine what waste water treatment works will be done next. It is all set out with the outputs, and it is agreed through the regulatory process.

The Chairperson (Miss McIlveen): There is an ongoing discussion, then, throughout this with the regulator. Is DOF involved in this process as well with regard to the budget allocation?

Ms MacHugh: DOF will be involved in agreeing the budget that it is given to provide to Northern Ireland Water, but it does not get involved in individual decisions. Where the priorities should lie for investment in waste water treatment is a matter for the regulator and NIEA, as the regulatory body for waste water.

The Chairperson (Miss McIlveen): I should appreciate that, once developers see that an application has come in from Northern Ireland Water and is going through the process, there is an expectation that that application will be seen through reasonably quickly to allow development to commence.

Ms MacHugh: Yes. I know that Northern Ireland Water is, clearly, concerned that its current capacity issues are stymieing development. It is working increasingly with developers to see whether it can come up with innovative solutions to allow development to continue without compromising environmental standards and getting into non-compliance and, therefore, fines, further undermining its financial position and its reputation. Depending on the size and scale of the development, where it is and the topography, we are looking at sustainable drainage and at whether significant amounts of rainwater can be taken out of the system to allow room for the waste water element of what needs to come off a new development. It involves replacing one with the other to allow for capacity. That can be possible in some areas but not in all. Northern Ireland Water is trying to look innovatively at how it can still operate and allow development without, as I said, compromising its environmental standards and, in fact, its environmental obligations as a company.

The Chairperson (Miss McIlveen): Next is Mr Hilditch, the Deputy Chair.

Mr Hilditch: Some of my questions have already been answered and very well explained. Thank you.

The Chair and I met the CEO and the finance officer of NI Water about six months ago. At that stage, there was a big fear about loss of income from COVID, obviously due to businesses being closed and people working from home. You touched on that, Damian. Is there any estimation of how extensive those losses will be now that we are maybe six months done the road?

Ms MacHugh: It is hard to know, for example, if we get a vaccination, whether we will all just revert to normal or whether working from home will be —.

Mr Hilditch: That is my fear; that working from home becomes a thing and private companies will see the benefits of people working from home. Working from home will maybe give them additional income and reduce their costs with their buildings.

Ms MacHugh: The regulator has looked at this and has estimated an 8% to 9% shift from non-domestic to domestic use. Clearly, that will bring a reduction in income from non-domestic paying customers. It is a bit finger-in-the-air, and we will have to look at whether the long-term impact of COVID will last longer and be permanent.

Mr Hilditch: You are going with this hand looking for money, and this one is disappearing on the other side. Certainly, there was fear six months ago. The figures were not looking good.

Ms MacHugh: At the height of the restrictions last summer, there was a marked shift; in fact, non-domestic use had plummeted, but, we were using a lot more water overall, because people were at home, and they were getting bored. Children were filling very large swimming pools, and then we had the heatwave, which did not help. People were watering gardens and using power hoses. That all uses a huge amount of water. Northern Ireland Water was in a difficult position because it lost income but had to provide even more water than normal. We were very grateful that the Executive recognised that and provided additional funding from COVID bids to meet the shortfall in income that Northern Ireland Water had experienced during that time.

Mr Hilditch: On another point, there really is no access for borrowing to invest. It is tied up in some sort of legislation that it is not allowed to borrow from outside, other than from government.

Mr Curran: It is a government organisation, yes. It has to borrow through the Department. As I said, it is this notion of the status of Northern Ireland Water as an NDPB that really brings with it this phalanx of rules about what it can and cannot do. We have explored that, but there is a block once you get to that point. What is Northern Ireland Water? It is an NDPB, and it goes in that direction instead of in the other direction. There is, as I said, the notion of the RRI borrowing. I totally understand that that is an Executive matter, and it needs to be carefully picked through to see whether the Executive would be willing to avail themselves of that.

Mr Hilditch: In a reply to the Chair, you said that you had looked outside the devolved institutions in the UK. I had a look myself, and Finland has a world-class set-up, but it is twofold. It is provided jointly by the private sector and by government, but it is held up as one of the practices in Europe that is providing a world-class service, so the local Assembly can learn from that.

Mr Curran: Definitely. I will take note of that. Thank you.

Ms MacHugh: We are always keen to learn.

Mr Hilditch: I do not mean to look at it now in the winter.

Mr Boylan: You are very welcome. Thank you very much for the presentation. Linda, you talked about the Living with Water programme. I take it that it is one of the priorities in PC21.

Ms MacHugh: Yes, it will be, if PC21 gets fully funded. That is the caveat. If it does not get fully funded, we will all have a job of work to do to figure out where in the prioritisation list that sits and whether elements of it can be done and not others, because the bill for it, as you know, is what — £450 million?

Mr Boylan: I am looking at the recent figures, and that is why I asked. It is a quarter of the budget — if you get the budget — and a further £100 million is being spent by the Department. That quarter is more now because of COVID and other things. It might be more than a quarter of the budget. Is that roughly the figure that we are looking at?

Mr Curran: That is what we are working on, yes. Northern Ireland Water's Living with Water bill will be about £500 million over the six-year price control period. The Department is seeking £100 million to take forward projects alongside that.

Mr Boylan: Like I say, it is a big part of the budget.

Ms MacHugh: It is a big part of the budget.

Mr Boylan: I am not saying that it does not need to be done.

Ms MacHugh: The population equivalent capacity that the Living with Water programme will target is around a third of the total population equivalent in terms of waste water treatment. The area might not necessarily have a third of the population, but, because a lot of people come to Belfast to work, visit or shop, it is about a third of the waste water treatment capacity that Northern Ireland Water needs to undertake in any one year, so that is why there is a focus on it. However, clearly, as we are well aware, those 116 areas are throughout the whole of the North. It is not to say that money will not be spent on those other areas either, because there will have to be a spread.

Mr Boylan: The Chair made a play earlier for her own area, but I will not delve into that today. There is a wee interesting point. Damian, you mentioned the NIEA in your presentation. In terms of the European directives, it plays a key part now. I do not know whether you missed a trick. With any directive that comes through, like the water framework directive or the waste water directive — any of those directives — we have missed a trick in getting support from Europe through funding packages. We cannot borrow now because we are out. We could have had opportunities. It is not that we agree or disagree. The point is that substantial funding is needed now. The question is how that played a role. I am sure that we have had some funding for measures over the years. Where are we now with our final programme?

Ms MacHugh: Quite a significant chunk of funding was provided through INTERREG for two programmes: the Source to Tap project on sustainable catchment area management planning and the SWELL project on improving the water quality in Lough Foyle and Carlingford lough. Those are joint projects with Irish Water and other community and council areas along the border.

We have been working with DAERA, the Special EU Programmes Body (SEUPB) and the Department of Finance to ensure that PEACE PLUS will include an element of support for water quality work. There is more to be done, and we have identified a number of innovative projects that we think would fit with the environmental and sustainability part of PEACE PLUS. That work continues.

Mr Boylan: NIW is a big user of electricity. I want to ask about how that affects our efforts to decarbonise. What is in PC21 to address decarbonisation?

Mr Curran: Northern Ireland Water is very ambitious on that front. It has a range of policy proposals to try to decarbonise the organisation and reduce its reliance on traditional sources of electricity. It has measures in place to increase the use of solar and wind as potential sources of electricity generation.

Recently, Northern Ireland Water was allocated £5 million from the Department for the Economy to take forward a hydrogen electrolyser project. That will produce hydrogen and oxygen, and Northern Ireland Water will use the oxygen at a waste water treatment works to reduce the burden on electricity usage there.

The company is following a range of measures and is ambitious to make inroads into that and play its part with the climate challenge. Tree planting is another one. Northern Ireland Water is seeking to work with DAERA and other organisations to use its land mass. I think that it is the second-largest landowner in Northern Ireland, and it wants to exploit that to plant trees and further offset the carbon issue.

Ms MacHugh: Today, Northern Ireland Water is announcing with DAERA and our Minister that it plans to plant a million trees in the coming years to offset some of the carbon that it produces and to improve the environment.

Mr Boylan: I have two quick final points. Member states can do programmes together through European funding. From an island point of view, is that avenue now closed to us with some of those programmes?

Mr Curran: There is the PEACE PLUS programme to which Linda referred. That is the next or replacement stage to try to further the Source to Tap and SWELL programmes. We are working on those proposals with DAERA to try to make beneficial use of funding from that front. We need to see what comes out further with EU exit and the replacement sources of funding that the UK Government will provide UK-wide. We will need to manage that.

Ms MacHugh: It is also about whether there is continued access to other elements of EU R&D, innovation or environmental funding in any deal that may be done. That is all part and parcel of the negotiations.

Mr Boylan: OK. How does PC21 seek to tackle climate change and flooding?

Mr Curran: Flood risk management plans are being developed. They will be released for consultation at the end of December. That will lead to a year's consultation. Sectors will reply to that and manage what it means before finalisation is issued next December. Climate change mapping and modelling, and looking at the impacts of climate change, will form part of that. We need to be conscious of that.

Other parts of the Department are carrying out modelling on flood risk. They are building climate change mapping, the impact of climate change and looking forward to floodplains and the like. It is all in the round of being a conversation.

Ms MacHugh: A lot of that preliminary work fed into the price control process and was articulated. That is another reason that, this time, there is such a focus on waste water. It is the waste water side of the business that is more likely than anything else to cause flooding without a sewer flooding, which is probably the worst kind. Getting water in your house is bad, but if it is mixed with raw sewage, it is even worse. A lot of the plans for the waste water upgrades will include the mitigation of flooding. Northern Ireland Water has done a lot more work on drainage area planning and has extended that out to look not only at the capacity of the drains but at surface water flooding. That has been the big change in the flood risk management plans this time round. We have focused a lot more on surface water. There is, therefore, more of a focus on what Northern Ireland Water needs to do in urban areas to start to address flood risk. We are well aware that that flood risk is increasing because of climate change.

Mr Muir: I have only one question, because a lot of the issues have been covered by other members. Your briefing paper states:

"The Draft Determination makes no allowance for costs associated with Brexit or COVID-19."

We have discussed some issues around COVID-19. There will be costs associated with Brexit. The chief executive of Northern Ireland Water wrote to us recently outlining those potential costs. Do you have any outline idea of what those costs will be? They will have to be included in the final determination.

Ms MacHugh: The regulator is well aware that it will have to come back to that before the determination is finalised, but, at this point, and before we know what the outcome of negotiations will be, it is difficult to be accurate as to how much the costs might increase. There could be increases due to additional tariffs, delays in delivery or additional procedures that have to be gone through. At this time, without knowing the outcome of the negotiation, it is difficult to put a figure on it. By the end of December, we will know the position, and we may be able to be more accurate before the determination is finalised in March.

Ms Anderson: Thank you, Linda and Damian, for the presentation and the information that you sent to us. I am happy to hear about the coordination between the Department for Infrastructure and DAERA on the planting of trees. My question is in the same vein and relates to the type of coordination that is taking place between the Department and the Department for Communities. We heard the Communities Minister's housing statement, for instance, which was welcomed by all. She is reintroducing ring-fenced housing for areas, including my Derry constituency, and north and west Belfast. New Decade, New Approach referenced sewerage investment. Belfast constituencies and,

thankfully, Derry are going into that programme, or parts of it. What coordination is taking place between the Department for Infrastructure and the Department for the Economy to ensure that new, much-needed housing estates and homes in Derry will be able to proceed, because we know that sewerage capacity is preventing some developments in the city?

Ms MacHugh: That is also concerning the Minister. She is committed to doing everything that she can to promote housing in general and social housing in particular.

Ms Anderson: Are both Departments coordinating? Thankfully, we heard the news today about the planting of trees. Are there plans for both Departments to work out how that can be done?

Ms MacHugh: We have had meetings with the housing team at the Department for Communities on the development of its housing strategy. We discussed the constraints that Northern Ireland Water is currently under. I suppose that it is one of those intractable problems. The Department for Communities can see where housing is needed, and we see where housing is needed, and we see the investment required to provide the services to make those houses possible.

It comes down to money. It needs to be financed; there is no getting around that. I take your point that there is no point in one Department saying, "We will be doing this", and another being unable to provide the water and waste water service required to get those houses built.

Ms Anderson: It would be helpful for the Committee to get a read-out of those meetings as to how that will be taken forward.

You spoke about environmental standards and the EU SWELL programme for water quality. The River Foyle — again in my constituency — and other areas have benefited from that. Does NI Water discharge raw sewage into rivers, given that countries are legally obliged to treat sewage before it is released into waterways? I would like to know the scale of pollution that could be taking place.

Ms MacHugh: Northern Ireland Water does not do that unless it is absolutely essential. That would be only at times of heavy rain. You can never build a sewerage pipe big enough to take some of the heavy rain, so at times when the rain is really heavy there is an allowance for intermittent discharges. It helps when it is heavy rain that it is diluted. It is not ideal, but every water company has those and that is the way the system works. However, there is such a thing as unacceptable intermittent discharges, when the system is at capacity and the discharges are more frequent than they should be. At times, that becomes more the norm than the exception because of heavy rain. Those unacceptable intermittent discharges will be one of the priorities in the final determination on where waste water investment needs to go.

Ms Anderson: Can we get information, Chair, on the exceptional circumstances when that has been used, and on how many times it was used not because it was exceptional but because of a lack of capacity?

Ms MacHugh: We will get as much information as we can. Sometimes, unless it is continually monitored, it is not known.

Ms Anderson: Is it not reported in if that is done?

Ms MacHugh: They do not open a valve and suddenly it happens. The system is designed so that, if it reaches capacity, it releases out because the alternative is that it backs up and floods people's houses. There will be some figure work, and we will get you what we can.

Ms Anderson: OK. It may not be complete but at least it will give us an indication.

Ms MacHugh: Yes, and those things are monitored by the NIEA, so it will be dependent on its figure work.

Ms Anderson: Damian, with regard to Brexit and there being no allowance for the costs associated with it, we are not looking for absolute figures. The clue of the transition is in the word. It is a transition until we leave the EU at the end of the year, so there are 35 days left. It is to get a sense of the preparatory work that has taken place so that we can get indicative times and costings. We may not get the absolutes, because who knows how a future relationship will unfold?

We all knew from the history of what happened with Brexit that we would be up against the wire before we would know whether or not there would be a future relationship. Given that we know that there will be a cost incurred for chemicals having to come into the North to purify our water and an increased cost for those chemicals, surely there should be an indicative figure — we are not asking for the absolute figure — as to what that cost would be. Surely we could have an indicative figure as to the cost of the impacts of Brexit on, for instance, sewage, water, chemicals or whatever. What is the cost? It would be shocking if we discovered that no mapping exercise had been done and that there were no indicative times. We are not looking for absolutes. We are looking for the potential cost if there is no deal, what it will cost if there is a deal and what it will cost if there is a deal with particular tariffs. I assume that the Department will have that work done.

Mr Curran: We can provide absolute assurance that Northern Ireland Water has done a lot of preparation for Brexit. We have, for example, been mapping all its supply chains and mapping from where it gets its chemicals and spare parts. A lot of intensive good work was done prior to this time last year, never mind this year. Northern Ireland Water has not taken its foot off the pedal on that front. You are absolutely right —

Ms Anderson: Can the Committee get an indication of what Brexit will cost NI Water? You said that the costs associated with Brexit have not been taken into account in the Utility Regulator's draft determination. That makes no allowance for it. However, surely, at this stage, 35 days away from who knows what will happen, all that sterling work that you are talking about — I have no doubt that that has been done — can be shared with the Committee. Every time we ask, we are told that you will not know until the end of the year. At this stage, I do not think that that is good enough. I know that officials have done all that sterling work, and I think that that should be shared with us.

Mr Curran: We can take that away. That is a reasonable enough question. There is continuous scrutiny of what EU exit will mean for the supply chain, for the trading relationship and for tariffs. You can imagine a series of different models, tiers and so on. Maybe that is a reasonable question that we could look at. It is all part of the plan, but I agree with you that there is a sense that everybody is in this stasis mode. We are looking at the UK-EU level agreements, whatever they look like.

Ms Anderson: Whatever goes on then, and whatever happens, we will deal with it. We had a year of transition. The clue is in the word "transition". In that year, I have constantly asked officials who have come in front of us for the indicative cost so that we as a Committee are informed, and, whatever happens, we have a particular model that has been shared with us that shows the potential impact. Every time we ask, officials tell us that they do not know what the outcome will be, but they are not sitting wondering what will happen. Work has been done by officials, but I do not think that that has been imparted to us, so I would appreciate you going away and trying to get back with some information on that.

Ms MacHugh: We will try to provide you with as accurate information as we can, but it will come with a caveat. It will be high level. Some things will still be unknown — for example, the impact on electricity prices. Will those go up? Will there be pressure or will it be neutral?

Ms Anderson: Let us get an indicative time frame and an indicative understanding of what the costs could be if this were to happen or if that were to happen. We know that it is not absolute, and we are not going to tie you down to this once we have it and say, "Oh, but you told us". We will treat it in that way.

Ms MacHugh: For example, if certain chemicals start to have tariffs put on them or require additional paperwork, what will that look like and cost?

Ms Kimmins: Thanks, Linda and Damian. *[Inaudible.]* How does the Utility Regulator's draft determination differ from NI Water's estimate for funding its Living with Water programme? I am asking that to try to differentiate between the two.

Mr Curran: Do you mean the difference between the business plan and the draft determination?

Ms Kimmins: Yes.

Mr Curran: The headline from the draft determination is that the Utility Regulator is broadly supportive of Northern Ireland Water's PC21 business plan. If we look at the numbers, we see that Northern

Ireland Water's PC21 business plan had an investment requirement of £2.2 billion over the six years while the draft determination came out with £2 billion. The difference between the £2 billion and the £2.2 billion is a series of challenges that the regulator is making to Northern Ireland Water on some of the programmes or projects or some of the methodologies or calculations that it has used in the business plan.

We are in a process of consultation, where Northern Ireland Water and the regulator will be meeting. Northern Ireland Water will provide more information to the regulator, so there may still be movement on both sides. Northern Ireland Water is taking a very robust line with its business plan, which is fair enough, as it believes in it and has put a lot of hard work and effort into it. Naturally enough, it is keen to defend it and share more information with the regulator to, in their minds, close the gap.

This is a normal regulatory scrutiny challenge process that we are in the midst of, so there is nothing too unusual. It would probably be more unusual if there were a bigger gap; you might think, "What's going on here?".

Ms MacHugh: Indeed, if there were no gap, you could then argue that the regulator was not performing its scrutiny function properly.

Specific areas where there are differences include, as Damian said, the basis for calculating the cost of capital programmes. The regulator is saying, "We hear what you're saying but we think you can deliver that more efficiently", or is challenging Northern Ireland Water to be more efficient more quickly. It is really saying, "We think you can do a wee bit better than that". Those are the main areas that lead to that slight differential. As Damian said, it is not as if Northern Ireland Water is saying that it needs £2.2 billion and the regulator is saying that it needs only £1.5 billion, £1 billion or that current levels are fine. The regulator has accepted that a significant increase is required now.

Ms Kimmins: That is fair enough. The fact that there is not such a big gap gives you confidence that everything is on the right track.

Obviously, everything is hypothetical until we know how much funding has been secured, but is there a projected timeline? Other members talked about some of the things that might affect when work would commence and finish within PC21.

Mr Curran: Do you mean for the scrutiny process and the release of the final determination?

Ms Kimmins: In delivering it on the ground.

Mr Curran: The key thing to pick out about water and sewerage services is that it is an ongoing process. The price controls are regulatory, but the work does not stop on the ground; it has to continue. That is important as well. With regard to PC21 projects, Northern Ireland Water has this year started a lot of planning, hard work and scoping so that it can start on the front foot from next year. In fact, some of the additional £15 million funding that Minister Murphy provided in September was specifically for a list of projects to catch up on PC15, as a result of delays caused by COVID, and to help with hot starts for PC21. The programme runs at pace.

On the spend profile, I mentioned that the capital budget for 2021-22 will be £220 million. That profile will increase as PC21 and the projects pick up pace again. It will increase to a high point in the midpoint of that six-year cycle before decreasing slightly towards the end. Price control might sometimes feel a little artificial in terms of the work on the ground and the projects that are ongoing, because stuff needs to continue at pace. It is better for efficiency and for planning big multi-year capital projects if there is long-term funding certainty, because Northern Ireland Water can sit down with contractors, suppliers and so on and provide a convincing forward work plan.

Ms Kimmins: OK. My last question is about the programme of work, which was informed through engagement with stakeholders and working groups to identify where the biggest needs are. Will you elaborate a wee bit on that process? Can the Committee get the criteria for deciding which projects will and will not be picked? Other members mentioned their constituency. I represent Newry and Armagh. Newry has major issues, and we have been raising those for a long time. It does not affect only future developments. Killeavy Road in Newry, which is in my area, has historical issues that really need to be addressed, with houses that have been up for many years being affected. I want to get a clearer picture of how projects are approved under the programme and why others may miss out.

Ms MacHugh: We can ask Northern Ireland Water and the regulator for input into that.

Ms Kimmins: That would be great.

Mr Beggs: Again, Linda and Damian, thanks for your presentation. You have presented the stark reality that is facing us all, but it is better that we understand that. What I am trying fully to understand is the degree to which PC21 is a nonsense process if the funding is not provided.

Ms MacHugh: The regulatory process is there to determine what level of service and investment is required. Its purpose is to balance the need for investment with affordability for the customer. It is silent on where the money is coming from, and that is how the regulatory process is set up. The fact that it is for the Executive to provide the funding that would otherwise come from domestic paying customers is an issue for the Executive. It would have been wrong to say to the regulator, "We might not be able to afford this, so just tell us what can be done with the money that we can afford to spend". In order to be open and transparent, and so that we know the size and scale of the problem that is facing us, it is important that that regulatory process is gone through. That is the purpose of the regulatory process: it is not to allocate funding; it is to determine what is required.

Mr Beggs: In dealing with underfunding, if all the capital that you say is necessary is not delivered, am I right in saying that non-compliance will be at the top of the list? Otherwise, you will be paying court fines, never mind anything else. Is that what will be prioritised?

Ms MacHugh: Yes, if Northern Ireland Water has been found to be in breach in certain areas and there are court proceedings, the top priority will be to deal with that. The next priority will be areas where it knows that it is in breach but which have not yet come to court. Clearly, court fines will be an additional draw on the budget.

Mr Beggs: Have you any sense of the value of capital funding required to deal just with the breaches that you know about?

Ms MacHugh: I would need to get exact figures from Northern Ireland Water. However, on the waste water side of PC21, I think that Northern Ireland Water would argue that those areas are at or near capacity; some are over capacity. Those that are over capacity would be prioritised first because they are the ones that are more likely to be in breach. I would need to get further information from Northern Ireland Water on exactly which areas they are.

Mr Beggs: It would be useful to know the scale of capital funding needed to avoid the public sector fining itself, resulting in even fewer improvements being made. It will become a nonsense if we get to that situation.

On the options going forward, is there investment that makes business case sense? For a stand-alone enterprise, there is always some short-term investment that can bring longer-term savings so that it can stand on its own feet. Are there any short-term investments in operations — in modern technology, for example — that make business sense and could, perhaps, bring in savings but which are not being invested in because of that lack of capital?

Mr Curran: We mentioned how, since 2007, Northern Ireland Water has addressed the efficiency challenge by making £65 million of annual recurring savings. As Northern Ireland Water is a regulated company — this touches on your previous question, Mr Beggs — the regulatory process brings in that efficiency challenge, drives down those costs and sets targets for it to achieve. You gave the example of the use of technology and digital. Northern Ireland Water wants to go after those initiatives; very much so. There are, of course, benefits from investing to save. Northern Ireland Water includes that in its business plan, and the regulator determines on it. The efficiency challenge will continue. We have set that out in our social and environmental guidance. Northern Ireland Water has included it in its business plan and will continue to go after trying to achieve more savings. Much of the low-hanging fruit has been picked, so some of the savings that it goes after will be harder to achieve. They will require more innovation and, potentially, more investment, and they will be less significant. However, it is important to keep driving forward like that.

Mr Beggs: One area that was mentioned earlier with regard to looking at where capacity might be increased was examining whether some surface water could be removed from the system to increase the capacity that can be channelled towards the treatment plants. My understanding is that surface

water is separated automatically in any new development. There are separate streams to do exactly that. Are you talking about separating out surface water in older developments? How will that increase capacity?

Ms MacHugh: It will be a mixture, depending on where the development is and what sewerage system is there. You are quite right: in new developments, that is all separated out. Unfortunately, in some areas, what happens then is that the separated-out water ends up going into a combined sewer because the ultimate sewer is part of the old Victorian system. In those days, it was not separated out. Northern Ireland Water is working towards further separation where that is feasible and possible. For example, last year, there was a major project in and around the Linen Quarter in Belfast, where exactly that was happening: there were separate sewers, it all went into one big combined sewer, and then it flowed out. They have separated all that out. That comes at a huge cost, and you have to dig up the roads. That has to be balanced with the need for new waste water systems and, as Damian said, innovating to improve what we have. That is also part of the regulatory process. How much money should be put into that type of work? There may be potential to separate water from existing developments or roads, or hard surfaces somewhere, and put it into a new separated storm sewer that would flow out into a watercourse or the sea. If you think about it, you realise that that would not only create better capacity but, in environmental terms, it would be a lot more sustainable. Otherwise, you are putting clean water, which really should be used as an asset, into a drain and pumping it several times, potentially to get it to a waste water treatment works, where it is treated as though it is dirty water, even though it is clean. For long-term sustainability, it is preferable by far to take natural rainwater, do something natural with it and keep it away from the drains. However, there are constraints in some areas on what you can do. In some areas, towns and cities, there is simply not enough room underneath the roads and hard surfaces to accommodate two full sewers but, where possible, they are doing it.

Mr Beggs: It strikes me that we have a total stalemate at the minute and no solution in prospect until the funding comes up or an agreement to change the model occurs.

In the meantime, are you looking at any other arrangements? For example, are you considering additional charges on all new connections to build a fund to enable you to do the type of work that you are talking about? You could have a charge on any new development. Does that occur anywhere? It is not acceptable to sit here, with the problem parked, while social housing and other developments, including new companies, are being stopped because we do not have a sewerage sub. We have to get a solution. Are any third ways being examined, rather than the stalemate that is presently expressed?

Ms MacHugh: There are some issues with saying, "We will just charge developers for new developments." They say, "Why should we pay for improving a system that is already there?"

Mr Beggs: I am talking about a connection charge — purely a connection charge.

Ms MacHugh: There are connection charges but, again, that is all part of the regulatory process. The regulator will determine what charges can be levied for different things. We cannot say, "Government cannot afford it, so let us just put the cost on to developers." That would not be entirely fair either. However, I get your point.

Mr Beggs: The developers will not be able to develop unless there is a solution.

Ms MacHugh: Other things are being explored. Again, they are not suitable for all situations. For example, there is increasing interest in more natural ways of treating waste water. If you look at Stoneyford or Castle Archdale — one is being developed in Limavady — you see that there are ways of using natural enzymes to treat waste water through a series of ponds. You need a lot of land, and it is feasible only for hamlets, but it is a more natural way of dealing with waste water. As I said, Northern Ireland Water is working with developers to see whether there is any way around this.

One thing that we are concerned about is the increasing propensity to say, "You cannot deal with the waste water, so we will just put in a little package plant and run it ourselves." Invariably, what happens is that the developer goes bust or walks away and leaves a treatment plant that breaks down or was never really built to standard. Northern Ireland Water cannot adopt it, so the residents are left with it. That is a concern going forward. If, because of funding constraints, we cannot provide the capacity for development naturally, will there be more and more temptation to build these individual plants? I think that that will build and become a real problem in the future.

Mr Beggs: Is there sufficient awareness, particularly among the public and their conveyancing solicitors, of the risks involved in purchasing such a private plant?

Ms MacHugh: Yes. A number of previous cases, and some that are ongoing, a couple of years ago meant that we have had quite a lot of involvement with the Law Society. You are quite right: if you are going to buy a house, the first thing that you should look at is whether your sewer and treatment plant are adopted. If not, whether or not there is a management company, the residents are liable. That is what happened in places like Galliagh Shore. The houses were built but a bond was never entered into by the developer. The treatment plant is now broken and in private hands. That is what we are trying to avoid.

Mrs D Kelly: That latter point on private developers continues to cause concern. Much of the ground has been covered. I know that there is an ongoing planning review. This question might be slightly off the subject of your presentation: on water, adoption and bonds, are you, through that review, entering into dialogue about the lessons to be learned? As you say, unfortunately, some residents' solicitors were perhaps not as diligent as they ought to have been. What recommendations, if any, can you share on how planning should, in future, seek to put in conditions, particularly for developers who are repeat offenders?

Will you update us on whether there is any end in sight for NIW's funding aspirations under the commitments entered into under New Decade, New Approach, which you referenced at the start?

Ms MacHugh: Northern Ireland Water is clearly a statutory consultee in the planning process, and it has been involved in that review to see how all statutory consultees can work more collectively with the planning authorities to ensure that, before planning consent is given, everybody is aware of the position. I would need to talk to my planning colleagues about how the findings of that will be rolled out, but water has certainly been part and parcel of that process. You are quite right: it needs to be more joined up, and I would like to encourage more pre-development application discussions on the capacity for water and waste water in new developments. We have also had a lot of interaction with councils in the local development planning process, and I can understand that, rightly, councils are also concerned, because they have real aspirations for growing their council and their economy and providing housing where it is needed, and that could all be constrained because of the lack of waste water capacity. We are very well aware of that.

Mrs D Kelly: May I come back in? In the pack from estate agents or the agent who is selling the properties, could there be a requirement for upfront information from NIW, rather than depending on the solicitor, but without shifting the area of responsibility to NIW? It could be just a tick box to show whether a bond was in place and remind people that it was a statutory obligation, so buyer beware.

Ms MacHugh: I am not sure that we have the powers to make it mandatory, but we could certainly look at encouraging that. As I said, in the past, we have had discussions with the Law Society to ensure that its members were adequately and accurately advising their clients. We have heard of examples of where solicitors got it wrong and told people buying houses that the systems were adopted when they were not.

On NDNA, we are reminding the UK Government, because they have a commitment under NDNA. We are also adding that to the reasons why our bid in the next CSR process needs to be met.

Mr Curran: NDNA specifically name-checked the Living with Water programme and investment in waste water. We have included those two lines in our return to the DOF to spell out that that is what those two lines will cost to put right if we want to meet the ambitions of NDNA.

Mrs D Kelly: Thank you.

The Chairperson (Miss McIlveen): The final determination will be published on 16 March 2021. Do you anticipate any changes in advance of that?

Ms MacHugh: I do not think that the regulator will publicly announce any changes before that. It has to wait until the end of the consultation process and take the responses into account. As we said, Northern Ireland Water is challenging some of the assumptions and looking to get it back up closer to its business plan. The regulator will have to balance that against any other response that it gets from its consultation. We do not expect anything to be produced in advance of 16 March 2021.

The Chairperson (Miss McIlveen): OK. Thank you both very much. We very much appreciate your time this morning.

Ms MacHugh: Thank you very much.