



Northern Ireland
Assembly

Committee for Infrastructure

OFFICIAL REPORT (Hansard)

Grants to Water and Sewerage Undertakers
Order (Northern Ireland) 2021: Department
for Infrastructure

24 November 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Jonathan Buckley (Chairperson)
Mr David Hilditch (Deputy Chairperson)
Mr Roy Beggs
Mr Cathal Boylan
Ms Cara Hunter
Mr Andrew Muir

Witnesses:

Ms Alison Clydesdale	Department for Infrastructure
Mr Damian Curran	Department for Infrastructure
Ms Julie Ann Dutton	Department for Infrastructure

The Chairperson (Mr Buckley): I welcome, via StarLeaf, Ms Alison Clydesdale, director of water and drainage policy; Mr Damian Curran from water and drainage policy division; and Ms Julie Ann Dutton from water and drainage policy division. You are all very welcome to the Committee this morning. Please begin your presentation. The Committee will consider the proposal for the statutory rule following the departmental briefing. It is over to you, guys. I am not sure who is leading off on the presentation.

Ms Alison Clydesdale (Department for Infrastructure): Morning, Chair. It is me. May I check that you can hear me OK, given the technical difficulties that we had this morning?

The Chairperson (Mr Buckley): We can indeed, Alison. Thank you.

Ms Clydesdale: Super.

Good morning, Chair and members. Thank you for the invitation to brief the Committee this morning. I am joined by Julie Ann Dutton, head of the environment team, and Damian Curran, head of the shareholder team in water and drainage policy division. We are here to brief the Committee on the proposal set out in the SL1 to extend the period during which the Department for Infrastructure may pay a subsidy to the water and sewerage undertaker in lieu of domestic water charges.

Article 213 of the Water and Sewerage Services (Northern Ireland) Order 2006 provides the power for the Department to make grants to water and sewerage undertakers. You will be aware that it is the current Executive's policy, and, indeed, that of previous Executives, that domestic consumers should not pay a separate charge for water and sewerage services. Instead, that is currently funded through a subsidy paid by DFI to the water and sewerage undertaker, which is Northern Ireland Water. At a

recent meeting of the Executive, the Minister for Infrastructure secured agreement from her Executive colleagues to continue that policy on domestic water charging and to bring forward the relevant legislation to extend that for a further five years so that the subsidy may be paid until 31 March 2027.

There are several advantages to extending that period by five years. It offers the next Executive time to make an informed and planned decision on the future funding of the water industry. If the next Executive were to decide to continue the current policy, it would allow time to prepare the necessary legislation before the end of the next mandate. It also allows time for policy research and development, should the Executive wish to consider a change to the current policy on domestic water charging.

The subsidy to Northern Ireland Water is currently paid under the Grants to Water and Sewerage Undertakers Order (Northern Ireland) 2017, which has an end date for the payment of a subsidy of 31 March 2022. Therefore, to give effect to the Executive's recent decision to continue this policy on domestic water charging and to bring forward the relevant legislation to extend it for a further five years, a new statutory rule is now required.

The Department has therefore prepared the SL1 that you received and is working with the Departmental Solicitor's Office on drafting the Grants to Water and Sewerage Undertakers Order (Northern Ireland) 2022, which proposes to extend the period during which a subsidy may be paid to NI Water to 31 March 2027. The order will be subject to draft affirmative resolution. If the Committee is content, the statutory rule will be laid as soon as possible and brought before the Assembly for debate in due course.

I want to take the opportunity to give you some background on the legislative position and how we got here. When the 2006 Order was commenced in April 2007, the initial period during which the subsidy may be paid was three years, which took it to 31 March 2010. That end date has since been amended on several occasions by primary legislation.

The Water and Sewerage Services Act (Northern Ireland) 2016 provided a power to amend that date further by subordinate legislation rather than by primary legislation. At the same time, the Bill extended the period by one year, as there would not, at that time, have been adequate time to make the necessary statutory rule in 2016. Following that, the statutory rule that I referred to earlier was made in 2017 — the Grants to Water and Sewerage Undertakers Order (Northern Ireland) 2017 — which, at that time, amended the end date for the payment of the subsidy to 31 March 2022. As that date is now fast approaching, it is necessary to make further subordinate legislation to continue the current policy for the further five years agreed by the Executive.

Northern Ireland Water is regulated by the Utility Regulator and therefore operates according to the conditions in its licence. The regulator sets prices through its price control (PC) process, which allows Northern Ireland Water to deliver water quality, environmental and customer services objectives at the lowest reasonable overall cost.

Northern Ireland Water is classified as a non-departmental public body as it receives over 50% of its revenue from government subsidy in lieu of direct domestic water charging. As such, all expenditure then scores in the Government's Budget. The cost of the subsidy is met by DFI. For the 2021-22 financial year, the Department has allocated £132 million of resource funding and £216 million of capital funding. That represents the full level of funding as recommended by the Utility Regulator for the efficient delivery of water and sewerage services in the first year of the new price control. This is the first year in many years that this has *[Inaudible owing to poor sound quality.]* We welcome any questions that you may have regarding the SL1 that proposes the relevant legislation to give effect to the Executive's recent decision to continue their policy on domestic water charging.

The Chairperson (Mr Buckley): Thank you very much, Alison, for your presentation. I have a number of questions, and then I will open the session to members.

Am I right to say that the Department is going for the longest period of extension of five years? The primary reason for doing so is to fit alongside the legislative time frame in a new mandate. So, if there is a new plan or any future changes, that period gives the Department adequate time to adapt. Is that correct?

Ms Clydesdale: Yes, that is correct.

The Chairperson (Mr Buckley): How is the subsidy worked out?

Ms Clydesdale: My colleague Damian may be able to give you a bird's-eye view of that.

Mr Damian Curran (Department for Infrastructure): The subsidy is worked out in agreement with Northern Ireland Water and the Utility Regulator through the price control process. The subsidy is, effectively, a payment to Northern Ireland Water in lieu of domestic charging. A subsidy agreement is drafted between the Department and Northern Ireland Water with the agreement of the Utility Regulator, so there is a clear methodology and regulation behind how the subsidy is created. That methodology is based on what is affordable for customers and what is necessary to deliver water and sewerage services in an efficient way. The core of it is through the regulatory process.

The Chairperson (Mr Buckley): OK. Is there an impact from the increase in energy costs or other unforeseen costs on the subsidy or the Utility Regulator's determination?

Ms Clydesdale: When the Utility Regulator worked out this price control, the current rise in costs, which is the first that we have seen of such magnitude in a generation, was not foreseen. Under normal circumstances, those costs would have been covered, but this year's rise is unprecedented. Damian, do you want to add to that?

Mr Curran: Thanks, Alison. There are services that Northern Ireland Water has to deliver, and it uses power to do so. Costs will therefore increase as a result of the unprecedented increase in the cost of power. There will be a read-through to customer charges through the regulatory process. How much customers are billed will have to be agreed with the regulator. There is not an uncapped level of charge that Northern Ireland Water can apply to customers per se. That needs to be agreed, with regulation, and it needs to be affordable to customers.

The Chairperson (Mr Buckley): NI Water is Northern Ireland's biggest electricity consumer, so the Committee is always looking at ways in which that situation can be improved. In various presentations to the Committee on matters relating to renewables, it has come to light that 14.8% of wind curtailment is at night. Is there a breakdown of what percentage of energy and electricity consumption by NI Water happens during the day as opposed to at night? That could be a wasted opportunity to drive down electricity costs. You may not have the information to hand, but the Committee would be interested in that.

Ms Clydesdale: We do not have that information with us this morning, but we are happy to ask NI Water for it.

The Chairperson (Mr Buckley): Yes, it would be interesting to hear.

You advised that no consultation needs to be carried out as there will be no detrimental impact on customers and because it has been Executive policy since 2007. It could be argued that there are indirect impacts from the lack of funding for other services due to the subsidy. Is there any policy to consult the wider public on the matter?

Ms Clydesdale: There are no plans to consult the wider public. There is no change to the policy, which is why a consultation was not taken forward. Julie Anne, do you have anything to add on that point?

Ms Julie Ann Dutton (Department for Infrastructure): Alison, you are right. There was no change to policy so it was not felt that a consultation was required. If any change in policy is decided on or considered in the future, consultation will take place at that stage.

Mr Hilditch: I thank the delegation for briefing us this morning. The Democratic Unionist Party remains absolutely opposed to the introduction of domestic water charges in Northern Ireland. That position has not changed. Do the officials agree that there is an opportunity for better education on sensible and sustainable water usage that could help the situation to a degree? Offering more education to the public could make them aware of what they can do to help out.

Ms Clydesdale: Yes, absolutely. Northern Ireland Water has an ongoing campaign on water conservation, which people will have seen during the period of extreme heat in the summer. Damian, do you have anything to add?

Mr Hilditch: Just before Damian comes in, I will say that that is almost expected every year. People put the kettle on for that statement coming out. What I am looking for is an ongoing educational programme over 12 months to try to educate people and keep the issue at the forefront of their minds.

Ms Clydesdale: I will look to Damian. I have been in post for only two weeks — two weeks today actually — so I do not have some of that detail, but I suspect that Damian will be able to answer that for you.

Mr Curran: Thanks, Alison. I will address Mr Hilditch's question. You might have heard of Northern Ireland Water's Waterbus, which is part of the educational programme that it takes to primary schools. Pre-COVID, it was very active on that front and visited schools and tried to get children involved in understanding the value of water.

The whole concept of the value of water is very strong in Northern Ireland Water, and it continually stresses to people that they should use water responsibly. It is a resource that is not free to produce. There are plenty of water reserves in Northern Ireland, but there is a cost to produce and get clean drinking water to customers' taps. So, there are a lot of benefits in trying to raise public awareness of the value of water and how precious it is. Its usage is not free. There is a cost to the public purse, and it needs to be used responsibly. Northern Ireland Water is funded through the price control process to take forward certain educational activities to make the public aware of that.

Mr Boylan: I have a couple of questions. Alison, you are very welcome. Good luck in the role.

Ms Clydesdale: Thank you.

Mr Boylan: Since 2007, there have been four or five changes to dates and timescales. Why is there a difference in the number of years? Will you explain that? We went from one to three years; now, we are going to five.

Ms Dutton: I will give you a bit of background to that. The initial period was three years. Those three years were followed by a further extension through primary legislation to retain the same timescale. Then, in 2016, as Alison mentioned earlier, we prepared a Bill and gave a power at that point to extend the period further by subordinate legislation. At that point, there would not have been time to make the necessary subordinate legislation within the timescale, so there was a one-year extension period.

Following that, in 2017, the Minister decided to provide a more lengthy period and to make that period coincide with Assembly mandates. That was to create a timescale coming towards the end of the subsidy payment period to allow for further legislation to be made or, during that mandate, enough time for Members to consider whether they wanted to make any changes to policy. So, the five-year period was put in place at that point. At this stage, the proposal is to extend it for a further five years, again, to coincide with the Assembly mandate.

Mr Boylan: So, we are going for an extension of five years from 2022 because the extension is up in March.

Ms Dutton: Yes.

Mr Boylan: Could you extend it further than five years, or do you just go by the length of the mandate?

Ms Dutton: It could be extended to whatever timescale the Minister or Executive decide. It is Executive policy, so, at this point, the decision was just to make it a five-year extension to enable consideration to be given to the policy.

Mr Boylan: So, the primary legislation provides for a five-year period, but, through subordinate legislation, we could extend it for another year, say, in 2027 or 2028. So, that process still goes on.

I appreciate that other members have questions, but I have one final question. Should the extension have been brought forward sooner, or is it just the way that you work with the mandate? Is it down to the Executive? What is the process?

Ms Dutton: To bring forward this piece of legislation?

Mr Boylan: Yes. Could it have been extended sooner? It had been extended to 2022 and will now extend for another five years to 2027.

Ms Dutton: The legislation currently states that the subsidy may be paid until 31 March 2022, so there is no need to bring anything further forward until towards the end of —

Mr Boylan: That period.

Ms Dutton: Yes.

Mr Boylan: I appreciate that. Thank you.

Ms Hunter: Good morning, everybody. You are very welcome here today. Thank you very much for your briefing. I found it very useful. I want to ask a broader question on water and drainage. Looking at the current NI Water funding situation, I understand that the shortfall this year is significant and that that will have serious consequences. Will the officials give us more understanding of that situation and what it will mean?

Ms Clydesdale: Thanks. The situation has arisen primarily because of the rising energy costs. If that funding gap is not met, as the Minister outlined in the Chamber on Monday, there might have to be a cut in services. Finance colleagues in the Department are working closely with Northern Ireland Water and colleagues in the Department of Finance. Indeed, our finance colleagues are due to brief you next week, so, hopefully, they will be able to give you a more updated position then.

Ms Hunter: Thank you, Alison. Good luck in your new role. I completely agree. Hopefully, as a Committee, we can work alongside you and the Minister to find a resolution to the issue. Thank you, and good luck.

Ms Clydesdale: Thank you.

Mr Beggs: Thanks for the briefing. The absence of sewerage capacity in many areas is restricting the development of private and public housing, yet there is a PC21 business plan to try to put that capacity back in place. During that PC21 period of planning, capital investment is to virtually double from £249 million to £463 million. Have the Executive agreed to fund that in order to correct the omission of not having sufficient sewerage capacity, which is adversely affecting not only people's lives but the local economy?

Ms Clydesdale: I will start off, and then I will hand over to Damian. I know that, in PC21, there is an allocation to address some of the difficulties with the capacity in the sewerage network. Obviously, at the moment, we have a one-year budget settlement, but we are moving to a multi-year budget period. That will be helpful. Damian can probably give you some of the figures on that element of the funding.

Mr Curran: Thank you, Alison. I imagine that the Committee will be aware of what stage we are at with budget bids over the next period. We are looking at a multi-year budget settlement. As for how we advise and inform the Minister, the Executive and Department of Finance colleagues on the numbers for that, we use, as a baseline, the Utility Regulator's PC21 final determination. That gives us, as a Department, the numbers that Northern Ireland Water will require to run and deliver the capital investments and waste water capacity improvements that the Member outlined. We use the numbers in the PC21 final determination as the baseline for bids over the multi-year budget requirement and then feed those into the spreadsheets and the system. We are, effectively, waiting for decisions to be made about how a multi-year budget settlement will be issued.

How we advise the Executive and the Assembly on what is required over the next lot of years to deliver the capacity improvements required is data-driven. What is needed are decisions on that commitment to a multi-year funding settlement. When we get those decisions, Northern Ireland Water will have greater flexibility to put in place plans, over a multi-year period, for major-scale capital investments and big asset delivery projects. Multi-year funding is so important for that long-term planning, because it gives security of supply of funding to contractors of Northern Ireland Water, which, in turn, gives it surety of delivery. That is where we are at this point. We await decisions on that multi-year funding package and what it will look like.

Ms Clydesdale: Resolving the capacity issues in the sewerage network will probably require a sustained level of investment over multiple price controls.

Mr Beggs: When will there be clarity on the draft budget so that we will know whether this issue is being dealt with or ignored?

Ms Clydesdale: Our finance colleagues are due to brief you next week and will have more detail on that. I cannot give you any dates at this point. Hopefully, colleagues will have more information when they brief you on the October monitoring round next week.

Mr Beggs: OK. Thank you.

Mr Muir: I thank the officials for joining us. A couple of issues arise, but they are policy issues that are more for the Minister than her officials, and they can be discussed and debated in the Chamber when the statutory rule comes before it.

As a commentary, Northern Ireland Water is facing a funding crisis as a result of increased energy costs. It is vital that that is resolved. If it is not, the implications are very serious. I know that the officials touched on that, and we can engage in due course with the finance officials from the Department.

There are two things. Many years ago, there was a hypothecation in rates bills that detailed the amount that went from domestic rates — probably also non-domestic rates, to be honest — towards water and sewerage. That could be linked to what was outlined here. Is that being considered as part of this so that we can be very clear where the revenue streams are coming from?

The other point is that the statutory rule will be made for five years. Will that preclude any changes being made to the governance model in Northern Ireland Water before the end of those five years?

Ms Clydesdale: I will start and look to others to add something, if necessary.

On the rates bills, as I said, I have been in post for only two weeks, but my understanding is that that would not be possible.

Re the five years, the legislation is there to allow the subsidy to be paid any time up to March 2027. Therefore, if, in the next mandate, the Executive were to decide to look at an alternative funding model, that would need to be brought in, and it would probably take a number of years to do that.

Mr Muir: OK. Thank you.

The Chairperson (Mr Buckley): OK. No other members have indicated that they have a question. Without further ado, I thank the officials for their presentation. We will move on to the Committee consideration of the order. Thank you very much.

Ms Clydesdale: Thank you.

The Chairperson (Mr Buckley): OK, members. The SL1 proposes to extend the payment of a subsidy to NI Water in lieu of domestic water charges. Are members content with the proposal for the statutory rule?

Mr Beggs: Provided that the issue is addressed and not just pushed down the line.

The Chairperson (Mr Buckley): Yes, the point is made. As members will know, the Minister will table a motion in the Assembly, and there will be a full debate. Of course, we will also follow up on the questions that Mr Beggs asked and my question on energy when the finance officials from the Department give us their briefing.

Are members content with the proposal for the statutory rule?

Members indicated assent.