



Northern Ireland  
Assembly

Committee for Infrastructure

# OFFICIAL REPORT (Hansard)

Role and Functions of the Utility Regulator:  
Northern Ireland Authority  
for Utility Regulation

10 April 2024

# NORTHERN IRELAND ASSEMBLY

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### Role and Functions of the Utility Regulator: Northern Ireland Authority for Utility Regulation

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**Members present for all or part of the proceedings:**

Mrs Deborah Erskine (Chairperson)  
Mr John Stewart (Deputy Chairperson)  
Mr Cathal Boylan  
Mr Patrick Brown  
Mr Keith Buchanan  
Mr Stephen Dunne  
Mr Mark Durkan  
Mr Peter McReynolds

**Witnesses:**

Mr John French	Utility Regulator Northern Ireland
Mr Ciaran MacCann	Utility Regulator Northern Ireland

**The Chairperson (Mrs Erskine):** I welcome to the Committee Mr John French, the chief executive of the Northern Ireland Authority for Utility Regulation, and Mr Ciaran MacCann, the Utility Regulator's head of water and gas price control (PC). Thank you for joining us today and for giving us your time. We have the written evidence that was submitted to us, so, if you do not mind and you are content, I will ask you to make a quick five-minute opening statement, after which we will go to questions from members.

**Mr John French (Utility Regulator Northern Ireland):** Thanks very much for the opportunity to speak today. We are the Utility Regulator. We are a non-ministerial Department. We are very much a creature of statute, and we can do only what our legislation sets out for us. We have roles in relation to electricity, gas and water, which, I guess, is the main subject for today.

Unlike normal Departments, we are not covered by royal prerogative, so we cannot do anything that is outside that statutory remit. Our role in water and sewerage services is defined by the Water and Sewerage Services (Northern Ireland) Order 2006. We provided in our letter a more detailed outline of those functions. Our main statutory duties in relation to water and sewerage are protecting the interests of consumers, ensuring that Northern Ireland Water (NIW) can carry out its duties correctly across Northern Ireland and ensuring that Northern Ireland Water can finance its functions correctly.

We have to have special regard to consumers who are disabled or chronically sick, of pensionable age, on low income or reside in rural areas. There is a jigsaw of water stakeholders, so our role in relation to water is as an economic regulator, but there are other regulators, such as the Drinking Water Inspectorate (DWI) and the Northern Ireland Environment Agency (NIEA), which regulates discharges into the aquatic environment. Northern Ireland Water provides water and sewerage

services. The Consumer Council for Northern Ireland looks after consumer complaints and consumer education on water.

The Department for Infrastructure has several roles. It develops water policy, and we take that forward in the price control process and the social and environmental guidance that follows from that. It also has a role as the funder of domestic water charges, as it has been decided that that is the funding mechanism. It is the owner and shareholder of Northern Ireland Water. It is important to recognise its three roles: the policy role; the funder of domestic water charges; and owner and shareholder of Northern Ireland Water.

We have four main statutory roles in carrying out our function. We have to do the price control, which you will have heard about through PC21. That sets out the expenditure that Northern Ireland Water can undertake within a price control period. As part of that, there is a mid-term review. We have a licensing role, so we make sure that Northern Ireland Water is the correct body to undertake work on water and sewerage services. We also look at enforcement, disputes and appeals.

We are a regulator in the price control process. Most regulation came in during the Thatcher Government. Price control is a process of acting as competition generally to monopoly-type companies in energy, water and transport. The price control process acts as competition to try to make sure that the monopoly company is as effective as it can be. Normal competition, such as Tesco versus Sainsbury's, is not there for a monopoly company like Northern Ireland Water, so we act as pseudo-competition. We benchmark everything that Northern Ireland Water does against what other companies in England, Wales, Ireland and Scotland do in order to make sure that consumers in Northern Ireland get the most efficient price.

PC21 is very much about making sure that Northern Ireland consumers get the most efficient and affordable elements for the money that is paid out for Northern Ireland Water and that there is capital investment to meet, in particular, the waste water treatment deficit that is occurring in Northern Ireland. That is what we do. PC21 looks forward at the next six years. Currently, we are looking at the mid-term review to make sure that the figures that we projected in 2022 are up to date and take account of inflation, and Northern Ireland Water will submit greater detail around the projects that will occur towards the end of the price control period. That mid-term review is ongoing. Obviously, we find ourselves in a difficult situation with the lack of funding from DFI to achieve the PC21 goals.

That is a quick canter through where we are.

**The Chairperson (Mrs Erskine):** That is super. Thank you very much. It is much appreciated.

You will be aware that, this week in the Chamber, we had a debate on how Northern Ireland Water should be funded. We looked at how an options paper could be brought forward that includes mutualisation — there seemed to be differing opinions on what mutualisation would look like — and at the different models elsewhere in the rest of the UK. Will mutualisation lead to water charges for homes in Northern Ireland? What would mutualisation look like for Northern Ireland Water if it were to happen?

**Mr French:** From our perspective, it does not really matter what the ownership model is. It is a political decision whether the company is private, mutualised or state-owned. We are looking to make sure that Northern Ireland Water is correctly funded. Once a political decision is made about how it is funded, you can look at ownership models. You just need to take a step back and see, first and foremost, how Northern Ireland Water is going to be correctly funded and then look at the ownership models. The ownership models support the correct funding. I know that I am not answering your question directly.

**The Chairperson (Mrs Erskine):** It is fair enough.

**Mr French:** It is about taking that step beforehand to see how you are going to fund Northern Ireland Water, and then the ownership model should follow suit.

**The Chairperson (Mrs Erskine):** I appreciate that.

You talked about ensuring that Northern Ireland Water is the correct body for water treatment and sewerage services. I noted that you act like "pseudo-competition" for Northern Ireland Water, and I take that point. I also noted in the written evidence that the Utility Regulator has:

*"powers to appoint, and terminate, NI Water's role as Northern Ireland's water and sewerage provider."*

Where would that leave us if it came to a point where you, as the Utility Regulator, came forward and said, "This is no longer viable here in Northern Ireland", given that we have only Northern Ireland Water? What would it take for that nuclear button, if I may call it that, to be pressed on that?

**Mr French:** Those roles were provided in the 2006 legislation, but that envisaged a different world to the one that we are in. It envisaged that there would perhaps be a Government-owned company, a mutualised company or a private company; it would be something more like the English, Welsh and Scottish model. We did not go down that route. A regulator provides licences for a company to operate, so we do that in electricity, gas and water. You will have seen that, in GB, there are issues around Thames Water and whether it can fund its functions. Ofwat, which is our opposite number in GB, will have to decide if Thames Water is financeable with regard to its shareholders, and then it could remove its licence and would maybe become a nationalised company. We have already seen that in rail regulation when the east coast main line was taken off operators and is now a nationalised service. Railtrack was a private company and is now nationalised. However, we already have a nationalised company in Northern Ireland, so there is not any other route. The backstop is a Government-owned company, and that is where we are at the moment. It is then about making sure that the funding is there.

**The Chairperson (Mrs Erskine):** That is the crucial part. On that, how confident are you, from a Utility Regulator point of view, that we can ensure that Northern Ireland Water is funded to finance its functions properly? Again on that point, the Committee has received significant evidence on the overflows into our waterways. You talked about the Northern Ireland Environment Agency and working with it. I live in a very beautiful part of Northern Ireland — Fermanagh and South Tyrone — where we have lovely loughs, swimming and one thing and another. What, if any, enforcement responsibilities do you have in the case of fishing and water sports, for instance, being impacted by low water quality due to sewage discharges? That is two questions in one.

**Mr French:** We have it in our legislation, but there is no point in duplicating. The Environment Agency would take the lead on enforcement activity on such an issue. It is about working in partnership, which we do. We have cases ongoing where we are looking at enforcement and disputes. It is an ongoing feast.

**The Chairperson (Mrs Erskine):** Do those cases relate to low water quality, which would affect swimming, fishing and water sports, or are they domestic?

**Mr French:** The couple that we have at the moment are on connections to the waste water.

**Mr Ciaran MacCann (Utility Regulator Northern Ireland):** They are disputes, and they are developer-led, for example, which happens quite often.

**The Chairperson (Mrs Erskine):** OK. This is my last question before I go to members. The written evidence contains correspondence from December 2023, some lines of which concerned me a bit. It states that the Utility Regulator:

*"is aware that there is currently an ongoing judicial review between NIW and the Department. While we do not know the fully legal details of the case, we have been named as a notice party".*

Can you detail anything further on that? Are there any further details? A judicial review between NI Water and the Department would be worrying.

**Mr French:** That was current when that letter was written on 20 December, but things have moved on and that potential legal action has gone away. It is not ongoing.

**The Chairperson (Mrs Erskine):** It is not on the table now; OK.

I will move now to the Deputy Chairperson.

**Mr Stewart:** Thanks, Chair. John and Ciaran, it is good to see you again. Thanks very much for coming.

My first question follows one of the Chair's points on Northern Ireland Water. One of your statutory obligations is to ensure that Northern Ireland Water can finance its proper functions. What are your concerns about the long-term impacts of the year-after-year underfunding on the network and how that will impact on the proper functions being delivered?

**Mr French:** PC21 was meant to be a step change up, especially on waste water. We probably need three additional price controls at that higher level to get to where Northern Ireland essentially needs to be on waste water treatment. There is a historical backlog because Northern Ireland Water — it was the Water Service prior to that — has not been funded correctly, which mainly affected waste water. PC21 was to be the step change up. There was always funding for clean water and for maintenance, but it was more about bringing waste water treatment up to the correct levels. That is based on the Department for Infrastructure's social and environmental guidance. To go back to the Department's three roles, as I outlined them, the Department sets the guidance and Northern Ireland Water then has to come up with a business plan to meet that guidance. Our role is to make sure that that is done effectively and efficiently. If the capital funding is not going to be available, Northern Ireland Water will simply not be able to meet the standards and capacity that the waste water system needs. You will have seen the report that the Northern Ireland Audit Office (NIAO) published last month. We agree with that. It is very clear that developments across Northern Ireland will not be able to take place because the waste water treatment infrastructure is not there. It needs that funding. There is a gap there.

**Mr Stewart:** A debate is going on about water charges and associated matters. People already pay for their water through their rates bills. Do you think that there should be or that it would be helpful for domestic rates bills to have a specific allocation for NI Water in order to assist its funding?

**Mr French:** Sorry. I will dodge that question —

**Mr Stewart:** You will dodge that one *[Laughter.]*

**Mr French:** — as it is a political one. Simply, we do not care where the funding comes from; there just needs to be funding. The Department is clear on what it wants in its policy and in the social and environmental guidance. If that is to be achieved, it needs funding, and, with the current funding model, that is not there.

**Mr Stewart:** I have one more question. I will pivot to one of the other areas that you cover. You are involved with the price controls on electricity and gas as well as on water. Northern Ireland has an insatiable appetite for home heating oil, but that is not regulated by your office. It should be, particularly with rising costs and the fact that many people affected by the cost-of-living crisis are buying by the barrel from other areas, which, similar to buying bottled gas, is even more expensive. They are not able to afford direct debits or massive monthly outgoings, so they pay even more per unit for that. Do you believe, as I do, that that should be within your purview and come under the control of the Utility Regulator?

**Mr French:** Again, we are a creature of statute. If it is in the statute, we will do it.

**Mr Stewart:** Would it be beneficial to people to have the same controls on those products as those that are on the other products?

**Mr French:** Home heating oil is used by 60% to 70% of people. For the 20% to 30% of people who use gas, there is a lot of support and regulation of that market. Customers who do not have gas heating do not have the consumer protection that regulation brings. If the Assembly or the Department were to bring forward a proposal — we are getting powers relating to heat networks — we could look at heating oil.

**Mr Stewart:** I will maybe put it in another way to finish, because I do not want to tie you into talking about what you should and should not be doing. Would consumers be better off and better protected if home heating oil and bottled oil and gas were within your remit?

**Mr French:** We would hope so.

**Mr Stewart:** So would I.

**Mr French:** We hope that they are with electricity and gas. There are many stages of regulation: you do not need to jump to full economic regulation. You could look at standards and at how we could protect vulnerable consumers more. Codes of practice and other measures could be brought in before you go the whole hog of economic regulation. We believe that consumers in Northern Ireland of electricity, water and gas are protected well. We brought in vulnerability codes of practice and various things, so yes, I would hope so.

**Mr Stewart:** I agree.

**Mr Boylan:** You are welcome. It is a very interesting subject, especially after the debate in the Chamber the other day. I just want to tease it out a wee bit more, John. It is a fair assumption that NIW knows all its assets, its estate and everything else, so PC21 is about going after the waste water, right or wrong, OK?

**Mr French:** Yes.

**Mr Boylan:** Your submission states that:

*"NI Water undertakes its role at a fair price for consumers".*

How do you marry that up? In the original business case, it applied for, what, £2.5 billion? Whatever the business case was, you then came to a decision. How do marry all that up in terms of a fair price for consumers? How do you come up with that figure? How does NIW, when it is presenting its business case, go about that?

**Mr French:** Ciaran might want to add to that because he is closer to the coalface, but that is the discussion that you would have with the like of the Consumer Council in terms of the stakeholder group. It is also spreading the cost out across the life of the assets. You are not paying it all on day 1; you are spreading it out, so there is that element as well.

**Mr MacCann:** We have a number of roles when you talk about efficiency. One of our big valuable aspects is the independence to have an objective economic regulatory view, which some of the other regulators maybe do not have. We look at efficiency, for example, so we get prices down. One of the big achievements was ensuring that NI Water reduced the efficiency gap from 49% in 2010, which happened in one of the earlier price controls for operating costs, right down to 6% in order to catch up with the comparators that it was benchmarked against in GB. That is an example of where we scrutinised the costs and made sure that they came down over time from £300 million per annum for those operating costs in 2010.

**Mr Boylan:** I appreciate that. We had a good debate in the Chamber the other day. We have good drinking water quality, but there is waste water to consider. We heard about pollution, which is a slightly separate issue. NIW has to deal with that, but I am talking about the PC programme that went to your organisation. That was for £2.1 billion over the six-year period to meet what the company asked for. It is fair to mention increases in energy and construction costs over the first three years. I know that you are doing the mid-term review, and maybe that will come out of it, but I want you to comment on whether that would be a factor in the funding package over the first three years. That is besides the issue of whether DFI is giving the amount of money that is it supposed to give every year, but, surely there would be a cost to the energy hikes and everything else.

**Mr French:** I think that I have understood you correctly. It goes back to the roles that the different bodies play. DFI sets the policy and the social and environmental guidance. Northern Ireland Water then provides a business plan to see how it meets that guidance. We will then see how efficient it needs to be. As Ciaran was saying about that efficiency gap, for every pound that an English and Welsh company spent in 2010 in achieving its goals, Northern Ireland Water was spending just under two quid to do the same thing. That has now come right back down to about £1.06, so you can see that Northern Ireland Water over that 10-year period has become a lot more efficient in achieving its operating goals.

You are looking at the cost to the consumer at the end. DFI sets the policy for what it is looking for from Northern Ireland Water in its social and environmental goals. It is making sure that that is the most efficient cost and then spreads it over the price control period, if I am getting you right.

**Mr Boylan:** I completely understand that, but my point is that —

**Mr MacCann:** We would have looked at the —.

**Mr Boylan:** — you are into the mid-term review. NIW officials attended the Committee and said that its funding has gone down. Will you comment on the time frame for the mid-term review? By what percentage is investment down in the first three years of the price control period?

**Mr French:** The mid-term review process is under way at the moment. We should be putting out our draft determination towards the end of the month. It will go out for an eight-week public consultation, and we will make a final determination towards the end of August. The mid-term review was in there because, when we set the price control in 2021, NI Water did not have foresight of the actual costings of some of the waste water projects. That is why the mid-term review is being done now.

As you rightly say, other things have occurred since then, such as a huge hike in inflation. The original purpose of the mid-term review was for there to be greater granularity of detail from NI Water on how much projects would cost as the price control process moved on. In that period, however, the Ukraine conflict meant that inflation and energy costs went up. That additional element was not expected when the mid-term review was announced back in 2021.

**Mr MacCann:** As part of the consultation, we will publish numbers relating to NI Water's request and our view on that. To get to the heart of your point, it was a significant request from NI Water. We are talking in the order of hundreds of millions of pounds.

**Mr Boylan:** That is what I am trying to get at.

**Mr MacCann:** I do not want to give an exact figure today.

**Mr Boylan:** Part of the role of a scrutiny Committee is to gather evidence, but the issue is more complicated. You have a certain role to play. The point is well made, and I understand it, but I am trying to understand why NIW's funding has gone down. We are three years into the price control period. We have heard NIW's view on it. We have had the debate in the Chamber. We want to support NIW, and to do that right, but there is limited funding available, and NIW has been underfunded for years. The reason that I asked you was because we need to know the condition of the waste water estate at the start in order to be able to understand. That is our starting point and our baseline.

I have one final point to make. You mentioned having duties towards those who are disabled, sick and older. Will you expand a bit on those duties?

**Mr French:** This goes back to John's point about heating oil, but, when we undertake our work, we make sure that there are codes of practice for how electricity, gas and water companies treat those people. There are enhanced protections for four consumer groups.

**Mr K Buchanan:** Thank you for coming along, gentlemen. I have a couple of questions. I want to talk broadly about connection charges for gas and electricity. I also want to talk about your policeman's hat, as I call it. Gas —.

**The Chairperson (Mrs Erskine):** We have touched on gas in the meeting, but I remind members that, although I gave the Deputy Chair a bit of leeway, some of the issues are for a different Committee to scope out. We like to do infrastructure business here.

**Mr K Buchanan:** Very diplomatically put.

**The Chairperson (Mrs Erskine):** Thank you.

**Mr K Buchanan:** OK, we will talk about your policeman's hat. *[Laughter.]*

**Mr Stewart:** In other words, do not mention gas.

**Mr K Buchanan:** I have a couple of specific points to make. I am looking at article 95 and article 201 of the Water and Sewerage Services (Northern Ireland) Order 2006. Your briefing paper states that, under article 201, the Utility Regulator:

*"has the power to approve charges schemes, if made by sewerage undertakers, having regard to the Department's guidance in the exercise of that power."*

When developers make changes in a town setting, not necessarily by building additional houses, for every litre of foul water that they put into the system, they have to offset that by removing 12 litres of storm water. That is extremely difficult to do in the middle of a town. Who came up with that, and who polices it to say that it is right and fair? In other words, that is done to split loading from the current treatment plants, but it is extremely difficult to do, and it comes at an extremely large cost.

**Mr MacCann:** That is largely an operational issue. Our role is to do with price control funding. We receive disputes as well, so we cannot —.

**Mr K Buchanan:** It may be operational, but it is not fair. Who polices that?

**Mr Durkan:** There may be a dispute about it.

**Mr K Buchanan:** Do you see my point?

**Mr French:** Yes, I know what you are saying. We will come back to you on that.

**Mr K Buchanan:** I am trying to understand who came up with that 1:12 ratio and said that it is fair. Do not get me wrong: I am not saying that developers should get everything for free. It is stopping development, however. We talk about "No drains, no cranes", but who came up with that figure? Who polices NI Water in that regard?

**Mr French:** I guess that it was us who came up with it.

**Mr K Buchanan:** My next question is also about your policeman's hat and concerns NI Water's mains connections. I am trying to deal with loads of issues involving mains water connections at the back of existing council houses. If individuals purchase their council house, they are then the owner of that house and are suddenly responsible for the pipe that runs across their back garden. They cannot get a resolution with NI Water to fix that pipe. If that pipe fails, it is up to them to get it fixed. No one will touch the pipe, because it is so old. NI Water will not touch it, so the homeowner has the problem. The homeowner cannot get a resolution to the problem from NI Water, which will just say, "It's the homeowner's problem". The homeowner cannot fix it, however, because nobody will touch it. It is a resolution issue that I cannot get to the bottom of. Who polices NI Water there?

**Mr French:** Off the top of my head, I think that is the legislation that DFI is putting through to cover the period pre-1976, is it not?

**Mr MacCann:** It might be, yes.

**Mr French:** It depends on when the pipe was built. If it was pre-1976, DFI is trying to legislate on that. Off the top of my head, if the pipe was built after 1976, Northern Ireland Water has to adopt it. If it was pre-1976 —.

**Mr MacCann:** Pre-1973.

**Mr French:** If it was built pre-1973, the legislation that DFI wants to introduce will mean that Northern Ireland Water has to adopt it. It depends on the age of the council house.

**Mr MacCann:** If it were a private asset from pre-1973, it would go to NI Water. It is about reducing the flooding risk. NI Water would then have control over the asset, which it would not have had previously.

**Mr French:** If you have a specific example and a date, we can look at it.



**The Chairperson (Mrs Erskine):** I will just come in on that point. NI Water is coming to the Committee on 24 April to talk about the water and flooding Bill, so perhaps we can take it up with it to see how that correlates with how it is policed.

**Mr K Buchanan:** This is my last point. Enforcement is listed in your document as one of your four functions. Give me an example of what "enforcement" means and examples of what enforcement action you have had to take against organisations.

**Mr French:** We have a County Court role. We have just announced that we are looking at taking enforcement action against Electric Ireland. We have clear processes for how we take forward a dispute, whether we take enforcement action and how we prioritise doing that. At the moment, we will announce if it gets to that stage, as we did with Electric Ireland. It is a judicial process. I cannot remember off the top of my head how many enforcement actions we have taken, but, ultimately, we can fine a company up to 10% of its turnover.

**Mr K Buchanan:** On Lough Neagh and the broader argument about pollution, agriculture is getting the finger pointed at it, but lots of fingers need to be pointed elsewhere. I have asked NI Water a series of questions about discharge consent levels and flow rates — minimum flow, maximum flow and heavy rain flow — but there are no figures. Do you have any part to play in that? We always hear, "We need more money to build more", but we are not doing what we have well. It is a bit like the road principle: we want to build new roads, but we cannot fix what we have. What is your opinion on the current pollution levels and the effect that they have? Do you have any role in that?

**Mr French:** The Environment Agency takes forward discharge. The price control process makes sure that waste water treatment facilities are correctly funded. That was the idea. There is now a capital shortfall for waste water treatment works. Northern Ireland Water is not getting the funding that it needs for waste water treatment.

There are difficult discussions to be had on the social and environmental guidance and especially on how discharges will be achieved, because we can fund clean water and afford maintenance, but, at the moment, we cannot afford to get waste water treatment to the level at which it needs to be. Lough Neagh is terrible, but, if Northern Ireland Water is not fully funded for what it needs, there will probably be further incidents there.

**Mr MacCann:** You asked about our role versus that of other people. It is really about where the issues are identified. For example, in Lough Neagh, it is really the NIEA and NIW that agree the investment priorities, in line with the Department's social and environmental guidance. It is then our job, through the price control process, to make sure that that need is efficient.

**The Chairperson (Mrs Erskine):** Thank you. Sorry, Keith, for butting in on your questions.

**Mr Dunne:** Thanks, folks, for your presentation. A number of points have been covered. At the start, John, you said that a lot of your work is focused on benchmarking with the rest of the United Kingdom and with the Republic of Ireland. You have obviously done a lot of work on looking at best practice in those areas and, I am sure, in Europe and beyond. Your role is largely concerned with price, and we all are familiar with the finance issues and the challenges that we have. That came through in the Chamber the other day. Beyond finance, what would work to improve things? Would mutualisation work? What models or best practice would you look to to get NI Water and the whole of our water infrastructure to where it needs to be?

**Mr French:** As I said, it is the funding. We have to decide how NI Water is to be funded, and the funding levels are not there for what it needs to be able to do. Until Northern Ireland has worked out how it will fund Northern Ireland Water correctly, there will be a shortfall, and, as a consequence, there will be waste water problems. We do benchmark against comparators. We are always pushing Northern Ireland Water to be more efficient, and, to be fair, over the past 14 years, it has done a really good job. As we have said, it has become more efficient in how it uses its money, and it is doing a good job. If its capital expenditure is to be reduced by 40%, it does not matter which way you cut it: it will not be able to produce what it needs to produce. There needs to be a wider debate on how Northern Ireland Water will be correctly funded for what it is being asked to do.

**Mr Dunne:** Other organisations and set-ups that are mutualised also have challenges. From your experience and without putting you on the spot, do you have any recommendations, even in a general sense?

**Mr French:** Northern Ireland has a good example of a mutualised company in Mutual Energy. The interconnector between Scotland and Northern Ireland is mutualised, so any profit that is made there goes back to consumers. The alternative point to make is that, if such a company makes a loss, consumers have to pay, as it is owned by consumers. There are positive examples of mutualisation, but, to me, that is step 2. Step 1 is to work out how it will be funded correctly. Once you have worked out how you will fund it correctly, the ownership model should flow from that.

**The Chairperson (Mrs Erskine):** I do not know whether you can answer this. I suppose that it is a personal question. As the Utility Regulator, are you frustrated when you look at the mid-term review? It is back and forth: this is the money that Northern Ireland Water needs, but the Department is saying that it does not have the money. That creates a vicious circle. How frustrated are you about that?

**Mr French:** I do not think that it is the Department's fault. It finds itself in a difficult position. Everyone is in a difficult position. Nobody wants to be in this position.

This has been going on for a long time. If you look at reports from back in 2007, the Water Service was underfunded then. There continues to be energy spent on conversations among the various stakeholders about how the pie can be cut in a different way. Essentially, NI Water's capital spending is 40% less than it needs to be in order to achieve the waste water treatment targets. It does not matter how you cut that up, as there remains a huge shortfall that needs to be funded. It is therefore about working out how Northern Ireland Water is given the ability to fund its operations efficiently and effectively, and that 40% shortfall makes a huge difference.

**Mr Boylan:** John, that is fair enough, but, in your role, you signed off on PC21 and a certain amount of money.

**Mr French:** Yes.

**Mr Boylan:** You said that it may take three PC periods to fix, and that is fair enough. At the end of the day, NIW presents the case to you, and you can only evaluate the business case. As a scrutiny Committee, we have a role to scrutinise the Minister and the Department. The real question for NIW is this: why did the PC21 programme have those ambitious aims? Do you understand what I am saying? You are saying that, whether it is over the course of PC21 or three PC periods, NIW will still be 40% short. We know that it is underfunded, and now we know the exact figures, but you signed off on the PC. I am not faulting you. Rather, I am just throwing it into the conversation, as it is important.

**Mr French:** Yes, but that comes back to the next stage up the food chain. The Department set the social and environmental guidance, and the long-term water strategy above that. To go back to what I said at the start, the Department has undertaken three roles. Those roles sometimes get mingled, but the Department sets the policy. It is its policy that NI Water is addressing. There are only two gives: either the Department dilutes the policy or it gives NI Water the correct funding. If the Department dilutes the policy, NI Water's business plan will contain less. There are therefore only two exits from this scenario: either the Department dilutes what is being asked of Northern Ireland Water or it provides it with the funding. If I am —.

**Mr Boylan:** When I asked the question —.

**Mr French:** No, I am —.

**Mr MacCann:** As well as policy, it is the legislation.

**Mr Boylan:** That is why you are here: to give a presentation. Do not take it —.

**Mr French:** I am not. I am just making sure that I understand your point.

**Mr Boylan:** You do.

**The Chairperson (Mrs Erskine):** Thank you for coming to the Committee today. We appreciate —. Sorry, Peter, did you want to ask a question?

**Mr McReynolds:** Yes. It is on the previous point about the Department either diluting the quality of the policy or ensuring that it funds Northern Ireland Water. If it starts diluting the policy, is it potentially straying into impacting on water quality and standard of service?

**Mr MacCann:** Of course.

**Mr French:** Absolutely.

**Mr McReynolds:** OK.

**The Chairperson (Mrs Erskine):** We are probably at that stage now.

**Mr French:** Yes, but —.

**Mr Boylan:** Do you want to answer?

**Mr French:** Yes, but the Department has not diluted the policy. It has kept the policy level that high but has not provided the funding to that same level.

**The Chairperson (Mrs Erskine):** I am saying that we are probably doing that by —

**Mr French:** Default.

**The Chairperson (Mrs Erskine):** — default.

**Mr Durkan:** I will be brief. Sorry that I had to nip out, guys. I do not see the plan as having been particularly ambitious. It was essential. Moreover, Cathal, that is a rough breakdown that was given. You looked at the figure of £2.1 billion over six years, but it was not as simple as £350 million a year, as I recall. The first few years saw a much smaller investment, so the big cuts that are being sought are in the final three years, and certainly in the fourth year. The impact of the cuts will therefore be much more pronounced.

**Mr French:** That is right. It is a simple ramping-up. Some of the projects are multi-year projects, so there is the design stage and so on before the big money is being spent, but, yes, you are right that it is a ramping-up, not a step change.

**Mr MacCann:** The shortfall for those final three years is the 40%. That is where the percentage comes from.

**The Chairperson (Mrs Erskine):** OK. Is everyone happy?

*Members indicated assent.*

**The Chairperson (Mrs Erskine):** That is great. There are a lot of challenges. We look forward to getting the draft of the mid-term review. No doubt we will be going through that and then the final determination. We really appreciate your coming to the Committee today, and no doubt we will be in touch about future sessions. Thank you for your time today.

**Mr French:** If we can provide any more detail once the mid-term review has been published, we are happy to do so.

**The Chairperson (Mrs Erskine):** That would be super. We appreciate that. Thank you very much.