

**Minute of the forty-sixth meeting of the Water Industry  
Commission for Scotland**

**Held 6 May in Stirling**

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Present:

Sir Ian Byatt (Chairman)  
Professor David Simpson (Deputy Chairman)  
Professor John Banyard  
Dr Michael Brooker  
Mr Charles Coulthard  
Mr Alan Sutherland (Chief Executive)

In attendance:

Mrs Katherine Russell (Director of Corporate Affairs and  
Secretary to the Commission)  
Mrs Donna Very  
Mr Richard Khaldi (Analyst)  
Mr Ian Tait (Director of Investment)  
Dr John Simpson (Director of Analysis)

**Chairman's opening remarks**

The Chairman welcomed everyone to the meeting and thanked them for attending.

**1. Apologies for absence**

Nil

**2. Minute of previous meeting and review of action points**

**2.1 Declaration of conflicts of interest in relation to the Agenda**

No conflicts of interest reported.

**2.2 Minute of last meeting (02/09)**

The Commission agreed that the minute was an accurate account of proceedings.

**2.3 Review of action points (AP03/09)**

The Commission noted it was in a satisfactory position.

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### **3. Update on current issues**

#### **3.1.1 Working with stakeholders**

- The Commission noted CP44/09, an update on the work of stakeholders and significant external events.
- The Chairman and Chief Executive outlined discussions that they had held with Stella Manzie, Director General Finance and Corporate Services, in relation to the Scottish Futures Trust. A follow up meeting has been arranged.
- The Chairman reported that he had met with Ronnie Mercer, Scottish Water.
- The Chairman informed the Commission that he had met with John Pickering from the Competition Appeals Tribunal. The Chairman, Chief Executive and Director of Corporate Affairs have been invited to participate in an upcoming training event.
- The Chairman reported that he had recently held a useful meeting with Sir Angus Grossart, Chairman of the Scottish Futures Trust.
- The Chairman gave an overview of the discussions that he and the Chief Executive had held with David Sigsworth, Chairman of Scottish Environment Protection Agency (SEPA).
- The Chairman informed the Commission that he had given a presentation entitled, 'The Design of Regulatory Institutions', in Lisbon at an annual conference for DECO, which is a privately supported consumer organisation in Portugal that celebrated its 35th birthday.
- The Chief Executive reported that he had attended a Pay Policy seminar for Public Sector Chief Executives and Board Chairs, which was held at the Scottish Government.
- Professor Banyard informed the Commission that he had attended the Strategic Advisory Group of the Technology Strategy Board (TSB). The TSB has been created to co-ordinate scientific research covering the various Research Councils, Universities, Regional Development Bodies and other Government research funding.
- Mr Coulthard updated the Commission on the recent activities of the Audit Committee.

#### **3.2 Update on the Central Market Agency (CMA)**

The Commission noted the written update provided by Dr Jeremy Atkinson, Chief Executive of the CMA and thanked him for attending the Commission meeting.

### **4. Corporate Affairs**

#### **4.1 Update on the office workplan and strategy for the price review (CP45/09)**

The Commission noted that there were no exceptions to report this month.

#### 4.2 Update on framework contracts (CP46/09)

The Commission requested that future reports provide comments made by Directors and supporting papers for only those projects over a value of £10,000.

The Commission noted this update.

#### 4.3 Update from Audit Committee (CP47/09)

Mr Coulthard updated the Commission on the work of the Audit Committee. The Commission noted the Audit Committee minutes.

#### 4.4 Audit Committee Annual Report (CP48/09)

The Commission noted the annual report for the financial year 2008/09 detailing the work of the Audit Committee.

#### 4.5 Risk Management Strategy and Risk Register (CP49/09)

Mr Coulthard reported that an internal risk workshop had taken place which had been attended by the Chief Executive, Directors and senior management.

Mr Coulthard reported that the Audit Committee will regularly review the risk register and will report major changes to the Commission for approval.

The Commission noted this paper.

#### 4.6 Finance Report (CP50/09)

The Commission noted the favourable position of the office finances. The Director of Corporate Affairs reported that savings had been made primarily because external consultants were no longer being used and work was being carried out in-house. These savings will be taken into account when setting future budgets.

#### 4.7 Budget paper (CP51/09)

The Commission noted this paper and agreed Mr Coulthard's request that finances be made available for training for the Audit Committee.

#### 4.8 Record of discussion at stakeholder workshops (CP52/09)

The Commission noted this paper and welcomed the summaries provided at recent stakeholder information days for the 2010-14 price review.

#### 4.9 Oral update on recruitment

The Director of Corporate Affairs updated the Commission on recruitment. The Commission noted this update.

### 5. Competition

#### 5.1 Oral update on licensees

Mr Khaldi provided the Commission with an update on the progress being made with the Aimera Ltd licence application. Mr Khaldi reported that a water services and sewerage services licence had been granted. Aimera Ltd is now working through the administrative steps required for market entry with CMA and Scottish Water.

Mr Khaldi reported that he had held a useful meeting with a company interested in a self-supply licence.

Mr Khaldi reported that he had held talks with Procurement Scotland. Procurement Scotland is interested in including the water industry in its procurement framework.

The Commission noted this update and look forward to a progress report at the June Commission meeting.

#### 5.2 Update on communication strategy (CP53/09)

The Commission noted this update.

The Director of Corporate Affairs reported that the 'Business Breakfast' held in Westminster on 23 April was very well attended. The Director of Corporate Affairs confirmed that events similar to this are planned for the coming months.

Mr Khaldi reported that he, the Chief Executive and Gordon Downie (Shepherd and Wedderburn) had met with Ofwat's competition team to discuss the development of retail competition.

#### 5.3 Update on progress in amending wholesale/retail split (CP54/09)

The Chief Executive updated the Commission on the progress in amending the wholesale/retail split. The Chief Executive advised that this process would be subject to consultation.

The Commission noted this update and looked forward to receiving the consultation responses.

#### 5.4 Update on the Strategic Asset Capacity Development Plan (CP55/09)

The Commission noted this update.

- 5.5 Alleged Business Stream licence breach (CP56/09)
- 5.6 Update on operational separation of Business Stream and Scottish Water (CP57/09)
- 5.7 Issues arising from Business Stream site visit (CP59/09)
- 5.8 Actions arising from Grant Thornton report (CP60/09)

Following an investigation by the office of the Commission including a compliance visit to Business Stream's premises, Mr Khaldi provided the Commission with an overview of alleged licence breaches by Business Stream. The Commission reviewed the draft Statement of Case and agreed that an amended draft would be put to Business Stream for comment. The Commission further agreed to wait until Business Stream had commented on the draft Statement of Case before considering what further action (if any) to take.

## **6. Investment**

- 6.1 Oral update on investment delivery
- 6.2 Update on investment progress (CP61/09)

The Director of Investment provided the Commission with an update on the latest information available on Scottish Water's progress with delivering its investment programme. The Commission noted that the end of February position reflected continuing delays with delivery of the programme, with nine outputs behind target, but the most recent reports for the end of March suggest a significant improvement in performance.

The Commission raised concerns with the information provided in Scottish Water's most recent Capital Investment Return (CIR). The Commission would like assurance that the information reflects an accurate profile of delivery for the final quarter of the year. The Commission agreed that further analysis should be carried out and independent scrutiny of the submissions obtained.

The Director of Investment informed the Commission that investment spend for the year had been higher than expected (£687m as at 31 March 2009) and was at the top of the year-end forecast range of £650-690m. The Commission noted the out-turn position.

- 6.3 Leakage comparison (CP62/09)

The Commission noted this paper, which indicated the relatively high level of leakage in Scotland compared with the companies in England and Wales.

6.4 Leakage target (CP63/09)

The Commission noted representations from Scottish Water regarding the leakage target for 2009-10. The Commission agreed that the target should remain at a range of 710-750 MI/day, with an OPA target at the mid-point of 730MI/day.

6.5 Extensions of regulatory control period (CP64/09)

The Commission noted this paper.

**7. Strategy**

The Commission noted the current position with the Draft Determination. It was agreed that the Draft Determination should be circulated for further comment by Commission members. After those comments, the draft should be sent for legal review.