

**Minute of the tenth meeting of the Water Industry Commission for
Scotland
Held on 15 December 2005 in St Andrews**

In attendance

Commission: Sir Ian Byatt (Chairman)
Professor David Simpson (Deputy Chairman)
Professor John Banyard
Dr Michael Brooker
Mr Charles Coulthard
Mr Alan Sutherland (Chief Executive)
Mrs Katherine Russell (Secretary to the
Commission)

Miss Harriet Towler

Apologies for absence: None

Chairman's opening remarks

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

Minute of previous meeting

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

Update on current issues

The Commission noted that they were pleased with the nature and extent of the press coverage that the final determination had received. They noted that it would be important to continue to communicate effectively with stakeholders throughout the coming review period, and hoped to hold meetings with any interested parties in the future.

Action

The Chairman noted that following an MSP briefing on the final determination held on 30 November, an MSP had raised an issue which they wished to discuss further with the Commission. The Chairman noted that he hoped to arrange a meeting to do so.

Action

The Chairman noted that he had recently given an interview to Utility Week which should be published on 13 January 2006.

The Chairman noted that on 14 December he and members from the office had attended a meeting with representatives from Scottish Water, the Scottish Environment Protection Agency (SEPA), the Drinking Water Quality Regulator (DWQR), the Water Customer Consultation Panels (WCCP) and the Scottish Executive, to discuss the future monitoring of the investment programme. He noted the meeting had been a positive step in establishing an understanding for the joint monitoring of the investment programme. A further meeting would be held on 16 January 2006 if required.

Action

The Chief Executive noted he had held a useful meeting with John Kay, who had agreed to review the final determination.

The Chief Executive also updated the Commission on the progress being made with a restructuring proposal for the office.

Dr Brooker noted that he had had a useful discussion with Scottish Water about its performance management, and the high level measures of performance that it could include.

Mr Coulthard updated the Commission on the progress of the Performance Management Working Group and its review of the performance management schemes used by other regulators.

Draft forward work plan

The Commission agreed that in future, Commission meetings should be held on the first Tuesday of every month. Meetings would begin at 12.00 on the first day, and last for 2.5 days.

The Commission discussed a high level work plan for the office. It was agreed that a detailed work plan should be developed from this high level plan. It would be important that members of the office were consulted about the detail of the plan, and to ensure that it was consistent with proposals for a performance management scheme. This detailed workplan would be discussed at the Commission meeting of 17 January 2006.

Action

Update on retail access

The Chief Executive noted that in its response to the Commissioner's consultation on licensing, Scottish Water requested that its retail entity be able to apply for a permanent retail licence. The Commission discussed various issues associated with issuing a licence. They noted that in order to be issued

with a licence, any applicant should be expected to comply with a series of criteria relating to governance and financiability.

They noted that in the instance of Scottish Water's retail entity, it would be particularly important that the entity was effectively and demonstrably ring-fenced from Scottish Water to provide reassurance to potential entrants that the retail entity could not enjoy an undue advantage in the market. The Commission noted that the nature of the ring-fencing would, in part, depend on the governance structure proposed for the retail entity. The Commission noted that the nature of the asset transfer to the retail entity could also be significant.

The Commission noted that in order to be issued with a permanent licence, Scottish Water's retail entity would, as would other potential entrants, be expected to meet a series of criteria relating to financeability. The Commission agreed that until the retail entity could demonstrate its compliance with these criteria, a permanent licence could not be issued. The Commission discussed a default position should this be the case.

It was noted that the business plan for Scottish Water's retail entity was due to be submitted on 21 December 2005. The Commission would discuss any issues arising at the next meeting.

Scheme of charges 2006-07

The Chief Executive updated the Commission on Scottish Water's proposed Scheme of Charges for 2006-07. The Commission agreed that the Chief Executive could approve household charges provided that they were in line with the charge caps in the final determination.

However, it was noted that there appeared to be issues with the consistency and complexity of the remainder of the scheme submitted. It was noted that Scottish Water had proposed a number of changes to the structure of retail tariffs. These included the proliferation of retail tariffs and the allocation of the retail margin across customer groups. It was also noted that the proposed terms of the wholesale charging scheme appeared to pre-empt the development of market mechanisms. The Commission noted that they could not accept a scheme which could pre-empt their present consultation on the development of the retail market.

The Commission agreed that the full Scheme of Charges could not be approved until they had a greater understanding about Scottish Water's justification for proposed retail charges. It was noted that a letter would be sent to Scottish Water raising these issues and that the scheme would be re-assessed at the next Commission meeting.

Action

Trade effluent issues

The Chief Executive updated the Commission about the proposed Scheme of Charges for trade effluent. It was noted that Scottish Water proposed a phasing of charges to reach charges scheme levels which could result in significant increases in charges for a number of customers in 2007/08. The Commission noted that they were unclear at present as to whether these phasing proposals were consistent with the Ministerial principles of charging. They noted their concern at these proposals and agreed that further investigation would be required.

Any other business

The Commission were informed that progress had been made regarding Directors and Officers Liability insurance, and that they would be updated at the next Commission meeting.

Action