

**Minute of the second meeting of the Water Industry Commission for
Scotland
Held on 12 July 2005 in Stirling**

In attendance

Commission: Sir Ian Byatt (Chairman)
Professor John Banyard (via conference call)
Dr Michael Brooker
Professor David Simpson
Mr Alan Sutherland (Chief Executive)

Mrs Katherine Russell (Director of Corporate
Affairs and Customer Services)
Miss Aileen O'Neill

Apologies for absence: Mr Charles Coulthard

Chairman's opening remarks

The Chairman welcomed everyone to the meeting and Professor John Banyard via a conference call.

Agreement of Minutes of 5 July 2005

The Chairman asked whether the draft was an accurate account of the meeting of 5 July 2005. It was agreed that the term used to refer to the Chief Executive should be the one used in the Act.

Action

Current Developments

The Chairman asked members of the Commission to give an update on current developments. The Chief Executive began with an outline of meetings held with the Scottish Executive regarding the proposed gilts buffer, governance and incentives, and the importance of a tight budget constraint.

The Chairman added that on 19 July 2005 himself and the Chief Executive would be meeting with the new Deputy Environment Minister.

The Chairman welcomed Aileen O'Neill to the meeting to record the minutes. The Chairman proposed to appoint Katherine Russell as Secretary of the Commission. Her time would therefore be split between working to the Commission and working to the Chief Executive. There were plans to provide support for her existing role in the office. The proposal to appoint Mrs Russell as Secretary to the Commission was agreed. She may need support in terms of legal services for her role as Secretary to the Commission. It was agreed to consider a contract with Shepherd+ Wedderburn for this.

Action

The Chairman announced that he wished to appoint a deputy and proposed Professor David Simpson for this role. This appointment would be made by the Scottish Executive. Professor Simpson's four-year appointment should improve the continuity of decision making by the Commission. He proposed that Professor Simpson would also have special responsibility in relation to retail separation and access.

Members agreed the proposed appointment. The Chairman noted that he would brief Mr Charles Coulthard on the meeting generally and approach the Scottish Executive.

Action

The Chairman discussed various forthcoming events including a meeting with the Chairman of Scottish Water, and a presentation to the WCCP conference to be held on 30 August. In addition it was noted that the WCCP would be attending a dinner with the Commission on 8 August.

Shepherd+ Wedderburn briefing on the legal framework for licensing

The Chairman welcomed Mr Gordon Downie and Ms Liz McRobb from Shepherd+ Wedderburn. Mr Downie explained that they would brief the Commission on the legal framework for the licensing functions of the Commission and recap and outline their work on the scoping study.

During the discussion of core functions the Chairman asked for the relevant clauses of the 2003 Act relating to the power to resolve disputes on developer contributions to costs of connection passing to the Commission. Mr Downie said he would provide these.

Action

The discussion of economic and customer service regulation highlighted that the transfer of the customer complaints function to the WCCP concerned Scottish Water only and did not appear to apply to the retail subsidiary of Scottish Water. The previous assumption by WICS had been that all complaints would transfer to the convenor. This issue will need to be considered in the licensing regime.

A discussion was held on retail separation and it was suggested that the Commission's office should discuss this with the Scottish Executive.

A further key issue raised concerned the ability of licencees to undertake non-licensed activities and the difficulties that could arise.

Mr Downie highlighted that the Water Services etc. (Scotland) Act 2005 specifies that Scottish Water is the supplier of last resort in both water and sewerage. This duty is open-ended regarding sewerage, but for water and trade effluent Scottish Water only has to provide services for two months. After that period Scottish Water no longer has a legal duty to continue to provide water and trade effluent services.

The number of special arrangements in existence was discussed and the uncertainty over the precise number highlighted. It was noted that Scottish

Water was required to deliver details of these special arrangements to the WICS office by 1 August 2005.

The Chairman also highlighted the requirement in the 2005 Act for the Commission to exercise its licensing functions in an orderly manner and not in a detrimental manner to the exercise of Scottish Water's core functions.

Ms McRobb continued the briefing on the scoping study, recapping on previous work done and providing an update on progress and plans since the initial tendering work had been completed. It was decided that more discussion on timetables, work packages, and other updates should be held with the Chief Executive at meetings later in the week with Shepherd+ Wedderburn.

Action

The Chairman thanked Mr Downie and Ms McRobb for their briefing. The Chief Executive requested that Shepherd+ Wedderburn provide the Commission members with copies of the WICS advice to the Finance Committee.

Action

The Chairman reminded the members that the next Commission meeting was scheduled for 8 August at 10.30am in Stirling. Members were also reminded that the WCCP would be joining them for dinner that night. The proposed meeting between the Commission and Scottish Water's Chairman was to be arranged for the end of August.

Action

A list of dates for meetings with organisations including Welsh Water, PostComm, and AWG to discuss governance and incentives among other items would be circulated to members when arranged.

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