

**Minute of the eleventh meeting of the Water Industry Commission for  
Scotland  
Held on 17 and 18 January 2006 in Stirling**

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 Chairman updated the Commission on a meeting that had been held with Scottish Water on 11 January. The meeting included discussion about wider issues relating to the final determination including growth/development and metering. It also included discussion of Scottish Water Solutions and the criteria the Commission would seek assurance from Scottish Water that any future method of capital procurement would meet.

The Commission agreed the Chief Executive would write to Scottish Water seeking clarification about an apparent inconsistency between the figures orally presented at the meeting regarding the pain/gain position of Scottish Water Solutions and the figures received from Scottish Water in regulatory returns. This letter would also clarify the above noted criteria for future procurement arrangements. A copy of the minutes of the meeting would be included as an annex to the letter and the Scottish Executive copied in for information. **Action**

The Commission were updated on a meeting held on 16 January with Scottish Water, SEPA, DWQR, WCCP and the Scottish Executive. This was a second meeting on proposals for monitoring the delivery of Ministerial objectives. During the meeting a note was agreed which set out on understanding for future monitoring which was to be performed by a high level group. This note was to be approved by the stakeholders respective boards (or similar).

The Commission formally endorsed the note (CP06-06) that had been agreed with stakeholders. It was noted that as part of the agreement, the office of the Commission would be expected to service the high level group. This new role would be incorporated into the office workplan. **Action**

The Commission were updated on the Chairman's and Chief Executive's recent appearance in front of the Scottish Parliament Audit Committee. It was agreed that following the appearance, a note would be submitted to the Committee explaining how interest cover was calculated for the Strategic Review of Charges 2002-06. **Action**

The Chairman noted that he would be meeting with Jim Mather MSP and Andrew Welsh MSP to address concerns they had raised about financing in the Strategic Review of Charges 2006-10. He noted that he would finalise a paper on the subject (incorporating the comments of the Commission) and sent it to Mr Mather and Mr Welsh shortly before the meeting. **Action**

The Commission agreed that following this meeting, the note should be placed on the Commission's website. **Action**

Members thought it necessary to clarify the exact position regarding development constraints and reasonable cost contributions in light of the Regulations to be introduced by the Scottish Executive on 1 April 2006. Mr Ian Tait was welcomed to the meeting to provide an update. The Commission agreed that it would be important to communicate the impact of these Regulations to stakeholders and customers. A note would be written on this subject designed for public use. **Action**

Members were advised that D&O insurance documents are currently being processed. **Action**

Members were advised that a revised draft of Rules of Procedure had been received from Shepherd+ Wedderburn and were being considered internally. **Action**

The Chairman and Chief Executive noted that they would be speaking at a Regulatory Policy Institute lecture on 27 January. Other members were invited to attend. **Action**

The Chairman noted that a restructuring proposal had been approved by the Scottish Executive, subject to a number of points to be considered by the Remuneration Committee.

The Chief Executive updated the Commission about a conference call he had had with John Kay regarding the Final Determination.

### **Visit by the Deputy Minister**

The Deputy Minister for the Environment and Rural Affairs visited the office on 17 January to thank staff for their efforts in completing the Strategic Review of Charges 2006-10. The Commission noted their appreciation for the Deputy Minister's visit. The Chairman undertook to write to thank her. **Action**

### **Audit Committee risk workshop**

The Chairman welcomed the Audit Committee (Ms Mora Sinclair and Mr Keith Haig) to the meeting. They were joined by Mr Simon Cunningham and Mr David Ross of Scott Moncrieff (internal auditors) who led a risk workshop. This workshop assessed the gross risks that might be faced in achieving the Commission's future objectives. During the workshop a draft risk register was constructed. This register would be circulated to members of the Commission and the Committee for comment following the meeting. **Action**

The Chief Executive undertook to consider the actions needed to manage and mitigate risks. These would be added to the register, and circulated to the Audit Committee in the first instance, and the Commission in the second. **Action**

### **Scottish Water's retail business plan**

The Commission noted the initial conclusions made by the Competition Appeals Tribunal in Albion Water's case against Ofwat.

The Commission considered the business plan submitted by the Scottish Water retail entity on 20 December 2005. The Commission considered the criteria that the entity would be required to meet in order to be issued with either a provisional or permanent licence (given its statutory obligation under the Water Services etc. (Scotland) Act 2005). It agreed that in order to be issued with a permanent licence, the entity would need to be demonstrably separate from Scottish Water – it would need to have effective governance in place, and the asset transfer from Scottish Water should be known. It was agreed that in order to be issued with a temporary licence, the entity would need to provide a clear plan and timeline for how it would achieve the necessary criteria for a permanent licence.

On material submitted so far, the Commission did not believe it could issue a full licence, or even a provisional licence by 1 April 2006. It noted that the Chairman and Chief Executive would be meeting with Scottish Water in February, and in advance of that meeting, the Chief Executive will write to Scottish Water, copied to the Scottish Executive, setting out the steps that would need to be taken and the relevant criteria before a licence, whether provisional or final, could be issued. **Action**

The Commission also agreed that it would be desirable to analyse the market codes in order to establish what needed to be regulated rather than left to a commercial agreement and to examine Scottish Water's drafts to ensure that there were no elements that might unnecessarily impede entry. **Action**

### **Scheme of Charges**

The Chief Executive noted that in accordance with the Commission's decision at the December Commission meeting, Scottish Water's household charges scheme had been approved. However, it was noted that a decision had yet to be made about the non-household charges scheme.

The Commission were updated on the latest information that had been received from Scottish Water following a query process on the proposed scheme. They noted that they were still concerned about how the calculation of wholesale and retail charges had been substantiated. Given these concerns, they agreed that they could not approve the non-household charges scheme as submitted by Scottish Water.

The Commission agreed that it was an important part of their remit to ensure that an appropriate wholesale price, which would not be to the detriment of the Scottish Water or its household customers, was calculated. It therefore agreed to carry out a study for the basis of wholesale charging (including trade effluent), recognising that there would be averaging across Scotland but might differ for different classes of customers e.g. small business and large business depending on the use of different parts of the network. This should be reporting by October 2006 in order to influence the charging scheme for 2007-08 and subsequently. The Chief Executive undertook to initiate this study with the office's economic consultants (who would be shortly appointed) and ask them to attend the next Commission meeting. A list of issues to be considered would be prepared for this meeting, and a specification for the study subsequently. **Action**

The Commission hoped to work with Scottish Water on the study and would write to inform them of it and likely information requirements and timescales. **Action**

The Commission agreed that in the interim, individual tariffs for non-household customers would increase by the relevant K-factor. A letter would be sent to Scottish Water to inform them of this decision. **Action**

### **Office workplan**

The Commission agreed that in future all board papers should be circulated five working days in advance of Commission meetings. Only in exceptional circumstances would the Chairman approve the circulation of papers submitted after that time. **Action**

The Chief Executive updated the Commission on the progress being made with the office workplan. He noted that directors would be meeting in the

following week to produce an amalgamated workplan for the office. The Commission welcomed this degree of detailed planning, and recognised that it may need to be prioritised over work in the office until completed. They also noted that a mechanism for change needed to be incorporated into the plan to take account of exceptional circumstances. It was also agreed that if current office resources proved insufficient to deliver the entirety of the plan, work would be prioritised according to the objectives set out in the corporate plan. The Commission considered that their work should be closely integrated with the office workplan. **Action**