

# **Friends of the Earth response to The Reform of Water and Sewerage Services in Northern Ireland**



## **Introduction**

Friends of the Earth welcomes the fact that Government is making proposals for much needed financing of water and sewerage services. We accept the reality of the situation Northern Ireland finds itself in with respect to a degraded infrastructure and current financial constraints while in no way exonerating successive direct rule administrations from the charge of allowing the situation to develop in the first place. Friends of the Earth was almost a lone voice in supporting the need for water charges when Government made its announcement of the consultation in March this year. We therefore approach the issue of water charges from a positive viewpoint although we are less convinced of the necessity for the replacement of Water Service with a radically different business model. Reform of Water Service is, however, clearly necessary but should be achieved with the minimum of disruption to its main task of delivering clean water and keeping its impact on the environment within legal limits.

With respect to charges, we are guided by the belief that the poor and the vulnerable must be protected from charges. Put simply, those who can pay, should pay while those who cannot must have their water needs properly met.

In this document we refer to [NICVA's response](#) to the consultation. Friends of the Earth is a member of NICVA and is in broad agreement with NICVA's views. We allude directly to the NICVA response below.

Two current issues concern us which are in danger of compromising any future water body's ability to deliver an effective service. There appears to be a rush towards PPP financing for a number of waste water treatment projects. Such projects compared with those implemented by a future water body with a stream of revenue from water charges and the ability to borrow at government rates will be particularly poor value for the consumer. Infrastructure spend should be provided by DEL and RRI at this stage.

Secondly, the absence of planning controls on the basis of impacts on the sewerage system in 56 locations across Northern Ireland is compromising Water Service's ability to prioritise its work and makes the liabilities of any successor body something of a lottery. Such planning controls should be restored without delay.

Such has been the failure of regulation of Water Service by EHS leading to only 35% compliance with the Urban Waste Water Treatment Directive, that no new water structure should be established in the absence of a fully independent and effective Environmental Protection Agency.

### **What is the most appropriate and effective basis for the determination of domestic water and sewerage charges in Northern Ireland?**

We are in broad agreement with [NICVA's views](#) on this issue. There is a dearth of information on the comparability of the average household rates bill across the UK. It is essential that a series of models are run in order to assess the effects of different systems.

The consultation does not address the issue of the contribution made to the cost of water services by industry, agriculture and other commercial users. We understand that this is being dealt with separately yet the size of commercial users 'share' of the total costs will have a direct effect on the size of domestic water charges. Determining how the costs are apportioned is critical as it would be plainly inequitable for domestic consumers to bear any costs other than their own. This may be relatively easy to compute on the basis of water usage but may not be so straightforward in terms of the load placed on the waste water system including implications for the supply of drinking water.

Charges should be based on a combination of water consumption and the 'polluter pays' principle. The latter should comprise two elements: the load placed on the sewerage infrastructure and the costs inherent in discharges to water courses. Legal pollution by commercial users imposes costs on Water Service in terms of the level of treatment needed for the abstraction of drinking water and in order to meet our obligations under the Water Framework Directive.

Likewise, it would be inequitable to impose the costs of highway drainage on domestic water consumers who do not have access to a car. Ideally this cost should be included in vehicle excise duty.

### **Metering of domestic water supplies was specifically ruled out by the Executive as an option for water charging in the Rating Policy Review. Is there a need to revisit this issue?**

The scheme proposed by NICVA requires metering but we know that it would be an unwise use of resources to introduce universal metering in the short term. Meters should be installed in all new housing, however, at the developer's expense. In the interests of equity it may be necessary not to use the meters until they have been made universally available.

### **Which categories of customers may require some degree of relief from the cost of domestic water and sewerage charges.**

We are in broad agreement with NICVA's views on this issue.

### **How can the needs and interests of these groups be protected?**

The economic regulator must have a duty in this respect - see below.

**Which of the five options for delivering water and sewerage services - privatisation, not for dividend company, PPP, statutory corporation, or GoCo - would be best for Northern Ireland?**

**Privatisation**

The justification for moving Water Service to a new business model is to address the following: *The financial constraints and uncertainties of the public expenditure system have limited both the resources available to Water Service and its ability to manage them effectively. Similarly, the Civil Service regime does not provide sufficient incentives to deliver the necessary efficiency gains. (Para 3.4)*

We accept the public expenditure problem but are wary of the 'incentives' issue (the history of privatisation is littered with inappropriate pay deals and share options for senior management) although clearly Water Service needs to achieve a major cultural shift if it is to deliver an effective service.

There is a grave danger that organisational reform of Water Service (as opposed to the introduction of a charging regime) will distract from what must be the absolute priority for the short and medium term which is to radically overhaul the drinking water and sewerage infrastructure in order to comply with all relevant EU Directives. There must be minimum disruption to this critical task. It is vital that senior managers do not have their eyes taken off the operational ball by moving to a radically different business model with all that that entails. For the above reason alone, privatisation should be ruled out.

The privatization of water sources around the world is a growing problem. Water is a basic human right, and although water management in the public interest may be necessary, this vital resource should not be subject to ownership.

The world of privatized water is overwhelmingly dominated by two French multinationals: Suez (formerly Suez Lyonnaise des Eaux), with US\$9 billion of water revenue in 2001, and Vivendi Universal, with \$12.2 billion of water revenue in 2001. Both are ranked among the 100 largest corporations in the world by the Global Fortune 500, and between them they own, or have controlling interests in, water companies in over 100 countries and distribute water to more than 100 million people around the world. Other major corporate actors include German water giant RWE and its British subsidiary Thames Water, and US-based Bechtel, which is promoting privatization plans in South America. Another major player, Enron, has recently withdrawn from the scene.

The major water companies are being given increased access to and control over water markets, yet their record has been troubling on many fronts. Bribery has been endemic to the industry. For most of the past decade, French magistrates have been investigating allegations of corruption against executives of Suez and Vivendi. On three occasions, water executives have been convicted of paying bribes to obtain

water contracts in France. The ability of such firms to serve the public interest, rather than being driven to maximize short-term returns to shareholders, is highly questionable

Major water multinationals have also committed serious environmental violations and have failed to provide adequate or sanitary water supplies: Suez, Vivendi, Thames Water (RWE) and Wessex Water (Enron) were all ranked among the top five polluters by the UK Environment Agency in 1999, 2000 and 2001. In Buenos Aires, where Suez operates the major water concession, 95% of the city's sewage is dumped into the Rio del Plata River, causing environmental damage that must in turn be paid for with public funds.

It is almost inevitable that a privatised Northern Ireland water body would fall into the hands of one of these trans-national corporations. It is clear that our water would not be safe in their hands.

### **Public Private Partnerships**

Outsourcing of central management and delivery appears to be predicated on the assumption that the private sector can automatically deliver a better service than the public sector. Experience in Great Britain across a number of sectors has shown that this is far from true. While it may be a fair assumption that private enterprise could deliver a superior service to that currently provided by Water Service, it is unfair to take what is a particularly poor example of public sector management as the benchmark.

The main objection to PPPs, both for central management and specific projects, is that they deliver particularly poor value for money to the taxpayer. While PPPs may be expedient for a Treasury keen to spread expenditure on health and education, for example, over decades rather than raise taxes in the short term, the other models proposed here allow access to funding without the need to mortgage the future to the private sector.

### **Not for Dividend Company, Statutory Corporation or Government Owned Company?**

It is important that the business model chosen puts people and the environment before private profit while delivering an efficient, effective and accountable service.

A Not for Dividend Company is the most attractive option on the basis that a socially owned body would have its first duty to its stakeholders (consumers, employees, the public – in terms of public health and environmental impacts) rather than to shareholders or ministers. It may not pass the 'minimum disruption' test, however.

A possibly less disruptive alternative which can also provide a measure of accountability via Ministers would be a Statutory Corporation. A GoCo should be ruled out on the basis that it could too easily be a stepping stone to privatisation for a future government more ideologically committed to the concept than the current one. It is also possible that a GoCo or the Department could invoke commercial confidentiality as a means of denying important information to the public.

Friends of the Earth recommends further exploration of the Not for Dividend and Statutory Corporation options to determine which (in conjunction with economic and environmental regulation) could best deliver an efficient, effective and accountable service.

### **Crown Immunity**

Friends of the Earth welcomes the removal of Crown Immunity. There has never been justification for its application to Water Service and there can be none in the future, no matter what the form of the institution delivering water services. Crown Immunity should be removed immediately.

The removal of Crown Immunity to coincide with the formation of a new water body creates a particular challenge. Water Service is currently in breach of the law in terms of its waste water treatment and the new body will also be in breach of the law from the moment it takes over.

Any new water body will reasonably want to be protected, for a period, from prosecution for the inherited failures in the system. The environmental regulator will want to ensure full compliance with all relevant legislation by specific dates. This will only be achieved through a legally binding agreement between the new body and the regulator and such an agreement will only be acceptable if compliance dates are incapable of being relaxed. There is a question mark over whether sufficient information exists on the state of the infrastructure to be able to draw up such an agreement. This is particularly true at a time when adequacy of the sewerage infrastructure has been removed as a planning consideration in the 56 locations with compliance problems.

The directors of the new body must be capable of being called to account for their actions, ultimately by prosecution. This may require amendments to legislation.

Whatever arrangements are put in place to manage the transition to full compliance, it is essential that they are fully transparent if there is to be public confidence. Commercial confidentiality, for example, must not be used as a reason for denying public access to information.

### **What is the most effective model for the economic and consumer regulation of water and sewerage services in Northern Ireland?**

Economic regulation and consumer interests can often conflict with environmental imperatives. Clearly legal environmental imperatives can be incorporated into the price controls in that any prices set would have to be on the basis that the water provider must be sufficiently resourced to meet its obligations under domestic and EU environmental law.

Consumers of drinking water, however, are also consumers of bathing water, fishing water and other recreational uses. They are 'consumers' of biodiversity in that the public places a value on wildlife and habitats. Accordingly, the economic regulator

must be required to ensure that his or her decisions are supportive of both government policy on the environment and the value the public places on a clean environment.

Likewise the economic regulator must have social concerns built into his or her remit. Thus the economic decisions of the regulator must be subordinate to the imperative of sustainable development.

## **Do you have any comments on how we propose to integrate Water Reform within other Government policies?**

### **Environmental policy**

The consultation document gives very little consideration to environmental regulation which is surprising considering that the most significant challenge facing Water Service and any successor body is the need to conform to environmental legislation.

Environment and Heritage Service (EHS) has clearly failed to regulate Water Service over the years in that compliance with the Urban Waste Water Treatment Directive stands at only 35%. Crown Immunity must take much of the blame for this but lack of EHS resources has been a significant contributory factor.

Not only has EHS failed to regulate Water Service, it has also failed to perform its role in ensuring that planning applications do not contribute to overload of the sewerage infrastructure. EHS's lack of independence led to a spectacular collapse in related regulation in October 2002 when the then Minister instructed EHS not to object to planning applications on the basis of overload to the sewerage system, a situation which continues today.

It is evident that EHS is institutionally incapable of regulating water services when political interference is possible to the extent that the organisation is prevented from doing its job. Only an adequately resourced environmental regulator independent of Ministers and with the capacity to prosecute can ensure a proper level of environmental performance.

The creation of a new water body must only take place in the context of the establishment of a fully independent and effective Environmental Protection Agency.

### **Strategic planning**

It appears that the regional strategic framework was drawn up with scant regard to the inadequacies of the sewerage system. The need to conform to environmental law in terms of the latter must take precedence over the aspirations of the former.

### **Sustainable development**

It is disappointing that the consultation document makes only brief references to sustainable development. The contention that any proposals will be assessed against the four key objectives set out in the programme for government risks restricting the scope of the water reform plans. Any new regime for water and sewerage services must be specifically designed to operate both within the constraints of sustainable

development and make a positive contribution to it. This means doggedly reducing environmental impacts while seeking win-win-win situations across the economic, social and environmental spheres. This will require a much more imaginative approach than merely testing the proposals against a checklist.

Friends of the Earth (Northern Ireland)

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