



Environment and Rural Development Committee

28th Meeting, 2004

Wednesday 24 November 2004

The Committee will meet at 10.00 am in Committee Room 6.

1. **Water Services etc. (Scotland) Bill:** The Committee will take evidence on changes to the Bill proposed by the Minister for Environment and Rural Development, from—

Panel 1

Trisha McAuley, Head of Corporate Resources, Scottish Consumer Council;

Panel 2

Professor Alan Alexander, Chair, Scottish Water;

Dr Jon Hargreaves, Chief Executive, Scottish Water;

Cheryl Black, Customer Service Director, Scottish Water; and

Panel 3

Alan Sutherland, Water Industry Commissioner for Scotland;

Ian Smith, Convener, Water Customer Consultation Panels;

Dr John Sawkins, Deputy Convener, South East Customer Consultation Panel.

2. **Subordinate legislation:** Lewis Macdonald MSP, Deputy Minister for Environment and Rural Development, to move—

motion S2M-1973 in the name of Ross Finnie MSP—That the Environment and Rural Development Committee recommends that the draft Agricultural Holdings (Right to Buy Modifications) (Scotland) Regulations 2004 be approved.

3. **Subordinate legislation:** The Committee will consider the following negative instruments—

the Marketing of Fruit Plant Material Amendment (Scotland) Order 2004, (SSI 2004/471);

the Nature Conservation (Designation of Relevant Regulatory Authorities) (Scotland) Order 2004, (SSI 2004/474); and

the Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004, (SSI 2004/475).

Mark Brough
Clerk to the Committee
Direct Tel: 0131-348-5240

The following papers are attached:

<p><u>Agenda Item 1</u></p> <p>Letter from the Minister for Environment and Rural Development on proposed changes to the Water Services etc. (Scotland) Bill</p> <p>Submission from the Scottish Consumer Council</p> <p>Submission from Scottish Water</p> <p>Submission from the Water Industry Commissioner for Scotland</p> <p>Submission from the Water Customer Consultation Panels</p>	<p>ERD/S2/04/28/1a</p> <p>ERD/S2/04/28/1b</p> <p>ERD/S2/04/28/1c</p> <p>ERD/S2/04/28/1d</p> <p>ERD/S2/04/28/1e</p>
<p><u>Agenda Item 2</u></p> <p>The Agricultural Holdings (Right to Buy Modifications) (Scotland) Regulations 2004 (draft)</p>	<p>ERD/S2/04/28/2a</p>
<p><u>Agenda Item 3</u></p> <p>The Marketing of Fruit Plant Material Amendment (Scotland) Order 2004, (SSI 2004/471)</p> <p>The Nature Conservation (Designation of Relevant Regulatory Authorities) (Scotland) Order 2004, (SSI 2004/474)</p> <p>The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004, (SSI 2004/475)</p>	<p>ERD/S2/04/28/3a</p> <p>ERD/S2/04/28/3b</p> <p>ERD/S2/04/28/3c</p>

distribution and supply. For this reason, we would propose to revisit the amendment the Bill makes in respect of the Panels' to the Water Industry (Scotland) Act 2002.

(b) Give the Panels a clear point at which to input to Ministers' consideration of objectives for the industry

I am minded to provide the Panels, in their role representing the interests of all users of the public water and sewerage networks, with a clear opportunity to voice the customer interest in the charge determination process. The improved regulatory framework proposed by the Bill rests on the transparent separation between Ministers setting policy objectives and investment standards for the industry, followed by the Water Industry Commission calculating charge limits to deliver these objectives. The Panels' clear interest is in Ministers' policy objectives and I would therefore propose adding the Panels to the Commission and Scottish Water as the bodies which must be consulted in drawing up the statement of objectives.

(c) Transfer responsibility for handling customer complaints to the Panels

Statutory responsibility for customer complaints regarding Scottish Water, once a complaint has been pursued in the first instance with Scottish Water, currently lies with the Water Industry Commissioner. I am minded to transfer this responsibility to the Convener of the Customer Panels. This would mean that the small team in the Commissioner's office currently responsible for considering complaints would in future sit within the Convener's office, and he would be responsible for ongoing liaison with Scottish Water to address individual and generic complaints. I believe that this would offer a more coherent split of responsibilities between the Water Industry Commission and the Panels in future, and help to provide clarity for the public as to the Panels' role as the customer champion.

(d) Enhance the Panels' reporting function and put it on a statutory basis.

To ensure that the Panels have the tools to operate as effectively as possible in the customer interests, I am minded to enhance their current power to publish reports. This might be done by specifying that these reports may be directed to any of Scottish Water's regulators, to Scottish Water itself or to Ministers, and by requiring the recipient to respond to a report within a reasonable period, for example, six months. Alongside this strengthened reporting power, I think it would be appropriate to provide for the Panels' current Annual Report to be laid before Parliament reporting on their activities.

These are our policy proposals, but I would be very interested to hear your Committee's views next week, and will give full consideration to any recommendations regarding the Panels in your Stage 1 Report. Subject to these, it would be my attention to bring forward Stage 2 amendments to achieve these ends.

ROSS FINNIE

SUPPLEMENTARY SUBMISSION FROM THE SCOTTISH CONSUMER COUNCIL

Thank you for giving the Scottish Consumer Council (SCC) the opportunity to comment to the Committee on the Minister's proposed changes to Stage 2 of the Water Services etc (Scotland) Bill. This response is written from the perspective of domestic consumers which is where our remit lies.

In our earlier written evidence to the Committee we highlighted our concerns that the Bill was lacking in its failure to provide for a statutory role for the Water Customer Consultation Panels at key stages within the new regulatory framework. We also emphasised the wider issues that would need to be addressed with regard to the capacity of the Panels to meet the increased expectations of consumers, the Commission and the Scottish Executive within a more transparent and accountable framework. We therefore welcome the Scottish Executive's general intention to enhance the role of the Panels. Our comments on the Minister's detailed policy proposals, as set out in his letter to you of 4 October 2004, are detailed below.

Transfer responsibility for handling customer complaints to the Panels

In the event of Scottish Water being unable to resolve a customer complaint, the second avenue of redress for a customer currently lies with the office of the Water Industry Commissioner. We consider this to be anomalous in the context of the Commissioner (and subsequently the Commission)'s responsibility to balance the interests of the general customer base and the industry as a whole rather than advocate on behalf of specific customer groups. A complaints handling function should also be independent of any price setting responsibilities. Based on our own research experience and on research undertaken with consumers by others in Scotland, for example, the recent NHS review of its complaints procedure, we believe that the following general principles should apply in considering complaints handling procedures in the water industry. This view is broadly consistent with the previous work of both the Citizens Charter Complaints Task Force and the Cabinet Office's Service First initiative.

Stage One: Informal Resolution

We are content with the current wording of the Water Industry (Scotland) Act 2002 which provides that a complaint need not be investigated "if the complainer has not pursued the complaint with Scottish Water." It is accepted good practice that the provider of a good or a service should respond itself to the concerns of its customers and that it should have an accessible and speedy mechanism for doing so. The onus should always be on Scottish Water to provide optimum customer care by resolving complaints quickly and informally at the front line, and to provide a better service to future consumers through the lessons learned from its own complaints data.

Stage Two: Internal Review

Scottish Water should have in place an internal system of recourse for customers who remain unhappy after Stage One has been exhausted, overseen at a higher level and by members of the management team who have been un-involved in the initial stage. However, it will be important to ensure that having an internal second stage does not result in a protracted and bureaucratic system and that steps have been taken to ensure that it is seen to be fair in the eyes of the consumer.

Stage Three: Independent Review

The rationale for the third stage lies in providing consumers with an independent and impartial review of their complaint outwith the court system. In our view, there are two options open to the Scottish Executive:

The first option lies in utilizing the office of the Scottish Public Services Ombudsman (SPSO) in relation to Scottish Water, to both deal with individual, unresolved third tier complaints and investigate general cases of service failure. The Ombudsman's website lists its powers as extending over complaints about the Water Industry Commissioner (WIC) but refers customers of Scottish Water to the WIC. The responsibilities of the SPSO will have to be clarified in any case in the light of the Minister's proposed changes to the complaints handling function and the option to use or extend the existing offices and capacity of the SPSO as the third stage should be considered. The SPSO would have the teeth to intervene and require Scottish Water to resolve an individual issue or improve on an aspect of service failure.

The second option lies in transferring the complaints handling function to the Panels, as proposed by the Scottish Executive. This option is equally valid in ensuring an independent and impartial means of review for consumers who remain dissatisfied with Scottish Water's treatment of their complaint and it would sit well with the Panels' role as consumer interest advocates.

We do, however, have concerns about the Executive's view of how this might work in practice, and in conjunction with the additional proposals to enhance the Panels' role in relation to policy.

The Minister's letter is limited to stating that the small team in the Commissioner's office currently responsible for considering complaints would in future sit within the Convener's office. We understand that the WIC team comprises two people and the WIC office has informed us that it handled 609 complaints in 2002/03 and 1,240 complaints in 2003/04. We would expect this trend to continue to rise as Scottish Water's public profile increases, the structure of the industry changes and the expectations of consumers rise. Moreover, the scope for achieving real benefits for consumers may well be limited if the Panels are not concurrently bestowed with formal powers of intervention, rather than as, at present, relying on influencing and persuading.

Our work with other consumer organisations such as energywatch has given us a good picture of the resource-intensive nature of complaints handling. The National Audit Office too has published, in the last week, its report of a benchmarking exercise into the efficiency and effectiveness of energywatch and Postwatch¹. The NAO has reported that, in 2003/04, energywatch incurred direct staff costs of £5.4 million, 42% of its running costs, and Postwatch incurred £2 million, 20% of its running costs, on complaints handling. The report highlighted the considerable amount of staff time spent on complaints that varied in scale and complexity and many of which required considerable effort in resolving the issues with the service provider. The report also highlighted the dangers of staff time being tied up in audit and satisfaction monitoring of the internal complaints handling process rather than the outward effect of the market on the overall consumer experience.

This has been recognised at UK level by the DTI which is proposing to pass responsibility for complaints handling from consumer bodies to Consumer Direct, a new UK-wide information and advice line. The first phase of Consumer Direct was launched in Scotland in July 2004. The DTI

¹ National Audit Office, *Energywatch and Postwatch: Helping and Protecting Consumers*, October 2004, <http://www.nao.org.uk/whatsnew.htm>

report *Consumer Representation in the Regulated Industries*² raises the possibility of a Utilities Consumer Council for industries in reserved areas. The Council would have a central focus on working with policy makers, regulators and service providers on making markets work for consumers with the aim of reducing the number of complaints and preventing the issues that cause them from arising in the first place.

There is therefore a risk that reactive complaints handling could dominate the agenda of the Panels and skew the focus of their work to picking up the pieces when things go wrong. The NAO report highlights the dangers of relying on complaints data to identify problem areas as the number and profile of complaints may not accurately reflect the overall problems and experiences of consumers. This would divert its attention from making the water industry work for consumers from the beginning by undertaking the policy, advocating and influencing role envisaged by the Scottish Executive. Complaints handling by the Panels will only work for consumers if these aspects of the Panels role are given equal, and even greater consideration and allocation of resources.

Consumer organisations need to work from a base of evidence about how the market is working for all consumers. This means undertaking research on what consumers want and need from their water service, gaining further evidence by listening to and engaging with stakeholders, and having the expertise and the resources to develop, with Scottish Water and the Water Industry Commission, a forward, pro-active agenda for the industry.

We also believe that the current powers of the Water Industry Commissioner to audit Scottish Water's complaints handling should be transferred to the Panels as part of their remit to help Scottish Water deliver a better service for consumers and to help tackle the underlying causes of complaints. In England and Wales, this is a statutory function of the consumer body, Watervoice, and it has a formal role into feeding into Ofwat's performance assessment framework of companies' performance.

Our position with regard to who should handle complaints can therefore be summarised as follows:

- It would not be appropriate for the Water Industry Commission to handle complaints.
- The independent review mechanism for complaints should lie with either the Panels or the Scottish Public Services Ombudsman.
- The respective merits of both options should be considered. The responsibilities of the SPSO with regard to the new structure of the water industry being proposed by the Bill should be clarified.
- The role of the Panels in handling complaints should not be seen in isolation from, or be allowed to subsume through lack of resources, its wider functions to develop evidence-based policy and to advocate and influence for change on behalf of consumers.
- Systems for sharing information about complaints trends and implications for service improvement between the complaints handler, the consumer body, the service provider and the regulator, will require to be established.

² DTI, *Consumer Representation in the Regulated Industries*, July 2004, http://www.dti.gov.uk/ccp/topics2/economic_regulation.htm

Make provision for the Panels to represent non-domestic as well as domestic customers

The SCC would not support this proposal and refer to this extract from our earlier written submission to the Committee:

“We do, however, welcome the fact that the Bill provides that the Panels will only be responsible for customers served directly by Scottish Water on a wholesale basis i.e. domestic customers. This is in recognition of the fact that non-domestic customers will have a choice of supplier and protection under a licensing regime that will give them recourse to the Commission.

Large business consumers have the buying power and resources to make their voices heard and their interests are likely to vary from, and often be at odds with, those of individual consumers and smaller businesses. However, even small businesses have a clear voice through trade associations that can campaign effectively at strategic level. Individual consumers cannot make their voices heard collectively in this way – their issues and interests will always be diverse.

The operational support which a consumer organisation will provide to an individual, very small business and to domestic consumers may, on the whole, be very similar as they are likely to experience the same service issues. However, the policy solutions for similar situations could vary for different groups. A consumer organisation which has a remit for both business and domestic consumers will have to be very clear about the impact of its policies for each and the possible tensions which might exist between the different interests. A good example of this is in relation to charges and the extent to which cross-subsidies between different groups exist.

Having responsibility for domestic consumers will target resources towards those most in need of an advocate body”.

Our only additional comment to this position would be in relation to complaints handling. We have no data on the proportion of domestic and non-domestic complaints about the industry at the moment, whether by individuals or resourced representative groups, and the complexity and level of workload each different sector has generated for the WIC's office. We would want any move to widen the remit of the Panels to include the non-domestic sector to have taken full account of this data. We have some concern that the capacity of the Panels to deal with the needs of individual consumers and vulnerable groups will be compromised in having to respond to the more organized representations of business and the concerns of very large users. Many of these complaints are likely to be focused around the licence conditions set by the Commission and we see potential for a muddying of roles in this respect and for time wasted by the Panels in referring these issues onward to the Commission.

Give the Panels a clear point at which to input to Ministers' consideration of objectives for the industry

In our written evidence to the Committee, we considered that the consumer voice would be weakened by the absence of the Panels, as statutory consultees, from:

- Section 18 requiring Ministers to consult with the Commission and Scottish Water on its proposed charging policy and requiring the Commission to consult with Scottish Water and Ministers on its proposed charges determination.
- Section 19 requiring Ministers to consult with Scottish Water and the Commission on any additional functions it seeks to confer on Scottish Water.

We are therefore very pleased to see the Minister's intention to add the Panels to the Commission and Scottish Water as the bodies that must be consulted in drawing up the statement of charging policy.

However, we would still wish to see the Panels having the other powers that we have asked for, particularly in relation to being consulted on the Commission's proposed charging determination. The Minister's letter says that the Panels will have a clear interest in policy objectives. Our view is that there is a subsequent, legitimate interest in seeing charges that reflect policy and that this is no different for the consumer body than it is for Scottish Water or Ministers as part of the consultation process.

We commented above about resources for the Panels and their capacity to undertake an enhanced role in policy, as proposed by the Minister. The Panels must be able to give an informed, evidence-based, and therefore credible policy contribution. The position that we outlined in our earlier evidence remains:

"The Panels will face additional responsibilities in responding to a significant increase in consultation documents, participating in probably more numerous ongoing policy initiatives and in identifying the consumer interest across a broader and more complex range of issues, particularly the introduction of competition and changes to the charging regime. Consumers will look to the Panels to articulate the consumer interest in all of these and policy-makers will require the Panels to back up their policies with evidence which goes wider than that obtained through public meetings. The Panels will need the capacity to undertake research and to employ staff with the policy expertise to analyse evidence and translate it into practical policy proposals. The Financial Memorandum of the Bill needs to recognise the fact that the Panels will require to be equipped within the new policy environment, that they too will be expected to become more transparent and accountable, and that they will require additional, probably modest, resources to do this."

We also stand by our earlier position that, in order to be effective, the Panels will need access to the information they need about the water industry. It is likely that this information will already be possessed by the Commission. There is no point in duplicating work. Therefore, the Panels and the Commission should be required in statute to draw up a Memorandum of Understanding that sets out agreed arrangements with a view to securing co-operation and exchange of information between them and consistent treatment of matters which affect both of them. This is common practice in others sectors including energy and postal services and it ensures that a proper system for the sharing of information is sustainable and not reliant on individual working relationships or changes in policy.

Enhance the Panels' reporting function and out it on a statutory basis

We fully support enhancing the powers of the Panels to publish reports and to require the recipients to respond. This will bring greater public accountability and transparency for consumers and the public. We again emphasise our concerns about the capacity of the Panels to take on this additional function and do it well without an accompanying recognition that it will require additional resources.

We also fully support the proposal that the Panels should be required to lay their Annual Report before Parliament. This will enhance the accountability of the Panels as publicly-funded bodies.

SUPPLEMENTARY SUBMISSION (2) FROM SCOTTISH WATER

Thank you for your letter of 7 October 2004 requesting our views on the proposed changes to the powers and functions of the Water Customer Consultation Panels (WCCP).

Scottish Water supports the Minister's proposals and believes that they will both enhance the voice of the customer and provide clarity of purpose.

With regard to the specific point about complaint handling I would comment as follows –

There is the opportunity to mirror the existing complaints process, simply switching the role of complaint management from the Water Industry Commissioner for Scotland (WICS) to the WCCP. This would provide the quickest and least disruptive solution and would ensure parity with England and Wales.

Under the present agreed protocol Scottish Water is always given the opportunity to resolve the customer issue first i.e. WICS will simply pass on a complaint that has not been referred to Scottish Water in the first instance. This ensures that the relationship between Scottish Water and the customer is maintained and that simple issues can be resolved quickly. If Scottish Water cannot, or does not resolve the complaint and the customer contacts WICS then WICS will investigate the complaint and ask Scottish Water to report on actions taken previously and to explain what action will be taken to resolve the issue, or reasons why a resolution cannot be achieved.

All complaint types follow this protocol, save for general complaints about charging principles, where WICS staff will explain the principles to customers directly, without involving Scottish Water.

All WICS complaint traffic is sent through our Regulatory Mailbox and closely monitored to ensure compliance with the relevant Guaranteed Standard of ten working days.

WICS may well suggest a course of action to Scottish Water in order to help resolve an issue. However, the crucial point is that this is always done before responding to the customer to ensure that all relevant facts are known.

Moving responsibility from WICS to WCCP need not impact the above process, indeed it would be beneficial for WCCP to adopt the WICS approach as that has been developed over a number of years and strikes the right balance between ensuring due process and getting a speedy resolution for customers.

I hope these comments are of assistance to your Committee in its consideration of the proposed changes to the WCCP. I am very happy to discuss our views further with you if this would be helpful.

SUPPLEMENTARY SUBMISSION FROM THE WATER INDUSTRY COMMISSIONER FOR SCOTLAND

I am pleased to have the opportunity to address the Minister's proposal to strengthen the role of the Water Customer Consultation Panels and in particular to transfer responsibility for complaint handling to the Convenor of the WCCP. This letter outlines:

- Our current process for handling complaints;
- The resources involved in handling complaints;
- Potential advantages for customers in the Minister's proposals;
- Stakeholder consultation, water environment or local government related complaints; and
- Impact on the proposed Water Industry Commission.

Our current process for handling complaints

We have noted a large increase in the number of complaints from customers of the water industry in Scotland. The following table shows complaints, by category, in the past three years.

Complaint type	2002-03	% of Total	2003-04	% of Total	2004-05 (to date)	% of Total
Water Supply	55	9%	122	10%	42	10%
Water mains and pipes	62	10%	87	7%	40	9%
Water Pressure	27	4%	50	4%	16	4%
Sewerage Service	56	9%	68	5%	48	11%
Sewers and drains	28	5%	28	2%	13	3%
Billing	104	17%	208	17%	178	42%
Charges	211	35%	540	44%	54	13%
Administration	49	8%	66	5%	27	6%
Other	17	3%	71	6%	9	2%
Total	609		1240		427	

We use a three-tier process to handle complaints from both domestic and non-domestic customers.

- **Level one complaints:** If a customer has not complained to Scottish Water, we will forward a written complaint to Scottish Water and ask to be copied on the reply to the customer. If a customer telephones our Office and he has not yet contacted Scottish Water, we will ask the customer to telephone Scottish Water. We believe that it is important that Scottish Water has an appropriate opportunity to resolve any customer service issues.
- **Level two complaints:** When a customer has complained to Scottish Water and still believes that he has been unfairly dealt with, we will look at the complaint in some detail. There are normally two potential outcomes: firstly, we may consider that Scottish Water has handled the matter appropriately in which case we will seek to explain this to the customer; secondly, we may consider that the customer

does have reasonable cause to be dissatisfied. In this instance, we will write to Scottish Water outlining why we think their previous response was inappropriate. Level two complaints can typically arise for three reasons: firstly, some of Scottish Water's staff who deal with complaints seem to misinterpret the policies of their organisation (e.g. on response times); secondly, Scottish Water employees have redirected issues relating to charges to this Office, explaining that we approved the scheme of charges; thirdly, there are cases when customer complaints have not been dealt with appropriately either because of administrative failures or because Scottish water has no clear policy on the level of service issue.

In most cases, we are able to resolve level two complaints to the satisfaction of the customer.

- **Level three complaints:** If it proves not to be possible to address a customer's complaint, we may seek to launch a formal investigation into the handling of the complaint. Fortunately, such cases are very rare.

The resources involved in handling complaints

We currently have one dedicated complaints officer. He is managed by the Corporate Affairs Team Leader and assisted by other members of that team. If a complaint involves more specialist knowledge, the Corporate Affairs team can draw on expertise from other areas of the Office (e.g. investment and asset management and revenue and tariffs). We estimate that handling complaints accounts for approximately 1.5 full time equivalents in the Corporate Affairs team, costing c.£45,000, and perhaps as much as a further full time equivalent in terms of additional specialist advice on the issues raised in complaints from elsewhere in the office, costing c.£30,000. The total budgetary cost of this is therefore approximately £75,000, or 5% of the annual on-going budget of the Office.

Potential advantages for customers in the Minister's proposals

I support the proposed strengthening of the Water Customer Consultation Panels. In my evidence to the Committee I sought to explain that the determination of prices is essentially a technical exercise that establishes the cost of policy objectives that are set by Ministers. It is important that in setting prices we consider the interests of both all current customers and future customers and set prices that are financially sustainable (i.e. prices that do not favour either this or future generations). When we handle complaints, we have to ensure that we act in the general customer interest. It would not be appropriate for us to take a view on, for example, the social, environmental or public health policies of government.

In other utilities, the complaints handling function has been separated from the price setting function. In the energy industry, complaints are handled by Energywatch. In the water industry south of the border, the recent water Industry Act establishes a separate consumer council for water and formalises the independence of Water Voice from the regulator, Ofwat. Water Voice manages complaints and lobbies on issues that it considers are important to customers. This has recently included

questioning the proposed size of the environmental investment programme in England and Wales. Water Voice has questioned whether vulnerable customers should have to face significant increases in bills to finance extra investment in the environment.

I consider that such customer representation is an important function. It is, however, not consistent with the obligation on the price-setting organisation to assess the lowest sustainable price that is consistent with the objectives for industry that are established by Government. Government sets out its policy objectives for the water industry in England and Wales in guidance to Ofwat. I expect to get similar guidance from the Scottish Ministers in January.

The transfer of responsibility for the management of complaints is a sensible move to clarify the roles and responsibilities of both the proposed Water Industry Commission and the Water Customer Consultation Panels. The panels may seek to champion the case of a particular customer or group of customers, whereas the role of the Commission is likely to continue to be the promotion of the general customer interest, in other words ensuring that customers receive the best sustainable value for money possible.

The strengthening of the Panels will give them a clearer and more independent voice in representing customers. The handling of complaints is likely to highlight issues on which they may wish to do further research or to make representations to Ministers. Such representations may favour some customer groups to the detriment of others and it would therefore be appropriate for Ministers to decide whether it was appropriate to change an element of policy. It would, however, not be appropriate either for this Office or potentially the Commission to make any such representations that favour one customer group at the expense of another.

Stakeholder consultation, water environment or local government related complaints

From time to time we will receive complaints that relate to charging issues that are not within the control of Scottish Water or its economic regulator. These often concern the Council Tax band or the rateable value that has been allocated to a property. In such circumstances an appeal should be directed towards the local council. The broader principles of charging are a decision for Ministers and customers who consider the current charging mechanism to be unjust should draw this to the attention of Ministers. Clearly, it would not be consistent with my current statutory remit to intervene in such circumstances. This could, however, be an issue that the Water Customer Consultation Panels may wish to draw to the attention of Ministers. This would seem to be an additional advantage of the transfer of responsibility for complaint handling.

A second area of potential complaint relates to the management of flooding risk. Scottish Water clearly has a responsibility for the maintenance of the sewerage system, but many flooding incidents are caused by extreme weather conditions and not by an operational failure of the sewerage system. Responsibility for flooding is therefore split between different bodies including Scottish Water, local councils,

SEPA etc. It is clear that it may, in some instances, be appropriate for complaints to be handled by Scottish Water, but in many cases responsibility actually for preventing or managing the incident lies elsewhere.

The Water Customer Consultation Panels have recently agreed a Consultation Code for Scottish Water. My office had no role in the development of this code. The code is a useful step forward because the significant investment programme that Scottish Water will have to manage for the foreseeable future will impact local communities and businesses. It is important that there is appropriate consultation about how the activities of Scottish Water will impact the community and that accurate information is given about the duration of any disruption. It is not clear where responsibility for handling complaints about the Consultation Code lies.

My Office currently has responsibility for dealing with customer complaints. However, complaints about poor consultation may be from non-customers or from customers who do not receive benefit from a proposed investment, but who are impacted by the proposed disruption. Given that our responsibilities are to all customers, it would be difficult for us to deal with these complaints. It may be that the concerns of local stakeholders are valid, but that the proposed benefits to other customers are significant. I would suggest that the Water Customer Consultation Panels who were involved in the development of the Consultation Code would be better placed to handle any such complaints.

Impact on the proposed Water Industry Commission

I believe that the proposed strengthening of the WCCP is in the customer interest. It brings us more into line with the situation in other utilities (and the postal services and rail industries). Summary information about the types of complaint or response times is important to our overall measurement of customer service performance. It would be important that the WCCP made this available to the Commission. One possible way forward would be for the level of service report to be a joint publication between the Commission and the WCCP. This would be consistent with the situation south of the border.

SUPPLEMENTARY SUBMISSION FROM THE WATER CUSTOMER CONSULTATION PANELS

Thank you for your letter, and the opportunity to comment on the Minister's proposals on the future role and remit of the Panels. We welcome the Minister's proposals, and subject to sufficient resources being made available, we believe that we will be in a position to represent the interests of customers in a much more effective way, and will do so on the basis of evidence based research and analysis. We would be concerned if the Committee were to focus solely on complaints handling which forms an important but relatively small element of the work that we should be undertaking as the customer representative organisation.

Our understanding of the current complaints process is that in the first instance the customer should contact Scottish Water. Both the WIC (Water Industry Commissioner) and the Panels undertake to direct customers to this step where appropriate, if it has not been taken. Where customers are dissatisfied with Scottish Water's response, they may choose to direct their complaints to a higher level within Scottish Water, or to seek the advice and assistance of the WIC. The WIC then has the power to make representation to Scottish Water on the customer's behalf and to secure a response from Scottish Water within an agreed timeframe.

We understand that the WIC will be providing the Committee with detail on the levels and complexities of current complaints. This may provide a better gauge for understanding where confusion for customers has arisen. We believe there should be no distinction between domestic and non-domestic customers, and that individual customer complaints fall into either practical or policy complaints. Broadly speaking, the former are the domain of the WIC and the latter that of the Panels. Distinguishing and separating out these issues can often be difficult, and certainly unclear for customers.

We agree that the former (practical complaints) should become the responsibility of the Convener's office, and the latter remain with the Panels. This brings clarity to the process by ensuring customer complaints of either nature fall within the remit of one body, the customer representative organisation.

We would also want to take the opportunity to review fully the current system in detail, to be confident that, on undertaking complaints handling, the needs and expectations of customers would be met. We would wish to take the interim period before transfer to develop a complaints process that drew from best practice, and to test the adequacy of Scottish Water's internal complaints procedures. We are aware that the trend in Scotland, England, and Wales shows a modest increase in complaints from customers. That trend needs to be recognised when developing the new system.

For the Convener's office to take on the role of second tier complaints handling, the organisation would require adequate powers to address complaints, both individual (practical) and generic (policy), on behalf of customers. The Minister's proposal to extend the Panels' power to recommend more than covers policy complaints, and secures a response on these matters. Widening the scope to include Ministers, and all industry regulators, recognises that policy complaints often raise issues beyond

Scottish Water. To be in a position to make informed and in depth recommendations the Panels need to have an adequately resourced policy research capacity.

For individual practical complaints, a well constructed, easily understood, and timely framework must be built between ourselves and Scottish Water to ensure the best possible outcome for the customer. This would include provision for escalation when required. The Panels are keen for Scottish Water to drive forward its customer service improvements, and enhance its own internal complaints procedures. Scottish Water is best placed to bring about resolution in these cases. The Panels will have a strong role in monitoring Scottish Water's effectiveness in this regard.

With regard to emergencies, we would expect to respond to any concern about the way in which emergencies have been managed. There would be occasions where we would respond to a direct individual customer complaint, to a request from Ministers, or from a regulator. There may also be circumstances where we would, at our own initiative, enquire into the management of an emergency.

It should be a key indicator of performance for the industry that there is a reduction in volume of complaints and concerns from customers. This may seem obvious in theory, but is often lost in practice. Complaints handling should be viewed within the overall framework of the industry.

The Minister's proposals to involve us at the policy development stage, and to give us the power to recommend across the industry thereafter, creates many valuable opportunities to advocate the customer interest. We hope that this will lead in time to minimising the need for customers to raise concerns or complaints. We need to have adequate policy and research resources to address the advocacy role.

We would also like to draw the Committee's attention to the recent research ["What customers expect of the Consumer Council for Water"](#), conducted for WaterVoice, and enclose a copy of the executive summary. The results provide a good focus for further thinking on future development of the Panels.

SSI Title and No:	The Agricultural Holdings (Right to Buy Modifications) (Scotland) Regulations 2004, (draft)						
Laid Date:	8 th November 2004	Responsible Minister:	Ross Finnie, Minister for Environment and Rural Development				
SE Contact:	David Milne, ext. 46037						
Standing Order:	10.6.1(a) subject to affirmative procedure within 40 days						
RECOMMENDATION							
Lead Committee:	Environment and Rural Development	Other Committees:					
Clerk Contact Room & No:	Mark Brough 85240	Clerk Contact No:					
Reason:	These Regulations modify Part 2 of the Agricultural Holdings (Scotland) Act 2003, to provide for the extension of certain tenants' rights to general partners in cases where the tenant is a limited partnership.						
Time Limit for Parliament to Deal with Instrument	17 th December 2004	1st SLC Meeting	9 th November 2004		SLC reporting deadline	28 th November 2004	
Lead Committee To Report By:	13 th December 2004		*Other Committees To Report to the Lead Committee:				
SSI Attached	X	Draft Motion Attached if Required		Date Motion and Designation Form E-Mailed to the Bureau		Laying Clerk Advised of Designated Lead Committee	

* 10 days before the lead committee reporting date. "Other" committees may wish to negotiate timing of their report with the lead committee.

SSI Title and No:	The Marketing of Fruit Plant Material Amendment (Scotland) Order 2004, (SSI 2004/471)						
Laid Date:	3 rd November 2004	Responsible Minister:	Ross Finnie, Minister for Environment and Rural Development				
SE Contact:	Sylvia Korn, SEERAD, Ext. 46336						
Standing Order:	10.4 Subject to negative procedure within 40 days						
RECOMMENDATION							
Lead Committee:	Environment & Rural Development	Other Committees:					
Clerk Contact Room & No:	Mark Brough 85240	Clerk Contact No:					
Reason:	These Regulations amend the Marketing of Fruit Plant Material Regulations 1995, which implement Council Directive 92/34/EEC and Commission Directives 93/48/EEC, 93/64/EEC and 93/79/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production within the EC.						
Time Limit for Parliament to Deal with Instrument	12 th December 2004	1st SLC Meeting	9 th November 2004				
		SLC reporting deadline	23 rd November 2004				
Lead Committee To Report By:	6 th December 2004		*Other Committees To Report to the Lead Committee:				
SSI Attached	X	Draft Motion Attached if Required		Date Motion and Designation Form E-Mailed to the Bureau		Laying Clerk Advised of Designated Lead Committee	

* 10 days before the lead committee reporting date. "Other" committees may wish to negotiate timing of their report with the lead committee.

SSI Title and No:	The Nature Conservation (Designation of Relevant Regulatory Authorities) (Scotland) Order 2004, (SSI 2004/474)						
Laid Date:	4 th November 2004	Responsible Minister:	Lewis Macdonald, Deputy Minister for Environment and Rural Development				
SE Contact:	Duncan Isles, Tel. 44435						
Standing Order:	10.4 SSI subject to annulment within 40 days						
RECOMMENDATION							
Lead Committee:	Environment & Rural Development	Other Committees:					
Clerk Contact Room & No:	Mark Brough 85240	Clerk Contact No:					
Reason:	This Order designates relevant regulatory authorities for the purposes of the Nature Conservation (Scotland) Act 2004.						
Time Limit for Parliament to Deal with Instrument	13 th December 2004	1st SLC Meeting	9 th November 2004		SLC reporting deadline	24 th November 2004	
Lead Committee To Report By:	6 th December 2004		*Other Committees To Report to the Lead Committee:				
SSI Attached	X	Draft Motion Attached if Required		Date Motion and Designation Form E-Mailed to the Bureau		Laying Clerk Advised of Designated Lead Committee	

* 10 days before the lead committee reporting date. "Other" committees may wish to negotiate timing of their report with the lead committee.

SSI Title and No:	The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004, (SSI 2004/475)						
Laid Date:	4 th November 2004	Responsible Minister:	Lewis Macdonald, Deputy Minister for Environment and Rural Development				
SE Contact:	Duncan Isles, Tel. 44435						
Standing Order:	10.4 SSI subject to annulment within 40 days						
RECOMMENDATION							
Lead Committee:	Environment & Rural Development	Other Committees:					
Clerk Contact Room & No:	Mark Brough 85240	Clerk Contact No:					
Reason:	These Regulations amend the Conservation (Natural Habitats, &c.) Regulations 1994 so as to secure consistency between the provisions of the 1994 Regulations and the Nature Conservation (Scotland) Act 2004 and to ensure that European nature conservation obligations continue to be properly implemented in Scotland.						
Time Limit for Parliament to Deal with Instrument	13 th December 2004	1st SLC Meeting	9 th November 2004				
		SLC reporting deadline	24 th November 2004				
Lead Committee To Report By:	6 th December 2004	*Other Committees To Report to the Lead Committee:					
SSI Attached	X	Draft Motion Attached if Required		Date Motion and Designation Form E-Mailed to the Bureau		Laying Clerk Advised of Designated Lead Committee	

* 10 days before the lead committee reporting date. "Other" committees may wish to negotiate timing of their report with the lead committee.