



**Northern Ireland
Assembly**

**COMMITTEE FOR
REGIONAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

**Northern Ireland Water:
Briefing from the Minister**

10 November 2010

NORTHERN IRELAND ASSEMBLY

**COMMITTEE FOR
REGIONAL DEVELOPMENT**

Northern Ireland Water: Briefing from the Minister

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Members present for all or part of the proceedings:

Mr Fred Cobain (Chairperson)
Miss Michelle McIlveen (Deputy Chairperson)
Mr Cathal Boylan
Mr Allan Bresland
Mr Billy Leonard
Mr Trevor Lunn
Mr Fra McCann
Mr Ian McCrea
Mr Conall McDevitt
Mr George Robinson

Witnesses:

| | | |
|-----------------|---|---------------------------------------|
| Mr Conor Murphy |) | The Minister for Regional Development |
| Mr Gary Fair |) | Department for Regional Development |
| Mr John Mills |) | |

The Chairperson (Mr Cobain):

Good morning, Minister. I remind members that we have invited the Minister here to discuss the contents of his statement with the Committee. Investigations are ongoing in other areas: by the Public Accounts Committee (PAC), into the governance issues that were raised by the

independent review team's report on Northern Ireland Water (NIW) and its staff; and by Sir Jon Shortridge, into specific actions following the PAC evidence of 1 July 2010.

The Minister for Regional Development (Mr Murphy):

As requested by the Committee, I am happy to come back to you following my statement of 13 September 2010. As the Chairperson said, some of the issues relate to the review of procurement procedures in NIW, and various aspects of that continue to be investigated by the Public Accounts Committee and NIW. An inquiry is ongoing into the actions of the former permanent secretary. As those inquiries are ongoing, I have very little detail to add.

I will briefly remind the Committee of what I said in my statement of 13 September 2010 about the wider governance issues relating to NIW. The governance structure that I inherited is a go-co model that was set up under direct rule legislation. The model is at odds with the continued majority public funding of water and sewerage services. I believe that most, if not all, parties in the Assembly support the position that those services should continue to be funded through majority public funding.

The go-co model raises complex issues in light of the Treasury requirement, which was introduced in 2008, that NIW be treated as a non-departmental public body (NDPB) for public expenditure purposes. A great deal of technical detail is involved. However, the basic issue is that the legislation says that NIW is one thing and the financial system says that it is another. The hybrid system of governance has led to risks and a complexity that are not sustainable. Recent governance failures have brought that into sharp relief. However, it has been an ongoing issue of concern and one that needed to be addressed in any case.

That is the situation that I sought to address in my statement to the Assembly on 13 September 2010. The statement had five strands. First, I set out proposals to the Executive on the long-term status of NIW. I explained my view that water and sewerage services should be delivered by a body that is clearly within the public service and not one that is designed to be privatised or to introduce separate water charges. I acknowledged that it would not be possible to bring forward legislation during the current Assembly session.

Secondly, I said that I would consider short-term changes to the legislative framework to ensure that governance arrangements reflect the reality of continued majority public funding. That is likely to require amending legislation in the Assembly session. Thirdly, and allied to that, I proposed a revision or replacement of the governance letter that sets out management controls between the Department for Regional Development (DRD) and NIW. Fourthly, I said that I would work with stakeholders to ensure that the most appropriate controls and accountability are put in place. To that end, I proposed laying a number of memoranda of understanding in the near future. I hope that that will include an agreement on PC10. Finally, I announced that I intended to commence the process of making full appointments to the NIW board as soon as possible. That process has now commenced.

Chairperson, a significant programme of work has to be taken forward in a limited time, and I would welcome the Committee's support in that. One aspect of that work may be a requirement for short-term legislation within a very tight schedule, which may require accelerated passage. If that arose, I would obviously want to talk to you and to the Committee about that.

At the same time as taking those governance actions, I am continuing to fight for the funding and investment that is needed to deliver proper, improved services and a stronger, better water and sewerage infrastructure. I will take account of any recommendations that arise from the Public Accounts Committee's deliberations on those issues.

The Chairperson:

OK. Minister, when you say that the Executive are in favour of the majority of funding coming from the public purse, does that mean that the Executive, as a whole, have agreed that there will never be a separate water charge?

The Minister for Regional Development:

I can tell you only what the Executive have decided to date. They have taken two decisions on deferral. That has led to a situation in which the Executive have clearly decided not to follow the direction of travel, if you like, that was laid out under direct rule. All of us who contested the 2007 election were elected on a platform of opposition to following through with direct rule propositions to create a self-funding, separate-charging, potentially privatised model to deliver

water and sewerage services. The Executive have set their faces against that model and have taken two decisions. They supported the most recent position that I took to them, which was a decision of ongoing deferral. Allied to the fact that the Treasury has changed the way that it looks at NIW, it is not sustainable in the longer term to simply go on and, every once in a while, take a decision of deferral. We need to change the structures themselves.

I have not heard any proposition from any party around the Executive table to initiate a separate system of water charging. Certainly, I know that that was not included in the propositions that my party and the DUP put forward. Obviously, we are waiting for propositions to come from other Executive parties. Therefore, I assume, from the decisions that have been taken to date, the positions that have been put out and the position that most parties adopted during the last election, that that is the direction in which the current Executive and parties in the Assembly want to travel.

The Chairperson:

To be absolutely clear: you believe that charging for water, as a separate entity, is not going to happen. Not only will we not take regular decisions to defer, we will actually enact legislation that ensures that water charging, as an entity, is over. Is that what you are saying?

The Minister for Regional Development:

That is certainly my impression. My intention, from my own political perspective, is that the propositions that were drafted under direct rule, which were to take NIW in a certain direction, will not be enacted by any of the political parties that are now represented in the Assembly.

The Chairperson:

That being the case, can you give us an idea of the financial cost of that?

The Minister for Regional Development:

There may well be risks attached to that. However, risks are attached to us sitting in our current position, and those are no different from any risks that may be attached to going forward in a different direction. The fact that the Executive did not follow through on direct rule proposals left a risk attached to VAT and to the depreciation of assets. Those risks have never been tested

with the Treasury. The Treasury has never come back and said that it views the matter differently and wants to approach it differently. Risks arise under the current set of circumstances, and to just do nothing and hope that the Treasury does not notice is not really an option for the Executive going forward. Therefore, although there are risks attached to going forward in a different direction, there are also risks attached to sitting in the current position. There may well be costs attached to changing the nature of NIW. There may well be savings to be made as well with regard to the cost of regulation. We are currently testing out all those propositions. Obviously, one of them relates to the attitude of the Treasury with regard to VAT and asset depreciation.

The Chairperson:

How much will it cost the Executive to defer water charges?

The Minister for Regional Development:

£200 million.

Mr John Mills (Department for Regional Development):

The current funding of Northern Ireland Water is roughly £200 million capital and £200 million resource.

The Minister for Regional Development:

Some of that money is brought in through commercial billing. In effect, what the Executive have deferred is households' contribution to NIW.

The Chairperson:

Is the actual cost £200 million?

Mr Mills:

Those figures are roughly the current costs to the Executive.

The Chairperson:

Are you saying that it costs the Executive £200 million a year to defer water charges?

The Minister for Regional Development:

It costs them £200 million a year not to go ahead with the plans that were envisaged under direct rule.

Mr Mills:

We have to be careful about saying that that is the ongoing cost to the Executive, because they always would have lent NIW the capital money. One cannot say that there is an ongoing cost of £400 million each year. The Executive agree the amount that people contribute through rates.

The Chairperson:

The reason I am asking about the total cost is that, if there is no go-co, there is no privatisation of water in that sense, and the only other home for it is with the Department. Is that not right?

The Minister for Regional Development:

There are different options, and the use of an NDPB could be examined. If households are not asked to pay for the cost of providing water and sewerage services, the Executive continue to pay for it. That is a decision that they have taken.

The Chairperson:

All the other financial implications relate to Northern Ireland Water being a go-co, and, if we kill off that model, we will need to provide a new one. All the costs will then fall to the Executive, will they not?

The Minister for Regional Development:

Apart from whatever NIW gets from commercial billing, all the costs currently fall to the Executive anyway.

The Chairperson:

Right. If the go-co was ended, it follows that there would be no need for a regulator. All the architecture that has been set up around the go-co would have to be dismantled. Is that right?

The Minister for Regional Development:

It depends what option the Executive agree to. I intend to put an options paper to the Executive. The longer-term change to the governance of NIW would require legislation, which, as I said, it would not be possible to pass during the current Assembly session. However, if an incoming Executive decided to change the governance model, and I would strongly recommend that they do, some of the apparatus that surrounds the current go-co model would not be required. That may well be a saving in the longer term for an incoming Executive.

The Chairperson:

Do you envisage that the notional cost of £161 that was taken from rates will be reinserted?

The Minister for Regional Development:

The Executive would have to take that decision as there are financial implications. Let us bear in mind that every party in the Executive expressed a view and was elected on a platform of opposition to the plans that established NIW. Whatever long-term position the Executive take on how NIW is managed, which may involve changing that view and altering the direction of travel, they will have to examine the associated costs.

The Chairperson:

You have made the point that the Executive are together on the issue and are clear that there will never be a water charge. How does that fit with the Finance Minister's assertion that water charging is a must and a certainty and that there is no way that we can get away with not introducing it?

The Minister for Regional Development:

Like myself, the Finance Minister is an individual member of the Executive, and the Executive as a whole will decide. As I said, two of the parties in the Executive, including the Finance Minister's party, have put forward economic proposals for the time ahead, and water charging was not including in those propositions.

Mr Boylan:

I welcome the Minister and thank him for his update. Can NIW be brought back into central

government? What would be the financial implications of that? You also touched on PC10. What is the current position on that determination?

The Minister for Regional Development:

One of the issues that predicated the former Water Service being brought out of the control of central government was that it was in conflict with EU regulations, particularly environmental regulations and the ability to prosecute a provider of water and sewerage services for pollution. Therefore, the difficulty with bringing NIW back into the Department and going back to the Water Service model would be the contravention of EU environmental regulations, and we are looking at other options.

A lot of the work on the PC10 process has been concluded between NIW and the regulator. We are trying to ensure that we have the money going forward, and we want to agree and sign a memorandum of understanding. However, some classification issues to do with how money is accounted for are outstanding with the Department of Finance and Personnel (DFP), and I met with the Finance Minister and the First Minister and deputy First Minister last week to go through some of those issues. As soon as we can get those sorted, we can allow the memorandum of understanding, which will deal with PC10 for the coming period, to be signed.

Mr McDevitt:

Thank you for your time today, Minister. I have a couple of questions. You mentioned that you need to have conversations with the Treasury about the potential cost implications of the proposals that you may or may not bring forward. Have you had any conversations with the Treasury?

The Minister for Regional Development:

No.

Mr McDevitt:

Have you had any conversations with the Department of Finance and Personnel, the people who have conversations with the Treasury on behalf of the Northern Ireland Executive, about specific proposals and alternatives to the current go-co?

The Minister for Regional Development:

No, because we have not presented specific proposals to the Executive. We have been talking to DFP about a number of issues that relate to NIW. However, you should bear in mind that the issues with which we are dealing, and the issues that may be of interest to the Treasury and on which it may want to adopt a particular view, have been ongoing for a number of years. The general rule of thumb is that the Treasury deals with us through DFP and that we do not deal directly with the Treasury. However, no one has come to us to say that there is a particular risk or that the Treasury is considering a particular course of action. The risk is around the current Treasury attitude. If we want to alter the nature of NIW, and it is my clear view that we should, part of that will involve a discussion with DFP. We are in contact with that Department on some of the propositions and ideas that we are developing.

Mr McDevitt:

So, you have had conversations with DFP.

The Minister for Regional Development:

I have not had conversations with the Minister of Finance and Personnel about it, but the Department is working with DFP.

Mr McDevitt:

When you spoke to the House two months ago in September, you estimated that the cost of changing the governance structure would be around £45 million to £55 million per annum. How did you arrive at those estimates?

The Minister for Regional Development:

Those are risks. There is a difference between risks and costs. That risk figure relates to VAT and assets depreciation and it is always being thrown at me. Those risks are live under the current situation.

Mr McDevitt:

To be clear, those are the risks of Treasury calling in VAT and other charges against us.

The Minister for Regional Development:

Yes, and which exist as we sit here today.

Mr McDevitt:

They exist as things stand.

The Minister for Regional Development:

Yes, and they may well exist in any future arrangement.

Mr McDevitt:

You referred to the fact that there could be costs in any future change of governance structure. What would those costs be?

The Minister for Regional Development:

There would be the cost of changing the organisation and its identity. However, savings could also be made through removing the apparatus of the go-co structure, which currently costs the Department. Some costs need to be identified and tested, and that would be part of the propositions that are put to the Executive.

Mr McDevitt:

The truth is that you will not know what those costs are until you know what you are proposing.

The Minister for Regional Development:

We will not know what the costs are until we know what the Executive agree to follow through on.

Mr McDevitt:

But the Executive cannot agree anything until you propose something to them.

The Minister for Regional Development:

When we propose to the Executive a number of options, we will cost those in as far as is possible.

Some costs are an estimation of what may or may not occur if we remove some of the regulatory framework that currently exists around the go-co model. Again, those would be estimated costs. However, as I said, that may well identify some savings for the Executive.

Mr McDevitt:

Two months have passed since you came to the Assembly to make what was, at the time, an urgent and dramatic statement. You presented in public your desire to see the reintegration of Northern Ireland Water within the Department as an agency. I welcome your clarification today that that would present all sorts of other problems that we probably want to avoid, particularly when it comes to our ability to comply with European Union regulations. Given that such a proposal may, as you said, require short-term legislation and, therefore, accelerated passage, when, specifically, will you have a proposal to put to us as a Committee so that we can put that to our Executive colleagues?

The Minister for Regional Development:

First, let me be clear about the statement to the Assembly. The statement was on the ongoing issues arising from investigations into NIW, which had, I suppose, come to a head over the summer. Secondly, in that statement, I did not propose taking NIW back into the Department as an agency. I did not dramatise the statement in any way. A number of Members who spoke in the Chamber that day characterised it incorrectly as renationalisation when it had never been nationalised. Some Members and media commentators took part in quite a lot of characterising, rather than accurate reflection, of what I said.

My statement set out a fact that had been in existence for some time and of which I am sure that many members of the Committee were aware. I said that the current hybrid arrangements could not continue. The governance failures at NIW brought that into sharper relief, but that issue was already in existence and needed to be addressed. I had spoken to my officials about that on a number of occasions. In 2008, the arrangements kicked in whereby the public expenditure aspect of NIW was to be treated as an NDPB but its governance and legal arrangements as a go-co. Those were in conflict and, increasingly, that needed to be dealt with. Therefore, the statement was not new, dramatic or anything else. A number of people characterised incorrectly my intentions from the statement.

Mr McDevitt:

So, there were no new proposals in the statement.

The Minister for Regional Development:

There was clear public expression of something that I had known, and I am sure that Committee members had known, for some time. Members of the Executive should also have known of it for some time. It was that the hybrid arrangements, in the way that NIW was treated, were not sustainable in the longer term. Having taken two decisions to defer, the Executive have set themselves clearly against the direction of travel under direct rule. All parties, including the SDLP, although perhaps not Mr McDevitt individually, were elected in 2007 in a position of opposition to that direction of travel. Therefore, it is clear that we needed to set a different direction of travel. I was stating what had been obvious and apparent for some time. There was no new departure.

I intend to take short-term propositions to the Executive, and the Committee will be informed of that, this side of Christmas. A longer-term set of propositions will be made to the Executive on the other side of Christmas.

The Chairperson:

Have you never supported the go-co model?

The Minister for Regional Development:

Whatever the individual model of how NIW was delivered, the direction of travel that was set under direct rule and which created the go-co model for a self-financing, regulated utility was opposed by all of the parties here, particularly because of the separate water-charging issue. People expressed opposition because they felt that it was leading to privatisation and because they were opposed to the double charging element of it. Whether or not they objected to the actual model, the way in which it was structured and where it was taking NIW, a publicly-owned and publicly-funded asset, was a source of opposition from all of the parties in the Assembly. The model for delivery needed to be looked at.

It came more into conflict in 2008 after the Hillyard report because of the way that the Treasury dealt with the accountancy arrangements by, on the one hand, looking at NIW as an NDPB and, on the other hand, as a go-co. That led it more into conflict and made it clear that the issue was not simply one of how we would fund water and sewerage services but that the Executive would need to look at the whole issue of NIW as an entity.

The Chairperson:

I asked you that question on the go-co model because there could be a go-co model with no issues around governance. It is not the model that caused the issues around governance but the people who were delivering the go-co.

The Minister for Regional Development:

The problem is that the model has caused issues around accountancy. On the one hand, the Treasury wanted NIW to be treated as an NDPB because it continues to have majority public funding. Over the Executive's lifetime, it has taken the position on two occasions that NIW continue to be a majority publicly-funded, government-owned asset. No one has proposed anything different to that. That is in conflict with the go-co model, and that is where the necessity comes for a change to that.

I agree that the governance issues could have happened under any model, and that is why there is a set of shorter-term propositions to tighten up the governance arrangements. That is why we had the investigation, and I took action in relation to that. Such governance issues can happen under any model, and they can happen inside a Department, but, given the Executive's decisions and the difference in treatment by the Treasury, the go-co model has become increasingly unsustainable. That is why, given my responsibility for NIW, I will propose that that changes.

The Chairperson:

The go-co model could be retained, and it could continue to receive a subsidy from the Executive. That does not affect the model.

The Minister for Regional Development:

It does not affect how the Executive pay for water and sewerage services. However, on the one

hand, NIW is treated as a self-financing company and the regulator has the power to set its prices as if it was a private utility, and yet the Executive pays for it on the other hand. That is a conflict that the Executive need to address.

The Chairperson:

I am totally confused. We spent tens of millions of pounds setting up the go-co.

The Minister for Regional Development:

We did not spend it; direct rule Ministers spent it.

The Chairperson:

Taxpayers spent it; you and I spent it. The model was set up because the previous model, the Water Service, was inefficient. The Water Service was replaced by a go-co in order to deliver a more efficient water service. The issues about governance have nothing to do with finance or the model, but they have everything to do with individuals. Irrespective of what model you set up, people will have to pay.

The Minister for Regional Development:

People pay because the Executive pay, and people pay the Executive.

The Chairperson:

Irrespective of the model, you and I will have to pay.

The Minister for Regional Development:

You and I are currently paying.

The Chairperson:

Yes, and we will go on doing so regardless of the model. People think that, because they are not charged for water, it is free. It is not.

The Minister for Regional Development:

I do not think that anyone has ever argued that. In very simplistic terms, the issue for most

people was that, under the direct rule propositions, people were being asked to pay twice. They felt that they already paid for water and sewerage services through their taxation and their rates.

Allied to that charging issue, there was the establishment of a new model. I do not dispute the fact that there was a need to change from the Water Service model, because it was an agency in the Department and that conflicted with EU regulations. So, there was a need to set up a new model. However, what we got under the direct rule propositions was the setting up of a model, regulated by the Utility Regulator, to go off in the direction of being a self-funding utility, which could have been privatised and was probably heading in that direction. All the parties in the Executive set their faces in a different direction on the issue of charging and on the sort of service that they wanted to have. They wanted a publicly-owned service. Therefore, we have a go-co structure with a utility regulator attached to it, yet that is not the direction in which the Executive have taken it. To add to the complications, the Treasury treats NIW as both an NDPB and a go-co. It would be a dereliction of my responsibility if I were to sit back, allow that to roll on for evermore and say that the Executive does not need to do anything about it.

That does not alter the nature of the funding. The Executive will continue to pay for it and have set their faces to do so. That means that the public pay through whatever other moneys the Executive would otherwise have available to spend on other services. No one is trying to convince people that water is a free service. The Executive have decided that they will pay for it and that means that they cannot spend money elsewhere. That is a democratic decision taken at the Executive table, and people know its consequences.

The Chairperson:

The issue that I am trying to get to is that what we are looking to establish is a variation of the go-co. It will certainly not be going back into the Department.

The Minister for Regional Development:

No.

The Chairperson:

So, we have a body that has difficulties with its governance. That is a matter for individuals and

has nothing to do with the model. Yet, having spent tens of millions of pounds on the model, we are going to create a variation of that model and spend another £10 million, £20 million or £30 million.

The Minister for Regional Development:

There could well be savings. Some of the apparatus that surrounds the existing model is costly to the Executive, and there could be a saving if that was not required. The model that we have at the moment is in conflict. We have a go-co model with the apparatus of a utility regulator attached to it, yet the Executive have clearly decided that that is not the direction that they want to go in. If this institution heads off in a different direction, that is its democratic choice. What I am doing is consistent with the decisions taken by the Executive and with the views expressed by all parties in the Assembly. I am going to offer propositions and options for people to take this in a different direction.

The Chairperson:

I will be interested to see the proposition that you bring to the Executive, along with all the financial costs around it, and to see how other parties react to that. I have not seen any figures. How much it is going to cost, what the model is going to be and how different that will be from the go-co model are all subjective. We have not seen anything. We are talking in a vacuum.

The Minister for Regional Development:

As I said, I intend to bring propositions forward. Propositions have not been brought forward yet, and you will see them when they are. You can make a choice, but, I have to ask, are people satisfied with conditions as they currently exist? If they are not, there is a requirement to bring about change. I am the Minister with the responsibility for this aspect of my Department. Therefore, it is incumbent on me to bring about options and propositions for change. Those will obviously be discussed by the Committee and the Executive.

If people decide that they are satisfied sitting in the no-man's-land in which we currently find ourselves, and that they want to continue along those lines with the risk that is attached to that, that is a democratic decision that I will abide by. However, it is incumbent on me to point out the obvious and to suggest ways of changing the situation.

The Chairperson:

It will be interesting to hear the conversation around that, because it is clear that some of your Executive colleagues are at the other end of the page.

The Minister for Regional Development:

Some of my Executive colleagues have a tendency to talk on one side of the page while their parties talk on the other. I cannot control that. I am only one member of the Executive, and all the other Ministers are individual members too. We will see what people agree to when the choices are put forward.

The Chairperson:

The mandate ends in six months, after which point you may no longer be the Minister for Regional Development. Are you saying that this will all be in place and agreed by the Executive before the next election?

The Minister for Regional Development:

No. As I made clear in my statement of 13 September 2010, I am saying that there is not sufficient time in which to bring about long-term change to NIW, because a substantial piece of legislation would have to be amended. However, the situation cannot continue to roll on. It would be worth it if the Executive could agree a position now that would inform the incoming Executive as to what the views are.

Mr Leonard:

Gentlemen, you are very welcome. Thank you very much for coming.

I want to talk about finance, but not number crunching, because some people are getting lost in some of the figures, and there are still other figures to come. We are pumping money into the water system, and, whatever the model, money will continue to be pumped in. In your mind, Minister, how will the new system give better accountability? I know that the options have yet to be considered, but, will the change give greater accountability, and, if so, how?

The Minister for Regional Development:

There is already greater accountability. Recommendations from the independent review team have already been enacted. Recently, I had a discussion with the chair of the board and got an update on some of the new structures that have been put in place to improve accountability and the board's control over procurement issues. Some of those recommendations have already been rolled out.

Some short-term proposals to amend legislation could be carried out within the current mandate. That would require some discussion with the Committee to see whether it is satisfied with that. I intend to bring forward propositions on that this side of Christmas. I would be happy to discuss those with the Committee.

Better accountability has already been achieved and more can be achieved in the short term. However, in the long term, there is an issue with the structure of NIW. Who knows how the next Executive will be made up? We have to assume that many of the parties that make up this Executive will at least be part of it. If the Executive have a consistently clear view on their opposition to what was developed under direct rule, they need to establish a body that suits that purpose.

Mr McDevitt:

My question relates to governance. On 13 September 2010, you said:

“we have seen a catalogue of events and governance failures that has made improving those essential services more difficult. The ... Go-co model ... is at odds with the public sector provision of water and sewerage services that most people support.” — *[Official Report, Vol 55, No 1, p3, col 1]*.

I was in the House that day, and I heard, as I have read again today, you make a connection between the model and the governance failures. I believe that the Chairman has asked about that. I am curious to know when you came to the view that the go-co model was part of the problem in respect of the governance issues that you were dealing with.

The Minister for Regional Development:

I said that the governance issues brought that into sharp relief. The go-co model has been a

problem since the Treasury changed its view in 2008.

Mr McDevitt:

That is on the cost side. We are talking about governance.

The Minister for Regional Development:

No. I am talking about the go-co model on the accountancy side.

Mr McDevitt:

That is where there are potential cost implications. I understand that, and I appreciate your answer on that. However, I am talking specifically about governance issues. The governance issues that we are dealing with do not relate to the Treasury accounting rules at all. They are totally separate. They are to do with management and government practice inside the organisation. I am trying to understand the point at which you came to the view that the go-co model was problematic for governance.

The Minister for Regional Development:

It was part of the same package, if you like. Clearly, from 2008, the go-co model was more problematic in accountancy terms. As I said, all the parties —

Mr McDevitt:

I understand that —

The Minister for Regional Development:

I am setting out the context for you. All the parties in the Executive were opposed to the direction of travel that was being developed under direct rule. Sometimes, I need to repeat that.

Mr McDevitt:

That is the funding issue, Minister. We all agree on the funding issue —

The Minister for Regional Development:

No; it is not simply the funding issue.

Mr McDevitt:

It is to do with our exposure to Treasury costs, VAT, capital charging rules and all of that.

The Minister for Regional Development:

No; it is not simply the funding issue. The go-co model set up a utility regulator that is attached to —

Mr McDevitt:

How much does that cost every year?

The Minister for Regional Development:

The Utility Regulator operates across a number of Departments. The specific cost for NIW is £2 million.

The Executive's decision about what funding was required for NIW going forward had to be agreed under the PC10 process as though NIW were a self-funding organisation. Therefore, we were doing two exercises at once, which, again, was a contradiction. I was arguing in the Executive for what the Department and I considered was the appropriate amount of money for NIW to invest in order to provide services and to protect jobs, which is perhaps not something that is uppermost in the regulator's mind when it considers how much money NIW requires. Therefore, we had those contradictions with the go-co model. It was not simply a funding issue; the apparatus that surrounds a go-co model created contradictions.

The governance failures at NIW arose in the middle of that. That was not the first governance failure. The governance failures had been ongoing, as the Committee was aware. We had spoken with the Committee about the issue previously. The governance failures brought into sharp relief the fact that the model, as it existed, needed to be tightened up — certainly, with regard to governance — and also the fact that we, as a Department, and the Executive, as the democratic body that is elected to oversee all these things and to provide funding for them, were in conflict with the model that had been set up under direct rule. Those contradictions were growing.

There was not simply one issue. There was a range of issues, which continued to highlight the contradictions. The governance issue also brought that into sharp relief. It brought a particular focus on failings in NIW, which, I suppose, presented more of an imperative to act quickly in respect of governance and also to point out to people the longer-term issues that needed to be addressed. For some time, we had been saying in the Department, and I had been saying in the Executive, that there were contradictions in the way that NIW was being handled and that that needed to be addressed.

Mr McDevitt:

We all accept that there are tensions in the funding arrangements, because, as you say, it is regional policy, effectively, that we should not ask people to pay water charges. I do not see that changing, as you, rightly, pointed out.

The Minister for Regional Development:

I think that it is slightly more than tensions.

Mr McDevitt:

There are issues with the funding model. However, my question is specifically about the governance structure of a wholly government-owned company. Where is the problem in the go-co model that leads you to the conclusion that it brings about all of those governance issues? What practices, which are specific to the go-co, can you put your finger on that lead you to believe that? You could take a policy decision to fund it differently and that would be fine. You would not have to change the go-co. You would just change the funding arrangements and the region's relationship with them. That would be fine. You may wish to make that policy recommendation to the Executive and the House. However, I am asking you about the basic go-co model. Where in that model is there a problem with governance?

The Minister for Regional Development:

I am not saying that there was a —

Mr McDevitt:

You did. On 13 September, you connected the two issues. And you did so again here in answer

to a question from the Chairman.

The Minister for Regional Development:

What I said then and at the start of this meeting was that the ongoing governance issues brought into sharp relief the contradictions and the issues with the go-co model.

Mr McDevitt:

Give me an example of how, specifically, they brought into sharp relief those contradictions.

The Minister for Regional Development:

The governance issues brought attention to NIW and how it functioned.

Mr McDevitt:

How did that bring into sharp relief a governance issue? Any unit in your Department, any arm's-length body or any NDPB could have had an accounting issue, an internal audit issue, a procurement issue or any of those types of issues. That would not have been the fault of the structure of the organisation but the fault of the organisation's management. You are perhaps throwing the baby out with the bath water. You are saying that the go-co is a useless vehicle simply because there have been some governance issues in it.

The Minister for Regional Development:

I am not saying that at all.

Mr McDevitt:

So, the go-co is not going?

The Minister for Regional Development:

We have been saying, particularly since 2008 and since the Executive have taken decisions not to proceed with the plans under direct rule, that the go-co model was not serving the purpose for which it was intended. We have been saying that it was causing contradictions in the funding arrangements and the accountancy, which I have explained. I never said that the go-co model needed to be changed simply because there were governance issues, and that is not the case.

The go-co model was presenting difficulties, and the governance arrangements brought that into sharper relief. We had already been talking about it in the Department. We had said that there were contradictions. Those contradictions were growing, and the PC10 process brought that into sharp relief. The governance issues brought it into sharper relief because it brought a particular focus on NIW. If governance issues were found and dealt with in an agency of the Department, we might well conclude that the individuals involved had been in dereliction of their duty but that the model was OK. However, in the past number of years, we had always been saying that the go-co was not OK.

Mr McDevitt:

That was not because of governance failures; it was because of funding.

The Minister for Regional Development:

We dealt with the issue of the directors, who were responsible for the oversight of governance and procurement in NIW. We dealt with them under the governance arrangements, and we said that that proves more —

Mr McDevitt:

Why not leave the go-co as it is and come forward with a funding arrangement that would be acceptable to the region?

The Minister for Regional Development:

I will go back over all of the reasons again.

Mr McDevitt:

There is nothing wrong with a government-owned company in principle. There is any number of different types of government-owned companies, and choosing how you wish to fund them is a devolved power that you have. That is your decision. You accept that the go-co is not the problem; the problem is how we fund water and sewerage services.

The Minister for Regional Development:

I have said at least four times in this meeting alone — besides all the other occasions on which I have said it — that the go-co is an issue, not only in respect of funding but in deciding how much money NIW gets. On the one hand, we were arguing with DFP on the basis of what we knew of NIW's requirements so that we could protect jobs at NIW, and all Ministers have argued that they want to protect public sector jobs. On the other hand, the regulator treats it as a privatised self-funding utility with the bare minimum of costs required to deliver the provision of water and sewerage services. That is a contradiction, and that is not simply in relation to funding.

The go-co model was a problem, and it is not a matter of throwing the baby out with the bath water. The governance issues, I suppose, put another emphasis on that, but, if the go-co were not a problem, it would simply have been a matter of dealing with the people who, in my view, did not perform properly their duties of providing governance. It would have been a matter of dealing with the directors and leaving the structures as they were. However, for some time prior to that, we had been saying that the model is a contradiction and that it provides problems for the Department and for the Executive. If the Executive's direction of travel is different from that envisaged under direct rule, we need a structure that reflects that.

Mr McDevitt:

You were not saying that publicly prior to that. Since I arrived here at the beginning of this year, I have asked you on a number of occasions what you intended to do. You kept saying that you were not intending to make any changes at the moment, and it was not until there was a governance crisis and you came to the House on 13 September that you decided officially, formally and on the public record —

The Minister for Regional Development:

I would like to see a record of where I said that I was not intending to make any changes.

Mr McDevitt:

It is in the Hansard report of Question Time. Up to 13 September, you were discounting or not saying that the go-co was the issue. I did not necessarily disagree with you, and I have no personal issue with you. On 13 September, after a summer in which there was a governance

crisis within it, all of a sudden the go-co becomes a problem.

The Minister for Regional Development:

You are incorrect. In discussions that I had with officials or the Executive, or that my officials had with DFP, the issue of the hybrid treatment of the go-co was raised. I had a long debate with DFP about what funding was required for NIW, during which I pointed out that the regulator was approaching the matter from a completely different perspective; one that did not reflect how the Executive were treating NIW.

Mr McDevitt:

I accept that, but —

The Minister for Regional Development:

That is now two issues.

Mr Boylan:

How many people are on the Committee?

Mr McDevitt:

Are we happy to leave it at that, Chairman?

Mr Boylan:

How many times are we going to go over the same stuff?

The Chairperson:

Hold on a minute. The purpose of Committees is to hold Ministers and Departments to account. The members of the Committee are elected representatives who are entitled to ask questions and to quiz the Minister until they and the Committee are satisfied. We are all aware of that, and I am sure that the Minister is too.

The Minister for Regional Development:

I am happy that we have established that there are two or possibly three issues and not just one.

The Committee proceedings are a matter of record and for a member to say that I had no issue with the go-co model prior to 13 September is inaccurate. My concern with the model was a matter of record on a number of occasions, and the problem was raised as an ongoing matter between the Departments. I want that to be corrected and not to stand as it was stated.

Miss McIlveen:

The comments made by Mr McDevitt and the points raised are valid to many members of the Committee. Governance has been the major issue that has brought Northern Ireland Water to the fore. In its report, the independent review team mentioned the fact that the directors' positions had not been filled on a permanent basis had caused many of the problems with governance. We are now eight months into a position in which Northern Ireland Water does not have permanent directors. Where are we on moving that forward?

The Minister for Regional Development:

We have begun the process. It is not simply a matter of sticking an ad in the paper; a process must be agreed with the Commissioner for Public Appointments. That engagement has started, and it is our intention to advertise to recruit a chair early in the new year, and to recruit the other non-executive directors on the back of recruiting that chair, because it is important for a chairperson to be involved in that process. As I said on 13 September, the intention is to get into that process. Work is being done, and we will be at the point of advertising for a chairperson very soon.

Miss McIlveen:

It seems that the full complement will not be fulfilled for quite some time. Are we still talking about six to eight months?

The Minister for Regional Development:

Interim appointments were made, and, from the reports that I have received from the board, I have to say that they are working quite well. The board is getting on with its business, as is the company. There are some outstanding disciplinary matters that are reaching a conclusion.

It would be wrong to rush into a recruitment process. A process must be followed in conjunction with the Commissioner for Public Appointments. That process has been ongoing, and we are at the point of advertising for a chair. On the back of that appointment, we will advertise for non-executive directors. That arrangement has been worked out with the Commissioner.

Miss McIlveen:

You may be content that the interim appointments are satisfactory, but there are quite a number of people who are not happy about the process of making those appointments. It seems that we are now going to follow the correct process, which will perhaps take 18 months to fulfil a full complement of permanent directors, rather than the emergency process that you put in place, about which there are still concerns. We received a paper from you through the departmental Assembly liaison officer (DALO) on how the process came about, and it referred to the creation of a longlist. However, we do not have any detail on who was appointed to that longlist and what criteria were used to compile it. We also have no detail on how a shortlist was arrived at and the criteria that were used for that. Those questions are outstanding.

The Minister for Regional Development:

That is fair enough. There was a requirement to enter into an emergency process to appoint interim directors. It was not the normal process for appointment that we are in at the moment, which is a lengthy process and includes much more involvement from the Commissioner for Public Appointments and other interested bodies.

It would not be fair to say who was considered and who was rejected. A list of names may be bandied about, but some of the people considered were not even informed that they were being considered. Therefore, it would be rather unfair to put in the public domain a list of people who were considered for appointment as a director of NIW but rejected, for whatever reason, before even being contacted.

An emergency appointments process was entered into. That was always intended to be temporary and interim. The appointments process for permanent replacements has begun. Part of that, as is only fair, is about giving people some sense of the type of board that they are going to

be appointed to. An agreement by the Executive on what they see as the direction of travel for the provision of water and sewerage services, whatever company or body takes that on, would be important for incoming directors. It is important that that process is carried out properly. That has already begun, and the process of recruiting a chair is under way. Appointment of the executive directors will follow on from that.

Miss McIlveen:

Are you saying that the temporary and interim directors are going to be in place until after all the negotiations have been set out on the future of Northern Ireland Water and whether it remains a go-co?

The Minister for Regional Development:

No. What I am saying is that, if you, for example, were considering applying for a director's post in NIW, it would be fair and helpful if you had a sense of the current Executive's view on what would be required in the future. That is not a prerequisite, but it would make the process fairer. That is why we want to get a paper to the Executive early in the new year, so that, when people apply for the post of non-executive director, they are clear about what type of organisation they are proposing to join and what the political thinking behind it is.

Miss McIlveen:

Given the appointments that you made, I do not think that I would qualify.

In relation to your emergency process that was followed, is the Commission happy with the process or does it have questions about it?

The Minister for Regional Development:

Does it have questions about the current process?

Miss McIlveen:

No; questions about the process for the appointment of the interim directors.

The Minister for Regional Development:

A discussion took place with the Commissioner for Public Appointments. The Commissioner for Public Appointments will never be completely happy with an interim and emergency process, because that goes against the nature of what public appointments are about. Such appointments are supposed to involve properly followed procedure. However, out of necessity, on an occasion such as we had in which directors were dismissed, interim directors were required quite quickly to ensure that the company continued to function. That is not something that the Commissioner for Public Appointments thinks is an ideal situation. However, there was engagement and conversation with the Commissioner for Public Appointments on the emergency process that we adopted. Quite clearly, part of that conversation was that we would move, as quickly as possible, to a position in which we were appointing directors for the full length of tenure and to get back to the normal appointments process.

Miss McIlveen:

Is there a definition of “temporary”?

The Minister for Regional Development:

It was the intention that the interim arrangements would be for in and around nine months, which is, quite clearly, temporary. The normal tenure is for three years.

Miss McIlveen:

We are now eight months into the process. So, according to that definition, in another month you will run out of time.

The Minister for Regional Development:

The intention was that people would be appointed for in and around nine months. However, the dates cannot be absolutely fixed. We wanted to appoint interim directors, to get the company functioning again and concentrating on the business on which it should be concentrating — the provision of water and sewerage services in a very efficient and cost-effective way — and to get on with designing a process to recruit people permanently. That is what is happening now.

Miss McIlveen:

Are you satisfied with what is currently going on at Northern Ireland Water in relation to the actions of the board?

The Minister for Regional Development:

I met the chairman of the board last week. The reports that I have received, and the report on the quarterly shareholders' meeting from the Department's permanent secretary, indicate satisfaction with how the board has processed.

The Chairperson:

Have you discussed in detail with Northern Ireland Water your ideas around the go-co model?

The Minister for Regional Development:

No; that is not an issue for the board. Policy on water and sewerage services is a matter for the Department. It would not be appropriate for the board, particularly an interim board, to have an influence on how policy is developed by the Department and the Executive.

The Chairperson:

Do you think that you can do all that without consulting Northern Ireland Water?

The Minister for Regional Development:

If a different model is proposed, it would have to be ensured that that model would work. I assumed that you were asking what I had discussed with the current board about what we were considering. I do not think that that would be particularly appropriate.

The Chairperson:

You are saying that you are going to change the go-co model that those people are working under, but that you think it is inappropriate to discuss that with them.

The Minister for Regional Development:

If we put forward options for the Executive to consider, we need to ensure that the organisation could function under those options. That is appropriate.

The Chairperson:

Do you not think that you should consult those people before you do that?

The Minister for Regional Development:

Are you talking about the current board? The current board is an interim board. The intention is not that that board will be around when whatever new arrangements come into place.

The Chairperson:

The chief executive will be around. The finance officer will be around. Those people will be around. You do not think that it is appropriate —

The Minister for Regional Development:

I suppose that we are making a subtle distinction between the organisation, which is permanent, and the board. It would not be appropriate for the board to have a say on the type of model used. Certainly, the organisation has to be able to function under whatever model the Executive come up with.

The Chairperson:

We are talking about changing the delivery model for water and sewerage services. An organisation delivers those services on behalf of the Department. It would be incredible for the Department not to discuss that change with them.

The Minister for Regional Development:

That is clearly understood. I think that we were talking at cross purposes.

Mr Leonard:

Thank you for the clarification on the difference between the interim and permanent arrangements.

Minister, has any member of the Executive or any political party from the Assembly come to you officially with complaints about the interim appointments and how those were handled? Has

any member of the Executive or any political party from the Assembly come to you officially to defend the hybrid organisation and to say that it should stay in place because the governance arrangements are OK?

The Minister for Regional Development:

The answer to your second question is no. Nobody has argued for that. People have questioned the risk attached to it. However, members of the Executive are aware that there is a risk attached to the current position. There are concerns around what the implications of any change would be, but I have not heard anyone arguing that the current arrangements should stay.

Members, perhaps even members of this Committee, raised issues during Question Time about the interim appointments. Nobody outside the Chamber has raised such issues with me. However, Members are free to raise questions in the Chamber in a public fashion. As far as I am aware, and I have not seen any correspondence to the Department on the matter, Members raised issues about the interim appointments in the aftermath of the statement and during Question Time.

Mr Leonard:

No Executive member or party has officially said that, given the difficulties with the structures, the hybrid system should be retained. Can we take it from that that most people understand the contradictions in the hybrid organisation, such as the accountancy difficulties that you have highlighted? There seems to be an understanding, perhaps not in every corner of the Assembly, of the contradictions of the hybrid organisation.

The Minister for Regional Development:

The difficulties that that structure causes us have been raised on a number of occasions. That has been discussed by the Executive and between my Department and the Department of Finance and Personnel. From those discussions, I assume that most people are aware of those difficulties. Nobody, in any of those discussions, has said to me that they think that the go-co model and its associated regulatory infrastructure should stay. People obviously have concerns about making sure that we get the right process and minimise any risk to the Executive. I fully understand those concerns. However, given the decisions that the Executive have taken on two occasions over the

past number of years, from my perspective as the Minister with direct responsibility for this, I think that the contradictions inherent in the hybrid model need to be addressed.

Mr Leonard:

I do not want to take over, but I have one final question. There needs to be clarification. A big dust-up is being covered by points that have been made four times today and four times in the Chamber. I think that I am entitled to take my own line. Am I, Chairperson?

The Chairperson:

You certainly are.

Mr Leonard:

Minister, can we take it that there is an understanding of the temporary appointments, despite some slurs that have been made around the Building?

The Minister for Regional Development:

As I said, questions have been raised on that. There are two aspects to that. One is that temporary and interim appointments, by nature, are not wholly satisfactory because you want an appointments process to run through and for people to serve a full term. When that is interrupted for valid reasons and people are removed, temporary appointments have to be made, and that is not ideal.

Quite correctly, people have questions to raise on that process, and I am more than happy with that. Some of it has strayed into questioning the integrity of some of the people who have been appointed, which could be considered a political matter or something else. This is a democracy, and Members are entitled to ask whatever questions they want. They have a privilege to say things in the Chamber that they would not say outside it, and that is fine. Our intention was to make that very much an interim process and to get down to a more permanent process in reappointing people in the normal fashion, and we are currently in that process.

Mr McDevitt:

Related to Mr Leonard's question, I note that there is no great love for the go-co model, and I do

not think that any of us are particularly advocating it. We are just trying to understand how you came to form your view on it. Has anyone outside the Department and your party in Government said that the go-co must go?

The Minister for Regional Development:

By “your party in Government”, do you mean my Sinn Féin Executive colleagues?

Mr McDevitt:

Mr Leonard was trying to establish that no one was advocating that the go-co model should stay, and you are saying that there is not a big campaign to keep that model. I am asking you the counter-question: is anyone advocating absolutely that it must go?

The Minister for Regional Development:

People are advocating that the issue of NIW needs to be addressed properly.

Mr McDevitt:

I understand that, and I appreciate that you were able to give a direct answer to Mr Leonard’s specific question. I have an equally specific question: is anyone around the Executive table saying that the go-co has to go?

The Minister for Regional Development:

No, but I would have discussions with my —

Mr McDevitt:

I want clarity on that if that is OK. I would appreciate that.

The Minister for Regional Development:

If you allow me to answer, I can give you some clarity. As everyone, including you, will know, there are discussions around the Executive table, and there are discussions with ministerial party colleagues. They are quite clearly supportive of my views that the go-co model —

Mr McDevitt:

I would expect your party colleagues to support you. Is there a lobby around the Executive table that the go-co model must go?

The Minister for Regional Development:

I am not sure what the value of the point is.

Mr McDevitt:

It is just to get full clarity from Mr Leonard's question.

The Minister for Regional Development:

I will explain how it works at Executive level. When it comes to an Executive discussion —

Mr McDevitt:

[Interruption.]

The Minister for Regional Development:

You may go there; you never know. I am sure that your aspirations are in that direction.

All parties in the Executive, including your party and the Alliance Party with a single Minister each, have discussions with their colleagues, who then go to the Executive and speak on the topic. Therefore, I am clear of the views of my own Executive colleagues and my party, which are supportive of the position that the go-co should go and that it does not serve our purposes. The trade unions that we have engaged with have the same view.

Mr McDevitt:

To be clear, and it is a minor point —

The Minister for Regional Development:

It is, obviously.

Mr McDevitt:

In the same way that no one is arguing for the go-co model to stay, no one outside your party colleagues has been saying that it should be your top priority as Minister that the go-co model must go.

The Minister for Regional Development:

People have been saying to me that the go-co model does not serve a purpose.

Mr McDevitt:

[Interruption.]

The Minister for Regional Development:

I would need to go back to a record of every conversation at the Executive table. I have no doubt about the views of my party colleagues. I have not heard anyone around the Executive table argue that the go-co is a fine model that should stay and that it serves our purposes. Quite clearly, people recognise that, if the Executive had been appointed and functioning in 2002, they would not have come up with the model that was established under direct rule.

Mr McDevitt:

I respect your absolute right to introduce Sinn Féin proposals to the Floor of the Assembly or wherever else, but what is clear from today is that this is a Sinn Féin solution. It is the way that you wish to fix it, and you have not discussed it in particular depth with your Executive colleagues. You have not particularly consulted on or costed it, and you seem to be a little unclear on what will happen next with it.

The Minister for Regional Development:

You are partially correct and largely incorrect. As a Sinn Féin Minister, I am entitled to bring my views, and I presume that your party colleague in the Department for Social Development (DSD) brings an SDLP perspective to his ministerial work. That is what we are elected for and why we got positions in the Executive on the basis of our party strength. I am entitled to bring forward propositions that I think are correct politically. Indeed, it would be strange if I brought forward propositions that I could not live with from my political perspective.

There is a clear sense at the Executive table, or there should be, that the go-co model has caused contradictions for how the Executive does their business. It has contradicted the direction of travel that the Executive have embarked on. As the Minister responsible for that area of Executive responsibility, it is my job to draw people's attention to it and to bring propositions about that. If there was an issue in DSD, I would not bring forward propositions on that. However, I would expect Minister Attwood to do so.

Mr McDevitt:

But you have not brought a proposition yet Minister.

The Minister for Regional Development:

Yes.

Mr McDevitt:

Sorry Chairman, I will leave it at that. The Minister has not brought a proposition yet, and that is the problem.

The Minister for Regional Development:

I am not sure how it is a problem. I identified an issue and made it clear to my Executive colleagues that there is a contradiction that needs to be dealt with. There are short-term solutions in respect of governance. Some of them are already in place, and some of them require approval through the Executive process and, perhaps, the legislative process. Those have to be brought to the Executive. There are longer-term solutions for the future of NIW on which I will bring an options paper to the Executive and, hopefully, will get support for some of them. I am not sure why you consider that to be a problem. That is the normal course of Executive processes and the process of true democracy.

Mr McDevitt:

Your Department is on a go-slow.

The Minister for Regional Development:

I do not know why you think that we are on a go-slow. Let me take you back through the process once again. We inherited —

Mr McDevitt:

[Interruption.]

The Minister for Regional Development:

I am sure that the Chairman and Committee members are not content to sit here all day, but I am quite prepared to sit here for as long as it takes. I want to clarify the point because I do not want inaccuracies to be left that somehow people have not been dealing with the issues or that they may be on a go-slow in relation to them. Remarks can be fired into the middle of the table, and they have to be corrected, otherwise there will be an inaccurate interpretation or representation. That was clear from Mr McDevitt and media commentators' characterisation of my statement to the Assembly.

This has been an issue since the day and hour that the Executive were appointed. They have had a number of discussions and have taken a number of decisions on it. We had the Hillyard report, and decisions were taken on the back of that. Further decisions were made. The Treasury differences emerged in 2008. All of that added to the evidence that the go-co model was a problem for the Executive. The governance issues brought that into sharp relief, but there were other issues that also did that.

In the short term, I am putting forward propositions to improve governance, and some of those are already in place; in the intermediate term, there may need to be some amending legislation; and, in the longer term, options will be put to the Executive. I do not see how that could be considered a go-slow. The issues have been evolving over the past number of years as the Executive have been dealing with them.

The Chairperson:

One of the difficulties is that policies such as this are not yet an agreed Executive position. I take your point that you are entitled to come forward with what you think is best for your Department.

That is quite obvious. However, we have an Executive, and the decisions that you are bringing forward are extremely important not only for the Department and the delivery of water and sewerage services but for people who work in the industry. This is in the public domain, yet it has not been agreed, and the Executive could decide that they are quite happy with the go-co model.

The Minister for Regional Development:

That could happen.

The Chairperson:

Where would we be then?

The Minister for Regional Development:

We would live with the consequences.

The Chairperson:

Sorry Minister, you are in the Government. You cannot come here and say that you will put forward a proposal and, if there is a consequence of your Executive colleagues being on board or not being on board, you just have to live with that. What way is that to run the Government?

The Minister for Regional Development:

That is not a question for me, and I am not anticipating the outcome of any Executive conversation. As the Executive Minister with responsibility for this area of government, I am bringing forward propositions that I feel will address the issue, deal with it in a better fashion and make it more consistent with what the Executive have decided that they want to do. If the Executive, in their wisdom, decide that they do not want to follow that course that is a consequence that we will have to live with. I imagine that Executive Ministers will behave responsibly, as they have been doing on this matter, and will try to deal with the issue as best we can in a way that protects the public interest and is consistent with the direction of travel that the Executive have been following.

You are right, of course, that no decision has been taken yet. The issues are cross-cutting and

involve finance, and, therefore, Executive approval is required. However, I have the responsibility for taking the lead on this and bringing it to the Executive. That is what I intend to do.

The Chairperson:

I think that it would have been better if the Executive had come forward with an agreed position. We do not have an agreed position. We are in the middle of a public debate on an issue that may never arise.

The Minister for Regional Development:

In fairness, Chairman, you invited me along to discuss the issues in a public fashion. I am quite happy to debate them with the Executive in public or in private. However, I have a responsibility to bring papers to the Executive that offer options and explain the consequences of following those options.

The Chairperson:

Until issues are issues, in that a position has been agreed by the Executive, we cannot actually discuss them. I say again that we are talking in a vacuum. After all the work that we have done, the Executive could decide that they are happy with the go-co model. We have put workers through all of that. Listening to this, those workers are probably now concerned about whether they are going to have a job and what the structure of their organisation is going to be. That is my concern. It is unfortunate that we are having this debate, given that the Executive have no position on it.

Another issue is that you want to get rid of the model because it was introduced by British Ministers under direct rule. That is a political point that you are perfectly entitled to make. However, that is part of it.

Another issue has to do with regulators. This is about customers. Regulators are here to provide a fair price for customers. However, all that will be swept away.

Huge issues are involved, and we have had very little discussion around those. I am

astonished that someone can come along here and make the statements that you have made without having agreement on whether we will retain the go-co model or whether the financial issues are right.

The difficulties around governance issues have nothing to do with the go-co model. Mistakes were made by individuals. Whether it was a go-co or the Water Service, whatever the model, those individuals would have made the same mistakes.

The Minister for Regional Development:

I will address some of those points before we move on. I have dealt with the governance issues and with the people involved. That is a matter of ongoing inquiry elsewhere, and I am content to await the outcome of that.

I have already had these discussions. The debate about how water and sewerage services are funded and operated and the structures involved is a public debate that pre-dates the existence of the Executive. It has been a public debate for many years. The unions have been involved, and I have met them. If I went to the Executive, I am sure that one of the questions I may be asked is what is the view of the Committee. So, it is important that the Committee —

The Chairperson:

I do not think that the Executive are worried about the views of this or any other Committee.

The Minister for Regional Development:

They are. Perhaps the Committee does not want to take a view.

The Chairperson:

We do want to have a view, but we would like something concrete to have a view on. That is the problem.

The Minister for Regional Development:

Perhaps after the Executive have their discussion.

This is a public debate that has never been conducted behind closed doors, and it is correct that it is not. The debate has been ongoing in the public domain for many years. It is impossible to avoid a public debate. I have a responsibility to take the lead on this for the Executive. Therefore, the onus is on me to come forward with ideas, options and propositions, which people can support or not. I also have a responsibility to point out the consequences of leaving things as they are. In my view, leaving things as they are is not tenable. We need to move on. People may disagree with that and be quite content with the situation as it is. That is fine, as long as everybody has all the information on which to base their decisions. However, from previous discussions that the Executive have had, I think that people want to be sensible in their approach to this.

The Chairperson:

There is always a first time for everything.

Mr Boylan:

The Chairperson is well aware that the Minister can bring whatever proposals to the Executive that he wants to.

I want to talk about the proposed legislation. You indicated that we may need to bring forward legislation in the short term. Do you have any idea what would be included in that? Would that go out to public consultation and what would the Committee's role in that be? What impact would that legislation have on the independence of the regulator or, indeed, on how the company operates? Would legislation require accelerated passage or would it be secondary legislation?

The Minister for Regional Development:

In the short term, the legislation that I think is necessary would do a number of things. It would make direct changes to NIW governance arrangements; take the general power of direction over the regulator; direct the regulator to amend the terms and conditions of NIW's operating licence; and substitute DRD for the Competition Commission as the arbitration body for disputed price-control determinations. I think that those are necessary changes. The process may involve accelerated passage, and I would want to speak to the Committee about that, because accelerated

passage is not the optimum way of doing things. However, it is a feature of how people do things, and it is a matter of whether the Committee is satisfied with its being used.

I appreciate the point that the Chairperson made about the regulator ensuring that customers get value for money. However, as regards the protection of public jobs, the regulator has a very narrow focus. The protection of public jobs, which is something that the Committee will have an interest in, is not necessarily on the regulator's radar, and that is one of the contradictions. I am sure that the Chairperson has a view on and an interest in the protection of jobs, but sometimes the protection of jobs conflicts with getting the maximum value for money and the best price for customers. That is one of the areas in which the go-co and the regulatory infrastructure around it conflicts with the views of an Executive, particularly during an economic downturn.

Mr McDevitt:

I have a specific question on one of those points.

The Chairperson:

I am allowing only quick questions.

Mr McDevitt:

It is a quick question. How will substituting DRD for the Competition Commission be in the interest of consumers?

The Minister for Regional Development:

We are in a situation that is an anomaly. Every Executive Minister argues for what they consider to be the funds required to provide services in every section of their area of responsibility. We probably argue from our own political perspectives for what we want to see being developed and delivered, not just in the provision of services but, for example, the jobs that are attached to those services. While I am arguing at the Executive table, the regulator takes a different approach in that it treats NIW as if it was a self-funding and self-financing company, and it goes to the bone of what is required to provide that service. That approach treats NIW as something that it was intended to be, but which it is not.

If there is a dispute about the funding that the company thinks it requires and what I think it requires — it is the responsibility of the Minister and the regulator — that goes to the Competition Commission. That is a costly exercise. I think that the cost would have been about £4 million.

Mr Mills:

I would estimate £1 million at least.

The Minister for Regional Development:

Sorry; £1 million at least. It is a costly exercise. It brings us again to what is almost the stuff of ‘Alice in Wonderland’, because something is being dealt with as it was intended to be but not as it actually is.

Mr McDevitt:

It definitely is the stuff of ‘Alice in Wonderland’.

The Minister for Regional Development:

There you are; that is the anomaly that I am trying to address.

Mr McDevitt:

That connects back to the £200 million cost of deferring water charges, which is based on what the regulator—

Mr Boylan:

We do not need more than four answers.

Mr McDevitt:

I want clarity on this point. The £200 million that we are coughing up at Executive level to defer water charges relates to the efficient cost of running Northern Ireland Water. The regulator, as it stands today, has a function in keeping that figure as low as possible. If you were to remove the regulatory involvement in Northern Ireland Water, that figure would go up. By definition of what you are saying, the incentive to efficiency would be removed from the service.

The Minister for Regional Development:

Not necessarily.

Mr McDevitt:

You want to remove the checks and balances and tensions that give that efficiency. You want to remove the regulator and the option to involve the Competition Commission. As a result, that figure would be more than £200 million a year.

The Minister for Regional Development:

I am sorry to dwell on this, but, if someone throws in inaccurate remarks, leaves them hanging and goes off to something else, those remarks have to be corrected. It is unfortunate, but it seems that that is the way that Mr McDevitt wants to conduct his business.

DRD provides a range of goods and services, some of which are in NIW. The rest of them are efficient. There are efficiency targets for all the areas of DRD, as there are for all the other areas of government. The NIW targets agreed by the Department, the company and the regulator are twice as difficult as the normal targets for Departments. NIW has efficiency targets of 6%, while those are 3% for Departments. We have already set the bar very high. The suggestion that, by removing the regulator, we would let NIW go off and do its own thing and that we would give it whatever money it tells us it needs is a completely false representation of what would happen under any new arrangement.

There are all sorts of agencies and connected bodies that work for Departments, and they all have their checks and balances and efficiency targets. They are all held to account, increasingly so and rightly so, for every shilling of public money that they spend. Any new body that were to provide water and sewerage services would be held to account in exactly the same fashion. I am sure that it would be held to account by the Committee, if not by everyone else.

It is inaccurate to somehow suggest that we would throw out all of the checks and balances and targets on efficiency that ensure proper value for public money and that public spending would rise as a result. It is not based on any evidence whatsoever but is another throwaway

remark. If you have figures that suggest that any proposed change would result in the cost of water and sewerage services going up, perhaps you could furnish me with them.

Mr Bresland:

You said that the Executive give £200 million to Northern Ireland Water, and Mr Mills gave that figure as £400 million. Which is the correct figure?

The Minister for Regional Development:

There is a revenue cost and a capital cost, and there is the amount that NIW raises itself and the amount that the Executive provide as a subsidy, which it was envisaged would have been paid by households. Perhaps John has an accurate breakdown of the figures.

Mr Mills:

The Executive provide £200 million in capital and £200 million for day-to-day running costs. The Executive would always be providing the £200 million of capital, so, when considering the cost of deferral, it is probably only fair to talk about the £200 million of running costs.

Mr G Robinson:

Where are we with Jon Shortridge's investigations into the staff?

The Minister for Regional Development:

That is a matter for the Civil Service. It is being conducted under the auspices of the head of the Civil Service, not by the Department or by me. I have been told that Jon Shortridge is due to report this month. He will not report to me but to the head of the Civil Service.

Mr G Robinson:

I just wanted an update on where we are with that investigation.

The Minister for Regional Development:

He was appointed, and he started his inquiry at the start of October, and I have been told that his report is due this month. It will go to Bruce Robinson, not the Department.

The Chairperson:

Would the £200 million subsidy from the Executive increase if there were any issues around VAT from the Treasury?

Mr Mills:

It would increase. The figures that I am giving you are on the Executive's public expenditure. The Executive provide a subsidy to Northern Ireland Water that, because it is in the regulatory world, is a different figure to £200 million. The figure that we, in government, think of as normal public expenditure, £200 million in resource, would rise by around £50 million per annum if the worst thing happened on VAT. As the Minister said, that is a risk, not a cost.

The Minister for Regional Development:

It is a risk that applies as we sit today, as much as it would apply with any changes.

The Chairperson:

Thank you very much.