

REPORT TO: POLICY AND RESOURCES COMMITTEE - 11 SEPTEMBER 2000

**REPORT ON: MANAGING CHANGE IN THE WATER INDUSTRY
CONSULTATION PAPER FROM THE SCOTTISH EXECUTIVE**

REPORT BY: DIRECTOR OF CORPORATE PLANNING

REPORT NO: 593-2000

1. PURPOSE OF REPORT

To advise members of a Consultation Paper issued by the Scottish Executive on 'Managing Change in the Water Industry' and to recommend a response.

2. RECOMMENDATIONS

It is recommended that a copy of this report should be forwarded to the Scottish Executive as this Council's response to the Consultation Paper.

3. FINANCIAL IMPLICATIONS

None

4. EQUAL OPPORTUNITIES IMPLICATIONS

None

5. LOCAL AGENDA 21 IMPLICATIONS

This report impacts on the key Local Agenda 21 theme of 'access to good food, water, shelter and fuel at a reasonable cost'

6. BACKGROUND

6.1 The Consultation Paper

6.1.1 The Scottish Executive has published a consultation paper on 'Managing Change in the Water Industry' on which comments are invited by 4 September 2000. Copies of the paper have been made available to all political groups and in the members' lounge.

6.1.2 The paper points out that Scottish legislation is cast in terms of water and sewerage services being effective monopolies. Since 1996, service delivery has been the responsibility of the three publicly-owned water authorities, which are accountable to Scottish Ministers and, through them, to the Scottish Parliament, and are also subject to regulation by the Scottish Executive, the Scottish Environment Protection Agency and the Water Industry Commissioner for Scotland for various aspects of their service. The paper states that competition in the Scottish water sector has been developing for some time, a trend encouraged by the Competition Act 1998 which holds out the prospect of third parties gaining access to the water authorities' water and sewerage networks to compete directly with the authorities in supplying customers on the public systems.

6.1.3 The current statutory framework for Scotland was not established with competition in mind, and does not make any allowance for third parties delivering services through the public networks. This creates considerable uncertainties as to whether, and if so under what conditions, third parties can have access to these networks. The Scottish Executive believes that the framework needs to be revised to remove this uncertainty. It also sees a revised framework as the means of ensuring that all types of customer enjoy the benefits of competition; that competition does not develop at the expense of particular groups, such as those on low incomes; and that public health and the environment continue to be safeguarded. It has identified six main areas where it feels change is necessary in meeting these objectives:

- establishing a licensing regime to ensure that new entrants gaining access to the public water and sewerage networks are fit and proper;
- ensuring new entrants are liable to criminal proceedings in the event that they supply unwholesome water, in the same way as the water authorities are at present;
- defining the water authorities' role in protecting network integrity and in acting as supplier of last resort;
- giving the water authorities the legal power to allow new entrants access to their networks;
- developing a framework of charging for access to the public networks that is cost reflective, that ensures the network is soundly financed and that reflects the additional responsibilities placed on the water authorities;
- amending the remit of the Water Industry Commissioner in relation to licensing water authorities and new entrants. The paper also raises the issue of whether the Commissioner should have a role in the enforcement of competition legislation.

6.1.4 The consultation paper states that the Executive is committed to the water authorities remaining in public ownership, and competing effectively and fairly with the private sector. The authorities are already able to form and become involved in ventures, either alone or jointly, that allow them to exploit their expertise. As the market for these services develops, the Executive is keen that the authorities should be able to respond quickly to any demands that arise. To assist in this, the Executive proposes widening the range of activities that can be covered by these ventures and streamlining its procedure for approving such ventures.

6.1.5 Finally, the consultation paper invites comments on whether the role, composition, size and time commitment of water authority boards should be changed. In particular, the paper questions the extent to which local Councillors should continue to be present on the boards as the means of providing democratic accountability. The paper points out that the Scottish Parliament is able to hold Ministers to account for the performance of the water authorities, that every Council is not represented on the boards and that there is a requirement for all water authorities to consult annually with all the Councils in their areas, which may be a more effective means of ensuring that local interests are taken into account.

6.2 **Dundee City Council's Response**

- 6.2.1 The underlying assumption of the Consultation Paper is that competition will drive improvements to the efficiency and quality of water and sewerage services. It is proposed that the Council express the view that a well-regulated and accountable public service can deliver efficient and innovative services which meet the needs of customers, and that access for other parties to the public water and sewerage networks is not required.
- 6.2.2 If, despite this view, a decision is made to allow access to the water and sewerage networks to other parties, then it would be prudent to put in place a robust regulatory framework. It is therefore proposed that the Council's response should acknowledge that the proposals on licensing, legal responsibility and a charging framework would be essential if new entrants to the networks are to be permitted.
- 6.2.3 The commitment in the Consultation Paper to a successful, modern public sector water industry is welcome, and this would be strengthened by giving the water authorities the flexibility to respond to new demands and make full use of their expertise. It is therefore proposed that the Council should welcome the proposals to allow the water authorities to become involved in a wider range of joint ventures and to streamline the procedures for approving such ventures.
- 6.2.4 The Consultation Paper points out that, in terms of democratic accountability, the Scottish Parliament has demonstrated its ability to hold Ministers to account for the management of the water authorities and the Transport and Environment Committee provides detailed scrutiny of Boards and senior management. Nevertheless, and even though every Council cannot feasibly be represented on the boards, it is proposed that the Council's response should support the continuing membership of local councillors on the boards of the authorities as an important aspect of providing democratic accountability.
- 6.2.5 At its meeting on 12 January 1998, Committee discussed a report on proposed water and sewerage charges, expressed concern about the level of the charges and agreed a number of actions including:
- to write to the Secretary of State for Scotland outlining the Council's concern that harmonisation across the NOSWA area is contributing to dramatic increases in Dundee's charges and seeking his support for exploring the feasibility of harmonisation across Scotland, to ensure that the cost of servicing customers in remote areas is borne by the whole country and not just NOSWA customers; and
 - to request that the City's MPs make representations to the Government on the Council's behalf seeking to have the scope of Council Tax Benefit broadened to include water and sewerage charges to protect disadvantaged groups.

At its meeting on 8th September 1997, Committee agreed a response to a consultation paper 'Scottish Water Industry Review' published by the Scottish Office. One of the Council's proposals was that the option of 'mutualisation' should be further examined. This was seen as a way of allowing the industry to borrow capital for investment on the private market, outwith the constraints on public sector borrowing, while also giving powerful expression to the sense of ownership which Scottish people feel in respect of water, by establishing a model of governance such as a consumer co-operative or 'trust' type arrangement through which local authorities and consumer interests would be allocated places on the board of a company limited by guarantee.

It is proposed that the Council's response to the Scottish Executive on the Consultation Paper should re-affirm the call to broaden the scope of Council Tax benefit, to explore the feasibility of harmonising water and sewerage charges across Scotland, and to examine the option of mutualisation.

Director of Corporate Planning Date

Background Papers

'Managing Change in the Water Industry'
A Consultation Paper
Scottish Executive: June 2000