Finance Committee

Public Services Reform (Scotland) Bill

Submission from Waterwatch Scotland

Whilst Waterwatch Scotland (WWS) are not presently referred to in the Bill, the Cabinet Secretary for Finance & Sustainable Growth, John Swinney, MSP, has more recently intimated (July) to the Committee that it is intended to transfer the current functions of WWS to Scottish Public Services Ombudsman (SPSO) and Consumer Focus Scotland (CFS), via Stage 2 Amendments to the Bill.

Having raised the issue with the Committee Clerk, my understanding is that the preference of the Committee would be to hear any submissions made in respect of WWS at this stage. Accordingly, I enclose previous evidence submitted to the Review of SPCB Supported Bodies (RSSB) Committee. These include:

(i) WWS Response to Review of SPCB Supported Bodies Committee – Call for Evidence, dated 5 January 2009;

(ii) WWS Cover Letter in respect of submission (i) above, also dated 5 January 2009;

(iii) WWS letter to RSSB Committee Convener, dated 27 February 2009.

I also enclose links to the Official Reports of the Committee, where the above documents were debated:

A) Link to RSSB Committee Official Report, dated 24 March 2009 (Col 222 to Col 228);
   http://www.scottish.parliament.uk/s3/committees/rssb/or-09/rssb09-0501.htm

B) Link to RSSB Committee Official Report, dated 10 March 2009 (Col 201 & Col 205);
   http://www.scottish.parliament.uk/s3/committees/rssb/or-09/rssb09-0401.htm

C) Link to RSSB Committee Official Report, dated 3 February 2009 (Col 122 to Col 132);
   http://www.scottish.parliament.uk/s3/committees/rssb/or-09/rssb09-0201.htm

D) Link to RSSB Committee Official Report, dated 20 January 2009 (Col 37, 39 & 43);
   http://www.scottish.parliament.uk/s3/committees/rssb/or-09/rssb09-0101.htm

The only update on any of the information provided above is:
• Our previously reported complaints-handling statistics have continued to move from a 75%/25% split between domestic and non-domestic customers to a split of 60%/40% respectively;

• It has, since much of the above evidence was submitted, now been clarified that the savings referred to by the Cabinet Secretary would primarily, if not wholly, be as a result of our current statutory Member, Regional Panel and National Committee infrastructure being deconstructed as part of any proposed merger.

Notwithstanding the recent findings of the RSSB Committee, Ministers have decided still to seek the merger of WWS with SPSO and CFS. WWS will continue to engage appropriately in that process. However, bearing in mind our current statutory roles, noblesse oblige requires WWS to continue to seek to ensure that its current powers and the interests of customers, should not be diminished in any way, shape or form. Accordingly, we welcome the opportunity to make this submission and to provide any such further evidence/information as the Committee may require.
INTRODUCTION - WWS

- Waterwatch Scotland (WWS) is the national complaints handling authority for all domestic and non-domestic water customers and the consumer representative body for the water industry in Scotland.

- WWS went live with its new statutory role, as from 1 April 2006. In that period WWS has, along with the other industry stakeholders, played a significant role in improving customer service, systems, processes and service provider performance within the water industry in Scotland, e.g. 65% reduction in second-tier complaints.

- WWS is a robust, independent, evidence-based expert on the water industry.

- Post-introduction of competition to water and sewerage services in Scotland, WWS is unique in a Scottish context in that it is the statutory second-tier complaints handling body (often referred to as an “ombudsman”) for a Scotland-wide industry sector, spanning both a publicly owned corporation, i.e. Scottish Water, but also private sector organisations, e.g. Business Stream and all other new private-sector entrants.

- WWS is not publicly funded, i.e. through general taxation or otherwise – WWS is funded via a levy, on the industry.

- WWS does not just engage with water and sewerage service providers to improve complaints-handling processes within the industry, but also engages to prevent and mitigate the actual causes of complaints.

- Unlike other ombudsmen, e.g. Scottish Public Services Ombudsman (SPSO), WWS is not limited to dealing with individual complaints solely. WWS is also not limited to specific headings of complaint, e.g. maladministration. This allows WWS to deal with complaints/customer contacts, not only on an individual basis but systemically. Many of the successes to date have been as a result of WWS ability to raise and pursue such systemic issues proactively, to the benefit of customers and the greater industry. This approach also allows WWS to identify potential issues “bubbling under the surface” and remedy them within a short timescale.

- WWS is empowered to make statutory recommendations to a wide range of water industry stakeholders, including Scottish Ministers, the Scottish Government, Scottish Environment Protection Agency (SEPA), Drinking Water Quality Regulator (DWQR) and the Water Industry Commission for Scotland (WICS).

- WWS’s Corporate Office is based in Alloa as a result of the Scottish Government’s Small Business Unit Relocation policy. A small, professional team of staff support the organisational role. Many of
those employed are local to the area and there is a great local pride that a national complaint handling body is located within Alloa.

THE CRERAR REVIEW – WWS COMPLIANCE

- WWS welcomed the Crerar Review* and its findings - all comment with regard to general principles being self-evident and beyond dispute. In being a recently established body, WWS considered that it was compliant with the various findings in the Crerar Review (“Crerar-compliant”).

- The Crerar Review described the most significant change to present (general) complaints–handling systems, as being the recommendation of a move toward a standardised system (standard methodology and process) across all sectors.

- WWS was set up by the Scottish Government, going live with its new functions as from 1 April 2006. It did so with the benefit of a Government approved single tender action, which saw WWS procuring the Complaints Handling and Administration System (CHAS) operated by and licensed from SPSO. As such WWS and therefore complaints from within the water sector are already subject to a standardised e.g. SPSO approved system.

- In addition to operating the SPSO’s CHAS system, WWS also adopted best complaints-handling practice and principles, as evidenced by both SPSO and British & Irish Ombudsman Association (BIOA) guidance.

- WWS (by not being limited to certain headings of complaints) simplified the complaints-handling landscape within the water sector, by not requiring complainants to complain to differing bodies within the sector in respect of differing headings of complaint e.g. as with care complaints.

- Being a small, inexpensive, industry-specific complaints handling body yet still operating within accepted (e.g. SPSO) and approved principles and processes, WWS very much fitted the actual model for complaints-handling suggested by Crerar.

WWS – HOW WE WORK

- WWS responsibility for second tier complaints-handling means that we take forward individual and systemic issues, both proactive/reactively.

- WWS is already operating standardised e.g. SPSO approved, systems and processes.

- WWS has already adopted complaints-handling best practice, as per SPSO and BIOA.
WWS is not limited to narrow complaint remits e.g. maladministration.

WWS uses its credible, authoritative evidence to mitigate future complaints, if need be by own-initiative investigations.

WWS can also identify complaint trends and seek to mitigate future occurrences.

WWS does this by engaging with water and sewerage service providers proactively and sharing customer contact intelligence to justify necessary business changes to those areas/issues giving rise to complaints.

WWS is also a statutory consultee and via various other forums engages with all water industry stakeholders, e.g. Scottish Government Outputs Monitoring Group, and is able to bring a credible, authoritative evidence base which contributes to ensuring that Government and industry priorities are aligned insofar as possible with those of customers, as evidenced by our customer contact database.

In order to assist WWS in dealing and mitigating with systemic issues identified via customer complaints/contacts, WWS has four National Committees:

- Charging  - Service Quality
- Investment - Customer Engagement

By law, WWS also has 5 Regional Panels:

- North West - South West
- North East - South East
- Orkney, Shetland & Western Isles

WWS has performed well in its current joint statutory 2nd tier complaints-handling (ombudsman) and customer representative roles.

Complainer satisfaction with WWS (even where WWS did not find in their favour) is 96% (2006-07) and WWS turnaround times are for the sector fast.

The water industry in Scotland was until relatively recently often criticised. Improvements in the industry have been marked and progress praised. WWS has, in a relatively short period, along with all other industry stakeholders, played a not insignificant role in industry progress and improvements to date to the benefit of customers, the industry and Scotland as a whole.

**SPCB SUPPORTED BODIES COMMITTEE – ISSUES FOR CONSIDERATION**

If WWS’s 2nd tier complaints-handling remit for Scottish Water customers is being considered by the SPCB Supported Bodies Committee, any
transfer/merger of WWS’s current complaints-handling role to any new SPCB
Complaints and Standards Body would require due consideration to the
following points:

♦ WWS currently has an industry-wide specific jurisdiction, i.e. the
water industry in Scotland. Within that jurisdiction, WWS currently
benefits from a range of robust, statutory (if not unique) powers.
Protection of the current powers and *modus operandi* of WWS
should be a key consideration, if not these becoming the model
for all complaints-handling remits being considered for any new
body. Any diminution of WWS current complaints-handling
powers, e.g. statutory recommendations, would not viewed as
being in the customers’ interest.

♦ Consideration would be required for suitable 2\textsuperscript{nd} tier complaints-
handling provision (currently provided by WWS) to customers with
private water providers.

♦ Due consideration would be needed in respect of funding
arrangements for any new (presumably publicly funded) body,
WWS not being publicly funded but funded via a levy on the water
industry.

♦ In the event of WWS’s current complaints-handling role
transferring (in whole or in part) to any new body, consideration to
safeguarding and maintaining the robust customer representative
role (currently provided by WWS, i.e. Panels and National
Committees) would be required.

♦ Appropriate consideration would require to be given for
safeguards for current WWS staff and striking a balance between
giving further development opportunities for staff, whilst
safeguarding specialist industry knowledge achieved over the
piece.
WWS has responded to the Committees call for evidence on the following points:

i  Recommendations of the Crerar Review;
ii  Preferences expressed by John Swinney MSP that the functions of Waterwatch Scotland be transferred to SPSO.

Specifically, WWS wishes to bring attention to the following points:

- Transfer of WWS to a new SPCB complaints and standards body could diminish current WWS powers, e.g. statutory recommendation. WWS is keen to protect current powers for handling complaints from water customers and recommend that other complaint and standards bodies are over time, empowered to the same degree.

- As from April 2008 and the introduction of retail competition in the water industry, WWS deals with complaints on behalf of Scottish Water as well as private water providers. Consideration would have to be given to an alternative complaints handling provision for customers of private water providers.

- WWS is not funded through public funding but via a levy on the water industry - alternative funding arrangements may be required.

- The process of separating WWS complaints handling role from its consumer representative role would need to ensure that robust customer representation is safeguarded.

- Consideration is required re ongoing development of staff to ensure that a balance is maintained between professional diversification and specialism to maintain current service quality levels and that staff are appropriately safeguarded.

Waterwatch Scotland is pleased that the above comments will be taken into consideration during the review of SPCB Supported Bodies Committee. If you require any further information please do not hesitate to contact me. WWS would welcome ongoing involvement in any deliberations of the Committee.

Gary S. Womersley
Chief Officer
I refer to your letter of 11 February 2009 re the above and my prior discussion with the Clerk to the Committee. I would thank the Committee for the previous opportunity afforded to Waterwatch Scotland (WWS) to provide written submissions and oral evidence and am pleased to provide further clarity on the points queried by you.

As requested by the Committee, I am pleased to enclose a copy of WWS’s written submission in respect of the Fit-For-Purpose Complaints Handling Steering Action Group (FCHSAG) Review. In respect of the additional information requested in your letter, I would comment as follows, namely:

1 The total levy paid by Scottish Water (ScW) to WWS for 2008-09 was £719,500. This in effect forms the complete organisational budget and is approved as part of our Corporate Planning process by Ministers. In terms of the relevant legislation, the total levy payable by ScW to WWS and the Water Industry Commission for Scotland (WICS) of circa £4 million, is paid to WICS who are obliged to forward the relevant amount to WWS.

The levy to WWS (and WICS) are required “overheads” that ScW are required by Ministers to pay. Since the introduction of Competition to the non-domestic water and sewerage services market in Scotland, ScW charge all new entrants approved a wholesale charge (approved by Ministers/WICS) which reflect the total costs being borne by ScW in respect of those entrants. As part of that greater sum, the cost of WWS levy will be one of many factors accommodated in a global, non-discrete wholesale cost. As stated, mechanisms for reviewing our levy are via Ministers, as part of our Corporate Planning/budgeting process and wholesale charges approved by Ministers/WICS.

2 In terms of non-domestic service providers, the percentage of contacts received represent circa 36% of all contacts received from the greater domestic/non-domestic customer base. The % can change due to whatever issues are prevalent in the water industry at any one time, e.g. 31% of complaints in 06/07, 28% of complaints in 07/08 and 35% of complaints (to date) in 08/09.

The legal basis for our complaints-handling role, in general, derives from the Water Industry (Scotland) Act 2002, as amended by the Water Services etc (Scotland) Act 2005. Certainly, this would cover not only our complaints-handling role in respect of ScW and domestic customers, but also the “wholesale” element of ScW’s activities in the competitive non-domestic market. In respect of the retail service providers themselves, such powers are further strengthened, by Ministerial Approval of the statutory licensing regime regulated by WICS, e.g. WWS being the ombudsman for such bodies is a condition of license. Ministers also require WWS to perform such a role in its Corporate Plan, Management Statement & Financial Memorandum.

3 I am not aware of any consultation that has occurred in respect of complaints-handling of non-domestic retail service providers. My general
understanding is that whilst by nature of our role we require to have a robust relationship with such providers, already our role is generally well received and its impact on customer service acknowledged. In addition to the view of retail service providers, e.g. Business Stream (BS), I also suggest that the Committee may be interested in the view of WICS who, in addition to their general water industry regulatory role, actually licence the non-domestic market. Again, my general understanding here is that the role of WWS is acknowledged and appreciated, indeed an increasing part of our activities as complaints-handling and customer representative role feeds into the greater performance monitoring regimes policed by WICS. It may be, however, that the Committee would wish to seek the more direct views from the organisations, e.g. BS/WICS directly.

4 In respect of other jurisdictions, Scotland has been hailed as a world-first in opening up a (working) competitive non-domestic water and sewerage services market. Although attempted in England and Wales previously, volume thresholds attached had the effect of not making any market workable.

The position in England and Wales was, however, that our nearest counterpart, the Consumer Council for Water (CCW) would act as the relevant statutory body. The water industry in England and Wales is all privatised however, with no public sector involvement such as ScW.

In other jurisdictions/markets, it is difficult to make comparisons. Water/Sewerage services are either:

(a) Publically owned with a public sector, statutory ombudsman;
(b) Privately owned with a public sector, statutory ombudsman;
(c) Privately owned with a “private” industry backed ombudsman.

The position is complicated in the present case by the respective Holyrood/Westminster split of powers. Many UK-wide private markets are obliged to set up, fund and abide by an independent ombudsman scheme. This is a model often used by Westminster on a UK basis. Also UK markets can have public sector ombudsman. The water industry in Scotland is the only “market”, I am generally aware of that is Scotland and not UK-wide. Many jurisdictions would have a Utilities Ombudsman, but this would require co-operation in respect of currently separate Holyrood/Westminster powers.

Certainly, however if ScW was regarded as one corporation/company (albeit publically owned) amongst many other (private) corporations/companies, there are models for both public/statutory or industry-established schemes. I am not aware of any market jurisdictions where one water market has two ombudsmen, e.g. one for the publically owned part and one for the private element.

5 With regard to what I classed as “systemic” complaints, in terms of the stated legislation, (the Convener of) WWS has broad powers to investigate
the issue reports on any matters deemed to merit it. Strictly speaking, we could investigate and issue a report on subjects in respect of which we had received no contacts/complaints.

In practice, however, our contact data from customers provides an extremely credible evidence base and starting point. Our requirements to have Regional Panels and public meetings ultimately feeds into our Customer Contacts Database. Such “public” contacts or research undertaken or issues identified by our National Committees can also highlight areas worthy of further investigation and comment. Such investigations/comment does not occur in isolation. Whether it be as part of statutory consultee role, or more pro-actively as part of our ongoing relationships with other water industry stakeholders, all matters/issues identified are fed into such engagement and used to justify the necessary changes to ameliorate any future occurrences (See diagram below). It is hard to distinguish where “pro-active” complaints-handling and broader customer representation split, which is a current advantage of the two roles currently forming part of WWS’s role. As previously intimated, all complaints are done (nominally) by the Convener. The Regional Panels and National Committees however provide a useful “radar” in this regard, as well as resource to discuss/deliberate and pursue many of the greater policy aspects involved. In that regard, however, the power of statutory recommendation is an invaluable tool to ensure that all concerns are taken on board by all water industry stakeholders.

![Diagram](customer_representation_diagram.png)

6 Information given to the Scottish Government previously as part of any proposed merger gave a guestimated split between staff required for complaints-handling and customer representation as having a 6.5 FTE/1.5 FTE split among our 8 FTE’s.

Of late, I have applied the test of, “If we did not have a customer representative role, what would be the impact on budget/staff requirement”. By scrapping our Regional Panel/National Committee structures, which are largely done primarily under a customer representative banner, total budget spend saved could be circa £150k and possibly one FTE.
I have previously argued that there are efficiencies in both complaints-handling and customer representation being done in one body. By reducing the staff/budget as above, we would still need relevant compliment of resource for complaints-handling/corporate activities. A current organogram is included which I hope is of use.

I thank you again for the opportunity to provide further information to the Committee. Should any further clarification be required on any aspect, please do not hesitate to contact me.

Gary S. Womersley
Chief Officer