



Minutes of the Meeting between the Commission for Regulation of Utilities, the Environmental Protection Agency and the Water Advisory Body

Thursday 10 March 2022, 14.00 pm

Venue: Remote Meeting via WebEx Video Conferencing

Attended by:

Chairperson Paul McGowan

Members Michelle Minihan Dónal Purcell
Martin Sisk Miriam McDonald

Secretariat Claire Gavin George Antonescu
Darren Browne

By Invite:

Environmental Dr Tom Ryan Director of the Office of Environmental
Protection Agency Enforcement

Commission for Karen Kavanagh Director for Networks and Economic
Regulation of Regulation
Utilities

- 1. Discussion of current regulatory framework that the Commission for Regulation of Utilities and the Environmental Protection Agency operate with respect to Irish Water**

Representatives from the Environmental Protection Agency (Dr Tom Ryan) and Commission for Regulation of Utilities (Karen Kavanagh) made a presentation on the regulatory frameworks of their respective institutions in respect of Irish Water.

The Environmental Protection Agency outlined its mandate to ensure compliance with and enforcement of waste water and drinking water regulations. Prosecutions are an essential tool in the toolkit that focuses attention on issues, prompts behavioural change and protects the public interest. However, its current powers are limited and precludes it from taking certain responses or actions to address matters.

It was mentioned that in cases of serious departures from the regulatory standards, such as the Ballymore Eustace incident, the Environmental Protection Agency has limited powers to prosecute.

The Environmental Protection Agency also pointed out two areas where improvements can be made on the existing regulatory framework, from a legal and practical point of view.

Following the Environmental Protection Agency's presentation, Karen Kavanagh, described the Commission for Regulation of Utilities' main function as an economic regulator which includes setting its allowed operational and capital expenditures, setting tariffs, monitoring performance, and overseeing Irish Water investment plans. Customer protection is also a key part of the Commission for Regulation of Utilities' remit. It can direct Irish Water to comply with its code of practice and intervene in dispute resolution including in relation to connections.

The Commission for Regulation of Utilities also noted that Irish Water's funding model differs from that of the other CRU regulated utilities (ESBN and GNI) which could potentially impact on the effectiveness of financial incentives.

The Commission for Regulation of Utilities pointed out that within the current regulatory framework the main aim of enforcement is for behavioural change, and remedial actions – there is no provision for penalties. However, at times, data deficit and limited enforcement powers under the regulatory framework can limit effectiveness.

2. Questions and Answers session.

Members remarked on the limited powers to prosecute that the Environmental Protection Agency and the Commission for Regulation of Utilities have in cases of serious breaches of duty by Irish Water. The matter in relation to where responsibility and delineation between the Environmental

Protection Agency and the Commission for Regulation of Utilities in relation to enforcement was also discussed. As outlined by the Commission for Regulation of Utilities data deficits delay the course of action that can sometimes be taken.

Enforcement by way of redress to the High Court level was also discussed.

Further mention was made regarding the lack of ability to impose financial sanctions. Consideration needs to be given as how best this can be used to have an effective result given Irish Water's funding model.

Members also mentioned issues around poor communication from Irish Water, especially in relation to Boil Water Notices (BWN). These were acknowledged by both the Environmental Protection Agency and Commission for Regulation of Utilities.

Both the Environmental Protection Agency and Commission for Regulation of Utilities suggested that their regulatory frameworks could be strengthened, which can be brought about through legislative changes.

The Chair and members of the WAB thanked the Directors who agreed that their presentations could be published on WAB website.

Meeting was brought to an end