



An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

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Mr. Eoghan Murphy, T.D.,
Minister for Housing, Planning
And Local Government,
Custom House,
Dublin 1.

19 September, 2018.

Dear Minister,

On 17 May 2018, you asked that the Workplace Relations Commission (WRC) would engage with the parties involved in the transformation programme for Irish Water in relation to the issues arising in relation to that process, and provide you with a short report outlining the key issues and concerns. The Report would enable you to consider the next steps to be taken.

Following your request, I and my team met over the course of the month of July with the four parties concerned (the Irish Congress of Trade Unions accompanied by representatives of relevant affiliated unions, officials of your Department, and representatives of Irish Water and the Local Government Management Agency (LGMA)), together and bilaterally, and received a written submission from each.

I attach my report setting out those views expressed during that engagement, synthesised under the following headings:

- The delivery of water services – current situation.
- Impact on staffing and terms and conditions of employment.
- Future of Local Authorities and of provision of water services.

The written submissions received are also attached.

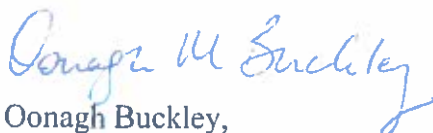
It is clear that the Service Level Agreement (SLA) model has delivered many benefits, not least the effective transition of water service delivery to Irish Water. All parties to this process agreed that, because of their specialist skills and expertise, the continued involvement of staff currently engaged in the provision of services within Local Authorities was necessary for the effective provision, and continuity of service, of public water and waste water delivery. The Water Services (No. 2) Act 2013 (as amended) protects existing terms and conditions and superannuation benefits of staff of Local Authorities if SLAs come to an end and they are transferred to Irish Water. However there are sharply differing views on whether staff should be transferred, in the absence of their agreement, to Irish Water.

I want also to bring to your attention some significant concerns that were expressed during our engagement with the parties.

Despite the importance of ensuring a workforce skilled in the effective delivery of these services, uncertainty about the next phase of transformation appears to be causing difficulties in staff retention and recruitment to water and waste water services at Local Government level. Parties expressed their concerns that additional delay in clarifying the future structure for delivery of water services could exacerbate this situation, and consequently increase risks to the safe and effective delivery of water and waste water services over the medium term.

I would like to thank you for entrusting the WRC with this task, and assure you that the services of the WRC will continue to be available to support the parties in working through their issues with regard to this transformation process as necessary.

Yours sincerely,



Oonagh Buckley,
Director General.



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Report by the WRC to Minister Eoghan Murphy, T.D., Minister for Housing, Planning and Local Government, on the Irish Water Transformation Programme

19th September 2018

Background

Engagement is being proposed around a significant transformation of the delivery of water services as set out in the Irish Water Business Plan (2014 -2021).

In this context the Minister for Housing, Planning and Local Government, in a letter dated 17th May 2018 to the Director General of the Workplace Relations Commission (WRC) requested the WRC to engage with the variety of parties concerned and to provide him with a short report outlining the key issues and concerns.

WRC Process

In a plenary session chaired by the Director General, the WRC met with the 4 parties concerned (the Irish Congress of Trade Unions (hereafter “Congress”) accompanied by representatives of relevant affiliated unions, Irish Water, the Department of Housing Planning and Local Government, and Local Government Management Agency (LGMA)) on 3rd July 2018. The engagement process was agreed as follows:

- The WRC to meet with each of the parties bilaterally;
- Each of the parties to make a submission setting out their positions to the WRC prior to meeting;
- The WRC to prepare a report for the Minister based on the submissions and meetings with the parties.

Subsequently, and as agreed, each of the parties made a submission to the WRC. Meetings were held with representatives, as follows:

- Irish Congress of Trade Unions– 19th July
- Local Government Management Agency – 19th July
- Irish Water – 23rd July
- Department – 23rd July

This report is based on the engagement as set out above. For clarity, it is structured under the following headings:

- **The delivery of water services – current situation**
- **Impact on staffing and terms and conditions of employment**
- **Future of Local Authorities and of provision of water services**

The Delivery of Water Services – Current Situation

In December 2013, 31 Service Level Agreements (SLAs) were signed between Irish Water and the local authorities. This facilitated Irish Water taking over responsibility for the public water services system but operating the system within the SLA framework through the local authorities. The SLA operations model enabled the transition of the services from local authorities to Irish Water, ensuring continuity of service delivery and facilitating stability amongst all parties. Effectively, while Irish Water employs some staff directly, the vast majority of service delivery continued to be delivered by the same local authority staff as before. Funding for the service is determined by way of an annual service plan between Irish Water and the individual Local Authorities.

It was agreed that the SLAs would have a duration of 12 years i.e. are due to expire at the end of 2025.

SLA Operations Model to date

Irish Water acknowledges that the model has enabled:

- The effective transition of water services to Irish Water;
- Delivered key benefits, notably significant cost reductions in the first 4 years;
- Transition and ramp up of a major capital programme;
- Improved incident management and reporting.

The WRC has assisted the parties in chairing the Irish Water Consultative Group (IWCG) which has dealt with and continues to deal with a wide variety of disputes of concern to the parties regarding the operation of the SLAs – typically on terms and conditions and work practice issues.

Congress' strong view is that the current arrangements – the SLA operating model – is effective and works well. It maintains that its members have cooperated with significant change and that any disputes arising have been resolved satisfactorily with the assistance of the WRC facilitated IWCG. It maintains that its members have fully co-operated with a core principle set out in the Framework document agreed between the parties in 2013 **“the essence of the SLA will be a collaborative agreement between Irish Water and the Local Authorities. The key objective is for the SLA to underpin an enduring and collaborative relationship between Irish Water and Local Authorities which facilitates the changes necessary to transform the sector”**

Congress maintains that the model ensures the continued delivery of water services within the parameters of the public service and underpins a strong Congress principle of water services being delivered by the LAs using a direct labour model.

LGMA maintains that while water services are being delivered effectively, significant issues are emerging around staff retention and recruitment, exacerbated by an atmosphere of uncertainty.

Limitations of SLA model

Irish Water has concluded that notwithstanding the significant achievements of the current SLA arrangements, the SLA model cannot deliver the level of transformation required to build an effective modern public water utility capable of delivering its Business Plan targets. Specifically

- The context of regulatory oversight by the Commission for Regulation of Utilities has imposed demanding targets on benchmark standards and costs;
- The required further reduction in operating costs cannot be achieved within a structure of 32 separate organisations;
- Engagement with 32 separate organisations invariably leads to differences in operational practices, inconsistency and associated risks;
- The SLA model does not allow for the delivery of Business Plan targets around customer service, operational performance, environmental performance and cost efficiency.

Transformation Programme – Proposals

Irish Water proposes to transition from the current SLA model to a fully integrated single public utility by 2021. The elements of the proposal are as follows:

- The alignment of control over all work with the statutory responsibility, through a streamlined structure, involving national and regional oversight and planning with local asset operation and service delivery;
- The transfer of day to day water services operational activity and relevant staff from the Local Authorities to Irish Water, and implementing single standards of work and service delivery.
- The provision of a unified and specialist industry workforce with progressive career structures, apprenticeship and graduate programmes.

Irish Water maintains that the most effective way to deliver water services is through the single public utility model which is international best practice in water service delivery. It emphasises that its proposals are underpinned by water services being continued to be delivered by an efficient national public service utility accountable to the Oireachtas.

Impact on staffing and terms and conditions of employment

All parties to this process agreed that, because of their specialist skills and expertise, the continued involvement of staff currently engaged in the provision of services within Local Authorities was necessary for the effective provision, and continuity of service, of public water and waste water delivery.

There are approximately 3,500 FTE staff employed by Local Authorities in the provision of water and waste water services under the SLAs. The majority are in general operative and related grades. Other grades involved are engineers and technicians, craftsmen and a small number of clerical administrative staff. As noted above, significant issues are emerging around staff retention and recruitment in Local Authorities, exacerbated by an atmosphere of uncertainty.

The Department stated the Water Services (No. 2) Act 2013 (as amended) contains a mechanism for the transfer of staff from local authorities if SLAs come to an end. This protects existing terms and conditions and superannuation benefits in the event of transfer.

Transfer to Irish Water

Congress is opposed to the transfer, without agreement, of staff from local authorities to the commercial semi-State sector. Congress is of the view that the proposal by Irish Water to end the current arrangements for the delivery of the public water service and to take into employment the staff of the Local Authority by 2021, allied with the position on staffing expressed by Local Authority management (i.e. Irish Water must be prepared to employ the Local Authority staff), would essentially amount to the “conscriptio” of staff from Local Authorities to Irish Water. They also noted no appetite amongst members to share their experience and knowledge of the water system with Irish Water, given their view that Irish Water will use private contractors to carry out their functions.

Congress signalled its willingness to consider the benefits of other approaches than the current model to the provision of water services but noted that this was predicated on no transfer without agreement to the employment of Irish Water.

In contrast, Local Authority management state that the ending of the SLA model of water services provision would leave individual local authorities without the funding or any functional requirement to continue the employment of the staff involved. Therefore, they did not envisage that there can be the continuation of employment of water services staff by local authorities in those circumstances which would necessitate the transition of staff to Irish Water.

Irish Water acknowledges the requirement that the skills and expertise of those working in Local Authority water services must transition to Irish Water to ensure continuity of service delivery to customers. Irish Water acknowledges the concerns that staff may have and is keen to get into the next phase of discussions to ensure that these are addressed to the satisfaction of all parties.

Impact on terms and conditions of employment.

Irish Water noted the assurances given to staff in the legislation establishing the entity (the 2013 Act), particularly as they relate to pensions, terms and conditions of employment, and the assurances given on no compulsory redundancies. They also highlighted their intentions to support

career structures for a specialised water services workforce, and to invest in staff development, health and safety and technology. They state that they believe that they can offer an attractive proposition to staff in water services within local government currently, with security of employment and good careers.

However, in the engagement with Congress, it was stated that there is no appetite among members to transfer to the employment of Irish Water as this will fundamentally change the nature of their employment, notwithstanding the assurances previously given in legislation; they wish to stay as public servants in the employment of Local Authorities.

Communications to staff about the future

A key point raised as a criticism by Congress is the poor communication from Irish Water management regarding their intentions towards current Local Authority jobs. In engagement with Local Authority management, they also indicated that communications about the future position with staff had not been significant and that was impacting on views of staff towards the issue.

However Irish Water stated that as it not the employer of the local authority water services staff, it has not had the opportunity to engage with staff and comprehensively outline the Irish Water plans for the Single Public Utility. Irish Water would welcome the opportunity, in conjunction with Local Authority Management and Unions, to communicate directly with Local Authority staff to provide them with knowledge and details of their plans.

The future of local government and the future provision of water services.

The parties also raised issues of public policy, such as the future of local government and the future status of Irish Water, which are outside the remit of the WRC. In his letter asking for this engagement process, the Minister noted that the process was separate to wider policy issues being considered, such as progression of work on a Private Members Bill on the protection of the public water system in private ownership. However, for completeness, this section synthesises the issues raised by the parties to the engagement on these issues.

Some related concerns were raised about the impacts of the proposed transfer, if implemented, on local authorities.

Sustainability

Congress stated that it places a very high value on ensuring maintenance of a sustainable system of local government, which puts local authorities at the heart of the delivery of local services. They felt that moving water services to Irish Water will have a very significant and negative impact on the function of local authorities. They felt that for some local authorities there would be doubt about their continued relevance and their capacity to function effectively. Congress emphasised in their submission the need to have regard to ensuring the maintenance of a long term and sustainable system of Local Government.

The LGMA also raised concerns about the potential impacts of the transfer on local authorities. While acknowledging that the sector's role will be to implement, through proper process, decisions of the Minister, Government and Oireachtas, it is mindful of the need for a continuation of a sustainable local authority sector, which is fit for purpose, is resourced to deliver the key functions within its remit and is not compromised in its capacity to delivery on obligations or opportunities presenting particularly in the context of driving economic, social and cultural development across the country.

Funding

Specific concerns were raised by the LGMA about the funding that will be necessary for local authorities to cover the cost of the transfer of water/waste water assets and to substitute for the income under the existing SLAs, and for various legacy costs (e.g. obsolete assets, responsibility for smaller developer-provided water assets). In addition, future pension liabilities arising for Local Authorities in relation to Water Services staff will have to be addressed and finalised as part of the process of transformation. The Department in its submission noted that it recognised that the process of transformation needs to be cognisant of the potential impacts on the wider local government system to ensure that stranded costs do not arise for local authorities which would impact on other services. It indicated a number of means by which those costs will or could be addressed, including a fund already committed to in the National Development Plan to address legacy issues in developer led infrastructure, provision to make Irish Water liable for commercial rates, and agreement in principle that the future funding costs of superannuation benefits for local authority staff will continue to be defrayed through the Department's vote on an Exchequer cost neutral basis to avoid these costs becoming a liability on local authorities if the SLAs are terminated.

Future relationship with Irish Water

Local authorities also noted the need for a structured and workable forward planning arrangement between authorities and Irish Water, so that necessary water infrastructure is delivered in a timely fashion to sustain economic development and permit housing to be constructed. With regard to the latter issue, Irish Water proposes a formal relationship with local authorities through a Local Water Liaison Office, in addition to operating through a “whole of life” asset management model, based on modern data and analytics defining both operational and investment programmes. Furthermore, the Department highlighted that the Government’s Water Services Policy Statement 2018 – 2025 had identified local government as a key stakeholder in its role in relation to economic and social planning and infrastructure provision.

Future provision of water services.

It should be highlighted that submissions were received in advance of the announcement of the Government decision of July 2018 that Irish Water would become a standalone publicly owned, commercial, regulated entity to be separated from Ervia in 2023. Congress representatives indicated their intention to engage with Government representatives in September in relation to the implications of that announcement.

In their submission, concerns were expressed by Congress and its affiliated unions that the transfer of responsibility for water and waste water to Irish Water would facilitate the proposal to privatise the service in time, noting that other local authority services, notably waste collection, are now provided by private companies. It noted that the Minister has indicated his openness to facilitate the holding of a referendum on future ownership, but no plan for the holding of this referendum is in place.

The Department in their submission noted that the Water Services Policy Statement 2018 – 2025 identifies as a principle, and consistent with recommendations made by the Joint Oireachtas Committee on the Future Funding of Domestic Water Services, the public water system is to remain in public ownership. The Department also confirmed that work was continuing the language of a possible amendment to the Constitution on the issue of future ownership, albeit that the drafting of such an amendment was complex.

Congress and its affiliated unions indicated that they were concerned that Irish Water would have the intention to give preference to using contractors over direct labour.

In their submission, Irish Water indicated that, for their future functioning, it would be required to have staff with the requisite knowledge and expertise, from management through to staff in the plants and on the networks. Their intention was the creation of a national public water industry workforce, within a ‘core insourced model’ and supported by a competent and efficient supply chain for specialist services and capital delivery programme. Irish Water is committed to a direct labour workforce for core operational activity and in this regard, intends providing defined career paths for technical specialists through dedicated apprenticeship programmes and career structures.



16th July 2018

Ms. Oonagh Buckley
Director General
Workplace Relations Commission
Lansdowne House
Lansdowne Road
Dublin 4

Re: Irish Water & Transformation

Dear Ms. Buckley,

I refer to the engagement by the Workplace Relations Commission on the 5th July and the request that the parties would provide an outline of the key issues and concerns.

As you are aware the responsibility for the delivery of the Water Service function (to include drinking water and waste water and related services) transferred from individual local authorities to Irish Water on 01 January 2014. While Irish Water employed a number of its own staff directly, the vast majority of the service delivery continued to be delivered by the same local authority staff as before on foot of Service Level Agreements (SLAs) between Irish Water and each individual local authority. These SLAs run to the end of 2025.

There are currently approx. 3500 FTE staff involved in the delivery of both capital and operational services. The actual number of staff involved is higher as the figure provided is a WTE figure. Funding for the service is determined by way of an annual service plan between IW and individual local authorities. This funding whilst primarily relating to the direct delivery of services also includes elements including central management charges

(CMC) which is in respect of the general overhead charges which arise for local authorities in the delivery of water services.

For the information of the Commission the categories of staff and their union representation is as follows. The majority of staff would be in the general operative and related grades whom would primarily be represented by SIPTU however FORSA municipal branch would represent a significant number of the grades in the Dublin Local Authorities. Craftsmen would be represented by SIPTU, Connect and Unite. Engineers who would operate both in the capital and operational services would be represented by SIPTU/LAPO. Technicians would be represented by FORSA. These are the primary groups of staff. There are also a small number of clerical administrative staff involved in the delivery of water services on a full-time basis.

The role of the Local Government Sector in this matter will be to implement, through proper process, decisions of the Minister, Government and the Oireachtas. The Sector will however be mindful that that in delivering Government policy we continue to have a sustainable Local Authority Sector which is fit for purpose, is resourced to deliver the key functions within its remit and is not compromised in its capacity to deliver on obligations or opportunities presenting particularly in the context of driving economic social and cultural development across the Country. With this in mind the principal areas of concern in relation to the Transformation Programme would be as follows;

1. Any movement away from the existing SLA model which does not involve local authority staff in the direct delivery of water services will leave individual local authorities without the funding or any functional requirement to continue the employment of these staff. The Minister has confirmed that there will be no compulsory redundancies arising from any change. The Water Services (No.2) Act 2013 provides a mechanism for dealing with the transfer of staff in situations where SLA comes to an end. Local authorities are committed to implementation of the provisions contained within the Water Services (No.2) Act 2013 however the sector does not envisage circumstances where there can be the continuation of employment of water services staff should the existing SLA model not continue.

2. Any movement away from the existing SLA model will have significant structural and budgetary elements which will have to be agreed between the Management side parties in advance of any change from the existing SLA model. These issues are as follows;

a. Central Management Charge (CMC)

Under the SLA Irish Water is required to make CMC payment which reflects the overhead costs arising from the delivery of water services. This amounted to just under €47 million in 2017. The reduction in one service, water service in this case, will have little or no impact, in the short to medium term, on the in the overall costs of the CMC for each local authority e.g. buildings and other enabling infrastructure will still have to be financed and maintained etc. Therefore, there is a requirement for the deficit which would occur in relation to this funding to be addressed in the event that the existing SLA ceases or is not renewed.

b. Superannuation & Pension costs:

Currently pension costs for water staff are recouped to LA's under the SLA. The sector acknowledges the engagement of the Department of Housing Planning and Local Government in this matter and the progress made in grounding how the costs concerned will be met. It is important to state however that this is a key issue for the sector with regard to medium and long-term sustainability. This matter has been the subject of ongoing discussion with the Department of Housing Planning and Local Government and it is the Local Government sectors understanding that an assurance is in place that a resolution will be achieved that does not result in any pension liability for water staff resting with LAs.

c. Obsolete Asset Transfer.

Should obsolete assets arising from past water service activity fail to be transferred to IW they will constitute an unquantifiable risk for the LA's who own them into the future. These assets will have to be maintained and secured (or decommissioned) on an ongoing basis going forward. There will be a cost arising from this which will have to be addressed in the event that the existing SLA ceases or is not renewed.

d. Developer Provided Infrastructure.

These are primarily waste water and water treatment systems and/or pumping stations serving private developments, most of which are not connected to existing water/waste water networks. There are some 900 of these facilities nationally. It is planned that some 600 of these serving populations greater than 50 persons will be upgraded and become the responsibility of Irish Water. The balance, 300 facilities, at present are not planned to transfer to IW. In the absence of any alternative arrangement with regard to responsibility for these there is a risk that same will likely fall to the local authority sector going forward. It doesn't seem appropriate that having set up a single entity to have responsibility for water services that an important sub set, particularly for rural areas, should remain outside its scope and responsibility. This service will have to be provided

on an ongoing basis going forward there will be a cost arising from this which will have to be addressed in the event that the existing SLA ceases or is not renewed.

e. Service Level Agreements

In the event that the existing SLA ceases or is not renewed this will require a significant level of planning to ensure that there is a seamless transfer of water and waste water services. This in itself will require additional resources to be provided to Local Authorities to support this exercise.

f. Economic Development and Forward Planning -

Local Authorities have a significant role in economic development, both planning for economic development at a strategic level but equally delivering economic development at an operational level. Water services, both water and waste water, are critical to economic development. Should the SLA not continue there will need to be a structured workable arrangement/protocol between the Sector and IW on forward planning to ensure necessary water infrastructure is delivered in a timely manner. The servicing of land for residential development will also necessitate this structured working relationship to be in place.

In addition to the above issues and reflecting a matter raised at the meeting on the 5th July by the staff side, we would again reaffirm that the sector has no intention of prejudicing the outcome of the WRC process and we are prepared to engage in real and meaningful engagement with regard to the issues as they would affect the sector

We look forward to the engagement on the 19th July where we can provide further detail on the matters outlined above

Yours sincerely,



Eamonn Hunt
Assistant Chief Executive



Ervia/Irish Water

Single Public Utility

**Submission to the
Workplace Relations Commission**

17th July 2018

Executive Summary

Irish Water was officially incorporated as a semi-state company in July 2013 and on 1st January, 2014 it took on full statutory responsibility for public water & wastewater services, including management of the water & sewerage infrastructure. The utility has overseen the delivery of these services to households and businesses since 2014 working with the 31 local authorities through a Service Level Agreement (SLA) operations model.

The SLA operations model enabled the seamless transition of the services from local authorities to Irish Water, ensuring continuity of service delivery and facilitating a high degree of stability for all parties in the process. As a regulated utility, Irish Water is required to deliver major efficiencies towards meeting international benchmark levels of service performance. This journey is reflected in the Irish Water Business Plan approved by Government in 2015. The challenge of meeting the Business Plan targets now requires Irish Water to continue the transformation of the sector beyond what has been achieved to date within the SLA framework.

Since late 2015, Irish Water has worked on identifying and developing the optimal future water services delivery model. This process involved extensive review of the existing SLA operations model and reviewing other regulated water utilities which operate in countries with similar geographies and population size. This work recognised that the SLA model was transitional in nature, designed to facilitate the full transformation over time.

The outcome of this work is that Irish Water has concluded that the SLA operations model cannot deliver the level of transformation required to build an effective modern public water utility capable of delivering its Business Plan targets (customer service, operational performance, environmental performance and cost efficiency). Irish Water, based on its review of the options, is proposing that the most effective and appropriate way to deliver water services in Ireland is through a fully integrated single public utility model.

The Irish Water proposal envisages moving from the 32 organisations currently delivering water services to a fully integrated single public utility. This will align control over all work with the statutory responsibility, through a streamlined structure, involving national & regional oversight and planning, with local asset operation and service delivery. An asset management based single public utility integrates investment & operational strategies and plans giving the best outcomes from the assets at least cost. This delivery model allows us to prioritise and optimise investment decisions in order to balance investment decisions between new and upgraded infrastructure and between planned & reactive maintenance.

The proposed single public utility will provide for a specialised water services workforce supporting career structures, with apprenticeship and graduate programs ensuring a specialised organisation to deliver water services. We are focused on delivering the best, most efficient water and waste water services through a core insourced operating model for day to day activity, supported by supply chain expertise predominantly delivering specialised maintenance and capital programs. It is important to note that the Irish Water proposal acknowledges the requirement for the skills and expertise that exists in local authority water services to transition to Irish Water to ensure continuity of service delivery to customers.

The Irish Water proposal acknowledges and respects the assurances to staff provided in the Water Services legislation, particularly as they relate to pensions, terms and conditions of employment and the commitment to no compulsory redundancies as part of the move to the single public utility. We visualise major investment in staff development, in improving health & safety in the sector and in technology which will support more effective service delivery and incident management.

The recently published Water Services Policy Statement 2018 – 2025 confirms that “Public water services are to be delivered by an efficient single regulated public national water services authority, accountable to the Oireachtas. This responsibility is being performed by Irish Water”. It also sets out that “there is to be a focus on ensuring that Irish Water is appropriately structured to deliver on key policy objectives in terms of ensuring water supply, enhancing water quality and achieving business efficiencies, now and into the future”.

Irish Water needs to progress with the implementation of a single public utility. We are convinced that the most effective way to deliver water services is through this model. We are satisfied that this is now required to deliver further on the Business Plan commitments to meet our efficiency targets. We believe that we can offer an attractive proposition to staff in water services through a commitment to the industry, based on a dedicated water utility in public ownership.

There are 3 core areas that we would wish to progress with all parties over the coming months;

1. Have the opportunity to communicate directly with Local Authority staff to provide them with knowledge and details of our plans. We would welcome the opportunity to undertake this in conjunction with local authority management and unions.
2. While we have a proposed organisation design, we need to work closely with local authorities to gather data that is needed as part of our business readiness work.
3. Agree a timeline that allows for the negotiations to commence and be completed - for the transformation to start.

In order to progress with our proposals we are anxious to commence detailed discussions with the relevant parties to agree a framework to progress with the single public utility.

Appendix

Irish Water Proposal – Background & Rationale

The proposal to seek to exit the SLA by 2021 was previously outlined to the Unions at the IWCG meeting on 28th September, 2017 and reflected the considered view of Irish Water Management, the Executive & Board of Ervia, that the objectives of the Irish Water Business Plan (2014-2021) could not be met within the SLA Framework. While recognising the achievements since 2014, the goal of a high quality modern water services organisation in public ownership and control to deliver industry benchmark standards of service & cost was outlined.

Key areas to be addressed

The areas that set out our position are;

1. SLA arrangement – the issues and challenges
2. National asset management organisation for water services
3. Timing of industry transformation
4. Oversight & accountability – a commercial regulated framework with significant public oversight in public ownership
5. Painting the future for staff – a water industry specialisation & career structure
6. Commitment to engaging fully with unions & staff – towards an agreed transition.

1. SLA arrangement – the issues and challenges

SLA to date: Irish Water recognises that the Service Level Agreements with Local Authorities enabled:

- The effective transition of water services to Irish Water
- Delivered key benefits, notably significant cost reductions in the first 4 years
- Transition and ramp up of a major capital programme
- Improved incident management & reporting, especially to EPA/HSE.

Limitation of current SLA arrangements: Notwithstanding these achievements, it has become clear that major transformation is needed if Irish Water is to meet benchmark standards of performance & cost. Our assessment shows that:

- The required further reduction in operating costs cannot be achieved within a structure of 32 separate organisations, and needs to move to a single integrated organisation model which will give major savings in cost (both direct staff & indirect costs)

- The 32 separate organisations invariably leads to difference in operational practices and associated risks, for example:
 - Annual EPA reports have called out the fact that plants with adequate capacity in parts of the country fail to comply due to operational deficits
 - Variations in reporting and accountability in some areas have led to pollution incidents, compliance failures (including prosecutions) and this risk is increasing
 - Lack of controls on incident response has led to outages & in two cases to Drinking Water Restrictions which have both public health & reputational impact
 - Response to customer outages and complaints varies dependent on the quality and completeness of the engagement & reporting to IW/Call Centre
 - Timelines and customer support on new connections is complex, with multiple hand-offs which result in delay and negative feedback
 - Effective leakage management remains out of reach due to the multiplicity of approaches in use from LA to LA
 - A more integrated operating model is needed to mitigate inherent risks to the operations
 - Experience has shown the urgent need for a unified industry workforce. Staff with the requisite knowledge and expertise, from management through centres of expertise to staff in the plants and on the networks, are required
 - An integrated national & regional approach is essential, with accountability aligned to the statutory responsibility to ensure consistent service levels

2. National asset management organisation for water services

All modern water services organisations operate through an asset management model to deliver effective services by optimising the capital investment, operational & maintenance functions. This requires a whole life approach to get the maximum out of the asset base, supported by modern data & analytics (GIS, Models, Workflow). This is not possible when you separate the strategy, investment and operational functions. Key characteristics of such an organisation include:

- A knowledge-led Asset Management organisation supported by GIS, models, workflow data defining both operational and investment programmes
- A complementary Asset Operations function which is streamlined and in control of the work delivery, supported by expert specialists (process etc.)
- Whole-life optimisation of asset performance which drives planned maintenance in favour of reactive repair and informs the investment planning
- Capital delivery, aligned to operating strategies which delivers schemes capable of being operated by operational teams with the required skills
- Customer Operations function which can meet regulatory standards of service through accountable workflow delivery and consistent high quality reporting
- Risk based planning and implementation to give service equity regardless of location on the system

- This model takes full responsibility and control over the services from 'Source to Tap' and 'Sink to Environment'

This is delivered internationally through a utility organisation which has these capabilities at its core, is structured with national, regional & local elements and is supported by industry standard technologies and systems. Irish Water has developed its organisation design, with a core operational capability providing a vital public service, taking full account of international best practice while tailored to an Irish context, and we are looking forward to discussing this with the Unions.

3. Timing of industry transformation

The proposal to seek agreement to transition from local authority operation to Irish Water by 2021 reflects the need to deliver both the financial & service targets of the Irish Water Business Plan, which in turn align to regulatory targets and expected Exchequer and other revenues. This Plan reflects the efficiency achievements of similar public water utilities and is the basis for the regulatory price controls. In terms of finance, the target savings are critical to funding the capital investments needed by 2021. Equally, the operational service improvements are vital to supplement the capital investments in order to meet the targets for growth & compliance.

The bulk of the required operational efficiencies and service improvements can only be achieved by implementing a fully transformed and integrated single public utility by the end of 2021. This involves transferring the day to day water services operational activity and relevant SLA staff from the Local Authorities to Irish Water, and implementing single standard systems of work and service delivery.

4. Oversight & accountability

Irish Water/Ervia fully supports the delivery of water services by a national utility in public ownership and democratically accountable. In this regard we highlight the following:

- Irish Water is overseen by the Economic Regulator (CRU), Environmental & Public Health Regulator (EPA, advised by HSE), Departmental (DHPLG) & NewEra governance, including policy direction and funding approvals, the planned Water Advisory Body reporting directly to the JOC (Housing, Planning & Local Government) while also being subject to the FOI Acts
- Irish Water relies on its ability to act in a commercial manner to deliver its major investment & operational budgets efficiently and to meet its programmes. We do this in full compliance with public procurement and subject to the foregoing supervision requiring full open transparency.

5. Painting the future for staff – a water industry specialisation & career structure

At the core of the proposal is the creation of a national public water industry workforce, committed to supporting citizens & communities in delivering these vital services, within a 'core insourced model' and supported by a competent and efficient supply chain for specialist services and capital programme delivery. Across the world, this model is recognised as the correct approach for water services delivery given its criticality to society.

Irish Water believes that in order to transition to the single public utility, it is essential that the parties commit to discussions and negotiations under the auspices of the WRC to develop a suitable framework while meeting the needs of both Irish Water and the Local Authorities.

The Water Services legislation provides the necessary and appropriate protections for staff with respect to terms and conditions of employment and current pension arrangements. At the same time, we are committed to investment in staff development as an essential part of the transformation programme. Benefits for staff will include:

- Training and upskilling
- Career progression & promotion opportunities
- Better & safer working conditions (plant, facilities, fleet, tools)
- Centres of Excellence to support operations staff to deliver better service locally
- Opportunities for specialisation
- Apprenticeships aimed at ensuring a sustainable operating staffing
- Less reliance on and potential insourcing from the DBO model
- Information systems providing relevant data locally to operations.

Irish Water will continue to have a formal relationship with Local Authorities in terms of a Local Water Liaison Office, as well as cooperation in incidents & emergencies.

6. Commitment to engaging fully with Unions & staff

In summary, Irish Water is committed to fully engaging with Unions & Local Authority Water Services staff in order to seek an agreed transition to the utility model. We welcome the opportunity to address all of the issues under the auspices of the WRC. We believe that we can offer an attractive proposition to staff in water services within local government currently, with security of employment and rewarding and fulfilling careers.

Equally, we recognise that a number of legacy issues arise for local authority managements which require to be addressed in support of a sustainable long term local government model. We have been working with the DHPLG and the sector in order to resolve these satisfactorily and significant progress has been made on all of these issues.

The WRC process is an important opportunity to table all of the issues which might be impediments to achieving the transformation plan proposed by Irish Water and we are ready to work with the Chair and the parties, towards defining a way forward through the detailed negotiation stage.

End.

Submission to the Workplace Relations Commission

Ervia / Irish Water Proposal

1. Introduction

2. The Workplace Relations Commission (WRC) has requested Congress to provide them with a short paper highlighting the issues that we wish to raise in the context of the request to the WRC by Minister Eoghan Murphy in his letter to Oonagh Buckley dated 17 May 2018.
3. Congress understands that Ervia / Irish Water wish to end the current arrangements for the delivery of the public water service and assume full control of it, including taking into employment the staff of the Local Authorities by 2021 at the latest.
4. Congress is opposed to this proposal as it:
 - Undermines the functioning and sustainability of the Local Authority Sector;
 - Provides for the transfer, without agreement of staff from the Local Authorities into the commercial semi- state sector;
 - Facilitates the future privatisation of the public water service;

5. The Local Authority Sector

6. Congress and our affiliated unions place a very high value on ensuring that we maintain a sustainable system of local government, which puts Local Authorities at the heart of the delivery of local services. The Ervia / Irish Water proposal, if implemented, will have a very significant and negative impact on the functioning of Local Authorities. Indeed, for some Local Authorities there would be doubts about their continued relevance and their capacity to function effectively.
7. Ensuring that we maintain a sustainable system of Local Government was one of our objectives in negotiations that took place at the time of the establishment of Irish Water. The WRC will be aware that the Service Level Agreements (SLAs) in place arise from an agreement reached at the Irish Water Consultative Group (IWCG). The 'Framework for Service Level Agreements' was finalised in June 2013. The following is an extract from the introduction to that framework:

"The essence of the SLA will be a collaborative agreement between Irish Water and Local Authorities. The key objective is for the SLA to underpin an enduring and collaborative relationship between Irish Water and Local Authorities which facilitates the changes necessary to transform the sector".

It is clear from this, that it was the intention of the parties, to utilise the current service delivery model beyond the term of the current SLA. However, the Ervia / Irish Water proposal, if implemented, will put an end to the current arrangements. This is unacceptable to the unions and represents a fundamental breach of commitments given to the unions as part of the framework agreement. Furthermore, Ervia / Irish Water has never sought to explain why they wish to change to the current model of service delivery or what problem their proposal is seeking to address.

8. For Congress and our affiliated unions seeking to end the current service delivery model fails to recognise the role that Local Authorities have played in maintaining the public water service over many decades. The response of the Local Authority workforce during the recent extreme weather incidents demonstrates their high level of commitment to providing this important public service. As mentioned earlier Local Authorities have over many decades maintained the service without adequate funding. Government are now providing significant levels of capital funding to Irish Water and it is clear that if these monies had been made available to Local Authorities we would not be facing the problems we have today.
9. For Congress and our affiliated unions removing Local Authorities from the operation of the service increases the risk of significant failure and service disruption. We believe that the public water services should be organised through Local Authorities using a direct labour model. The Water Industry Operating Framework (WIOF) provides the means to successfully transition and modernise Ireland's water services and should form the cornerstone of any future discussions.

10. The Water Services Workforce

11. As mentioned in paragraph three, Ervia / Irish Water plan to take into employment the staff of the Local Authorities currently involved in water services. The management of Local Authorities have made it clear that if Ervia / Irish Water is seeking to terminate the current SLA then they must be prepared to employ the staff.
12. In the view of Congress and our affiliated unions this amounts to the conscription of staff from Local Authorities and is not acceptable. Staff employed in Local Authorities are public servants. Forcing them to transfer to Irish Water will fundamentally change the nature of their employment.
13. Our members have made it clear that they wish to stay in the employment of Local Authorities. Poor communication from IW management regarding their intentions towards current Local Authority jobs and their preferred use of contractors over direct labour remains a key concern. Local Authority staff have the vast experience of the water and wastewater plants and networks. There is no appetite amongst members to transfer to Ervia / Irish Water or giving away their long-learned knowledge to Irish Water, which would effectively cede direct labour to private contractors.

14. Public Ownership of the Water Service

15. It is also the view of Congress and our affiliated unions that the implementation of the Ervia / Irish Water proposal facilitates the privatisation of the public water supply. Congress has received assurances from the Minister that he is willing to facilitate the holding of a referendum on the future ownership of this crucial public service. Despite this, no plan for the holding of a referendum is in place.
16. Experiments in privatising Local Authority Services have failed. The recent RTE Primetime investigates programme on illegal dumping highlighted this. Until relatively recently a number of Local Authorities provided a direct waste collection and disposal service. The Primetime Investigates programme should be the catalyst to bring this service back under public control and it should warn us against repeating the same mistake with our water service.

17. Conclusion

18. The Minister has suggested a process of meaningful dialogue on the reform of the sector. We have received assurances from the Minister that there will be no changes to the current model of service delivery until an alternative model is agreed.
19. On the 8 February 2018, we wrote to the Minister confirming our willingness to engage in such a process. We emphasised that the process cannot have a pre-determined outcome, namely the implementation of the Ervia / Irish Water proposal. We signalled our willingness to consider the benefits of other approaches but that our attitude to these would be guided by the extent to which they are rooted in the public service, employ public servants, use direct labour, and the extent to which they are accountable to the democratic structures of the state. We also emphasised the need to have regard to ensuring that we maintain a long term and sustainable system of Local Government. It should be emphasised that our willingness to consider other models is predicated on confirmation that there will be no conscription of staff as referred to in paragraph 12 of this document.
20. Finally, in order to create the conditions for meaningful dialogue, it is imperative that management take steps to ensure that agreements currently in place are being implemented.

Ends.

**Workplace Relations Commission dialogue process on Irish Water and Transformation
Submission from the Department of Housing, Planning and Local Government**

1. Purpose of the process

The dialogue process provides an important opportunity for all potential issues to be aired and synthesized in relation to proposals for the transformation of Irish Water. The Department sees this process as a stand-alone, exploratory exercise. The report by the WRC will allow the Minister to consider the next steps.

As outlined in the Minister's letter of 17 May 2018 to the WRC, this is separate to wider policy issues being considered, such as the progression of work on the Private Members Bill on the protection of the public water system in public ownership.

The reason why this present process has been proposed by the Minister is based on a common understanding on the need to evolve the service over time and avail of opportunities for increased efficiency and effectiveness. A significant programme of transformation is necessary. The purpose of the proposed transformation is to ensure that Ireland has modern and effective systems for the delivery of water and wastewater services. These systems have to be enabled to develop further in a way that assures efficiency and effectiveness in their operation.

2. Context and background to the Transformation proposals

In undertaking this present process, it is useful to recap on the sequence of activities which has led us this present position. The key starting point is the major reform of the water sector initiated in 2012, which saw the transfer of statutory responsibility for public water services to Irish Water in line with the Water Services (No. 2) Act 2013. Working closely in partnership with local authorities and their staff through the Service Level Agreement arrangements, Irish Water has statutory responsibilities as the national water services authority, responsible for the delivery and development of public water and wastewater services. The ongoing role played by local authorities and their staff in the continuity and improvement of services has been widely acknowledged, not least by the Minister, and is readily understood by all involved in the process.

Since that time, some key components of the operating environment have changed. The statutory transfer of functions to Irish Water has taken place. Irish Water is now reflected on the Government's balance sheet. As a consequence of the Joint Oireachtas Committee (JOC) report on the Future Funding of Domestic Water Services, which was approved by the Oireachtas and given statutory effect where necessary via the Water Services Act 2017, Irish Water is funded largely through the vote of the Department of Housing, Planning and Local Government. Its commercial debt will be replaced by State debt over time. These changes place new demands on Irish Water in terms of accountability, governance and delivering value for money for taxpayers.

It is notable that these changes to the funding model came after Irish Water's current Business Plan had been considered and approved by Government. The Business Plan sets out the priorities of Irish Water to 2021 and underpins the transformation plan for the water sector. In particular the plan refers to moving to one single way of working reflecting best utility practice, with a focus on asset management, operations and customer service. The plan identifies significant reductions in

operational costs amounting to some €1.1 billion over the period of the plan. Examples of similar plans in other water utilities, particularly public water utilities such as Northern Ireland Water and Scottish Water, show that best practice utility approaches can deliver greater efficiency from economies of scale, use of standard operating models and technologies and the appropriate assignment of functions at local, regional and national level.

The understanding that the change in Irish Water's funding structure should not impede in any way the delivery of the requisite level of investment and operational projects set out in the Irish Water Business Plan was central to the Joint Oireachtas Committee report, as approved by the Oireachtas.

During the course of 2017, Ervia examined the options to meet its regulatory and business plan targets and concluded that the public water system would benefit from accelerated integration of front-line operations into the single authority. Thus, the Department was informed that the Ervia Board had decided in principle not to renew the SLAs post 2025 and to work with local authorities and unions to move to the integrated model within the life of the current business plan. The Government noted this position.

Late last year, the Minister met bilaterally with each of the parties to hear their views as the key stakeholders in the delivery of water and wastewater services. At these meetings (with Ervia/Irish Water, ICTU, and the CCMA), the Minister heard and noted the various views of all parties and sensed a common understanding on the need to evolve water services over time and avail of opportunities to bring about further improvements. This led him to write to each of the parties on 18 January 2018 seeking that they would engage collectively and report back to him on the issues and concerns to be considered in developing the appropriate national framework for the Irish Water transformation programme. It is this request that has led us to this point.

As the WRC proceeds with its engagement with the parties, a number of points set out by the Minister in his letters of 18 January 2018 remain valid to the present work being undertaken by the WRC:

- There is a shared understanding that a significant programme of transformation is necessary to ensure that modern and effective systems for the delivery of water and wastewater services develop over time in Ireland.
- Assurance is given that current Service Level Agreements arrangements remain in place until such time as an alternative is agreed.
- Assurance is provided that no compulsory redundancies would arise as an outcome from the transformation process.
- There is a recognition that the process of transformation needs to be cognisant of the potential impacts on the wider local government system to ensure that stranded costs do not arise for local authorities which would impact on other services.
- The Minister, for his part, has indicated that he is open to considering other governance, accountability and structural changes which improve the delivery of public water services by Irish Water.

3. Water Services Policy Statement – clarification of Government policy

On May 21st last, the Minister published the Water Services Policy Statement 2018-2025 following its approval by Government. This is the first Water Services Policy Statement prepared under the reformed Water Services Acts. The Policy Statement gives clear direction to strategic planning and decision making on water and wastewater services in Ireland.

Noteworthy to the present focus, the Statement identifies that as a principle, and consistent with recommendations made by the Joint Oireachtas Committee on the Future Funding of Domestic Water Services, the public water system is to remain in public ownership. Public water services are to be delivered by an efficient single regulated public national water services authority, accountable to the Oireachtas.

The Policy Statement notes that there is to be a focus on ensuring that Irish Water is appropriately structured to deliver on key policy objectives in terms of ensuring water supply, enhancing water quality and achieving business efficiencies, now and into the future. It states that the detailed plan for the next stage of transformation of the authority is currently subject to a process of dialogue involving relevant stakeholders.

Furthermore, local government is identified as a key stakeholder in its role in relation to economic and social planning and infrastructure provision.

4. Potential transfer of staff arising from the Irish Water Transformation Process

This matter has been raised in the course of the Minister's previous contacts with the parties. The Water Services (No.2) Act 2013 provides a mechanism for dealing with the transfer of staff in situations where Service Level Agreements come to an end. This is the basis for the protection of terms and conditions and superannuation benefits in these circumstances.

There are two key elements to be considered in relation to the potential transfer of staff:

- for Irish Water in terms of the availability of skilled, experienced staff to deliver services; and,
- for local authorities as there would be adverse financial implications if they are left with staff without the functions and financing.

These are clearly issues to be addressed as part of this dialogue, in the context of the Minister's request for concerns to be identified and considered in the context of the synthesised report.

5. Issues affecting local authorities

The Minister is aware that important issues of concern for local authorities stem from the potential for stranded costs to arise which would impact on the finances of individual local authorities, central management charges, and the enduring role in relation to the economic development and planning role of the local government sector. The Minister wants to see these financial matters resolved in a way that does not adversely impact on the ability of local authorities to continue to perform their other vital functions.

The Minister has reiterated his and the Government's position on the importance of there being a continuing strategic relationship between local authorities and Irish Water in respect of the role of

water infrastructure and services in the economic development of our counties and cities, and in emergency management.

At an early stage in the Water Sector Reform Programme dating back to the establishment of Irish Water, the County and City Management Association (CCMA) identified a range of issues which were to be addressed in the context of the transition of statutory responsibility for water services from local authorities to Irish Water. Some of these are historical in nature and would have arisen irrespective of the transfer of functions to Irish Water, while others were directly related to the reform programme. Furthermore, there is a distinction between issues which have current impacts and those which would have to be addressed in a scenario where the service level agreements with local authorities came to an end.

An example of the former, is the issue of developer led infrastructure which is not the responsibility of the water services authority. As a result of ongoing work that has involved the Department, the CCMA and, as necessary, Irish Water, provision has been made in the National Development Plan published in February 2018 for a €31 million fund over the period 2018 to 2021 to address legacy issues in relation to such infrastructure.

In relation to issues which would impact if the SLA came to an end, particular concerns have been raised regarding the funding of superannuation costs and central management costs. In the latter context, the actual financial impact in the short and longer term would be dependent on the nature of the transformation process, for example, the degree to which some of these costs would transfer to Irish Water, continue to be provided and recovered from Irish Water or could be met by new sources of revenue from the payment of commercial rates by Irish Water.

In the case of superannuation costs, it is important to note that in Section 28 of the Water Services No.2 Act, 2013 (as amended in 2014), protections are in place for the superannuation of local authority staff who transfer to Irish Water. They become members of the Irish Water Defined Benefit Scheme, which covers their Irish Water service pension cost and a wraparound cost to allow for increases in pensionable salary over local authority salary. This is combined with pension accruing under the Minister's Scheme which deals with past local authority service. The employee receives a single superannuation cheque.

The potential financial liability for local authorities on termination of a SLA could arise from:

- lack of a funding stream for former local authority staff (costs which are currently recouped through the SLA); and
- lack of a funding stream for the liability for past service to local authorities of staff who transfer to Irish Water (again currently recouped through the SLA)

The Department has moved to address these financial issues in the following ways:

- (1) Following on from the passage of Water Services Act, 2017, provision has been made to make Irish Water become liable for commercial rates (subject to its commencement by the Minister in due course). It is understood that the Valuation Office has commenced the process of preparing a global valuation for Irish Water's assets over the coming year and this will provide clarity on Irish Water's rateable valuation. The Department will continue to

compensate relevant local authorities for lost commercial rates revenue in 2018 and 2019 on the same basis as 2017 until the new regime is put in place. The new regime will provide a sustainable source of income for the local authority sector from Irish Water.

- (2) The Department has engaged intensively with the Department of Public Expenditure and Reform in relation to the future funding of superannuation costs of local authority water services staff in the event that the SLAs come to an end. As a result of this engagement, the Department has informed the CCMA that the Minister for Public Expenditure and Reform has agreed in principle that these costs (currently a charge on Irish Water through the SLA) can continue to be defrayed through the Department of Housing, Planning and Local Government's Vote on an Exchequer neutral basis, on termination of SLAs. This effectively means from a local authority perspective that the superannuation costs currently met by Irish Water would not become a liability for local authorities on termination of the SLAs. The Department and the CCMA will now need to work jointly to define the methodology and finer details of the future arrangements, in such a scenario, cognisant that:
- (a) the arrangements cannot be more costly to the Exchequer than would arise if the SLA remained in place; and
 - (b) the need for the Department to comply with relevant public financial procedures.

6. Summary concluding observation

In setting out this understanding of the issues arising, the summary position is that there is an accepted need on the part of the Minister for a programme of transformation, following on from the objectives of the Irish Water Business Plan 2015-2021. He has asked the parties to engage constructively as part of developing the appropriate national framework for the Transformation Programme. Ervia has set out its proposals. The Department looks forward to hearing the views of others on these proposals, and any alternative viewpoints and proposals on how the transformation of Irish Water can be progressed. The overall purpose is to ensure that we have modern and effective systems for the delivery of water and wastewater services in Ireland.

Department of Housing, Planning and Local Government.

17 July 2018

