

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

European Committee A

DRINKING WATER DIRECTIVE

Monday 26 March 2018

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The Committee consisted of the following Members:

Chair: PHIL WILSON

† Coffey, Dr Thérèse (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>)	Pollard, Luke (<i>Plymouth, Sutton and Devonport</i>) (Lab/Co-op)
† Davies, Mims (<i>Eastleigh</i>) (Con)	† Pow, Rebecca (<i>Taunton Deane</i>) (Con)
† Debbonaire, Thangam (<i>Bristol West</i>) (Lab)	Rashid, Faisal (<i>Warrington South</i>) (Lab)
† Goodwill, Mr Robert (<i>Scarborough and Whitby</i>) (Con)	† Syms, Sir Robert (<i>Poole</i>) (Con)
† Johnson, Dr Caroline (<i>Sleaford and North Hykeham</i>) (Con)	† Throup, Maggie (<i>Erewash</i>) (Con)
† Jones, Darren (<i>Bristol North West</i>) (Lab)	† Tomlinson, Michael (<i>Mid Dorset and North Poole</i>) (Con)
† Lynch, Holly (<i>Halifax</i>) (Lab)	† Tracey, Craig (<i>North Warwickshire</i>) (Con)
† Mc Nally, John (<i>Falkirk</i>) (SNP)	Williamson, Chris (<i>Derby North</i>) (Lab)
† Pearce, Teresa (<i>Erith and Thamesmead</i>) (Lab)	Kenneth Fox and Adam Evans, <i>Committee Clerks</i>
	† attended the Committee

The following also attended (Standing Order No. 119(6)):

Heaton-Harris, Chris (*Vice-Chamberlain of Her Majesty's Household*)

European Committee A

Monday 26 March 2018

[PHIL WILSON *in the Chair*]

Drinking Water Directive

4.30 pm

The Chair: Before we begin, I will briefly outline the procedure in European Committees. First, a member of the European Scrutiny Committee may make a statement, for no more than five minutes, on that Committee's decision to refer the document for debate. The Minister will then make a statement for up to 10 minutes. Members of the Committee may not make interventions during either statement. Questions to the Minister will follow. The total time for the Minister's statement and the subsequent question and answer session is up to one hour. The Minister will then move the motion and debate will take place. We must conclude our proceedings by 7 pm.

Does a member of the European Scrutiny Committee wish to make a statement?

Michael Tomlinson (Mid Dorset and North Poole) (Con): It is a pleasure to serve under your chairmanship, Mr Wilson. This debate arises because the European Scrutiny Committee, on which I serve, recommended that the House should issue a reasoned opinion against a Commission proposal for a directive that, among other objectives, requires member states to improve access to safe drinking water for all. More specifically, it requires the provision of water fountains in both internal and external public spaces. A reasoned opinion signifies that the House does not consider that a proposal complies with the principle of subsidiarity. Put simply, we believe that this matter should be left to member states, which are best placed to tackle it, and that EU action will not produce a better result. Should this Committee agree, the House will be asked formally to approve the sending of a reasoned opinion by the deadline of 3 April.

We do not dispute the importance of access to safe drinking water, including the provision of water fountains in public spaces. The Government's response to the Environmental Audit Committee's valuable report on plastic bottles demonstrates that action in that regard is already under way in the UK. As such, the impact of the proposal, should it need to be implemented in the UK, is likely to be limited. As a matter of law, however, we consider it important that EU legislation respects the principles laid down in the EU treaties, including subsidiarity. While the UK remains a member of the EU, we should look to uphold those principles. Despite some initial uncertainty, we warmly welcome the Minister's support for the reasoned opinion.

Why do we think that this proposal, and specifically the access to water provisions in article 13 of the proposed directive, breaches subsidiarity? Ultimately, we do not see any reason why the EU is better placed than member states to tackle the issue. In what way would the decision of one member state to improve

universal access to drinking water and promote its use have a deleterious effect on neighbouring member states or on the EU's internal market? We note in our reasoned opinion:

"The Commission fails to provide any explanation in its proposal...as to the necessity of action at EU level to improve access to drinking water or the greater benefit of acting at EU level."

The Commission justifies its proposal by pointing to the European citizens' initiative on the right to water, which urged EU institutions and member states to ensure that all citizens enjoy the right to water and sanitation, and urged the EU to achieve universal access to water and sanitation. The Commission also points to resource efficiency and compliance with the UN sustainable development goals. Of course the EU should listen to its citizens and seek to achieve resource efficiency, including by reducing single-use plastics—that is important, as of course is compliance with the SDGs—but is an EU requirement for water fountains in all public spaces really necessary and the best way of achieving those objectives?

The Commission and the UK Government both argue that the proposal allows member states a margin of discretion. The European Scrutiny Committee does not agree that there is sufficient discretion. We are also concerned that the Commission has not complied with the requirement in the subsidiarity protocol to provide a detailed assessment of subsidiarity, which should be substantiated by quantitative and qualitative indicators, ideally including a full cost-benefit analysis.

Finally, I understand that reasoned opinions have been or are likely to be adopted by three other Parliaments or Chambers. Although the threshold for a yellow card may not be reached on this occasion, it is welcome to see continued national parliamentary engagement in EU matters.

The Chair: I call the Minister to make the opening statement.

4.34 pm

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Dr Thérèse Coffey): It is a pleasure to serve under your chairmanship, Mr Wilson. I thank my hon. Friend the Member for Mid Dorset and North Poole for explaining the reason for this debate on the Commission proposal on the drinking water directive recast. The Commission proposed the recast in order to take account of existing and emerging pressures on drinking water, the EU commitment to the UN sustainable development goals and the European citizens' initiative, Right2Water.

The UK has a very high level of water quality. In 2016 the Drinking Water Inspectorate chief inspector's report for England reported compliance rates of 99.96% for water supplied by water companies and 95.8% for private water supplies, such as boreholes and natural springs. Most member states achieve between 99% and 100% compliance rates, with the UK achieving overall one of the highest at 99.9%. Some non-compliance is due to domestic systems, for example tap hygiene or plumbing metals; therefore, 100% is very difficult to achieve.

The Drinking Water Inspectorate was established in 1990 to provide independent assurance that the water industry delivers safe and clean drinking water to consumers, and it does a great job. Since privatisation, £140 billion

has been invested in infrastructure, with benefits for the customer and the environment. Leakage levels are down by around a third and two thirds of our beaches are classed as excellent, up from one third pre-privatisation. The percentage of samples failing drinking water quality standards has fallen from between 1.5% and 2% in the early 1990s to below 0.2% in the last few years. The Government expect continuing significant investment by water companies to uphold that quality.

The Government are highly supportive of having the cleanest drinking water possible. That is consistent with our 25-year environment plan and our ambition to leave the environment in a better state than we inherited it. However, the Commission's proposal is complex, and for that reason the Government are still considering it, which includes discussion with the devolved Administrations.

One example of complexity is the Commission's approach to water quality parameters. The World Health Organisation has challenged the effectiveness of some of the parameters currently used, yet the Commission chooses to maintain them or to apply an even stricter approach than the World Health Organisation recommended. We want to understand why that is deemed necessary. For instance, perfluorinated compounds, a by-product of fire-fighting foam, currently are monitored only where they might pose a risk to health. That is because contamination is usually localised to very specific areas. The proposal imposes a requirement to analyse all water supplies for their presence. Analysis of these compounds is expensive and specialised, and not all laboratories have the capability. That could lead to an increase in customer bills or we may need to require a new formulation for fire-fighting products.

Article 13 on access to water, which is the specific article of concern to the European Scrutiny Committee, urges all EU institutions and member states to ensure that all inhabitants enjoy the right to water and sanitation. The Government agree with that objective. The Government have also taken steps to support the increased availability of water freely available to the public. Water companies are working to create a network of water refill points across England for refillable water bottles. Many retailers will offer to refill water bottles, and we are working across Government to encourage transport hubs and retailers to extend their provision of free water and to publicise that to members of the public.

Just last week, I launched Network's Rail's first free drinking water fountain at London Charing Cross station, with its chief executive Mark Carne. I expect that will be the first of many, and I am pleased that many other transport hubs already offer them or have indicated that they will start to do so. That said, the Government share the Committee's concern that some of the revisions in the article are too prescriptive, that the means of meeting the general objective would be better left to member states to decide, and that the final directive must be unequivocal in its compliance with the principle of subsidiarity.

The Government also share the Committee's view that the Commission has not provided a detailed assessment of the subsidiarity that is substantiated by quantitative and qualitative indicators. However, the Government note that it produced a substantial impact assessment of each of the major changes proposed, and that the costs and benefits of article 15 make up a relatively small part

of the overall estimated total impacts of the proposals. For the UK, in particular, the costs of providing additional access are put at zero because of the very high level of connection to a water supply and access to drinking water that we already have, and because of existing or imminent national policies and practices that the Government have developed.

The proposal contains an access to justice provision drawn from the requirement in the Aarhus convention. The UK is a member of the convention in its own right and already complies with its requirements. We therefore do not see the need for that to be in the directive.

The current legal basis for the proposal is article 192(1) of the treaty on the functioning of the European Union. That article is designed for measures that implement EU environmental policy, including those with the objective of protecting public health. The Government consider that legal basis to be appropriate, as the main purpose of the Commission's proposal is to implement EU environmental policy on clean drinking water and it includes a provision for water to be monitored and tested for certain parameters to ensure that it is fit for human consumption.

The European Union (Withdrawal) Bill provides for all EU law to be rolled into UK law on our departure, if it is not already present in UK law. The Government have made it clear that our environmental standards will not be diluted upon our exit, and I remind the Committee that we already have very high performance. The Government will continue to analyse the substance of the Commission's proposal with respect to several factors, including, if the motion is passed, Parliament's specific concerns about the Commission's approach to subsidiarity.

Holly Lynch (Halifax) (Lab): It is a pleasure to serve under your chairmanship, Mr Wilson. I thank the Minister for her statement, and the hon. Member for Mid Dorset and North Poole for his opening statement on behalf of the European Scrutiny Committee. I understand that it is not appropriate for Opposition Front Benchers to make lengthy speeches or statements at this point, and I am more than happy to oblige, but I will put a couple of questions to the Minister.

Although we are largely supportive of the content of the drinking water directive, we are sympathetic to the European Scrutiny Committee's reservation that the directive does not entirely meet the principle of subsidiarity, so we do not object to the reasoned opinion. However, will the Minister say more about the Government's domestic ambitions for the roll-out of water fountains? We will have missed an opportunity if the UK's aspirations fall short of those in the directive.

Further to the comments by the hon. Member for Mid Dorset and North Poole, I understand that a number of other member states—the Czech Republic, Austria and the Republic of Ireland—have also raised concerns about the directive. I wonder whether the Minister has engaged in dialogue with them, or with the Commission, about their specific reservations, and whether we might share best practice or work together to deliver on the aspirations of the directive while raising our reservations about subsidiarity.

Dr Coffey: I thank the hon. Lady for those questions. On the Government's domestic ambitions, she may be aware that Water UK, which organises all the water

[*Dr Thérèse Coffey*]

companies, has committed to ensuring that each water company has a plan—by October, I think—showing how they intend to roll out water fountains in and around their areas. I am sure that she has already downloaded Refill, which is a wonderful app that I believe started in Bristol, the city represented by the Opposition Whip, the hon. Member for Bristol West. That is a way of ensuring that people know where water is offered. I think that most coffee retailers, although they may not yet advertise it—I am still encouraging them to do so—will refill a water bottle if asked.

I have also worked with Ministers in the Department for Transport to write to airports, railway stations and Transport for London—I think we also wrote to the Mayor. I have just realised that we have not yet written to National Express; we must rectify that. I am pleased that Network Rail launched its first water fountain last week, and that a number of airports have already started offering refills. It is certainly possible to fill a water bottle in Heathrow terminal 5, and a number of airports offer water fountains of the kind many of us used at school, where it is necessary to lean down, although that is not quite as straightforward as filling a bottle. I understand that more and more airports are coming through with such proposals, and I have certainly taken advantage of those facilities myself.

I am aware specifically of Austria's reasoned opinion, but we look forward to working with other member states that have good domestic plans to see how we can share best practice. I have not specifically engaged with them, or indeed with the Commission, on the different opinions that have been expressed. I believe that the deadline for us to return our initial views to the Commission is within the next week, which is part of the reason we are having the debate today: to make sure that we can reflect the will of Parliament, as expressed by the reasoned opinion.

Mr Robert Goodwill (Scarborough and Whitby) (Con): Having served on the European Parliament's environment Committee, I am well aware that the European Commission often misinterprets—deliberately, I suspect—the principle of subsidiarity and uses it as a power grab. Does the Minister agree that if we were to take the principle of subsidiarity to its sensible conclusion, decisions such as the provision of water fountains should be made by local authorities, not central Government?

Dr Coffey: I would certainly like to see more local authorities undertake to provide access to water. Perhaps it was a century ago when water fountains were very much part of public health provision. Fortunately, we have somewhat moved on from there; the water that we get from our tap is very safe and readily available. I agree that if we can do more to work with local councils to take that forward—to some extent, water companies will be able to do that with their plans—that would be an appropriate way to ensure that water is readily available.

John Mc Nally (Falkirk) (SNP): It is a pleasure to serve under your chairmanship, Mr Wilson. We all know that water should be available to everyone. There are good strides being made by a variety of organisations and Government bodies to supply water fountains across

the country, particularly at locations where the public gather. That is probably the most important point, because if water fountains are not available, the public are more or less forced into buying plastic bottles, and we know where they usually end up.

The Minister will not be aware that the Scottish Government are developing sites with Scottish Water to make water available to the public, particularly in railway stations.

The Chair: Order. This is a question and answer session. Could the hon. Gentleman ask a question?

John Mc Nally: Will the Minister confirm that she will keep water matters devolved to the Scottish Government?

Dr Coffey: Absolutely. I respect entirely the hon. Gentleman's opinion and how he represents the Scottish National party's interest in this matter. The quality of drinking water is formally a devolved matter and we have worked together closely with the devolved Administrations. I assure him that they have been involved in our deliberations so far.

Mr Goodwill: The Environmental Audit Committee is carrying out an investigation into nitrates in water. I am sure that the Minister is conversant with annex 1, part B, which lists the chemical parameters in water and maintains the 50 mg per litre measure, which has always been used and goes back a long way, and which many would suggest was just an arbitrary figure. Will the Minister consider whether it would be appropriate to set different levels for ground and surface water on the one hand and drinking water on the other hand, given the evidence that is emerging about the effects of nitrates on human health, as opposed to the well established information on eutrophication and the way that phosphates and nitrates in water can result in environmental problems?

Dr Coffey: My hon. Friend is enjoying his time on the Back Benches; not only is he embracing the Select Committees that he has joined, but he is taking the opportunity to demonstrate his vast experience in the European Parliament.

On the different levels to which he refers, I will have to look at that in a bit more detail, but I am reliably informed that we want our standards to be as good as, if not better than, what has been prescribed. I will ensure that we consider that in more detail when the time comes to respond to the Environmental Audit Committee's proposal on nitrates.

Thinking of another member of this Committee, I am aware that there are some challenges in Poole harbour about eutrophication, involving different kinds of activities that need to be dealt with. Certainly, the water company is concerned about the run-off of nitrates from agricultural land, which is why we need constantly to make sure that our natural environment and water are of sufficiently good quality, not only for the benefit of the drinking water that we all enjoy; he will be aware of the wider responsibility that we hold dear.

Michael Tomlinson: I have said it before, and I will say it again: there is so much positive news coming from this Department and this Minister. I very much welcome

her statement. It does not mean that we do not want to have the same standards or better standards than we already have, or that we do not care about access to drinking water, but we already have in place risk assessments from source to tap that this directive would put in place. Can the Minister confirm those points?

Dr Coffey: I can confirm that. That is why it has been assessed so far that the additional cost to the United Kingdom of implementing this directive would be zero, recognising the already extraordinary high quality that we have, backed up by our independent regulator, the Drinking Water Inspectorate.

Resolved,

That the Committee takes note of European Union Document No. 5846/18 and Addenda 1 to 5, Proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast); considers that the proposal does not comply with the principle of subsidiarity for the reasons set out in the annex to the Eighteenth Report of Session 2017-19 of the European Scrutiny Committee (HC 301-xviii); and, in accordance with Article 6 of Protocol No. 2 annexed to EU Treaties on the application of the principles of subsidiarity and proportionality, instructs the Clerk of the House to forward this reasoned opinion to the Presidents of the European Institutions.—(*Dr Thérèse Coffey.*)

4.50 pm

Committee rose.

