

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DRINKING WATER INSPECTORATE (NI)
AND THE UTILITY REGULATOR
JUNE 2010

Introduction

1. This Memorandum of Understanding has been developed to support the separate statutory Memoranda of Understanding between the Utility Regulator (UR) and each of the Department for Regional Development (“the Department”) and the Department of the Environment (DOE) (acting through the Northern Ireland Environment Agency) under Article 11 of the Water and Sewerage Services (Northern Ireland) Order 2006 (“the Order”).
2. Article 11 of the Order places a duty on each of the Department, the DOE and the UR to:
 - i. make arrangements with each other with a view to promoting:
 - (a) co-operation and the exchange of information between them; and
 - (b) the consistency of treatment of matters which affect both of them.
 - ii. prepare a memorandum setting out the agreed arrangements.
3. DWI(NI) is a unit within the Northern Ireland Environment Agency (NIEA) responsible for regulating drinking water quality in Northern Ireland. It also has statutory duties in respect of public drinking water quality under Article 125 of the Order to act on behalf of the DOE or the Department as the case may be. Given the interplay between the functions of the UR and the functions of DWI(NI) under the Order, this Memorandum of Understanding is intended to facilitate the proper performance of those functions, and to further outline those matters which both bodies will liaise on and progress together.
4. This Memorandum is not legally binding and will not create public law rights of legitimate expectation between the parties or any other person. It will serve as a working document which will be subject to review in the light of operational practice.

Review of Memorandum

5. This Memorandum may be amended at any time by agreement of both parties. In addition, this Memorandum will be kept under review and updated as necessary, in light of experience of its operation in practice.

Roles and Responsibilities

6. DWI(NI) is a unit within the Northern Ireland Environment Agency (part of DOE). The DWI(NI)'s overall role is to provide independent assurance that human health is safeguarded through the provision, by Northern Ireland Water (NIW), of safe and clean public drinking water supplies. Uniquely under the Order, the Department and DOE acting jointly, can engage and appoint DWI(NI) and inspectors thereof, to act on behalf of one or both of them in respect of their functions under the Order.
7. The UR is the independent economic regulator of the water and sewerage industry in Northern Ireland. The UR is responsible for regulating water and sewerage undertakers, acting independently of the industry, Government and other stakeholders, while working within the Government policy framework.
8. DWI(NI) and the UR agree the following:-

Consultation and discussion

- To liaise with each other through regular discussions on issues relevant to our respective regulatory duties and in particular;
 - To liaise before any public consultation on matters involving the exercise of our respective functions, where appropriate.
 - To liaise when developing or revising existing policies that may affect the other.
 - To have regard to each other's advice and act upon it as appropriate.

Public communications

- To normally provide the other with advance copies of press notices sufficiently far in advance of publication to allow time for discussion and understanding of each other's position. Where this is not possible, each will brief the other on the key messages of any relevant announcement before it is made.
- To invite each other to formal press conferences and other public events that are hosted by one but of interest to both.
- To not make statements relating to areas that are solely the responsibility of the other.

Inset appointments and water supply licensing

- Where the UR receives an application for an inset appointment relating to the supply of water for domestic or food production purposes, DWI (NI) will be consulted about the suitability and technical competence of the applicant in relation to water quality and public health.
- The UR will have regard to the advice DWI(NI) provides before deciding whether to grant the appointment.
- DWI(NI) and the UR will, when appropriate to do so, work together on the development of the water supply licensing regime to be established under Articles 13, 18 and 19 of the Order.

Ongoing Monitoring and Enforcement

- DWI(NI) will advise the UR as soon as practicable of any significant deficiencies identified when carrying out annual audits and inspections of water undertakers, for which enforcement action is being considered, or where the terms and conditions of regulatory programmes of work are not being met.
- DWI(NI) will assist the UR in its role as a relevant enforcement authority for the purposes of Article 65 of the Order (i.e. in enforcing relevant undertakers' general duty to maintain a water supply system) by reporting on repeated and consistent breaches of various water supply requirements.
- The UR will raise any relevant concerns on service failures with respect to water quality with DWI(NI) as soon as practicable. DWI(NI) may then decide to take enforcement or other appropriate action.

- Where either DWI(NI) or the UR becomes aware of a material change in the activities of a water undertaker, which may have a significant impact on water quality issues, each will inform the other as appropriate.
- Where either DWI(NI) or the UR propose taking enforcement or other action on the basis of information provided by the other, each shall consult the other about the action being contemplated.
- Each party will provide, in a timely manner, information in its possession that may be reasonably requested by the other for the purpose of ongoing monitoring subject to necessary confidentiality constraints and safeguards and statutory restrictions on disclosure.

Compliance requirements

- DWI(NI) will copy to the UR relevant information sent to the water undertaker on matters relating to drinking water quality. These include information letters, obligations under Article 31 of the Order and details of programmes of work for departures authorised under Regulation 20 of the Water Supply (Water Quality) Regulations (Northern Ireland) 2007.
- DWI(NI) will also keep the UR informed of any proposed water quality regulations or requirements that the water undertaker may have to meet in the future.

Complaints, disputes and appeals

- The UR and DWI(NI) will exchange information when handling disputes which have aspects directly relating to the other's areas of responsibility, for example access agreements and network connections.

Publication of Memorandum

9. An up to date version of this Agreement will be published on the UR's and DWI (NI) websites: www.uregni.gov.uk and www.ni-environment.gov.uk. A hard copy will also be available on request from the UR (telephone 02890 311575) and DWI(NI) (telephone 028 9056 9282).

Signed by:-

Iain Osborne
Chief Executive



Authorised for and on behalf of the Northern Ireland Authority for Utility Regulation

Date: 24th September 2010

Margaret Herron



Chief Inspector of Drinking Water

Authorised for and on behalf of Drinking Water Inspectorate

Date: 28th September 2010.