

# MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED KINGDOM DRINKING WATER REGULATORS



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## Introduction

1. This Memorandum of Understanding is between the Drinking Water Inspectorate for England and Wales (DWI), the Drinking Water Quality Regulator for Scotland (DWQR) and the Drinking Water Inspectorate for Northern Ireland (DWI(NI)). The Memorandum sets out an agreed framework for co-operation between the three parties. It is not legally binding nor is it intended to cover every detailed aspect of their relationships. Rather, it is a statement of principles, which will guide relations between the three parties and provide a set of workable ground rules.
2. The Memorandum cannot override the statutory duties and powers of the individual parties.

## Roles and Responsibilities

### *Drinking Water Inspectorate for England and Wales*

3. The Drinking Water Inspectorate for England and Wales acts for and on behalf of the Secretary of State for Environment, Food and Rural Affairs and Welsh Ministers in fulfilling their statutory duties in terms of drinking water quality. The Inspectorate was established under Section 60 of the Water Act 1989, subsequently Section 86 of the Water Industry Act 1991 (WIA91). Its principal role is to apply and enforce the Water Supply (Water Quality) Regulations 2000(as amended) in England and the Water Supply (Water Quality) Regulations 2010 in Wales. To this end DWI:
  - rigorously checks the quality of water supplied by water undertakers and prospective combined licensees in England and Wales, using information supplied by them;
  - carries out audit inspections of each water undertaker in respect of any of their quality-related water supply duties.
  - initiates enforcement action, where necessary, to ensure that drinking water standards are maintained and that water undertakers are meeting their other regulatory duties; and
  - investigates all incidents that affect or threaten to affect drinking water quality and determines whether the water undertaker, or where appropriate, the water supply licensee and / or their respective contractors took appropriate action to protect consumers, returned supplies to normal as quickly as possible, and had taken suitable action to prevent a recurrence. Where necessary, proceedings may be instituted if there is sufficient evidence to show that water unfit for human consumption was supplied during the incident.

### ***The Drinking Water Quality Regulator for Scotland***

4. The Drinking Water Quality Regulator for Scotland is appointed by Scottish Ministers to ensure that the drinking water quality duties imposed on the public water supplier are complied with. The Regulator's powers are set out in Part 2 of the Water Industry (Scotland) Act 2002 and include the power to obtain information and the power to serve enforcement notices. To assist with establishing whether or not the drinking water quality duties imposed on the public water supplier are being complied with, the Regulator also has powers of entry and inspection. Thus the DWQR:
- rigorously checks the quality of water supplied by Scottish Water, using information supplied by the Company;
  - carries out audit inspections of Scottish Water in respect of any of its quality-related water supply duties.
  - initiates enforcement action, where necessary, to ensure that drinking water standards are maintained and that Scottish Water is meeting its other regulatory duties; and
  - investigates all incidents that affect or threaten to affect drinking water quality and determines whether Scottish Water took appropriate action to protect consumers, returned supplies to normal as quickly as possible, and had taken suitable action to prevent a recurrence. A case may be prepared for consideration by the Procurator Fiscal if there is sufficient evidence to show that water unfit for human consumption was supplied during the incident.

### ***The Drinking Water Inspectorate for Northern Ireland***

The Drinking Water Inspectorate for Northern Ireland acts on behalf of two departments in matters concerning drinking water. The Inspectorate acts on behalf of the Department for Regional Development in terms of public water supplies in the administration of the implementation of The Water Supply (Water Quality) Regulations (Northern Ireland) 2007 (as amended in 2009 and 2010). Northern Ireland Water Limited (NI Water) is a government owned company where the shareholder is the Department for Regional Development. NI Water is the sole provider of public water supplies in Northern Ireland.

The Inspectorate also acts on behalf of the Department of the Environment in directly implementing The Private Water Supplies Regulations (Northern Ireland) 2009 (as amended in 2010).

The Inspectorate acts on behalf of both departments in the administration of The Water Supply (Domestic Distribution Systems) Regulations (Northern Ireland) 2010.

Thus the DWI (NI):

- rigorously checks water quality by a process of compliance assessment;
- carries out audit inspections of NI Water;

- initiates enforcement action, where necessary, to ensure that drinking water standards are maintained and that NI Water is meeting its other regulatory duties;
- investigates all incidents that affect or threaten to affect drinking water quality and determines whether NI Water took appropriate action to protect consumers, returned supplies to normal as quickly as possible and had taken suitable action to prevent recurrence. Where necessary, proceedings may be instituted if there is sufficient evidence to show that water unfit for human consumption was supplied during the incident ;
- monitors water quality at private water supplies through a sampling programme and investigates all contraventions in conjunction with the appropriate Environmental Health Department; and
- publishes an annual report on drinking water quality.

### **Working Relationship**

5. This Memorandum of Understanding sets out to:

- build on the good working relationships that already exist between DWI, DWQR and DWI(NI) by setting out the principles of an effective relationship to which all parties should adhere;
- enhance co-operation and co-ordination between UK Drinking Water Regulators;
- highlight the areas of regulation where we interact and sets out our expectations of each other;
- minimise the duplication of activity, wherever possible;
- inform stakeholders about our relationship and how we interact; and
- reduce the scope for regulatory uncertainty.

6. The respective responsibilities of DWI, DWQR and DWI(NI) under this Memorandum of Understanding are as follows:

- wherever possible, to share common aims and standards in respect of Regulations, Guidance, Directions and Information Letters;
- work together to promote the principles of the World Health Organisation Third Edition of its Guidelines on Drinking Water Quality especially in respect of Water Safety Plans;
- wherever possible to allow each UK Drinking Water Regulator to comment on draft Regulations, Guidance, Directions, Information Letters and other proposals in advance of issue;
- undertake regular benchmarking exercises to ensure consistency of technical audit;

- share protocols, inspection checklists and other documents;
  - share information and lessons learned from incident investigations;
  - share information and expertise on private water supplies
  - make available from their resources expertise for particular exercises undertaken by one party;
  - consult each other over their respective research planning processes and wherever possible discuss in advance of appointment the content and timetable of research contracts to avoid duplication and where possible consider joint approaches;
  - share information and expertise on drinking water quality improvement programmes;
  - co-operate in undertaking consumer consultations and surveys and in the issue of public interest information;
  - share feedback and information from attendance at conferences, committees and other meetings; and
  - co-ordinate to ensure that bodies such as the European Network of Drinking Water Quality Regulators (ENDWARE) and the European Microbiology Advisory Group (EMAG) receive a consistent UK response.
7. DWI acts as the Technical Advisor to DEFRA on the European Article 12 Committee which considers amendments to the EC Drinking Water Directive. Currently the UK has one additional place available at the meeting. This place should be available to DWQR and DWI(NI) on a rotational basis or as agreed by the two parties. DWI will ensure that the minutes of the Article 12 meetings are made available.
  8. DWI operates the approvals process on behalf of the English and Welsh Authorities relating to the approval of products and process for use in public water supplies under regulation 31 of the Water Supply (Water Quality) Regulations 2000/2010. This includes the publication of a List of Approved Products. Whilst products require approval by the relevant national authorities DWI will share as far as possible the conclusions of any approval applications relevant to Scotland and Northern Ireland and maintain the approved list.

### **Working arrangements**

9. DWI, DWQR and DWI(NI) Chief Inspectors or their nominees will meet regularly, at least three times a year, or more often at any party's request. These meetings will be used to review matters of common interest. Annually the effectiveness and functioning of this Memorandum shall be reviewed.
10. DWI, DWQR and DWI(NI) will each nominate a member of staff to be responsible for handling day to day communications in respect of this Memorandum.
11. DWI, DWQR and DWI(NI) will undertake regularly benchmarking exercises whereby an Inspector with one Regulator will take part in a technical audit or inspection carried out by

another Regulator. The results of each exercise and any lessons learned will be shared by all parties.

**General matters**

12. The three parties are committed, wherever possible, to solving any disagreements under this Memorandum through normal administrative channels.
13. Amendments to this Memorandum may be made at any time by agreement between the three parties. In addition, this agreement will be reviewed at intervals agreed between the three parties and be updated, as necessary, in the light of experience of its operation in practice.
14. An up to date version of this Memorandum will be published on the DWI, DWQR and DWI(NI) websites.

Signed by



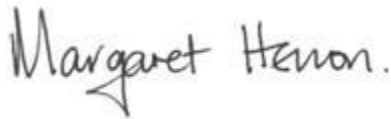
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Dated 27 October 2010