

Key Decision Required:	Yes	In the Forward Plan:	Yes
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CABINET

16 NOVEMBER 2011

REPORT OF PORTFOLIO HOLDER FOR ENVIRONMENT

A.2 THE PRIVATE WATER SUPPLIES REGULATIONS 2009

(Report prepared by A Johnson)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To report progress on the implementation of The Private Water Supplies Regulations 2009 and the resource implications associated with their enforcement.

EXECUTIVE SUMMARY

The Private Water Supplies Regulations 2009 (the Regulations) came in to force on 1 January 2010.

The Regulations imposed a number of new requirements on local authorities in respect of private water supplies. Private water supplies include all water supplies not provided by a water undertaker or licensed water supplier and also private distribution systems, where a site owner distributes water on site.

Enforcement of the Regulations has now been undertaken, with a number of sites being visited, which has included completing the annual return, risk assessment and sampling, investigation and advice.

Charging has been undertaken as provided for in the Regulations which is covering the cost of undertaking the work.

To ensure sufficient resources were available, the original report to Cabinet in respect of the Regulations on 7 June 2010, recommended that the provision of the service be reviewed after 12 months. Cabinet therefore requested a follow up report to monitor the impact of meeting the Regulations.

This report sets out that following guidance which accompanied the Regulations the overall workload has been less than expected. It has therefore been possible to undertake this work with existing staff and without the need for contractors.

RECOMMENDATION(S)

That the contents of the report are noted and that enforcement of the Regulations continues.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The purpose of the Regulations is to protect the health of people within the district who are supplied by water falling within the scope of the Regulations by ensuring that it is safe to drink. The Council must comply with the Regulations and is accountable to the Secretary of State, whose role in this instance is discharged by the Drinking Water Inspectorate. The requirement for water supplies under the Regulations to be subject to risk assessment, monitoring and potential enforcement will ensure that private water supplies are maintained in a wholesome condition.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

A limited number of sites have been visited thus far. All officer inspection time and sampling costs are recharged to owners of the private water supplies in accordance with the charging scheme set out in the fees and charges schedule in the budget.

The average time spent so far on visiting premises, undertaking risk assessments and sampling where appropriate is 3.5 hours on site. The charging rate provides for a minimum of £100 for administration and travel and then £50 per hour thereafter which covers the on-site work. The average cost is therefore £100 plus 3.5 hours at £50. Therefore, an on-site visit time of 3.5 hours would be charged at £275. The cost of analysis of the samples is additional. The charging, therefore, covers the administration, mileage and inspection of the premises as the lead officer hourly rate is £37.66 including on costs.

Increasing efficiency in the Food Team, including through focussing on higher risk inspections and undertaking alternative enforcement in lower risk premises, has helped free officer time to undertake private water supply inspections. It is therefore anticipated that duties under the Regulations can be fully discharged within existing resources.

Risk

The Council has a statutory duty to enforce the provisions of the Regulations, which also includes provision of an annual return to the Drinking Water Inspectorate. Failing to meet the Council's statutory responsibility would leave the Council open to review by the Drinking Water Inspectorate on behalf of the Secretary of State. This may result in action against the Council to require the work to be undertaken or to undertake the work on behalf of the Authority and then recharge any costs.

LEGAL

The Council has a statutory duty to comply with the Regulations and to carry out the work required.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

Health Inequalities

As the water undertaker and licensed water suppliers have a statutory duty to provide wholesome water, the requirements of the Regulations will ensure that those on private supplies will be afforded a similar standard of protection to ensure their water is wholesome as is currently the case with licensed water supplies.

Area or Ward affected

All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The European Council Directive 98/83/EC relates to the quality of water intended for human consumption and was implemented in England for the purposes of public water supplies by the Water Supply (Water Quality) Regulations 2000 (SI 2000/3184) as amended.

The Private Water Supplies Regulations 2009 came into effect on the 1st January 2010 and extend the requirements of 98/83/EC to private water supplies.

The Regulations imposed a considerable number of new requirements on to local authorities and undertaking the initial visits has helped determine resource implications which have been covered by charging which is permitted under the Regulations.

An initial report on implementation of the Private Water Supply Regulations 2009 was provided to Cabinet on 7 June 2010 which recommended using existing staff to undertake duties under the Regulations and to employ contractors to undertake the normal duties of these staff. In addition the charges were set out in the report and it was recommended that the provision of the service be reviewed after 12 months.

The amount of the work required under the Regulations has been less than originally expected. This has been due to a lack of clarity in the Regulations and slow release of guidance from the Drinking Water Inspectorate. In addition following discussions with Veolia Water it has become clear that some sites originally anticipated to be private distribution systems are supplied by Veolia Water direct and would therefore not be subject to the Regulations. It was therefore possible to undertake all work using existing staff and contractors were not required. The charges set in the original report are the charges now being levied for the work.

The reason for the original request for a further report was to ensure there were sufficient resources available to undertake the duties under the Regulations and for existing staff to meet their other duties as well. With the reduced level of workload, compared to that anticipated, this has been possible to achieve using existing resources supported by the charging scheme.

CURRENT POSITION

The Annual Return has been provided to the Drinking Water Inspectorate.

Letters have been sent to proprietors of all locations identified as potential private water supplies explaining the changes which the Regulations have brought about and the implications for sites now subject to the Regulations. A system for recording inspections and sampling on the Uniform computer database is being trialled in the test system.

Following contact with Veolia Water it has been revealed that fewer sites than anticipated are subject to the Regulations. This information has been determined by reference to how potential private distribution sites are billed. For example, individual billing to separate caravans on residential caravan parks has revealed that many of the parks will not be subject to the Regulations as the supply is direct from the water undertaker and is not under the control of the site. Similarly it has been determined that the industrial estates are not subject to the Regulations.

A programme of inspections has been compiled to ensure that all premises identified to date will be inspected within the time given i.e. 5 years from commencement of the Regulations (by 1 January 2015).

The current programme proposes completion of inspections by the following dates:

Private water supply to commercial premises	31 October 2011
Private water supply serving multiple properties	31 December 2011
Private distribution systems (excluding holiday parks)	30 April 2012
Private distribution systems in holiday parks	31 October 2012

The current breakdown of premises believed to be subject to the Regulation is as follows

Private Water Supplies	
Commercial Premises	7
Multiple Properties	16
Private Distribution Systems	
Ports	3
Hospitals	2
Care Homes	2
Council sites	2
Piers	4
Holiday parks	29
Residential Parks	1

A number of other sites are still under investigation and will require a site visit to determine whether they are subject to the Regulations for example schools and agricultural sites. With agricultural sites this is predominantly due to how water is used on the premises and whether it is used for human consumption or as part of a process.

A number of sites have been inspected and had risk assessments undertaken and samples taken. This includes some of the most significant sites for example Harwich Navyard Port. The list of inspected sites is highlighted below.

Private Waters.

Church of St Anne & St Lawrence, Elmstead
Langwood Ltd, (New Development) – Proposal to use private borehole abandoned
Balls Farm, Elmstead

Private Distribution Systems.

Berries Direct, Lawford
Brightlingsea Promenade Way
Navyard, Harwich

Single serve by request.

Mulleys Cottage
Park Farm South
Old Hall Kennels

To date only three requests have been received from premises outside of the scope of the regulations (for example single dwellings may request a risk assessment or sampling but this is not required by the Regulations). These requested samples were for potential purchasers of a property.

All sites which have been subject to inspection have been invoiced for the work undertaken.

FURTHER HEADINGS RELEVANT TO THE REPORT

None

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

None