Department
for Environment
Food & Rural Affairs

# Drinking Water Regulations 2017

## Consultation on the draft Private Water Supplies (England) (Amendment) Regulations 2017

**September 2017**

This publication is available at https://consult.defra.gov.uk/water-quality/drinking-water-regulations-2017

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# Summary of consultation

This consultation seeks views on draft regulations which will amend the Private Water Supplies (England) Regulations 2016. We intend to lay the draft regulations in late 2017.

**EU exit**

On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

**Geographical extent**

The draft regulations apply in England only. Separate regulations will be made in Scotland, Wales and Northern Ireland.

**Purpose**

This consultation seeks views on proposals to update existing legislation governing private water supplies. The following proposals are outlined:

- Application of new risk based sampling and analysis of drinking water laid down in Commission Directive (EU) 2015/1787, including the need to satisfy any requirements specified by the Secretary of State and reporting results.
- New table for analytical performance characteristics and clarification on the standards to be met.
- Changes to the methods of analysis to be used for certain parameters.
- Requirement for analysis to be carried out using quality management system practices in accordance with EN ISO/IEC 17025 or other internationally recognised standards.
- Requirement for the collection and transportation of samples to be subject to a system of quality control.
- Clarification on the methodology required where samples are taken for lead, copper or nickel analysis.
- Changes to the level of fees local authorities can charge for all activities relating to carrying out their duties with respect to private water supplies.
- Changes to clarify the criteria for satisfying a notice served.
- Changes to provide local authorities with the powers to perform corrective work.

**Audience**

We would like to hear from anyone with an interest in the quality of private drinking water supplies including but not limited to local authorities and owners and/or users of private water supplies.

In 2016 local authorities were approached, through informal discussion, workshops and Dialogue App responses (an online discussion and crowd sourcing tool that allows you to engage with stakeholders to shape early policy development, obtain evidence and discuss ideas), for their thoughts on changes to the level of fees which have been considered when drafting amendments to the regulations. Through this engagement, they have been made aware of Commission Directive (EU) 2015/1787 and the changes it will introduce. In turn, local authorities have engaged with owners and/or users of private water supplies. They have used email, social media and published notices on their websites about the forthcoming changes, alerting them to the consultation and the opportunity to comment.

**Format**

This consultation document is divided into sections covering the proposals above. Questions are included throughout the document and are then summarised again at the end of the document.

The responses to these questions will assist in the final drafting of the regulations in respect of England, and will assist in determining the accuracy of assumptions that have been made during the preparation of an impact assessment document.

**Responding to this consultation**

This consultation will run for 6 weeks from 12 September to 24 October 2017.

Please complete the online survey at: https://consult.defra.gov.uk/water-quality/drinking-water-regulations-2017

Alternatively you can send your comments and any enquiries, by email to: drinkingwaterquality@defra.gsi.gov.uk

**Confidentiality & Data Protection**

Information provided in response to this consultation document, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

# Introduction

The Private Water Supply (England) Regulations were first introduced in 1991 to provide a legislative framework for the quality of water intended for human consumption that is not supplied by water companies or licensed water suppliers. The 1991 Regulations have been revoked and a number of subsequent regulations have been made. The most recent regulations in this area are the Private Water Supplies (England) Regulations 2016 ('the 2016 Regulations').

This consultation concerns proposed amendments to the 2016 Regulations, primarily to transpose the requirements of Commission Directive (EU) 2015/1787 (referred to in this document as 'Directive 2015/1787') which amended Council Directive 98/83/EC (the 'Drinking Water Directive') to align its principles for risk based sampling and analysis of drinking water with those of the World Health Organisation (WHO). The WHO has developed the water safety plan approach which is based on risk assessment and risk management principles, laid down in its Guidelines for Drinking Water Quality. Those Guidelines, together with standard EN 15975-2 concerning security of drinking water supply, are internationally recognised principles on which the production, distribution, monitoring and analysis of parameters in drinking water is based.

We are also taking the opportunity to: remove the maximum amounts that local authorities can charge for the activities undertaken to fulfil their duties in respect of private water supplies, enabling full cost recovery; provide local authorities with the powers to perform remedial work where there is a risk to health and a notice has not been complied with; and, clarify certain aspects of the 2016 Regulations which include incorporating previous legislative changes already contained in guidance and which are currently being undertaken.

The draft regulations and impact assessment are included as annexes to be read alongside this document.

# Part I: Transposition of Directive 2015/1787

The draft regulations make updates to the monitoring programmes which set a minimum sampling frequency on particular parameters for water intended for human consumption. At the same time they introduce new criteria for a risk assessment approach which, if met, allows a reduction in sampling and analysis frequencies. The revision also provides the specifications for the method of analysis of certain parameters and performance characteristics of all parameters in light of scientific and technical progress.

The relevant requirements are set out below. The draft regulations make amendments to the 2016 Regulations. Therefore, for ease, each section details which regulation, paragraph or part of the 2016 Regulations will be amended.

# Monitoring programmes

## Amendments to Part 2 of Schedule 1 and Parts 1 and 2 of Schedule 2

The terminology of ‘check monitoring’ and ‘audit monitoring’ will be replaced by ‘monitoring of Group A parameters’ and ‘monitoring of Group B parameters’ respectively. The parameters themselves and the circumstances in which they are tested remain unchanged. Apart from a small correction to Table C in Part 2 of Schedule 1, the maximum concentrations / values and units of measurement in respect of a parameter also remain unchanged.

## Insertion of Regulation 12(4)

To monitor compliance with copper, lead and nickel, a random, daytime, one litre volume unflushed sample must be taken from any of the sampling points provided for in the 2016 Regulations, which includes a consumer’s tap. This requirement was previously included in Drinking Water Inspectorate Guidance Documents.

## Insertion of Regulation 12(5)

With the exception of sampling at the consumer’s tap, all sampling for chemical parameters in the distribution network must now be in accordance with ISO 5667-5. For microbiological parameters, sampling must now be taken and handled according to EN ISO 19458 sampling purpose A in the distribution network and EN ISO 19458 sampling purpose B at the consumer’s tap.

## Transitional Provisions

The 2016 Regulations currently allow a reduction in sampling frequency for check monitoring parameters (to become Group A parameters) and exclusion of a parameter for audit monitoring parameters (to become Group B parameters) based on a risk assessment and guidance from the Secretary of State (via the Drinking Water Inspectorate).

Following the introduction of new risk assessment criteria, which the amending regulations propose to introduce, these provisions will be omitted. Therefore, any such reduction or exclusion must be brought to an end when the amending regulations come into force. The new risk assessment will allow a similar degree of variation to monitoring but any such variation will need to be in accordance with the new requirements set out in the new Part 2A of Schedule 2.

## Insertion of Regulation 16(6)

Where a local authority has varied the sampling and analysis frequencies, under the new requirements set out in the new Part 2A of Schedule 2, and there is a significant chance the water supply is unwholesome or it has been proven to be unwholesome, the variation

must be stopped immediately. Standard frequencies, in respect of that supply, must be re-instated.

**Q1. Are you content with the changes to monitoring programmes? If No, what problems do you foresee?**

The minimum sampling frequencies for Group A and B parameters (previously check and audit monitoring parameters) have been updated by Table 1 in Part B of Annex I of Directive 2015/1787. However, we propose to retain the frequencies in the 2016 Regulations for Group A and B parameters as they will deliver on the updated sampling frequencies. The frequencies are used if sampling and analysis is not based on risk. Ultimately, as we believe all local authorities will monitor private water supplies based on the new risk approach (see Q4) the frequencies will form a baseline on which variations will be based.

**Q2. Do you agree with the retention of current sampling frequencies for Group A & B parameters? If No, please explain why you think the frequencies should be updated.**

# Risk assessment

## Insertion of Regulation 6(5) and (6) and Paragraph 2(1)(k) in Schedule 4

The requirement for a local authority to carry out a risk assessment for every private water supply in its area and review and update that risk assessment every 5 years will still apply. Its aim will still be to establish whether there is a risk of supplying water that would constitute a potential danger to human health. In addition, the risk assessment should now:

- Satisfy any requirements specified by the Secretary of State in respect of the conduct of a risk assessment;
- Satisfy the requirements of the Security of Drinking Water Supply Guidelines for Risk and Crisis Management (standard EN 15975-2); and
- Take into account the results from monitoring programmes established by the second paragraph of Article 7(1) of Directive 2000/60/EC.

There are also two new requirements:

1) Within 28 days of the information being available, a local authority must record a summary of any risk assessment; and
2) Within 12 months of having carried out a risk assessment, local authorities will need to provide a summary of results to the Secretary of State.

As the competent authority, the Drinking Water Inspectorate has developed and made available risk assessment tools, for use by local authorities, which comply with these requirements. Where local authorities use a different risk assessment methodology, they will need to demonstrate accreditation of that methodology to standard EN 15975-2.

## Amendments to Parts 1 and 2 and insertion of Part 2A in Schedule 2

The new Parts 1, 2 and 2A of Schedule 2 set out the risk assessment requirements of Part C of Annex I of Directive 2015/1787. If certain standards are met, it allows a variation in how often samples are taken and which parameters are monitored as part of that sample.

The following tables compare old check and audit monitoring variations against the variations that will be introduced by Group A & B monitoring.

**Check Monitoring now Monitoring Group A parameters**

| OLD – Check Monitoring | NEW – Monitoring Group A parameters |
|---|---|
| The sampling frequency of a parameter, including *E.coli*, could be reduced, to a frequency not less than half (or for supplies of <10m$^3$ per day to no less than one sample per year), if the quality of water in the supply was unlikely to deteriorate and:<br><br>- in the case of hydrogen ion, the supply had no pH value that was below 6.5 and above 9.5;<br><br>- in all other cases, in each of two successive years the results of samples for the parameter in question were constant and significantly lower than the concentrations or values specified.<br><br>The Drinking Water Inspectorate Guidance Document stated that 'significantly lower' was less than 75% of the parametric value or, for those parameters whose concentration or value was likely to be very variable, was less than 50% of the parametric value.<br><br>A higher frequency for any parameter could also be set if it was considered appropriate and took account of risk assessment findings. | The sampling frequency of a parameter, excluding *E.coli*, can be reduced (but to no less than one sample per year) provided that:<br><br>- the results of the parameter, collected at regular intervals over the preceding three years, are all less than 60% of the parametric value;<br><br>- after considering the results of a risk assessment it indicates that there are no reasonably anticipated factors that are likely to cause deterioration of the quality of the water; and<br><br>- the data collected during monitoring are taken into account.<br><br>A higher frequency for any parameter can also be set if it is considered appropriate and takes account of risk assessment findings. |
| All parameters, including *E.coli*, had to be | The analysis of any parameter, excluding *E.coli*, |

| | |
|---|---|
| analysed plus anything else identified by the risk assessment. | can be stopped provided that:<br><br>- the results of that parameter, collected at regular intervals over the preceding three years, are all less than 30% of the parametric value;<br><br>- after considering the results of a risk assessment it indicates that there are no reasonably anticipated factors that are likely to cause deterioration of the quality of the water; and<br><br>- the data collected during monitoring are taken into account. |

**Audit Monitoring now Monitoring Group B parameters**

| OLD – Audit Monitoring | NEW – Monitoring Group B parameters |
|---|---|
| The sampling frequency of a parameter could not be reduced.<br><br>A higher frequency for any parameter could be set if it was considered appropriate and took account of risk assessment findings. | The sampling frequency of a parameter, can be reduced (but to no less than one sample per year) provided that:<br><br>- the results of the parameter, collected at regular intervals over the preceding three years, are all less than 60% of the parametric value;<br><br>- after considering the results of a risk assessment it indicates that there are no reasonably anticipated factors that are likely to cause deterioration of the quality of the water; and<br><br>- the data collected during monitoring are taken into account.<br><br>A higher frequency for any parameter can also be set if it is considered appropriate and takes account of risk assessment findings. |
| The analysis of a parameter could be stopped if:<br><br>- the parameter was unlikely to be present in the supply or system at a concentration or value that posed a risk of the water failing to meet the concentration, value or state | The analysis of any parameter can be stopped provided that:<br><br>- the results of that parameter, collected at regular intervals over the preceding three years, are all less than 30% of the |

| | |
|---|---|
| specified;<br><br>- the findings of any risk assessment were taken into account; and<br><br>- the guidance issued by the Secretary of State was taken into account which provided criteria that could be used to decide on the exclusion of the parameter. For some parameters, this included where the parametric value achieved less than 75% or 50% of the standard in the preceding two years.<br><br>Anything else identified in a risk assessment could also be monitored. | parametric value;<br><br>- after considering the results of a risk assessment it indicates that there are no reasonably anticipated factors that are likely to cause deterioration of the quality of the water; and<br><br>- the data collected during monitoring are taken into account. |

Once the amendments described above come into force, the provisions that allow a variation in sampling and analysis frequencies must be complied with. Although guidance was provided on the parametric values that previously needed to be achieved to reduce or cease monitoring, this was sometimes not taken into account, resulting in inconsistency. Adding the values to the regulation will ensure they are achieved before any reduction/cessation in sampling is applied.

One of the new proposed amendments allowing for variation requires the local authority to review the results of the parameter, which must have been collected at regular intervals over the preceding three years. Where sampling and analysis is currently based on risk, it is possible that not all parameters will have three years' worth of comprehensive data to apply the new risk criteria. Therefore, we expect an increase in the number of parameters being analysed for a period of risk assessment to justify future lower level routine monitoring. Otherwise, a full monitoring programme will always need to be performed. The latter would cost some private water supply owners and/or users more in the long term.

Of the 39,400 private water supplies in England, only 6,300 require a comprehensive monitoring programme. These are either:

- Large private water supplies distributing more than 10$m^3$ per day; or
- Any supplies, irrespective of volume consumed, that are part of a commercial or public activity. For example, a bed and breakfast establishment or a single domestic dwelling that is rented out/tenanted.

These are known as Regulation 9 supplies. They will be the only type of supply that requires the collation of sampling data for the new risk assessment approach.

Other supplies, to which the collation of sampling data for the new risk assessment approach will not apply, are:

- Water supplied by a water company and further distributed by one of its customers to a user who is not a water company customer. These supplies are only monitored if a risk is identified and only for the parameter at risk (otherwise known as Regulation 8 supplies);

- Supplies serving single domestic dwellings that have asked their Local Authority to monitor their supplies (a subset of Regulation 10 supplies); and

- Other private water supplies e.g. small domestic shared supplies, that are not covered by Regulation 8 or 9 supplies. These supplies are only monitored every 5 years for a small suite of parameters as well as any parameters identified as a risk (otherwise known as Regulation 10 supplies).

Private water supplies serving single (domestic) dwellings, that are not shared or rented out and have not asked their Local Authority to monitor their supplies, are exempt from routine sampling or monitoring. Therefore, the Regulations and the proposed amendments to them will have no impact (unless, on the very rare occasion, a Local Authority believes the supplies are at a very high risk of contamination and will sample/monitor to protect human health).

**Q3. Will the changes to risk assessment continue to protect private water supplies, focussing sampling and analysis on the highest risks and provide a consistent risk assessment approach across England? If No, what problems do you foresee?**

## Cost implications

Comprehensive monitoring and analysis incurs significant costs, especially where a large number of parameters need to be considered. Risk based monitoring presents potential cost-saving opportunities. It reduces the collection of data that provides little or no information on the quality of drinking water whilst protecting public health by targeting high risk supplies. We have therefore assumed that all local authorities in England will adopt the new risk assessment approach even though there will be a cost involved in introducing it. There will also be a cost involved in gathering the three years' worth of sampling data, which is needed if local authorities want to deviate from a comprehensive monitoring programme.

**Q4. Have we correctly assumed that the new risk assessment approach will be adopted by all local authorities? If No, why would a comprehensive monitoring programme be favoured?**

The costs involved to local authorities and private water supply owners and/or users have been estimated and are summarised below. Detailed analysis can be found in the impact assessment which is included as an annex to this document.

During the first year of the new approach, local authorities will need to embed the new process into their private water supplies monitoring regime. Based on feedback from local authorities at workshops last year, we have estimated that, per authority, this will take one

full-time worker five days to embed. At an average full-time annual cost of £45,000 a year (210 effective days), with approximately 260 local authorities in England involved in private water supply sampling, this equates to a total one-off cost to local authorities of £0.28m.

As regulators of private water supplies, local authorities have a number of statutory duties that they must undertake to determine compliance with drinking water standards. The cost of the activities performed by local authorities can be recovered from the owners and/or users of private water supplies, this includes the cost of sampling and analysis. To gather the sampling data deficit, all parameters within a water supply will need to be tested which will incur a cost which local authorities are entitled to recover. After estimating the cost of analysis a private water supply owner/user could see charges rise from an average of £260 to £600 per year for three years whilst the risk data is being collated. Assuming that local authorities will perform one sampling visit to monitor both Group A and Group B parameters, this would equate to £1.5m per year for three years across the affected private water supply population.

In year 4, the cost for sampling and analysis should then revert to an average of £260 as the risk assessment should demonstrate that the approach currently being used by local authorities is appropriate. However, based on the lower monitoring frequencies introduced by Directive 2015/1787, a realistic savings estimate for private water supply owners and/or users could fall between £0.27m and £0.54m per year.

**Q5. Are the estimates used to calculate the costs involved in collating risk assessment data accurate? If No, what should they be and why?**

**Q6. Have we correctly assumed that local authorities will perform one sampling visit to monitor both Group A and Group B parameters? If No, why are separate sampling visits required?**

# Analysis of parameters

As well as introducing a risk based approach to monitoring drinking water, in light of scientific and technical progress, the WHO also updated the method of analysis of different parameters and the performance characteristics expected for each parameter. The EU's Drinking Water Directive has therefore been amended to align accordingly. These changes will apply to the analysis of all supplies.

## Amendments to Paragraphs 1- 4 in Part 1 of Schedule 3

To be able to demonstrate compliance with the Drinking Water Directive when analysing a sample, the methods used must be validated and documented in accordance with EN ISO/IEC 17025 (or another equivalent standard accepted at international level). Quality management system practices must also be applied in accordance with EN ISO/IEC 17025 (or another equivalent standard accepted at international level).

The taking, handling, transporting and storing of samples, which is undertaken by local authority staff, must demonstrate compliance with either EN ISO/IEC 17024, EN ISO/IEC 17025 or another equivalent standard accepted at international level. Within 2 years of the regulations coming into force, those staff will need to undergo training and be accredited to carry out these functions. Certification bodies will be appointed by the United Kingdom Accreditation Service (UKAS) and those bodies will be responsible for certifying the samplers at local authorities. A pilot scheme is due to be launched later this year. Local authorities have already been made aware of the proposed changes at stakeholder engagement workshops.

Compliance with both standards must be checked from time to time by a suitably accredited body (which will be one accredited by UKAS).

## Amendments to Table 1 in Part 2 of Schedule 3

The method of analysis to be used when testing for the *Clostridium perfringens* (including spores) parameter has been updated to EN ISO 14189. The composition of m-CP agar is therefore no longer required and has been removed. The method of analysis to be used when testing for the *Pseudomonas aeruginosa* parameter has been updated to EN ISO 16266.

## Insertion of Table 3 in Part 2 of Schedule 3 and Transitional Provisions

Table 3 has been inserted and changes the prescribed performance characteristics of analytical methods (expected for each parameter) to an “uncertainty of measurement” methodology. A method for implementing / calculating the “uncertainty of measurement” will be developed and should be used by all laboratories to ensure consistency. A “blue book method” (part of the Standard Committee of Analysts (SCA) blue books) is currently being drafted and is expected to be published later this year.

To provide laboratories with sufficient time to adapt to the changes, the “uncertainty of measurement” approach does not need to be used until 1 January 2020. The current performance characteristics (at Table 2) can continue to be used until 31 December 2019.

**Q7. Do you agree with the change to an “uncertainty of measurement” methodology? If No, what problems do you foresee and can they be alleviated by providing guidance within the SCA blue books?**

## Cost implications

It is expected that the costs to laboratories to introduce a quality management system in accordance with EN ISO 17025 and to change the methods of analysis and the performance characteristics the samples are assessed against will be minimal. They should have time to familiarise themselves with the new process and perform some minor rewrites to procedures before 1 January 2020.

It is therefore expected that the minimal costs involved will be absorbed by the laboratories or, for local authorities that use water company laboratories, that the cost will be absorbed into the charges for public supply.

**Q8. Have we assumed correctly that the costs involved in the move to an "uncertainty of measurement" approach are minimal and that they won't be charged to local authorities, who will charge private water supply owners and/or users? If No, what are the expected costs and how will they be charged?**

# Part II: Changes to level of fees

Local authorities can recover the costs of carrying out their duties in respect of private water supplies from the owner/user of the private water supply. This applies to all types of supplies.

During a consultation on the draft Private Water Supplies (England) Regulations 2016 in February/March 2016, and subsequent stakeholder engagement, it was established that for some local authorities the current maximum levels of fees, set in 2010, are insufficient to cover the costs of undertaking mandatory sampling and analysis. Local authorities' budgets and resources are stretched in this area. They have articulated that, if fees are not revised, there is a risk work could be de-prioritised resulting (potentially) in staff reductions which may have a detrimental impact on the quality of the activities local authorities perform, so increasing the risk to health of private water supplies consumers.

**Q9. Local authorities have articulated the impact that non-revision of fees would have on their private water supply activities. Is this still accurate? If No, what would the impact (if any) be?**

**Q10. Can budgets within a local authority be flexed and areas cross-subsidised to prevent a fee increase? If Yes, please provide details.**

## Amendments to Paragraph 1 in Schedule 5

To safeguard the functions local authorities perform, enable local authorities to fully recover the costs incurred for the activities they undertake (e.g. risk assessment, sampling, analysis), and guard against regular revision to the fees due to rising laboratory costs, inflation, etc, it is proposed that the maximum fee threshold be removed.

Primary legislation (the Water Industry Act 1991) states that regulations may provide for the recovery of expenses reasonably incurred by a local authority whilst carrying out their regulatory duty. The secondary legislation (the 2016 Regulations) imposes a maximum amount that a local authority may charge, which (when originally set in 2010) would have enabled full cost recovery. Removing the maximum amount will enable full cost recovery, regardless of changing costs. Local authorities will only charge the amount necessary to recover expenses incurred and will apply rigour when establishing (and publishing) the charges for the activities involved. They are subject to external annual audits that will

check their charging policies and, within each authority, Chief Finance Officers are responsible for the proper administration of financial affairs. If an owner/user of a private water supply is concerned that local authorities are charging beyond full cost recovery, the charges can be challenged through the formal complaints procedures that all local authorities will have in place. Complaints can also be made directly through the Chief Finance Officer or to the external auditors[1].

**Q11. Are you content for the maximum charge to be removed allowing local authorities to set their own charging policies to enable full cost recovery? If No, please explain the reason why and what further safeguards might be appropriate.**

## Cost implications

In anticipation of a revision to the fees, Defra have been engaging with local authorities to establish the facts and gather evidence to assess what a necessary and fair level of fees could be. The results indicated that, for some of the activities they perform, some local authorities would need to increase their charges beyond the current permitted maximum (with one decrease). Those estimations were as follows:

| Type of private water supply | Estimate | |
|---|---|---|
| | Current Maximum (£) | To (£) |
| Water supplied by water company but is then further distributed by a person other than the licensed water company (Regulation 8 supplies) | | |
| - Investigating when a sample fails | £100 | £250 |
| Large private water supplies distributing more than 10m$^3$ per day or supplies, irrespective of volume, that are part of a commercial or public activity e.g. bed and breakfast or a single (domestic) supply that is rented out/tenanted (Regulation 9 supplies) | | |
| - Risk assessment | £500 | £700 |
| - Investigating when a sample fails | £100 | £250 |
| - Analysing a sample taken during check monitoring (now | £100 | £110 |

[1] A National Audit Office guide on how to make a complaint about local authority accounts can be found here: https://www.nao.org.uk/code-audit-practice/wp-content/uploads/sites/29/2015/03/Council-accounts-a-guide-to-your-rights.pdf

| | | |
|---|---|---|
| monitoring Group A parameters)<br>- Analysing a sample taken during audit monitoring (now monitoring Group B parameters) | £500 | £600 |
| Other private water supplies e.g. shared (domestic) supplies, not covered by Regulation 8 or 9 supplies (Regulation 10 supplies)<br>- Risk assessment<br>- Investigating when a sample fails | £500<br>£100 | £300<br>£250 |

Should the above charges be applied in 50% of cases, we estimate that private water supply owners and/or users will incur an additional cost of approximately £1m per year. Should the above charges be applied in all cases, this will rise to £1.93m per year.

Information on how these costs were derived can be found in the impact assessment which is included as an annex to this document.

**Q12. Are the estimations used to calculate the costs involved in removing the maximum charge and the application rate of 50% accurate? If No, what should they be and why?**

**Q13. If you are a local authority, do you envisage amending your charging policies within the next 1, 2 or 3 or more years?**

# Part III: Additional amendments

Whilst the 2016 Regulations are being updated, we are taking the opportunity to make other changes to the regulations to improve clarity and introduce measures that will assist local authorities in the restoration of a private water supply. They are as follows:

## Insertion of Regulation 11(10A) and Paragraph 2(1)(l) in Schedule 4

This amendment further transposes Council Directive 2013/15/Euratom (for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption), specifically the monitoring frequency of a radioactive substance allowing a reduction if the substance was naturally occurring and stable. It has been included in government guidance so may already be enacted within some local authorities.

Where a decision is taken to reduce or cease the sampling or analysis of a radioactive substance, due to that fact that it is naturally occurring and stable, a summary of the reasons for that decision will need to be provided to the Secretary of State.

These are the only changes being made to the monitoring of radioactive substances. Amendments made by Directive 2015/1787 do not change radioactivity sampling.

### Amendments to Regulation 16(4)(b)

A notice, under section 80 of the Water Industry 1991, must now be served if appropriate remedial action has not been taken within 28 days of establishing the cause of the failure, rather than within 28 days of becoming aware of the failure.

### Amendments to Regulation 18(2)(d)

Following feedback on the Drinking Water Regulations 2016 consultation, what it means to 'restore the quality of water', in regulation 18(2)(d) has been amended for clarification. When a local authority issues a notice it must now specify what other action is necessary to: safeguard human health; restore the wholesomeness of the water supply; and maintain the continued wholesomeness of the water supply following its restoration.

### Insertion of Regulation 18(7) and (8)

Following a response to the Drinking Water Regulations 2016 consultation two new provisions have been added to Part 5 (notice procedure) which will allow local authorities to resolve non-compliance of a notice in the interest of protecting public health and recover the costs reasonably incurred in taking the course of action itself. Local authorities already possess these powers where enforcement action is taken under Section 80 of the Water Industry Act 1991.

### Amendments to Table 2 in Part 2 of Schedule 3

For consistency with the Drinking Water Directive, the 'trueness' and 'precision' pH concentrations for Hydrogen Ion are being added to the performance characteristics for method of analysis table. The methodology is already included in Paragraph 2(4) in Part 1 of Schedule 3.

**Q14. Do you agree that the additional amendments provide necessary clarity and assist local authorities in the restoration of a private water supply? If No, what concerns do you have?**

**Q15. Are there any general comments you wish to make on the proposals for the draft Private Water Supplies (England) (Amendment) Regulations 2017? If Yes, please provide details.**

# Summary of consultation questions

Q1. Are you content with the changes to monitoring programmes? If No, what problems do you foresee?

Q2. Do you agree with the retention of current sampling frequencies for Group A & B parameters? If No, please explain why you think the frequencies should be updated.

Q3. Will the changes to risk assessment continue to protect private water supplies, focussing sampling and analysis on the highest risks and provide a consistent risk assessment approach across England? If No, what problems do you foresee?

Q4. Have we correctly assumed that the new risk assessment approach will be adopted by all local authorities? If No, why would a comprehensive monitoring programme be favoured?

Q5. Are the estimates used to calculate the costs involved in collating risk assessment data accurate? If No, what should they be and why?

Q6. Have we correctly assumed that local authorities will perform one sampling visit to monitor both Group A and Group B parameters? If No, why are separate sampling visits required?

Q7. Do you agree with the change to an “uncertainty of measurement” methodology? If No, what problems do you foresee and can they be alleviated by providing guidance within the SCA blue books?

Q8. Have we assumed correctly that the costs involved in the move to an “uncertainty of measurement” approach are minimal and that they won’t be charged to local authorities, who will charge private water supply owners and/or users? If No, what are the expected costs and how will they be charged?

Q9. Local authorities have articulated the impact that non-revision of fees would have on their private water supply activities. Is this still accurate? If No, what would the impact (if any) be?

Q10. Can budgets within a local authority be flexed and areas cross-subsidised to prevent a fee increase? If Yes, please provide details.

Q11. Are you content for the maximum charge to be removed allowing local authorities to set their own charging policies to enable full cost recovery? If No, please explain the reason why and what further safeguards might be appropriate.

Q12. Are the estimations used to calculate the costs involved in removing the maximum charge and the application rate of 50% accurate? If No, what should they be and why?

Q13. If you are a local authority, do you envisage amending your charging policies within the next 1, 2 or 3 or more years?

Q14. Do you agree that the additional amendments provide necessary clarity and assist local authorities in the restoration of a private water supply? If No, what concerns do you have?

Q15. Are there any general comments you wish to make on the proposals for the draft Private Water Supplies (England) (Amendment) Regulations 2017? If Yes, please provide details.

# Next steps

The consultation will run for 6 weeks. Views and evidence provided during this consultation will help inform the final draft of the regulations before they are laid before Parliament in late 2017.

The government will provide an official response to the views provided, after the consultation ends.