



guardians of drinking water quality
DRINKING WATER INSPECTORATE



**MEMORANDUM OF
UNDERSTANDING
BETWEEN
THE DRINKING WATER
INSPECTORATE
AND
THE DIRECTOR GENERAL OF
WATER SERVICES**

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Introduction

- 1) This non-statutory Memorandum of Understanding is between the Drinking Water Inspectorate (DWI) and the Director General of Water Services (Ofwat). This Memorandum describes the regulatory framework that is in force at the date of signing. When section 52 of the Water Act 2003 (WA03) is brought into force, it will be replaced by a statutory Memorandum of Understanding.

- 2) The Drinking Water Inspectorate acts for and on behalf of the Secretary of State for Environment, Food and Rural Affairs and the National Assembly for Wales in fulfilling their statutory duties in respect of drinking water quality. The functions of DWI were established under Section 60 of the Water Act 1989, subsequently Section 86 of the Water Industry Act 1991 (WIA91). Its principal function is to apply and enforce the Water Supply (Water Quality) Regulations 2000¹ (The Water Quality Regulations). To this end DWI:
 - rigorously checks the quality of drinking water supplied by water undertakers in England and Wales, using information supplied by them;
 - carries out audit inspections of each water undertaker in respect of any of their statutory 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 took appropriate action to protect consumers, returned supplies to normal as quickly as possible, and took suitable action to prevent a recurrence. Where appropriate, proceedings may be instituted if there is sufficient evidence to show that water unfit for

¹ Water Supply (Water Quality) Regulations 2001 in Wales.

human consumption was supplied during the incident. Section 70 WIA91 has been amended under paragraph 20 of Schedule 8 WA03 and is likely to commence in November 2004. DWI will then be able to prosecute anyone concerned in the supply of water unfit for human consumption, namely water undertakers, water supply licensees, and their respective contractors.

3) Ofwat is the economic regulator of the water and sewerage industry in England and Wales as established by Section 1 and Schedule 1 WIA91. Ofwat's primary duty is to exercise its powers and duties in a way that it considers is best calculated to secure that:

- the functions of undertakers, as specified in WIA91, are properly carried out; and
- undertakers are able to finance the proper carrying out of their functions, in particular by obtaining reasonable returns on their capital.

To this end Ofwat takes the following action in respect of the water and sewerage companies that hold appointments as undertakers. It:

- monitors undertakers' performance and works with the water quality regulators to monitor and report on their progress in complying with environmental and water quality obligations;
- checks that the undertakers give their customers a good quality efficient service at a fair price;
- sets price limits; and
- protects the interests of consumers especially those in vulnerable groups.

Responsibilities of Ofwat and DWI under this Memorandum of Understanding

4) The Memorandum sets out to build on the good working relationship that already exists between Ofwat and DWI by:

- establishing the principles of an effective relationship to which both will adhere;

- promoting co-operation and co-ordination;
 - highlighting the areas of regulatory interaction and setting out what each expects of the other;
 - minimising duplication of activity wherever possible; and
 - informing stakeholders about our relationship so as to reduce regulatory uncertainty.
- 5) The respective responsibilities of Ofwat and DWI under this Memorandum are as follows.

Consultation & discussion

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

Public communications

- We will 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.
- We will invite each other to formal press conferences and other public events hosted by one but of interest to both.
- We will not make statements relating to areas that are solely the responsibility of the other.

Exchange of information

- We will exchange information to enable us to carry out our respective functions so long as that does not breach disclosure restrictions.
- On occasion confidential information may need to be exchanged, in these circumstances confidentiality will be safeguarded appropriately.

Inset appointments & water supply licensing

- Where Ofwat receives an application for an inset appointment relating to the supply of water for domestic or food production purposes, DWI will be consulted about the suitability and technical competence of the applicant in relation to water quality and public health.
- Ofwat will have regard to the advice DWI provides before deciding whether to grant the appointment.
- We will work together on the development of the water supply licensing regime to be established under WA03.

Ongoing monitoring & enforcement

- DWI will advise Ofwat 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. Ofwat may consider taking complementary action, if appropriate.
- Ofwat will raise any relevant concerns on service failures with respect to water quality with DWI as soon as practicable. DWI may then decide to take enforcement or other appropriate action.
- Where either of us becomes aware of a material change in the activities of a water undertaker, which may have an impact on water quality issues, we will inform the other as appropriate.

- Where either of us proposes taking enforcement or other action on the basis of information provided by the other, we shall consult the other about the appropriateness of that action.

Compliance requirements

- DWI will copy to Ofwat relevant information sent to water undertakers on matters relating to drinking water quality. These include Information Letters, obligations under Section 19 WIA91 and details of programmes of work for departures authorised under regulation 20 of the Water Quality Regulations.
- DWI will also keep Ofwat informed of any proposed water quality regulations that water undertakers may have to meet in the future.

Complaints, disputes & appeals

- We 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.

Periodic reviews & interim determinations

- We will liaise regularly during periodic reviews and interim determination applications.

Working arrangements

- 6) The Chief Inspector of Drinking Water and the Director General of Water Services, or their nominees will meet as necessary. They will review matters of common interest and review annually the effectiveness and functioning of this Memorandum. They will also meet, as required, to resolve matters arising which concern drinking water quality.
- 7) For all routine matters relating to drinking water quality, the DWI contact is the Head of Asset Management. Ofwat's contact point for all drinking water quality issues is the Head of the Quality Enhancement Team. For matters relating to

competition, respective contacts will be the Deputy Chief Inspector of Drinking Water and the Director of Competition and Consumer Affairs.

General matters

- 8) Ofwat and DWI are open about their activities as part of their commitment to the Citizen's Charter, the Code of Practice on Access to Government Information (Second Edition, 1997) and in meeting their obligations under the Freedom of Information Act 2000 (FOIA). Information requested will be disclosed where possible. However, some information will be covered by a statutory restriction or an exemption either under the Code or, in due course, under the FOIA. We undertake to make each other aware of any significant relevant disclosure to third parties under these provisions.
- 9) This Memorandum is not legally binding, but it aims to provide a set of workable ground rules. Its procedures will be flexible and subject to agreed amendment, where appropriate. Ofwat or DWI may initiate a review in the light of developments and make proposals for amendments to the Memorandum.
- 10) An up to date version of this Memorandum will be published on the Ofwat and DWI websites (www.ofwat.gov.uk and www.dwi.gov.uk). A hard copy will also be available on request from the Ofwat library (telephone 0121 625 1399) and DWI enquiries (telephone 020 7082 8024).

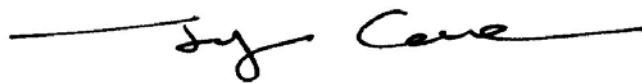
SIGNED BY

Philip Fletcher
Director General of Water Services
Office of Water Services



Date 23 April 2004

Prof Jeni Colbourne MBE
Chief Inspector of Drinking Water
Drinking Water Inspectorate



Date 23 April 2004