

Applications for designation and de-designation of bathing waters – decision making process and evidence requirements

Recommendations for designations and de-designations will be accepted at any time from anyone. The formal application should come from the local authority or landowner, for a new designation, or from the bathing water controller or other relevant body who exercises control over the bathing water in the absence of an identified controller in the case of a dedesignation, or should be supported by them.

All applications should include evidence of the criteria set out in the Annexes of this document. Applications must include evidence of consultation with bathing water users, local businesses, local environment and civic groups and Local Government bodies.

Applications for de-designation on water quality grounds will not be granted.

A full list of the evidence required for designation can be found in Annex A.

A full list of the evidence required for de-designation can be found in Annex B.

Process and outline timescale

1. Application and evidence received by Defra and acknowledged.
2. Evidence will be assessed by Defra and if it meets the requirements as set out in the Annexes will be put on the Defra website.
3. If the evidence supplied does not meet the requirements, it will be returned and the application placed on hold. Applications for de-designation where the controller appears to be taking action to deliberately reduce the numbers of bathers (excluding applications based on safety grounds), will also be returned. We will write to the applicant to explain what information still needs to be supplied.
4. Complete applications and evidence will be put on the Defra website for a 6 week consultation period with national and regional stakeholders (see list in Annex C). In particular, Defra will consult the Environment Agency and the relevant water company for additional information about the beach or inland water concerned.
5. Final decision by Defra based on consultation and the evidence supplied will be made within 4 weeks of the end of the consultation.

At any point in the process the applicant may be asked by Defra to provide additional information. In this situation the public consultation will be restarted when the evidence is received.

Decisions can be appealed if more evidence is provided.

Roles and Responsibilities

Anyone can recommend that a bathing water should be designated or de-designated; however the formal application should come from the bathing water controller, or be supported by them, as they will be responsible for meeting various requirements under the Directive.

The bathing water controller is defined in the Bathing Water Regulations 2008 (S.I. 2008/1097) as the person, or local authority, who has *“control of the land immediately adjacent to the bathing water which is normally used to access the bathing water from the landward side and, where the bathing water is tidal, control of such land above the high water mark”*.

For the majority of bathing waters this is the local authority. A smaller number are controlled by private landowners, businesses or charities. A very small number have no known controller and in these circumstances the local authority (at any level) may apply on behalf of the bathing water controller or appoint another body to do so.

The main criterion for designation and de-designation is on bather numbers. We have not set a numerical figure on the numbers of bathers, as all bathing waters are different and one figure may not be suitable for all sites. We look for evidence of numbers of swimmers, people paddling at the water's edge and people on the beach. We consider anybody swimming or paddling in the water to be a bather.

Defra is responsible for designation and de-designation in England and will base decisions on the evidence supplied in accordance with the set criteria for designation and de-designation. Where Defra considers that a designation or de-designation is required, it will approach the local authority, landowner or bathing water controller concerned in order to take into account their views. Defra will also contact all bathing water controllers annually to confirm that the list of designated waters and ask for suggestions for new bathing waters.

Defra will make the names of any organisations, or person representing an organisation or group who recommend a designation or de-designation, known in the applications process. We will protect personal information of members of the public who recommend a designation or de-designation.

Notification of Decision

Defra will notify the applicant, relevant Local Authority and Water Company of the decision made on designation or de-designation and the reasons why. A summary of the decision and reasons why will also be put on the Defra website.

If an application to designate a site is accepted, Defra will inform the Environment Agency who will develop a bathing water profile for the site and take forwards the plans to monitor and protect the bathing water. Defra sends a list of all designated bathing waters to the European Commission in early May every year. In order to produce the required profiles, plans and signage, new designations made after January each year will be included in the following year's list.

If an application to de-designate a site is accepted, the applicant should communicate this as widely as possible to inform users. This could be done via local newspapers, newsletters and notice boards as well as information at the bathing water.

Contacts

Defra

Water Quality – Bathing waters team

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Annex A - Evidence which must be supplied with all applications for designation

1. Evidence of usage for bathing

- User survey at times during the bathing season (15 May – 30 September) when peak usage would be expected (weekends, bank holidays, May half term and school summer holiday period)
- Surveys to be carried out at a time of day when high numbers of users would be expected (11am to 3pm, or as close to peak time as tidal or other local conditions allow).
- Surveys should cover a minimum of 20 days including;
 - 10 weekend or bank holiday days
 - Half of all survey days to be in school holiday periods
- Breakdown of numbers of swimmers, paddlers and other beach users.
- Photographs or surveys to support historic trends for high level of users, if applicable

AND

2. Information about the facilities available at the site, for example:

- Access facilities
- Public toilets
- Changing facilities
- Parking
- Lifeguards
- First aid service
- Kiosks and shops

It is not compulsory for these facilities to be provided, but their presence provides evidence that there is infrastructure to support and promote bathing.

AND

3. Evidence of local consultation during the bathing season and its outcomes, including but not limited to the following groups;

- a. Bathers
- b. Other beach users
- c. Owners of beach huts or other beach facilities
- d. Owners and operators of on-beach and beachside businesses, in particular cafes and shops
- e. Residents of nearest urban area to the bathing water (closest town or village)
- f. Local environmental and civic groups
- g. Local chamber of commerce
- h. Neighbourhood and Community representative groups
- i. Parish and Town Councils (where they are not the controller)
- j. Local tourist office or other local tourism body
- k. Local regeneration office or other local regeneration body

I. County, Borough, District or Unitary Authority (where they are not the controller)

4. Please state whether you are the owner or leaseholder of the site and if not, please indicate who is the local authority or private landowner and if the application has their support.

Annex B - Evidence which must be supplied with all applications for de-designation

1. Evidence of low usage /no users

- User survey during times during the bathing season when peak usage would be expected (Weekends, Bank Holidays, May Half Term and school summer holiday period)
- Surveys to be carried out at a time of day when high numbers of users would be expected (11am to 3pm, or as close to peak time as tidal or other local conditions allow).
- Surveys should cover a minimum of 20 days including;
 - i. 10 weekend or bank holiday days
 - ii. Half of all survey days to be in holiday periods
- Breakdown of numbers of swimmers, paddlers and other beach users
- Photographs or surveys to support historic trends for low level of users if applicable

AND

2. Evidence of no or recent withdrawal of facilities to support or promote bathing (such as lifeguards, beach huts, showers and changing facilities)

- Reasons why no facilities have ever existed and any relevant supporting evidence
- Where facilities have been recently removed, a letter setting out reasons for the withdrawal of service. (Please see point 3 of the process guidelines on page 1)

AND

3. Evidence of local consultation during the bathing season and its outcomes, including but not limited to the following groups;

- Bathers
- Other beach users
- Owners of beach huts or other beach facilities
- Owners and operators of on-beach and beachside businesses, in particular cafes and shops
- Residents of nearest urban area to the bathing water (closest town or village)
- Local environmental and civic groups
- Local chamber of commerce
- Neighbourhood and Community representative groups
- Parish and Town Councils (where they are not the controller)
- Local tourist office or other local tourism body
- Local regeneration office or other local regeneration body
- County, Borough, District or Unitary Authority (where they are not the controller)

Consultations must make clear that the bathing water would no longer be sampled, the bathing water may lose existing high levels of protection and no future improvements would be made.

We recommend that notices of intent to de-designate the bathing water are put up at the bathing water and other community notice boards during the bathing season with contact details for those who wish to comment. All responses should be logged and evidence should set out to show if there is local support for de-designation or not.

In the event of applications based on a local ban on bathing we will also require

- Reason for ban
- Evidence of ban in local law or operating protocol
- Evidence on how ban is communicated and enforced

Annex C - National and Regional stakeholders

Surfers Against Sewage

Marine Conservation Society

Appropriate Water Company

Water UK

UK Beach Managers Forum

British Resorts and Destinations Association (BRADA)

Consumer Council for Water

The Environment Agency

Department for Culture Media and Sport

Visit England

National Farmers Union

Country Landowners Association

River and Lake Swimming Association

Outdoor Swimming Society

British Long Distance Swimming Association