



Department
for Environment
Food & Rural Affairs

Consultation on the Drinking Water Regulations 2017

Summary of responses

May 2018



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Introduction

This document provides a summary of responses to Defra's consultation exercise on amendments to the Water Supply (Water Quality) Regulations 2016 (S.I 2016/614) (the 'public regulations') and the Private Water Supplies (England) Regulations 2016 (S.I 2016/618) (the 'private regulations'), collectively known as the 'Drinking Water Regulations'. The consultation ran from 12 September to 24 October 2017. A total of 221 responses were received, six of which were received and accepted within a few days after the consultation closed. One response, received over two and a half weeks late, was rejected.

The Drinking Water Regulations transpose both Council Directive 98/83/EC (the 'Drinking Water Directive' (DWD)) on the quality of water intended for human consumption and Council Directive 2013/51/Euratom on the protection of the health of the general public with regard to radioactive substances in water intended for human consumption. They also supplement provisions set out in Chapter 3 of the Water Industry Act 1991 (the '1991 Act'). Local Authorities (LAs) have duties under sections 77 to 85 of the 1991 Act relating to private water supplies and are also responsible for enforcing the private regulations. The Drinking Water Inspectorate (DWI), acting on behalf of Defra's Secretary of State, enforce the public regulations.

The consultation concerned two sets of draft regulations to amend the Drinking Water Regulations: the draft Water Supply (Water Quality) (Amendment) Regulations 2017 and the draft Private Water Supplies (England) (Amendment) Regulations 2017. Both regulations will now be dated 2018.

The draft regulations are primarily designed to transpose Commission Directive (EU) 2015/1787 (the 'Directive') which amends Annexes II and III of the DWD. Annex II has been amended to introduce a risk based approach to monitoring which, under certain circumstances, will allow less frequent sampling and analysis of some of the microbiological and chemical parameters found in drinking water. Annex III has been amended to update the specifications for the method of analysis and the performance characteristics that each parameter should meet. Guidelines for risk and crisis management (EN 15975-2) and standards to validate the methods of analysis (EN ISO/IEC 17025) have also been updated to ensure the security of drinking water supply.

In addition, the draft regulations propose to make the following changes to the private regulations:

- remove the limits on the maximum amounts that LAs can charge for activities undertaken to fulfil their statutory duties in respect of private water supplies, enabling full cost recovery;
- provide LAs with the powers to perform remedial work where there is a risk to health and a notice served under Regulation 18 has not been complied with; and

- clarify certain aspects, such as the criteria for satisfying a notice served under Regulation 18.

The draft regulations also make the following changes to the public regulations:

- updating the definitions of 'service reservoir' and 'wholesomeness'; and
- changing the timing of samples taken from tankers distributing a short term supply.

Overview of responses

In the consultation we sought views from respondents on a series of questions. There were nine questions relating to the draft Water Supply (Water Quality) (Amendment) Regulations 2017 and 15 questions relating to the draft Private Water Supplies (England) (Amendment) Regulations 2017.

Around 400 organisations in England were contacted directly by email to alert them to the consultation. The consultation was also advertised on Gov.uk and on Defra's Water Twitter page. In turn, LAs engaged with owners and/or users of private water supplies via letter, email, social media and published notices of the consultation on their websites.

A total of 221 responses were received: 20 specifically for the Water Supply (Water Quality) (Amendment) Regulations 2017; 197 for the Private Water Supplies (England) (Amendment) Regulations 2017; and, four covering both sets of regulations. The breakdown of responses was as follows:

- 18 from water companies and licensed water suppliers;
- 48 from LAs (which includes 5 from LA partnership groups and associates);
- 46 from private businesses;
- 100 from private individuals (which includes 2 from Council Parishes on behalf of their residents);
- seven from professional bodies; and
- two from universities/scientific organisations;

Summary of responses and government response

There was general support for the draft Water Supply (Water Quality) (Amendment) Regulations 2017. The majority of comments from respondents were in relation to the:

- transitional provisions and the need to cease any current variation from the standard number of samples / monitoring frequency;
- introduction of an international standard for collecting and analysing samples (EN ISO/IEC 17025) specifically, the estimated costs to implement and the timescales involved to comply;

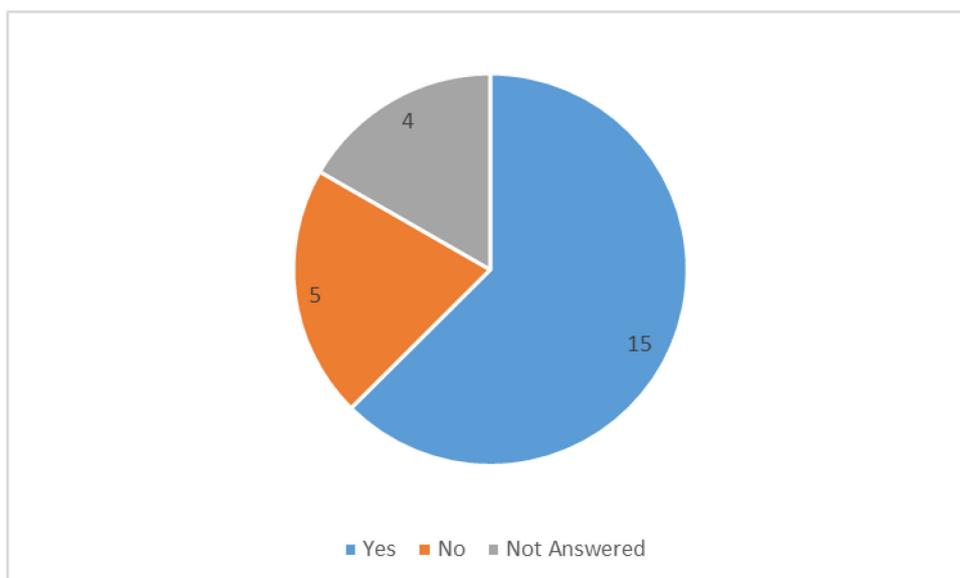
- changes to sampling requirements for drinking water in tankers; and
- estimates used to calculate costs and savings.

Whilst generally in favour, a number of concerns were raised on the draft Private Water Supplies (England) (Amendment) Regulations 2017. These related to the:

- need to collect further analysis data, where deficient, to apply the new risk criteria;
- Costs involved in collecting the further analysis data;
- disproportionate impact the revisions might have on small or micro businesses which are predominantly based in rural areas; and
- proposal to remove the maximum limits on the amounts that LAs can charge when exercising their statutory monitoring functions.

Water Supply (Water Quality) (Amendment) Regulations 2017

Question 1 - Are you content with the changes to monitoring programmes? If No, what problems do you foresee?



13 of the 24 respondents provided comments.

More than 60% of respondents welcomed the changes to monitoring programmes specifically the opportunity to apply a risk based approach to sampling and either increase or reduce the frequency of analysis accordingly. However, seven respondents had concerns about the transitional provisions.

Government response

To clarify the transitional provisions the Drinking Water Inspectorate (DWI) has issued advice via an Information Letter. It can be found here:

<http://www.dwi.gov.uk/stakeholders/information-letters/2017/04-2017.pdf>.

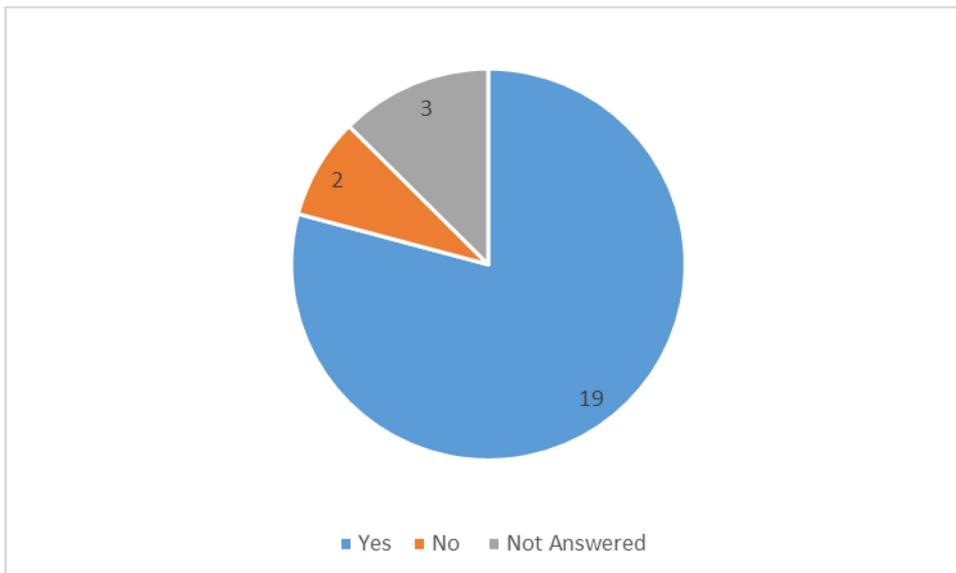
Question 2 - Do you agree with the retention of current sampling frequencies for the new parameter groups? If No, please explain why you think the frequencies should be updated.

19 of the 24 respondents agreed with the retention of current sampling frequencies. Only two disagreed but they did not provide a reason why.

Government response

As the majority of respondents were in agreement, no changes have been made and the current frequencies have been retained.

Question 3 - Will the new risk assessment approach continue to protect drinking water supply whilst focussing sampling and analysis on the highest risks? If No, what problems do you foresee?



13 of the 24 respondents provided comments.

Just under 80% of respondents agreed that the new risk assessment approach would continue to protect drinking water supply whilst focussing sampling and analysis on the highest risks and that the risk assessment accreditation approach was an appropriate accompaniment. Two respondents raised concerns with cost and time taken for the new risk assessment methodologies.

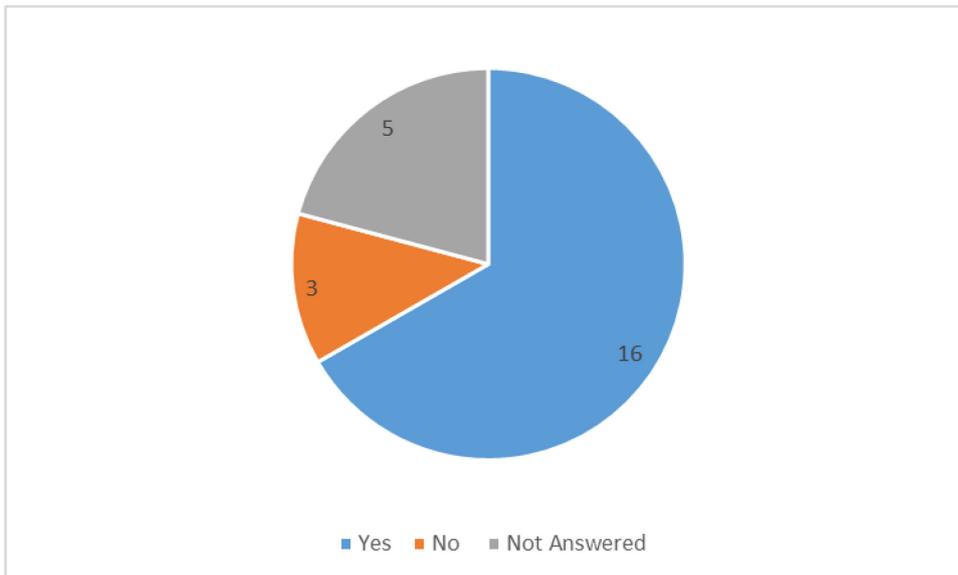
There were four requests received for further information on the new monitoring variation application process.

Government response

Given that the majority of respondents agreed that the new risk assessment approach would continue to protect drinking water supply (and over time the approach will save money), this approach will be implemented.

In response to a call for further information on the new monitoring variation application process draft advice on the process will be issued by DWI concurrently with this response. It will include any criteria to be met to enable a variation on parameters without numeric prescribed concentrations or values (PCVs) (for example, taste, odour, colour and colony counts), parameters where the PCV is 0 (bacteriological parameters), or where the PCV is between a range (pH), and how to renew risk assessments when the data available has been reduced/eliminated based on a previous risk assessment.

Question 4 - Have we correctly assumed that the new risk assessment approach will be adopted by all water companies? If No, why is the approach not favoured?



14 of the 24 respondents provided comments.

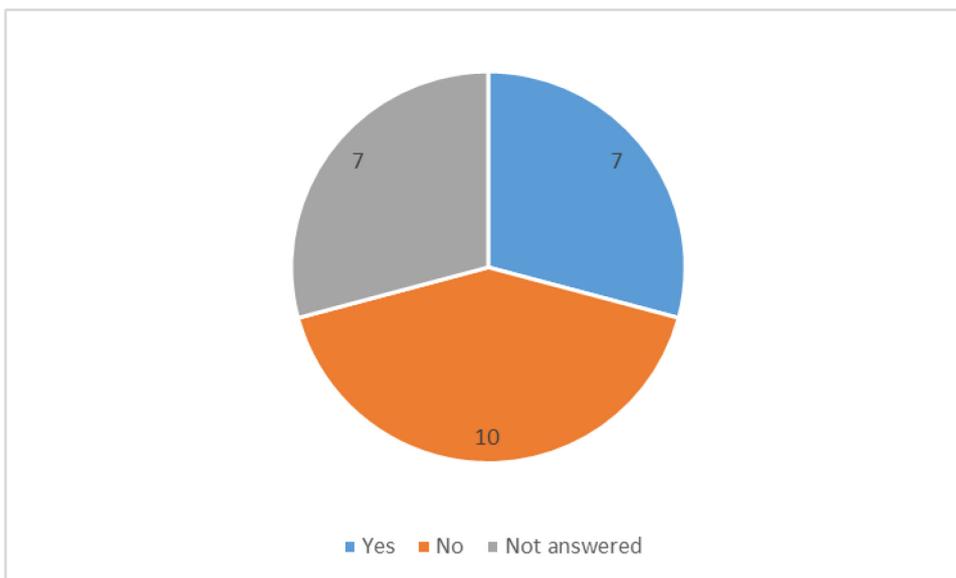
The majority of respondents said they would adopt the new risk assessment approach. Although seven of the 24 respondents noted that the costs to achieve and maintain certification of risk assessments was dis-incentivising (at least until the process was clearer) and potential savings from a more targeted monitoring regime were unlikely to offset the cost of accreditation. One respondent stated that the existing Outcome Delivery Incentive, based on Mean Zonal Compliance, should not continue in parallel with the new approach.

Government response

To ensure potential savings are maximised, the DWI will issue draft guidance concurrently with this response.

The Outcome Delivery Incentive based on Mean Zonal Compliance is going to be replaced with Compliance Risk Index (CRi). DWI have already issued guidance relating to this in the [Chief Inspector's report 2016](#).

Question 5 - Are the estimates used to calculate the costs and savings involved in risk assessments accurate? If No, what should they be and why?



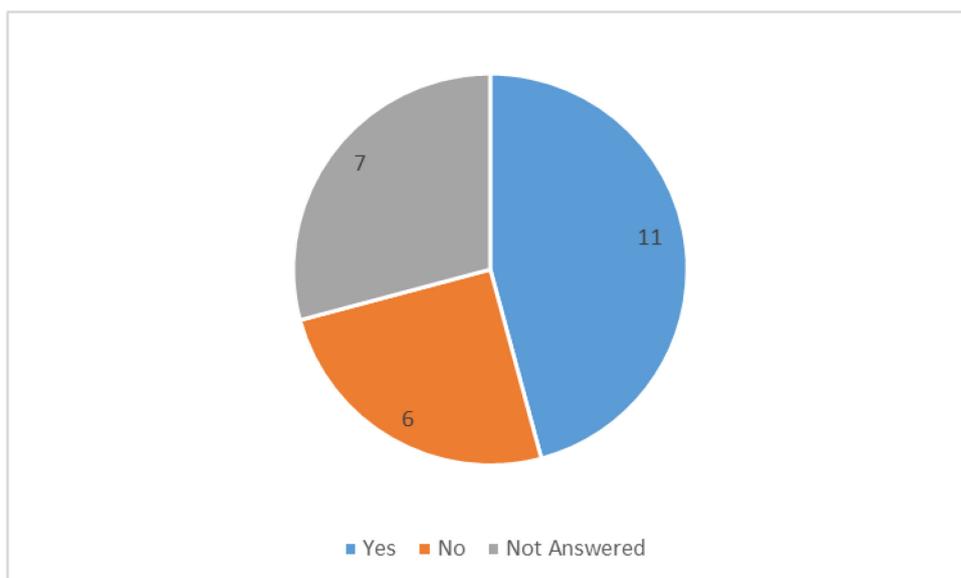
14 of the 24 respondents provided comments.

Of the 24 respondents, 10 thought the estimates in the assessment were “reasonable”, seven did not answer the question and seven thought the estimates were incorrect. The data most questioned related to: the estimate of the reduction in sample numbers (800,000) due to the need to maintain operational monitoring; the reduction of 50% in analysis for all parameters as some parameters could result in laboratory costs increasing due to the number of tests involved; costs of accreditation to EN ISO/IEC 17025 for the collection, handling, transportation, storing and analysis of samples; no savings would be made on the cost of sampling for *E. coli* as a visit will still need to be made to test for it; and the cost of the application for a monitoring variation as what is estimated does not take into account reducing monitoring frequencies at treatment works.

Government response

The majority of the assessment that impacted the cost of the changes was judged to be a sound reflection but where the consultation provided new data sources, the document has been updated. The final version of the assessment will be made available on Citizen Space (the website that hosted the consultation) on the same day the final version of the regulations is laid.

Question 6 - Do you agree with the change to an “uncertainty of measurement” approach? If No, what problems do you foresee and can they be alleviated by providing guidance within the SCA blue books¹?



13 of the 24 respondents provided comments.

There were 11 respondents that had previously provided feedback on this point to the working group set up by DWI. They noted that, as common standards were being established and worked examples provided, the “uncertainty of measurement (UoM)” approach would be acceptable.

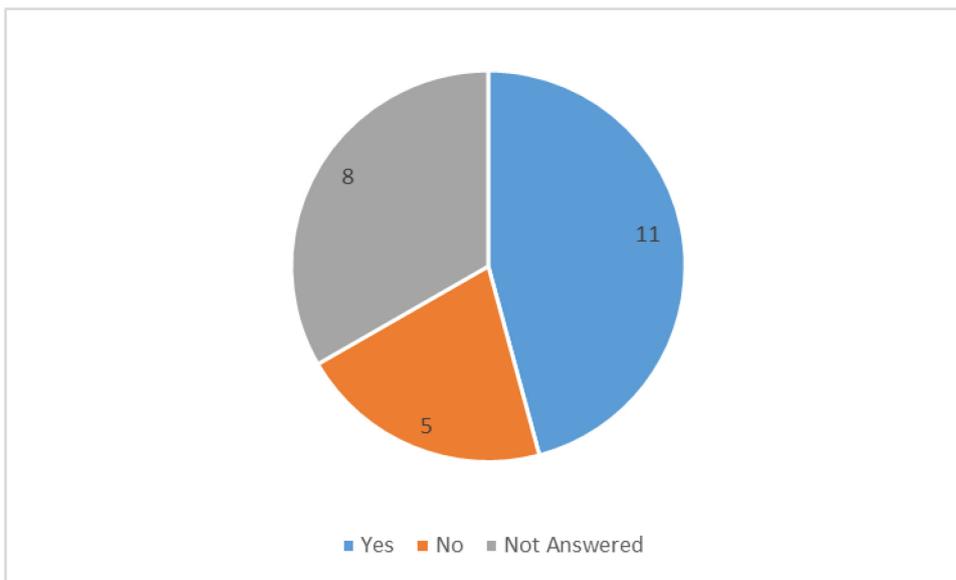
However, five respondents had concerns with the robustness of the UoM approach compared with the current methodology. They thought the current methodology was more stringent and costs would be incurred to facilitate the change. Although one respondent wondered if the UoM data already available could be used rather than introducing further guidance providing a possible saving.

¹ A method for implementing / calculating the “uncertainty of measurement” will be developed to be used by all laboratories. This is known as a “blue book method” (part of the Standard Committee of Analysts (SCA) blue books).

Government response

The SCA Blue Book has now been published and is based on available laboratory UoM data. There will only be a limited number of options specified for analysis to aid consistency.

Question 7 - Are the estimations used to calculate the costs involved in the analysis of parameters accurate? If No, what should they be and why?



13 of the 24 respondents provided comments.

Just over 45% of respondents thought the costs we presented in the assessment were appropriate but this was subject to finalising the UoM methodology.

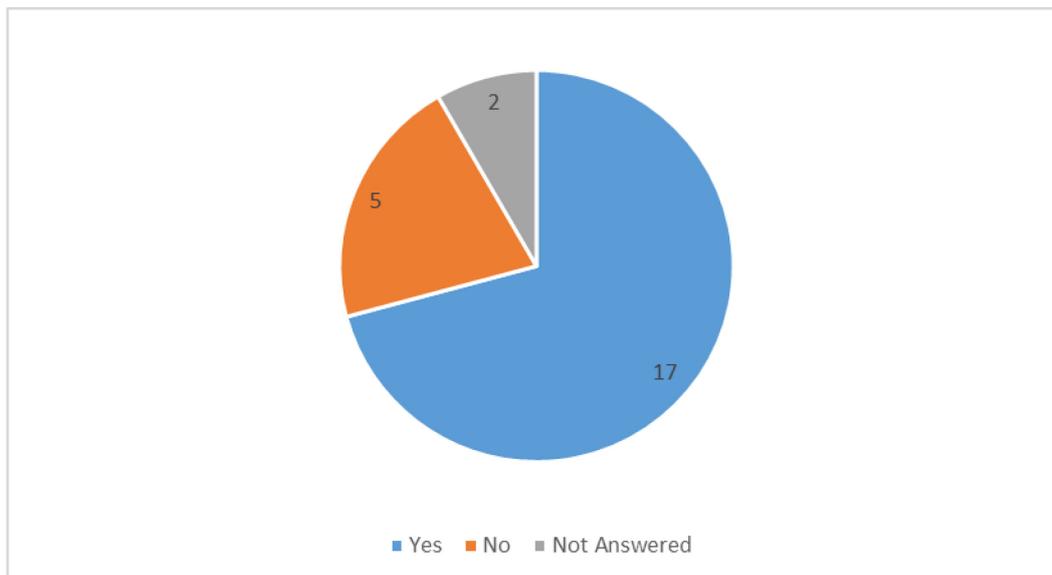
More than 33% of respondents did not provide a response, the main reason being that they contracted out the analysis work.

The remainder (approximately 20%) of respondents deemed the £20,000 cost estimate to implement UoM to be either an over and under estimate.

Government response

The costs involved to establish the processes within in-house laboratories and make changes to arrangements with contract laboratories were judged as appropriate. The final version of the assessment that impacted the cost of the changes will be made available on Citizen Space (the website that hosted the consultation) on the same day the final version of the regulations is laid.

Question 8 - Do you agree that the additional amendments will assist in protecting public health? If No, what concerns do you have?



15 of the 24 respondents provided comments.

Over 70% of respondents agreed that the amendments would further assist in protection of public health.

Three respondents wanted clarification of how the updated definition of a 'service reservoir' would apply; one respondent wanted a change to the definition of 'wholesome water' to include food washing; and, five water companies noted that changes to the distribution of water by a tanker could create additional burdens, delay making alternative supplies available to the public and questioned its benefit in protecting public health. There were also two retail licensees that suggested aligning new requirements on records with the guidance already available and sought clarification on providing additional information.

Government response

Although advice has already been provided by DWI on the term 'service reservoir', DWI will look to add further clarification to their guidance. Draft guidance will be issued by DWI concurrently with this response.

The term 'washing' (in the definition of 'wholesome water') does not relate to 'food washing' but rather washing for sanitary purposes as per the definition² in the 1991 Act and therefore out of scope of the drinking water regulations.

² Section 218 of the Water Industry Act states: "references to domestic purposes, in relation to a supply of water to any premises or in relation to any cognate expression, are references to the drinking, washing, cooking, central heating and sanitary purposes for which water supplied to those premises may be used".

The purpose of the amendment to the distribution of water by a tanker is to provide assurance that the water contained in the vessel is microbiologically wholesome at the time it is first deployed which will protect public health. The change should not cause a delay in making alternative supplies available to the public. Companies should follow recognised good practices with regard to water hygiene and have appropriate monitoring in place for the tankers so when water is placed in the tanker it is not contaminated. An explanation of the records that retail licensees will need to prepare and maintain will be added to DWI guidance. However, the proposed amendment to regulation 34 of the public regulations will not be made. This is because the amendment has already been made via the Water Act 2014 (Consequential Amendments etc.) Order 2017.

Question 9 - Are there any general comments you wish to make on the proposals for the draft Water Supply (Water Quality) (Amendment) Regulations 2017? If yes, please provide details.

General comments received related to:

- the need for guidance or further information before the public regulations enter into force;
- companies requested time to update procedures, deliver training, and obtain accreditation in relation to standard EN ISO/IEC 17025 (for the collection, handling, transportation, storing and analysis of samples). They also queried if the personnel taking operational samples (rather than those relating to compliance monitoring) needed to be accredited;
- respondents highlighted minor typographic errors and factual inaccuracies; and,
- the British Standards Institute requested that any reference to a ISO or CEN standard should make reference to the British (rather than European) version of the standards. This would ensure that the user is referring to the version that UK experts have contributed to which state and explain any concerns that the UK mirror committee might have about the standards content and provide extended advice and guidance.

Government response

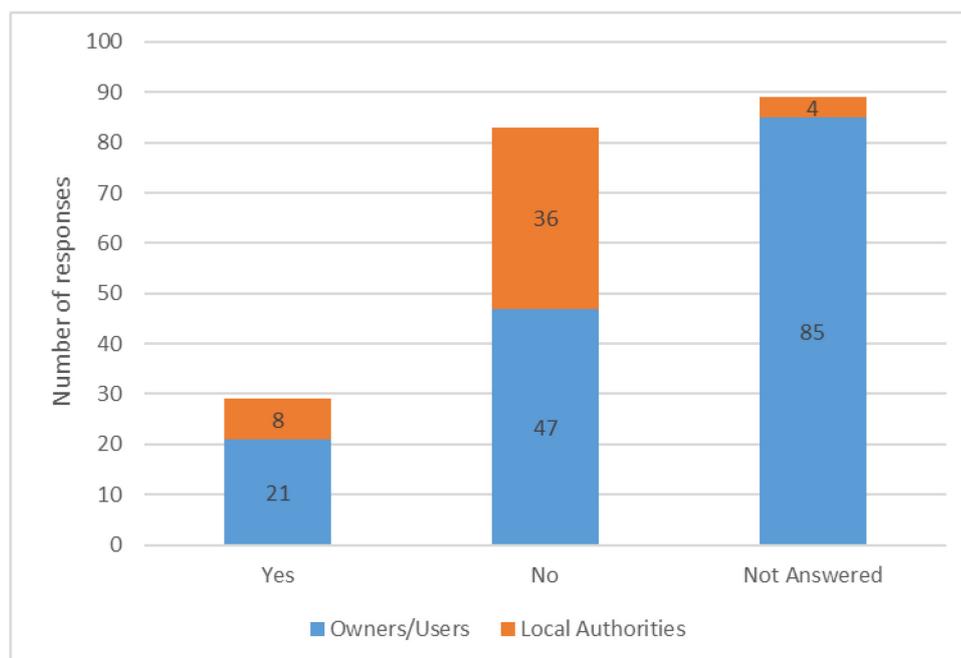
The DWI are currently updating their guidance to reflect the changes that will be introduced by the draft regulations. Draft guidance will be issued by DWI concurrently with this response.

As far as DWI are aware, the majority of all water companies and retail licensees are already fully accredited to standard EN ISO/IEC 17025. For operational samples, water companies are only required to be accredited when they are carrying out sampling to demonstrate compliance with the public regulation for example, event investigations. All typographical errors and factual inaccuracies highlighted have been corrected. These will be reflected in the final draft regulations.

Where applicable, the British versions of the ISO and CEN standards have been added to footnotes in the final draft regulations.

Private Water Supplies (England) (Amendment) Regulations 2017

Question 1 - Are you content with the changes to monitoring programmes? If No, what problems do you foresee?



49 private water supply (PWS) owners/users and 41 Local Authorities (LAs) of the 201 respondents provided comments.

Of the 112 respondents that answered this question, 83 were not content with the changes to the monitoring programme. Of those that provided comments on their reasons, 67 respondents disagreed with the transitional provisions until the new risk assessment criteria (which would allow reductions/cessation in monitoring) could be applied.

The owners/users of PWS thought that there was no justification for the change and that the process of leaving the European Union meant the Directive need not be implemented.

LAs sought further information on the accreditation of their sampling officers to standard EN ISO/IEC 17024 (for the collection, handling, transportation and storing of samples).

Some recognised the benefits of accreditation but others thought that it was disproportionate, that the costs could be excessive and it could lead to outsourcing.

Other comments received related to: minor typographical errors and factual inaccuracies; clarification on monitoring for pesticides; and, the need to revert to standard sampling frequencies when a supply is found to be unwholesome.

Government response

Although improving, 4.2% of tests on private water supplies failed to meet the standards in 2016 (compared to only 0.04% of tests on public water supply)³. The supplies failing the standards are of unsafe microbiological quality, with 7.4% of samples containing *E.coli* and 7.9% containing Enterococci. This means that the water supply is contaminated with faecal matter and there is a risk that harmful pathogens will also be present. Given this public health risk, the government has decided that there is a need to amend the current risk assessment criteria.

Parliament voted to trigger article 50 and leave the European Union. Until we leave the EU, all the rights and obligations of EU membership remain in force. The outcome of our negotiations with the EU on a future partnership will determine what arrangements apply in future.

As explained in the consultation document, a pilot sampling officer accreditation scheme will be launched which will inform guidance and better determine the costs for the launch of the scheme. We can confirm that the certification applies to the individual and if they leave a LA their certification goes with them.

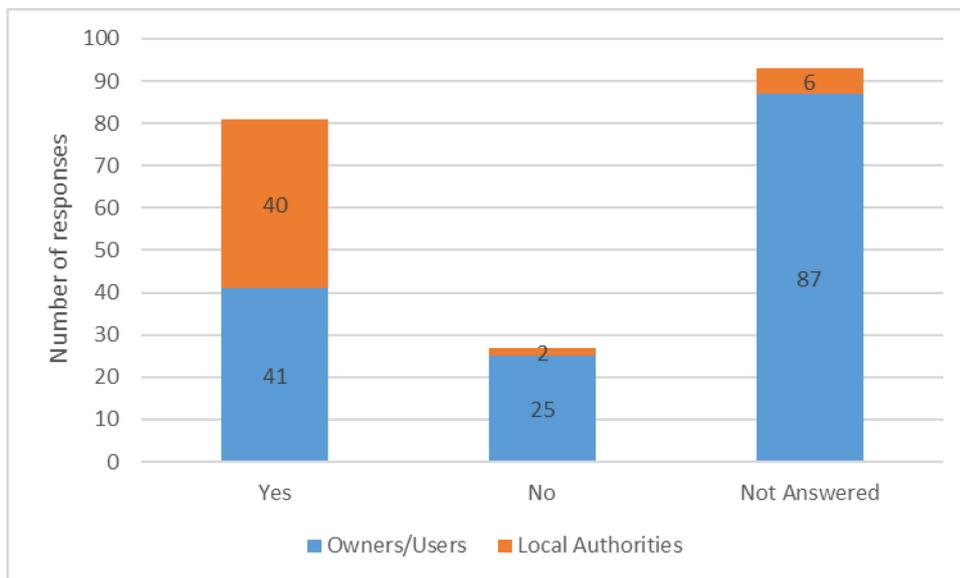
All typographical errors and factual inaccuracies have been corrected. These will be reflected in the final draft regulations.

The private regulations state that “only those pesticides likely to be present in a given supply need be monitored”. This will not be changed by the draft regulations. Therefore sampling for pesticides can continue to be based on risk without the need to meet the new risk assessment criteria for reducing/ceasing monitoring.

The draft regulations consulted on provided that where a LA considers there to be a significant risk of unwholesomeness of a PWS, or test results determined that it is unwholesome, it would reinstate standard sampling frequencies on the full set of parameters. However, this was an error. Instead, the standard frequencies need only be reinstated for the parameter(s) that have caused, or are likely to cause, the PWS to be unwholesome, not the whole supply. This point has been addressed in the final version of the draft regulations.

³ Figures extracted from the [Drinking Water Inspectorate Annual Report 2016 – Private water supplies in England](#).

Question 2 - 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.



20 PWS owners/users and eight LAs of the 201 respondents provided comments.

Over 40% of respondents supported the retention of current sampling frequencies (46% did not answer and only 14% disagreed). Four of the PWS owners/users/representatives who commented expressed a preference for the lower sampling frequencies, set out in the Directive, due to the disproportionate impact on smaller supplies. Of the LAs who commented, one suggested setting a sampling frequency to less than once per year where the parameter does not pose a health risk and there are no relevant changes to the supply. The other six noted that they were supportive of retention as the frequencies could still be reduced following the completion of a risk assessment.

Government response

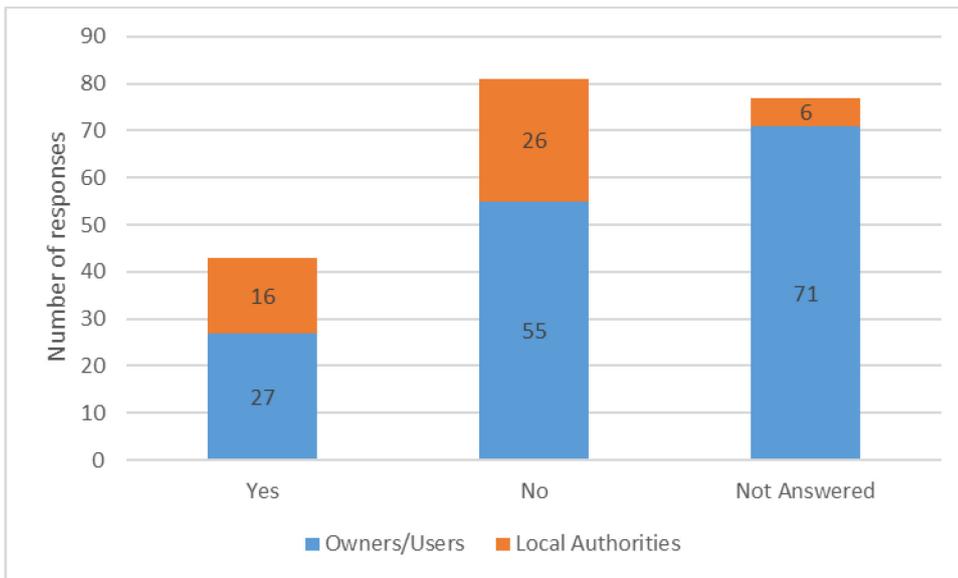
Following the consultation responses, the government reassessed whether the sampling rates set out in the consultation were the most appropriate. The government decided that the current evidence of failure rates demonstrated that these sampling rates were an appropriate balance to ensure public health whilst minimising cost.

A number of comments were received in relation to setting a sampling rate >0 for commercial/public activity and shared supplies supplying $\leq 100\text{m}^3$ each day. However this is in line with the Directive. Member States do have discretion to set the rate but it must be >0 .

No comments were received in relation to the sampling frequency for Group B parameters where the volume of water supplied each day exceeds $100,000\text{m}^3$, however to ensure full

compliance with the Directive, the government has decided to set it to 12 + 1 per 25,000m³ supplied.

Question 3 - 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?



55 PWS owners/users and 36 LAs of the 201 respondents provided comments.

Of the 124 respondents that answered this question, 43 agreed that the changes to the risk assessment would continue to protect PWS and provide a consistent risk assessment approach. Although not necessarily disagreeing, 81 respondents felt that there would be problems with the changes to the risk assessment criteria.

PWS owners/users and a number of the LAs that provided comments were opposed to the estimated rise in costs to gather the necessary data for the new approach. They felt that any increase in fees would mainly impact those in remote locations and those with small and micro businesses, with a few believing the latter should be re-classified from a Regulation 9 to a Regulation 10 supply.

LAs questioned why previously gathered data (beyond the 36 month timescale in the draft regulations) and knowledge of the geology, farming practices, etc. in their area could not be used in the new risk approach. The new requirement to provide a summary of risk assessment results to the Secretary of State was also questioned by six LAs, who wanted guidance on what information needed to be supplied. LAs also queried how the reduction and cessation limits of 60% and 30% respectively would be applied to parameters without numeric prescribed concentrations or values (PCV) or where the PCV is between a range.

Government response

The government acknowledges the concerns of PWS owners/users and LAs. The types of establishments most effected by the change in risk assessment are those supplying water to the general public as part of a commercial or public activity, which may include small and micro businesses. However, due to the significant risks to public health, establishments providing water as part of a commercial or public activity will not be exempted, as per Article 3(2)(b)⁴ of the DWD.

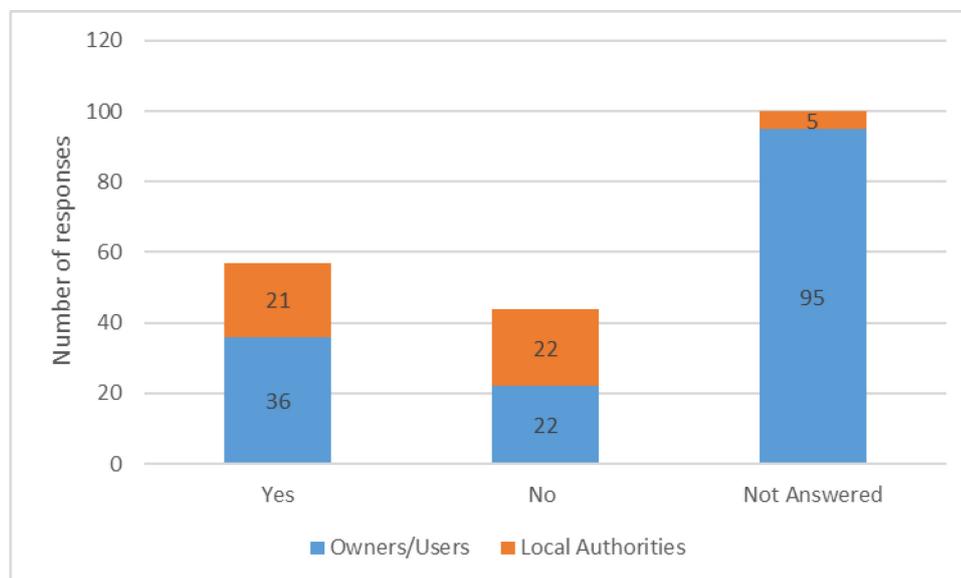
Sampling analysis results can be utilised from a period longer than 3 years. The draft regulations contained an unnecessary restriction which has been corrected in the final draft regulations as per Annex I, Part C, Point 5(b)(ii and iii) of the Directive⁵. Previously gathered data on the geology, farming practices, etc. should still be used to assist with the risk assessment (as per Drinking Water Inspectorate (DWI) guidance) but LAs also need the sampling analysis data before reductions/cessations were applied. The DWI is conducting a project to determine if the information held by the Environment Agency, British Geological Survey, water companies, etc. can be combined into “heat maps” and made available to LAs which will assist with the risk assessment. The DWI has also initiated another project to determine whether PWS in an area can be grouped into “supply zones”, thereby allowing sampling to be undertaken at representative properties within a zone over the year, rather than at them all which could reduce LA costs and resources.

Further information on providing risk assessment results to the Secretary of State will be included in draft guidance published by DWI concurrently with this response. For those LAs who utilise DWI’s risk assessment toolkit, it has been amended so that summaries will generate automatically. This can then be sent to DWI to fulfil the regulatory requirement. The guidance will also include any criteria to be met to enable a variation on parameters without numeric prescribed concentrations or values (PCVs) (for example, taste, odour, colour and colony counts), parameters where the PCV is 0 (bacteriological parameters), or where the PCV is between a range (pH).

⁴ This states that “Member States may exempt from the provisions of this Directive: water intended for human consumption from an individual supply providing less than 10 m³ a day as an average or serving fewer than 50 persons, unless the water is supplied as part of a commercial or public activity”.

⁵ These state that samples should be “collected at regular intervals over a period of at least 3 years”.

Question 4 - 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?



20 PWS owners/users and 32 LAs of the 201 respondents provided comments.

There was a near 50/50 split amongst LAs on whether or not they would adopt the new risk assessment approach and apply the new criteria. Those that answered negatively did not say that they would revert to a comprehensive monitoring programme (as required by the draft regulations) but rather noted that: they already assess via a risk based approach and the new approach is not proportionate to the risk; that the extra resource and money needed to implement the new approach would need to be recoverable and be covered in the Impact Assessment (IA); and it would have a detrimental impact on their relationship with PWS owners/users who could suffer hardship as a result of the changes.

One LA noted that a comprehensive sampling regime may still be necessary in premises such as hospitals and schools, presumably because of the more vulnerable nature of the water consumers.

Five PWS owners/users were not in favour of the new comprehensive monitoring programme but expressed a desire to have their supplies follow a risk based approach. They thought LAs would support a comprehensive monitoring programme to make money.

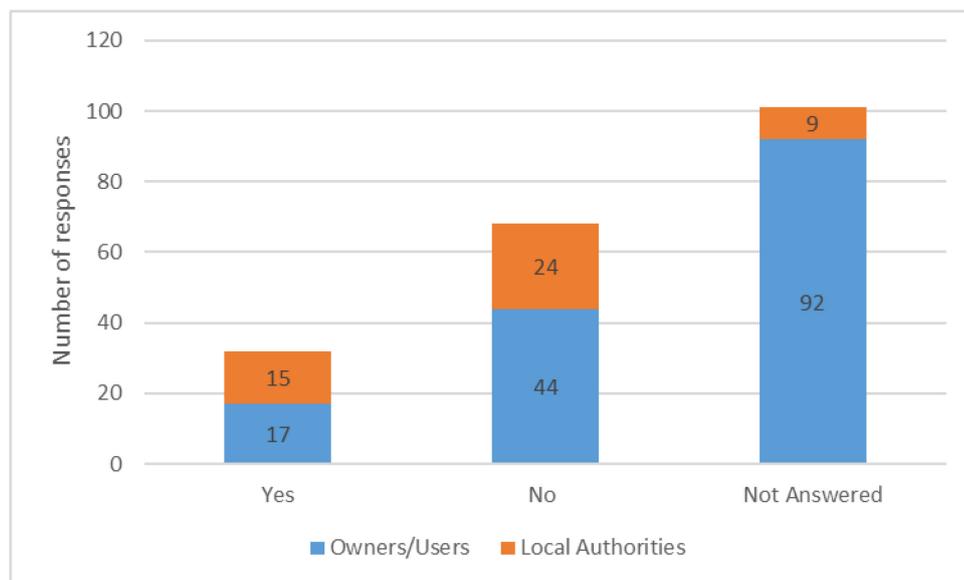
Government response

When the final draft regulations come into force, those LAs wanting to sample and analyse based on risk (which would allow reductions in sampling frequencies and cessation of analysis for some parameters), can only do so if they meet the new risk assessment criteria. The cost to comply with the new risk assessment criteria has been calculated in the IA and costs will be recoverable (see Q11). It is important to safeguard human health with failure rates currently at an unacceptable level. As explained in Q3, sampling analysis

results can now be utilised from a period longer than 3 years, which may assist some LAs in reducing the need to collect full data sets every year for the next three years.

LAs will only be able to recover the reasonable costs incurred for performing their statutory duties. Maintaining a comprehensive sampling regime can therefore not generate revenue for LAs.

Question 5 - Are the estimates used to calculate the costs involved in collating risk assessment data accurate? If No, what should they be and why?



35 PWS owners/users and 33 LAs of the 201 respondents provided comments.

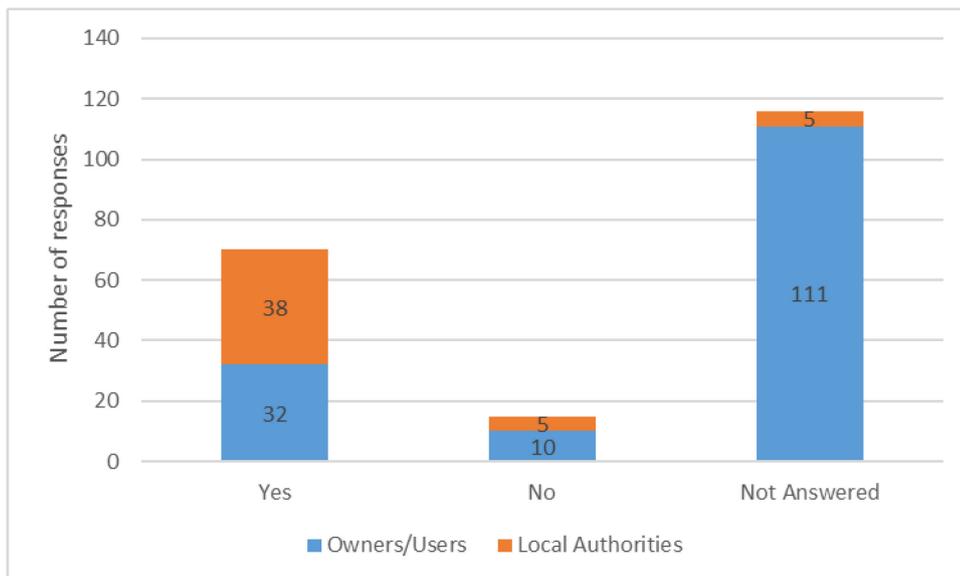
38% of LAs that answered thought that the estimates for collecting risk assessment data were accurate, whilst 62% thought some aspects were inaccurate for example, the laboratory costs for a full suite of parameters and the savings to be made by combining sampling visits. There were also ten LAs who thought there were estimates missing from the calculations such as, an increase in debt recovery cases due to non-payment and data processing costs, and three LAs also raised the cost of the sampling officer accreditation scheme.

Although PWS owners/users were unable to validate the estimates, eight wanted sampling visits to be combined and multiple charges for the same supply rationalised to reduce costs.

Government response

After assessing the comments, the majority of the IA was judged to be a sound reflection. However, where the consultation provided new data sources, the IA has been updated. The final version of the IA will accompany the final version of the regulations when they are laid in Parliament.

Question 6 - 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?



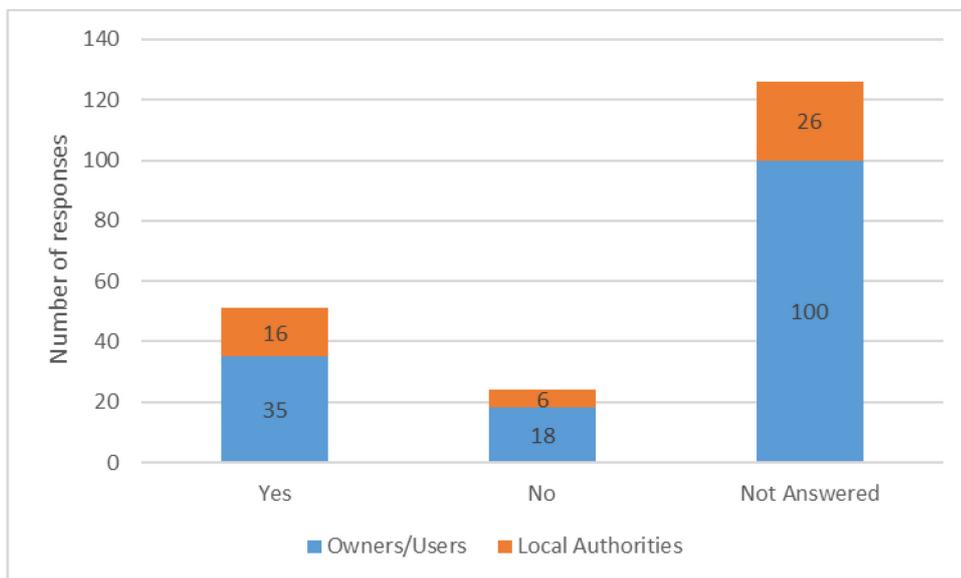
7 PWS owners/users and 13 LAs of the 201 respondents provided comments.

88% of LAs who answered have confirmed that they do (and will) perform one sampling visit to monitor both Group A and Group B parameters. The remaining 12% of LAs that said they performed separate sampling visits, 4% noted that this was because of seasonality (as test results can be affected by weather conditions) and 4% thought combined sampling was not appropriate where there are failures and re-sampling/investigation is required.

Government response

As the Directive allows checks to be performed together, and the IA is used to capture regulatory costs, the savings will be costed based on all LAs performing both types of checks within one visit. The final version of the IA will accompany the final version of the regulations when they are laid in Parliament.

Question 7 - 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 books⁶?



26 PWS owners/users and 25 LAs of the 201 respondents provided comments.

Just over half of LAs did not answer this question, noting that laboratories were best placed to answer. However, seven LAs had contacted their laboratory who had confirmed they were content in principle with the change to an uncertainty of measurement (UoM) methodology.

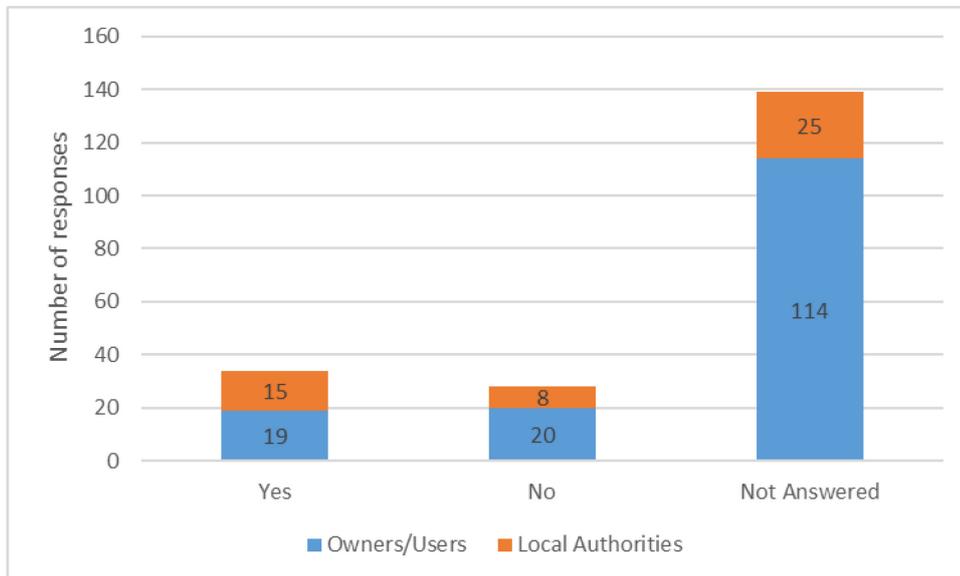
PWS owners/users also felt unable to answer the question but two did request guidance for laboratories to ensure consistency.

Government response

The SCA Blue Book has now been published. This will ensure laboratories are using the same methodology for UoM providing consistency to analysis results.

⁶ A method for implementing / calculating the “uncertainty of measurement” will be developed to be used by all laboratories. This is known as a “blue book method” (part of the Standard Committee of Analysts (SCA) blue books).

Question 8 - 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?



21 PWS owners/users and 27 LAs of the 201 respondents provided comments.

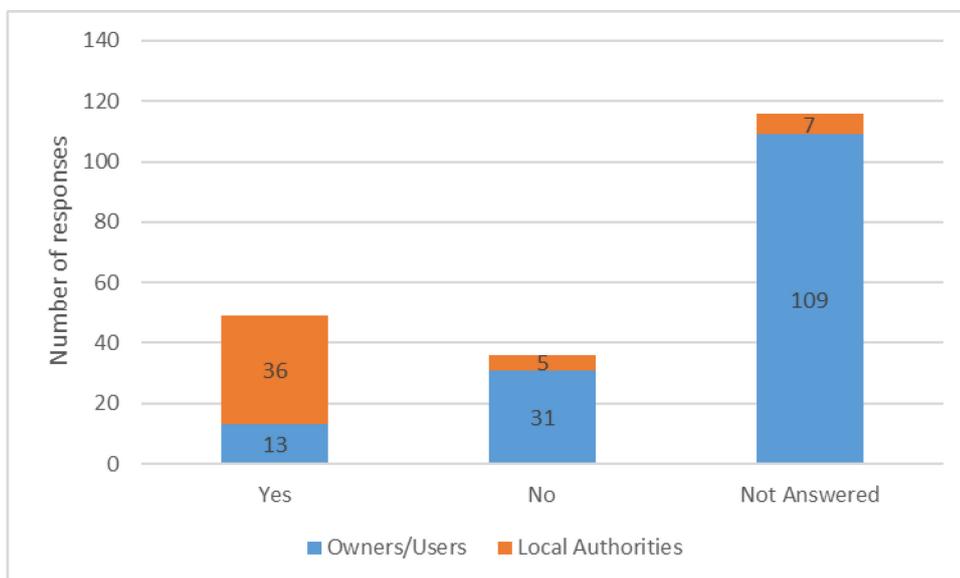
Similarly to Q7, just over half of LAs either thought it was a question for laboratories or that the SCA Blue Book would need to be finalised before laboratories could calculate their costs. LAs could then assess if costs had to be passed on. Six of the LAs who answered positively thought that the laboratory would pick up the cost of changing to a UoM approach.

There were 19 PWS owners/users concerned that costs would be charged to them and that these were not yet known.

Government response

As noted in the IA, the government believe that laboratories will absorb the costs to change (as it is within their best interest if they want to secure a contract with a local authority).

Question 9 - 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?



30 PWS owners/users and 21 LAs of the 201 respondents provided comments.

Of the 41 LAs who answered the question, 36 confirmed that their assessment of the impact of non-revision of fees was either still accurate or had since become applicable. Those that provided comments reiterated that if maximum limits were not amended, LAs would not be able to undertake their regulatory duties and/or provide the service level required by the private regulations. They pointed out that the proposed amendment to the risk assessment approach would temporarily increase costs beyond the current maximum. However, once the necessary data to apply the new criteria had been collected, it was thought only some activities would need to rise beyond the current maximum and this would be due to inflation / council cost increases. Only one LA thought that the maximum fees did not need to change.

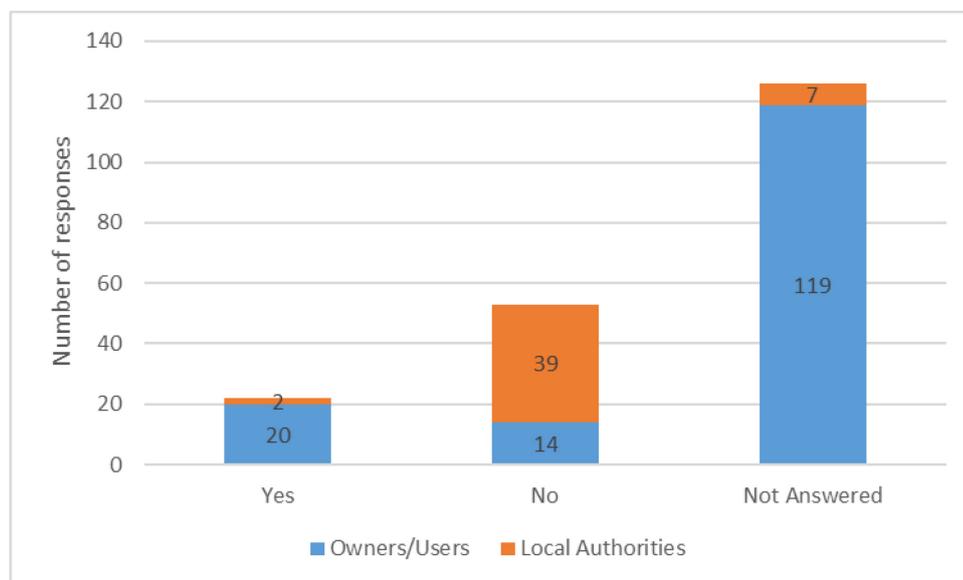
17 of the PWS owners/users that commented thought there was either enough capacity within their LA to perform the regulatory duties without increasing charges or that their LA could do more to save money. Although outside of the scope of the consultation, three owners/users queried why mains supply could not be provided free of charge.

Government response

LAs should be provided with the means, under the 1991 Act, to recover costs reasonably incurred in the exercise of their duties. Removing the maximum amount does not mean that LAs can charge any amount, instead it is designed to allow LAs to fully recoup the costs incurred in exercising their statutory functions, provided they are reasonable. LAs need to be able to undertake their regulatory duties and perform them at the service level required by the private regulations.

If a consumer of PWS wishes to connect to the mains supply, the local water company will enable this, for the appropriate amount.

Question 10 - Can budgets within a local authority be flexed and areas cross-subsidised to prevent a fee increase? If Yes, please provide details.



20 PWS owners/users and 23 LAs of the 201 respondents provided comments.

95% of LAs that answered stated that budgets could not be flexed nor cross-subsidised. Some referred to Hemmings case⁷ and the fact that costs of running any regime should not be passed on to those that are not responsible. The remaining 5% of LAs, said there was some flexibility, but also said they would still pass the costs on to the relevant persons.

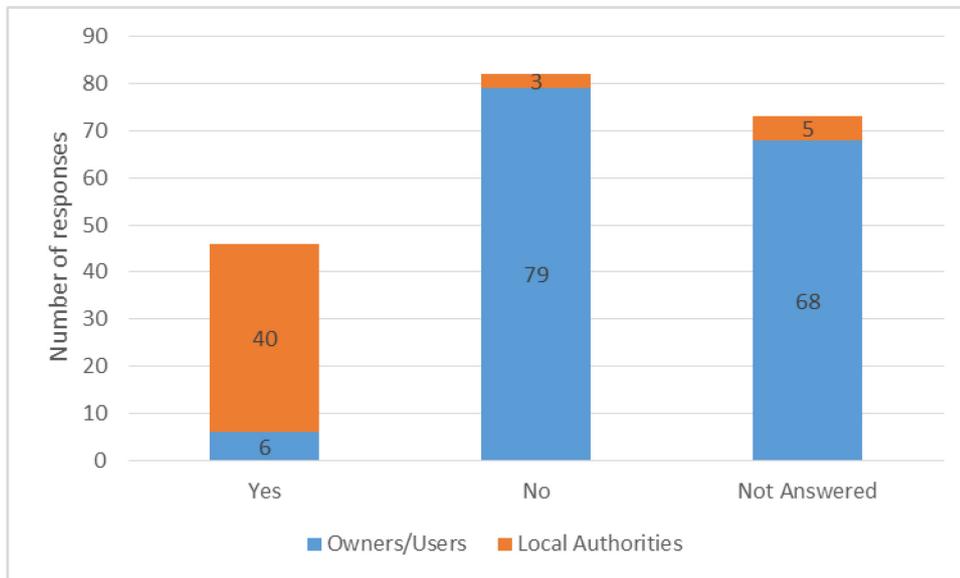
Similarly to Q9, five of the PWS owners/users that commented thought that more could be done to save money before passing costs on.

Government response

As the monitoring regime cannot be cross-subsidised, the best option to ensure full cost recovery is to remove the maximum fee limits.

⁷ The judgment can be found here <https://www.supremecourt.uk/cases/docs/uksc-2013-0146-judgment.pdf>.

Question 11 - 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.



79 PWS owners/users and 14 LAs of the 201 respondents provided comments.

83% of LAs were content for the maximum charge to be removed, compared to 51% of PWS owners/users who were not.

Of those that provided comments, 38 PWS owners/users said there would be no incentive for LAs to control the fees, 23 requested standard rates to ensure consistency across England, and ten said there would need to be a transparent charging policy.

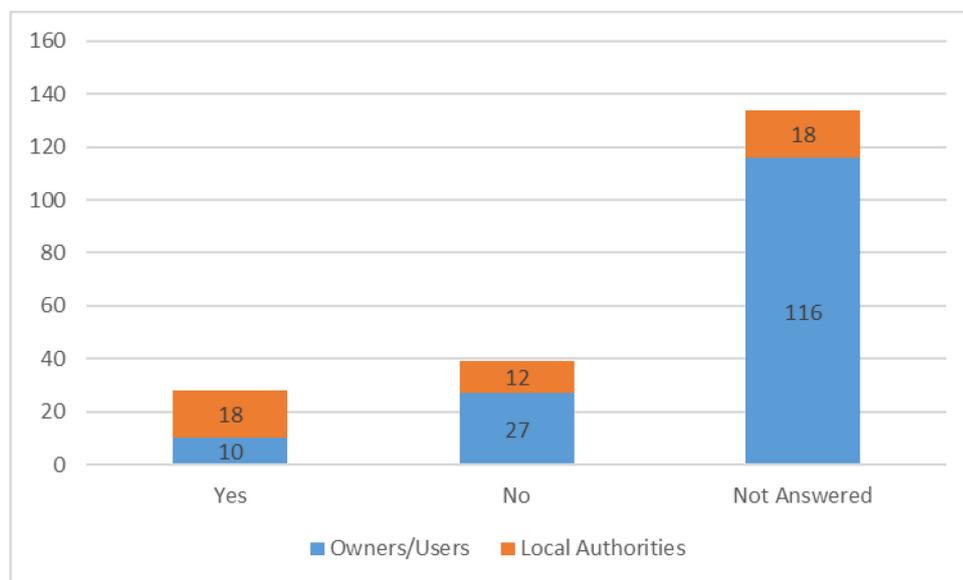
Although agreeing to the limit removal, LAs acknowledged that it would be difficult to pass on all charges incurred if the estimated increases were accurate. Three LAs did not want the maximum fee removed but still thought that an increase to the limits would be required to enable full cost recovery.

Government response

Although maximum limits will no longer be included in the regulations, LAs still need to establish a fee for each activity and are encouraged to publish their charging policy online. They can only charge the necessary amount to recover the expenses incurred and are subject to external annual audits that will check their charging policies. Within each authority there is also a Chief Finance Officer who is 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 auditors⁸. Rates across England cannot be standardised as each LA has different factors that must be taken into account.

Question 12 - 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?



23 PWS owners/users and 26 LAs of the 201 respondents provided comments.

Of the 30 LAs that answered the question, 18 thought the costs involved in removing the maximum charge and the application rate of 50% were accurate, with 12 LAs considering the estimates inaccurate. Of the 26 LAs who commented, six thought costs would be higher and six thought costs would be lower. Other comments raised in response to the question related to: the cost of the accreditation scheme; the costs to PWS owners/users for remedial action; and the difficulty in confirming the application rate as each LA has their own charging policy.

PWS owners/users did not feel that they could validate the estimates.

Government response

The estimates for removing the maximum charge were judged as a sound reflection. The final version of the IA will accompany the final version of the regulations when they are laid in Parliament.

⁸ 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>

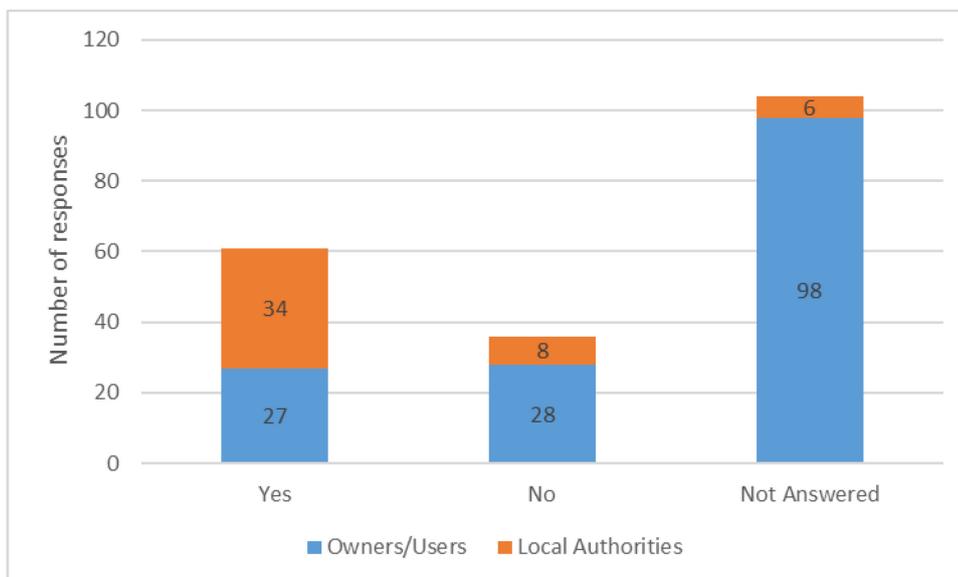
Question 13 - If you are a local authority, do you envisage amending your charging policies within the next 1, 2 or 3 or more years?

33 LAs said that they would amend their charging policies 'within 1 year' as they were either already reviewing them on an annual basis (due to inflationary increases) or the proposed changes to the private regulations would mean that they have to be amended. Five LAs answered 'within 2 years' and one answered 'within 3 or more years'. Nine LAs did not answer.

Government response

The answers provided by LAs further confirms the accuracy of the estimates for removing the maximum limits (which begin when the final version of the regulations come into force).

Question 14 - 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?



22 PWS owners/users and 18 LAs of the 201 respondents provided comments.

80% of LAs and 49% of PWS owners/users that answered agreed that the additional amendments would add clarity and assist LAs in restoring PWS.

The comments provided were raised against specific amendments as follows: 5 LAs noted that radioactivity is already monitored by Public Health England and via the Building Controls Regulation 2010 and is therefore an unnecessary burden on the sampling regime. The results from water companies' investigations into radioactivity should also be able to be utilised negating the need for LAs to undertake their own investigation; 1 LA thought there should be some discretion on when Section 80 notices need to be served for instance, if the supply failed on colour the corrective action could lead to significant costs; 3 LAs thought that the proposed changes to Regulation 18 would make notices too

specific; 12 PWS owners/users were opposed to LAs undertaking corrective action without their agreement. They wanted to be able to approve costs before work commences, be able to propose an alternative solution and have the opportunity to challenge; and 5 LAs pointed out that there are no longer budgets allocated specifically for works in default and queried how this new power would work in that instance. They also wondered how this aligns with prosecution of the offence.

Government response

The checks pertaining to radioactivity substances in drinking water were introduced by Council Directive 2013/51/Euratom and added to the private regulations in June 2016. They are specific to drinking water and are not currently performed by Public Health England nor via the Building Controls Regulations 2010. LAs must undertake their own investigation and, if radioactive substances are found to be naturally occurring or stable, monitoring for that parameter can be ceased. The evidence used to make that decision then needs to be passed to the DWI who need to inform the European Commission. If a sample fails (including on colour, which is a fail on the wholesomeness of the water), and appropriate remedial action has not been taken, a Section 80 notice must be served. To clarify, when a regulation 18 notice is served it does not need to prescribe how to restore the quality of water.

If PWS owners/users are opposed to LAs undertaking remedial action on their behalf, they must comply with the notice that has been issued. If the owner/user is aggrieved by the notice they may appeal to the magistrate's court within 28 days of service of the notice. The costs reasonably incurred by the LA in completing these works can be recovered by a LA, although it is for individual LAs to decide whether to secure the money before commencing works. Clarification as to how such works, if completed, are to align with prosecution proceedings for non-compliance will be added to DWI guidance.

Question 15 - 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.

There were seven PWS owners/users and LAs that requested clarification on how amendments would affect households with a single (domestic) supply and whether or not they had been re-classified from a Regulation 10 to a Regulation 9 supply.

Other comments made by PWS owners/users (and other interested parties), not previously raised, were:

- one respondent stated that tenanted properties are correctly classified as Regulation 9 supplies and welcomed the annual sampling regime. As a tenant, they stated that if they were not part of a sampling regime they could be at risk and unable to complain about the quality of their water supply. They also agree that LAs should undertake remedial action if the notice has not been complied with and that the maximum limits that LAs can charge should be removed to avoid subsidising PWS owners/users;

- the Chartered Institute of Water and Environmental Management raised the need to consider the sampling and analysis of trihalomethanes (THMs) which are chemical by-products arising from chlorination and are formed by the reaction of organic matter in the water with chlorine (and naturally present bromide); and,
- the British Standards Institute requests that any reference to a ISO or CEN standard should make reference to the British (rather than European) version of the standards. This would ensure that the user is referring to the version that UK experts have contributed to which state and explain any concerns that the UK mirror committee might have about the standards content and provide extended advice and guidance.

There were other comments also raised by LAs, as follows:

- five wanted to know whether comprehensive disinfection of a tap is required;
- four requested guidance for enforcing the private regulations where water is used for commercial purposes but not actually consumed. For example, test fails for chlorine tasting water (water is significantly chlorinated (5ppm)) but it is only used for cleaning;
- one asked for guidance for PWS that cross borough boundaries and how the charging regime will apply for example, where a supply arises in one borough and supplies properties both in that borough and a neighbouring borough;
- six wanted to know why there was not a regulatory requirement to register a PWS with the LA; and,
- six requested training and/or guidance on the final draft regulations.

Government response

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

- large PWS distributing more than 10m³ 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 to apply the new risk based approach.

Other supplies, of which there are approximately 5,700, are as follows:

- 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); and,
- other PWS for example, 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).

These other supplies will not be covered by the new risk based approach to sampling and analysis. However, they will be affected by any changes to the fees charged by LAs as a result of the amendment to remove the maximum limits on the amounts LAs can recover for exercising their statutory duties.

The remaining PWS serve single (domestic) dwellings (a subset of Regulation 10 supplies). They are not a shared supply and are not tenanted. Unless the owners of those supplies have asked their LA to monitor their supply, they are exempt from any sampling or monitoring. Therefore, the private regulations and the proposed amendments to them will have no impact (unless, on the very rare occasion, a LA believes the supplies are at a very high risk of contamination and will sample/monitor to protect human health).

With regard to the other comments raised by LAs:

- regulation 5(2)(a) of the private regulations already covers disinfection arrangements (including sampling and analysis of THMs), which are a parameter that must be sampled for in Table B of Schedule 1;
- where applicable, the British versions of the ISO and CEN standards have been added to footnotes in the final draft regulations;
- disinfection of the tap is required. After it is cleaned the tap is flushed before taking the sample. This is all part of the sampling protocol and must be followed if a person is to be a 'competent sampler' according to requirements;
- with regard to water used for commercial purposes which is not actually consumed, the water supplies within scope of the private regulations is water either in its original state or after treatment, intended from drinking, cooking, food preparation or other domestic purposes, regardless of its origin and whether it is supplied from any distribution network, from a tanker, or in bottles or containers. Water used in any food production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption is also within scope unless, in accordance with Regulation (EC) No 852/2004⁹, the competent authority (the Food Standards Agency), is satisfied that the quality of the water cannot affect the wholesomeness of the foodstuff in its finished form. Domestic purposes is defined in Section 218 of the 1991 Act as 'the drinking, washing, cooking, central heating and sanitary purposes for which water supplied to those premises may be used'. Therefore, if the water is used to clean food preparation surfaces it is within scope. To address the example provided on chlorine tasting water, there is no standard for chlorine in itself, and accredited methods for taste and odour analysis require the water sample to be de-chlorinated prior to testing;

⁹ A Regulation of the European Parliament and of the Council on the hygiene of foodstuffs.

- guidance on what to do if a supply crosses a borough boundary has already been issued by DWI¹⁰.
- we have chosen not to introduce a requirement to register a PWS at this stage.
- training will not be provided on the amended regulations. However, detailed updated draft guidance will be issued by the DWI concurrently with this response, with final guidance being published on DWI's website in time for the regulations coming into force. It will include means of contacting the DWI if further clarification is required.

Amendments made to guidance and regulations

Water Supply (Water Quality) (Amendment) Regulations 2017

Guidance

Requests for guidance and/or clarification on the amendments were sought during the consultation. These have been considered and the updated guidance that the DWI will publish will therefore include:

- examples of what constitutes an acceptable on-going monitoring programme;
- detail on the criteria to be met to enable a variation on parameters without numeric PCVs (e.g. taste, colour, odour and colony counts), parameters where the PCV is 0 (bacteriological parameters), or where the PCV is between a range (pH);
- how to renew risk assessments when the data available has been reduced or eliminated based on a previous risk assessment;
- further clarification on the definition of a service reservoir;
- the records that retail licensees will need to prepare and maintain; and
- how new appointments and variations (NAVs) will need to operate once the new risk assessment approach comes into force (as currently, they will be able to base their risk assessment on the incumbent's risk assessment data).

Regulations

The following amendments will be made to the public regulations by the Water Supply (Water Quality) (Amendment) Regulations 2018.

¹⁰ That guidance states "Where a private water supply serves premises in more than one local authority's area, to avoid duplication of effort the local authorities should agree that one of them (normally the local authority where most of the premises served are situated) should prepare the risk assessment in consultation with the other authorities and copy the risk assessment to the other authorities."

Regulation	Amendment
Regulation 2(1) (Interpretations)	<p>The definitions of “check monitoring” and “audit monitoring” have been removed and the definition of “monitoring of a Group A parameter” and “monitoring of Group B parameter” inserted respectively.</p> <p>The definitions of “<i>E-coil</i>”, “monitoring programme” and “suitably accredited body” have been included.</p>
Regulation 2(3) (Interpretations)	The definition of “service reservoir” has been updated.
Regulation 4(1) (wholesomeness)	It has been clarified that water supplied to premises, that is “intended for human consumption” is to be regarded as wholesome.
Regulation 5(1) to (3) (interpretation and application of Part 4)	<p>The meaning of “monitoring of a Group A parameter” and “monitoring of a Group B parameter” has replaced the meanings for “check monitoring” and “audit monitoring” respectively.</p> <p>Monitoring of a Group A parameter means monitoring for the purpose of obtaining information at regular intervals, as to the organoleptic and microbiological quality of water, about the effectiveness of drinking water treatment and whether the water supplied meets the specifications for the indicator parameters. The monitoring is used to determine whether the presence of such a parameter satisfies the provisions of Part 3 (wholesomeness).</p> <p>Monitoring of a Group B parameter means monitoring for the purpose of obtaining information from which it may be established whether the water supplied satisfies the provisions of Part 3 (wholesomeness), whether the water supplied meets the specification for the indicator parameters and to allow other parameters (identified as relevant by the Secretary of State) to be monitored.</p>
Regulation 5(6) (interpretation and application of Part 4)	The meaning of a “Group A parameter” and “Group B parameter” has been added.
Regulation 6(3) (monitoring: general provisions)	When a parameter is subject to either monitoring of a Group A or Group B parameter has replaced when a parameter is subject to either check or audit monitoring.
Regulation 6(4) (monitoring: general provisions)	Clostridium perfringens has been omitted and the references to items numbers updated accordingly.

Regulation 6(5) (monitoring: general provisions)	When and how a sample from a consumer's tap is taken has been replaced. In the case of copper, lead and nickel, a one litre sample must be taken randomly without prior flushing.
Regulation 6(15) (monitoring: general provisions)	The references to table numbers have been updated accordingly.
Regulation 6(16)(a) (monitoring: general provisions)	This has been updated so a sample from a tanker must be taken at commencement and every 48 hours thereafter.
Regulation 8(1) (authorisation of supply points)	The references to table and item numbers have been updated accordingly.
Regulation 9 (number of samples)	<p>The whole of this regulation has been replaced.</p> <p>References to the tables that contain information on standard number of samples and parameters have been updated accordingly.</p> <p>For any parameter not included in the tables referenced above, the Secretary of State may specify the number of samples of that parameter that need to be taken from sampling points in each year and its prescribed concentration or value.</p> <p>Samples must be taken at regular intervals. For chemical parameters in accordance with standard ISO 5667-5 and for microbiological parameters in accordance with standards EN ISO 19458 (purpose A and B).</p> <p>The Secretary of State may, in respect of any supplies of water to a water supply zone, treatment works, supply points or a service reservoir give written notice of a variation of the parameters subject to sampling (omission or addition of parameters), other than <i>E. coli</i>, and/or the number of samples that must be taken in the period specified. They may issue the written notice on their own motion or upon application from a water undertaker.</p> <p>The notice must specify which parameters are subject to variation, the extent of any variation from the standard number of samples and may require a risk assessment to be undertaken. The Secretary of State may also revoke or vary any notice if they believe that any parameter is unlikely to be within the prescribed concentration of value but must do so by a further written notice.</p> <p>The application from a water undertaker for a variation must be based on risk assessment in compliance with the regulation, with the results from</p>

	<p>that risk assessment considered in making the application. The risk assessment complies with the regulation if it meets the principles of standards EN 15975-2 (guidelines for risk and crisis management), is subject to a system of quality control checked from time to time by a suitably accredited body and takes into account the results of monitoring conducted under the second paragraph of Article 7(1) and Article 8 of Directive 2000/60/EC. Where the water undertaker is wanting to cease monitoring or reduce sampling, for a particular parameter, the results from samples taken at regular intervals over a period of at least three years must all be less than 30% or 60% of the prescribed concentration or value for that parameter respectively.</p> <p>The standard number is defined.</p>
Regulation 11 (interpretation of Part 5)	This regulation has been removed.
Regulation 13(1) to (4) (sampling at treatment works)	<p>Paragraphs (2) to (4) have been removed.</p> <p>The references to paragraphs (2) and (4) in paragraph (1) has been updated accordingly.</p>
Regulation 13(6) (sampling at treatment works)	The term “reduced number” has been removed and replaced with a reference to regulation 9.
Regulation 13(7) (sampling at treatment works)	The meaning of the “standard number” has been inserted.
Regulation 14 (sampling at service reservoirs)	The sampling frequency at service reservoirs can be varied where a notice has been issued by the Secretary of State. The regulation has been updated accordingly.
Regulation 16 (collection and analysis of samples)	<p>The whole of this regulation has been replaced, although regulations 16(5) and (6) of the original regulation have been retained within the transitional and saving provisions for the duration of the transitional period. They relate to methods of analysis for the sole purpose of using the current prescribed characteristics for parameters.</p> <p>Every water undertaker or wholesale licensee must secure, so far as reasonably practicable, that when it (or it causes) a sample to be taken, handled, transported, stored or analysed, that appropriate requirements are satisfied and that those requirements are checked from time to time by a suitably accredited body (to standard EN ISO/IEC 17025). Those requirements (where applicable) are: that the sample is representative of the quality of water at the time of sampling; the person taking the sample</p>

	<p>is doing do in accordance with a system of quality control; the sample is not contaminated whilst being taken; the sample is stored in such a way that there is no material alteration for the measurement or observation for which it is intended; the sample is analysed, whether at the time and place it is taken, by or under the supervision of a person who is competent to perform that task and with the suitable equipment.</p> <p>Every water undertaker and wholesale licensee must maintain records to establish that the appropriate requirements for each sample have been satisfied.</p> <p>For the purposes of establishing whether the sample contains concentrations or values which contravene the prescribed concentrations or values, or exceed the specifications for indicator parameters, the methods of analysis have been specified.</p> <p>The Secretary of State may, on application, authorise a method of analysis other than that specified and may be subject to conditions the Secretary of State considers appropriate. But they must not authorise the use of the method proposed if it is not as reliable as the results produced by the prescribed methods. The authorisation may be revoked at any time but this must be in writing and be served no later than 3 months before the date of the revocation. The specifics of the application have been detailed.</p>
Regulation 34 (maintenance of records)	In paragraphs (1)(h) and 2(ca)(a) “contacts made” has been replaced with “contacts”.
Schedule 3 (monitoring)	<p>The whole of this schedule has been replaced.</p> <p>The tables relating to the circumstances under which a parameter is to be checked for check and audit monitoring purposes and their sampling frequencies have been replaced.</p> <p>There are now separate tables for Group A and Group B parameters which detail the circumstances under which the parameter must be sampled for. However, the only material changes that have been made are: clostridium perfringens is no longer a “check” or “Group A” parameter, this has been moved to Group B; for clarity, residual disinfectant has been added to the Group A table; a circumstance in which the parameter is tested for has been added (but not changed) i.e. “in all circumstances”; and, “where used as flocculant” has been changed to “where used as a water treatment chemical” although they have the same meaning.</p>
Schedule 4 – Regulation 4(a) and text immediately before	The references to “Table A in Annex III to Council Directive 96/29/Euratom” are out of date. Table A provided the measured radionuclide concentrations and dose coefficients. They have therefore

Table 1 (monitoring for indicative dose and analytical performance characteristics)	been updated accordingly.
Schedule 5 (analytical methodology)	<p>Table A1 has been substituted with an updated table which details the parameters for which methods of analysis are specified, specifically, <i>E. coli</i>, coliform bacteria and clostridium perfringens. The method for pseudomonas aeruginosa has been added.</p> <p>Table A2, which originally prescribed the performance characteristics for parameters, has been omitted and replaced by the new uncertainty of measurement performance characteristics (Table A3). However, the Table A2 has been retained within the transitional and saving provisions for laboratories wishing to use it up until 31 December 2019.</p>
Transitional and saving provision	<p>As mentioned above, the original Table A2 and regulations 16(5) and (6) have been retained for the duration of the transitional period (which runs from the date the amended regulations come into force until 31 December 2019) subject to certain modifications. For example, the calculation for “precision” and “trueness” in regulation 16(6) now refers to standard ISO 5725 where the terms are further specified, and the “limit of detection” entry in Table A2 for 1,2-dichloroethane has been amended from “25” to “10”.</p> <p>Table A3 (relating to the new uncertainty of measurement performance characteristics) applies unless, in respect of any parameter listed in Table A2, a water undertaker elects to save the provisions of Table A2 until the transitional period comes to an end.</p>

Private Water Supplies (England) (Amendment) Regulations 2017

Guidance

Requests for guidance and/or clarification on the amendments were sought during the consultation. These have been considered and the updated guidance that the DWI will publish will therefore include:

- the criteria to be met to enable a variation on parameters without numeric PCVs (e.g. taste, colour, odour and colony counts), parameters where the PCV is 0 (bacteriological parameters), or where the PCV is between a range (pH);
- how completing works in default aligns with the prosecution of the offence; and
- further information on a sampling officers certification.

Regulations

The following amendments will be made to the private regulations by the Private Water Supplies (England) (Amendment) Regulations 2018.

Regulation	Amendment
Regulation 2 (1) (interpretations)	<p>The definitions of “check monitoring” and “audit monitoring” have been removed.</p> <p>The definition of “<i>E. coli</i>” has been included and the definition of “prescribed concentration or value” updated.</p>
Regulation 6(5) and (6) (requirements to carry out a risk assessment)	<p>Risk assessments undertaken under regulation 6 must comply with new requirements. A risk assessment must now satisfy any requirements specified by the Secretary of State, satisfy the requirements of standard EN 15975-2 (guidelines for risk and crisis management) and take into account the results of monitoring conducted under the second paragraph of Article 7(1) and Article 8 of Directive 2000/60/EC.</p> <p>The need to provide the Secretary of State with a summary of the results of the risk assessments within 12 months of being carried out, has also been added.</p>
Regulation 7(2) (monitoring)	<p>The original paragraph has been numbered (1) and a new paragraph added which describes what a monitoring programme must consist of.</p>
Regulation 11(6), (10A), (11) and (12) (monitoring for radioactive substances)	<p>The term “audit monitoring” has been replaced with “monitoring for a Group B parameter.</p> <p>Radioactive parameters can be excluded from monitoring or their frequency of monitoring reduced provided that the parameter is naturally occurring and stable. The LA must provide the Secretary of State with the grounds for the decision to exclude and/or reduce and the Secretary of State must communicate these grounds to the European Commission.</p>
Regulation 12(4) and (5) (sampling and analysis)	<p>New sub-paragraphs have been added.</p> <p>The first relates to when and how a sample from a consumer’s tap is taken. In the case of copper, lead and nickel, a one litre sample must be taken randomly without prior flushing.</p> <p>The second relates to sampling and that chemical parameters need to be undertaken in accordance with standard ISO 5667-5 and microbiological parameters undertaken in accordance with standards EN ISO 19458 (purpose A and B).</p>

<p>Regulation 16(2), (4)(b) and (6) (investigations)</p>	<p>References to sub-paragraphs have been updated.</p> <p>A Section 80 notice must now be served within 28 days of “establishing the cause” of the failure rather than within 28 days of “becoming aware of the failure”.</p> <p>A new sub-paragraph relating to variations when the supply is, or is at risk, of being unwholesome has been added. This states that if there is a significant risk the supply is unwholesome or it is determined that the supply is unwholesome, the variation for the parameter(s) in question must cease immediately and the standard frequency must be reinstated.</p>
<p>Regulation 18(2)(d), (7) and (8) (notices)</p>	<p>When a notice under this regulation is served, it must now specify what corrective must be taken in order to: safeguard human health; restore the wholesomeness of the water supply; and maintain the continued wholesomeness of the water supply following its restoration.</p> <p>Where a person is served a notice but fails to take any step within the period of the notice, the LA may perform the corrective work themselves and recover the expenses reasonably incurred in undertaking that work. This includes any person acting on behalf of the LA.</p>
<p>Schedule 1 Tables A and C (prescribed concentrations or values)</p>	<p>In Table A, the entry for “Colony Count 37°C” has been omitted and “<i>Escherichia coli (E Coli)</i>” substituted “<i>E. coli</i>”.</p> <p>In Table C, the maximum concentration or value or state and the units of measurement entries for coliform bacteria has been corrected (by removing the line intended to be read for colony counts) and colony counts has been updated so only the “number/ml at 22°C” is applicable.</p>
<p>Schedule 2 Parts 1 and 2 (monitoring)</p>	<p>All of Parts 1 and 2 have been replaced.</p> <p>The meaning for “monitoring for Group A parameters” and “monitoring for Group B parameters”, as well as the applicable parameters and sampling frequency for each group has replaced the sampling requirements for “check monitoring” and “audit monitoring” respectively.</p> <p>Monitoring of a Group A parameter means sampling for each of the parameters listed in order to determine whether the water complies with the prescribed concentrations or values, provide information on the organoleptic and microbiological quality of water, and establish the effectiveness of treatment of the water, including disinfection.</p> <p>There are few changes to the Group A parameters compared to the check monitoring parameters. These are: clostridium perfringens is no longer a “check” or “Group A” parameter, this has been moved to Group B; colony counts specifies 22°C; pseudomonas aeruginosa has been removed (as it is only applicable to water in bottles or container); and “where used as flocculant” has been changed to “where used as a water</p>

	<p>treatment chemical” although retains the same meaning. The sampling frequencies for Group A parameters remain the same as for those for check monitoring parameters.</p> <p>Monitoring of a Group B parameter means sampling for each of the parameters listed (other than the parameters that have been sampled under Group A) in order to determine whether the water complies with the prescribed concentrations or values, and to check that, where disinfection is used, the by-products are kept as low as possible.</p> <p>The sampling frequencies for Group B parameters remains the same apart from if the supply is supplying >100,000m³/day the frequency is now “12 + 1 for each 25,000m³/day of the total volume” rather than “10 + 1 for each 25,000m³/day of the total volume”.</p> <p>Where a LA is wanting to cease monitoring or reduce sampling, for a particular parameter (other than <i>E. coli</i>), the results from samples taken at regular intervals over a period of at least three years must all be less than 30% or 60% of the prescribed concentration or value for that parameter respectively. The results of the risk assessment and the data collected whilst discharging its monitoring obligation also need to be considered. However, the sampling frequency cannot be reduced to below one per year and a LA may set a higher sampling frequency for any parameters if it considers it appropriate, including monitoring anything else identified in the risk assessment.</p>
<p>Schedule 2 Part 3 (monitoring)</p>	<p>References to “check monitoring” and “audit monitoring” have been replaced with references to “Group A parameters” and “Group B parameters” respectively.</p>
<p>Schedule 3(1) (sampling and analysis)</p>	<p>The whole of paragraph (1) has been replaced.</p> <p>Every LA must secure, so far as reasonably practicable, that when it (or it causes) a sample to be taken, handled, transported, stored or analysed, that appropriate requirements are satisfied and that those requirements are checked from time to time by a suitably accredited body (to standard EN ISO/IEC 17024 or EN ISO/IEC 17025). Those requirements (where applicable) are: that the sample is representative of the quality of water at the time of sampling; the person taking the sample is doing so in accordance with a system of quality control; the sample is not contaminated whilst being taken; the sample is stored in such a way that there is no material alteration for the measurement or observation for which it is intended; the sample is analysed, whether at the time and place it is taken, by or under the supervision of a person who is competent to perform that task and with the suitable equipment.</p> <p>As regards any sampling activity, other than analysing samples, LAs will have 2 years from the date the regulations come into force to comply with the standard attached to the appropriate requirements.</p>

Schedule 3(2) (sampling and analysis)	<p>Sub-paragraphs (3) and (4) have been removed, however they (along with the current sub-paragraph (6)) have been retained in the transitional and saving provisions for the duration of the transitional period. They relate to methods of analysis for the sole purpose of using the current prescribed characteristics for parameters.</p> <p>Sub-paragraph (6) has been substituted. For the purposes of establishing whether the sample contains concentrations or values which contravene the prescribed concentrations or values, the requirements for the methods of analysis (with regard to uncertainty of measurement) have been specified. The result must be expressed using at least the same number of significant figures and units laid down in the regulation and the figures within the uncertainty of measurement table must not be used as an additional tolerance.</p>
Schedule 3 Table 1 (sampling and analysis)	The table, which details the parameters for which methods of analysis are specified, has been updated, specifically for clostridium perfringens (which allows the table headed “use the following method to make m-CP agar” to be deleted), pseudomonas aeruginosa and “ <i>Escherichia coli (E Coli)</i> ” has been replaced by “ <i>E. coli</i> ”.
Schedule 3 Table 2 (sampling and analysis)	This table, which originally prescribed the performance characteristics for parameters, has been omitted and the new uncertainty of measurement performance characteristics inserted (Table 3). However, the original Table 2 has been retained in the transitional and saving provisions for laboratories wishing to use it up until 31 December 2019.
Schedule 3(8)(1)(a) (sampling and analysis)	The reference to “Table A in Annex III to Council Directive 96/29/Euratom” is out of date. Table A provided the measured radionuclide concentrations and dose coefficients. It has therefore been updated accordingly.
Schedule 4(2)(1) (records)	Within 28 days of the information being available, the LA must now also record a summary of any risk assessment and a summary of the reasons for a decision to reduce or exempt the monitoring of a radioactive parameter.
Schedule 5 (fees)	<p>Within the table, references to “check monitoring” and “audit monitoring” have been replaced with references to “monitoring of Group A parameters” and “monitoring of Group B parameters” respectively.</p> <p>The maximum fee column within the table has been removed and as a consequence, the text “subject to the following maximum amounts”, has been deleted from paragraph (1).</p>
Transitional and saving provisions	As mentioned above, the original Table 2 and sub-paragraphs (3), (4) and (6) in paragraph 2 of Schedule 3 have been retained and will remain

in force until the transitional period for moving to the uncertainty of measurement characteristics comes to an end. The transitional period runs from the date the amended regulations come into force until 31 December 2019. However, sub-paragraph (6) has been modified for the duration of the transitional period in that the calculation for “precision” and “trueness” now refers to standard ISO 5725 where the terms are further specified.

A LA which, before the amended regulations come into force, has reduced the frequency of sampling or excluded a parameter from monitoring, must revert to standard monitoring frequencies for all parameters until they can justify any monitoring variation under the new risk assessment criteria. Data collected before the regulations come into force can be utilised.

Next steps

The amended regulations will be laid in Parliament in June and will come into force 21 days later. We will issue communications to notify water companies and LAs of the exact coming into force date.

Annex A: List of respondents (not including individuals)

Affinity Water
Albion Water
Anglian Water
Anglian Water Business
Aquasource SW Ltd
Barnsley Metropolitan Borough Council
Bath & North East Somerset Council
Bawd Hall
Braintree District Council
Bristol Water
British Holiday & Home Parks Association
British Standards Institute
Cambridge Water
Carzantic Chapel Barn
Central Association of Agricultural Valuers
Chartered Institute of Water and Environmental Management
Cherry Gate, Dancing Gate, Appletree Cottage, The Nuthatch and Dancing Gate Farm
City of Bradford Metropolitan District Council
Cornwall Council
Cranfield University Water Science Institute
Derbyshire Dales District Council
Devon Water Officer Group
Durham County Council
East Devon District Council
East Riding of Yorkshire Council
Ellas Crag Guest House
England Shelve Farm
Environment & Regulatory Services Partnership
Epping Forest District Council
Exeter City Council
FAW Bakers Kinston Farms Ltd
Field Barn & Hedge End Farms
Garsdale Parish Council
Hampshire, Isle of Wight and Sussex Private Water Supplies Group
Harrogate Borough Council
Hayhills Farm South
Hendersick Farmhouse B&B
Herefordshire Council
High Peak Borough Council
High Springhill Cottages

High Swinklebank Farm
Horsham District Council
IDEXX Laboratories
Kirklees Council
Lake District National Park Authority
Leeds City Council
Longdale Manor Farm
Low Bridge End Farm
Lucid Optical Services Ltd
Longsleddale Parish
Manesty Holiday Cottages
Mendip District Council
Mid Sussex District Council
Mosser Cider
National Farmers Union
Newark & Sherwood District Council
North East Lincolnshire Council
North Norfolk District Council
Northumberland County Council
Northumbrian Water Limited
Nottingham City Council
NWG Business
Peterborough City Council
Prospect House Farm
Ravenroyd Farm
Redlands Farm B&B and Neneview Dairy
Red Rose Cave and Pothole Club
Redwing Properties (North) Limited
Ribble Valley Borough Council
Romshed Farm
Ryecroft Water Co. Ltd
Savills
Severn Trent Water
Skiddaw House Youth Hostel
Slepe Farm Limited
Somerset Water Group (Taunton Deane Borough Council, West Somerset Council, South Somerset District Council, Sedgemoor District Council & Mendip District Council)
South East Water
Southern Water
South Gloucestershire Council
South Lakeland District Council
South Somerset District Council
South Staffs Water
South West Water
Spency Croft

SSE Water
Staffordshire Moorlands District Council
Stratford-on-Avon District Council
Stroud District Council
Sutton and East Surrey (SES) Water
Sycamore Tree Farm
Tarn House and Ashfield and Kilnmire Farms
Tarn Outdoor Centre Ltd
Taunton Deane Borough Council
Test Valley Borough Council
Telford & Wrekin Council
Thames Water Utilities Ltd
Tolston Estate
Torridge District Council
Town End Farm
Tudor Springs (Caravan & Motor Home Club)
United Utilities Water Ltd
Water Plus
WaterSense Ltd
Wessex Water
West Devon and South Hams Council
West Somerset Council
West Suffolk Councils
Wiltshire Council
Winchester City Council
Witley Park Holdings Ltd