



guardians of drinking water quality

DRINKING WATER INSPECTORATE

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Defra ref: RFI 7789
DWI Ref: 2015/0772E

6 October 2015

Dear 

REQUEST FOR INFORMATION: UNITED UTILITIES CRYPTOSPORIDIUM OUTBREAK

Thank you for your request for information, which we received on 12 September 2015, about the *Cryptosporidium* incident in Lancashire. As you know, we have handled your request under the Environmental Information Regulations 2004.

In your email of 12 September, in which you made your request, you stated that your request relates to the recent cryptosporidium outbreak in Lancashire, the original notification, the subsequent actions to assess the outbreak, identification of affected households and all actions taken to manage the incident. You added that, in particular, you would like to receive the following information:

- 1) all correspondence between United Utilities and the Drinking Water Inspectorate (DWI) with regard to the incident and all activities since
- 2) details of the water testing regime and monitoring procedures as required by the DWI,
- 3) details of the processes in place at the DWI to "police" the regime in place at the various water companies
- 4) details of the DWI procedures in place to deal with/manage such incidents
- 5) details of investigations undertaken, findings and conclusions

We have interpreted your email as a request for the information at parts 1) to 5) of your email as repeated above.

Following careful consideration, we have decided not to disclose some of the information that you have requested. We are able to disclose to you

information in response to parts 2), 3) and 4) of your request. However, we are withholding information requested at parts 1) and 5) of your request.

The information that we are able to disclose to you in response to parts 2), 3) and 4) of your request is as follows:

2): Details of the water testing regime and monitoring procedures as required by the DWI

The requirements for drinking water testing come from the EU Drinking Water Directive and associated national law. The DWI enforces - but does not set - the requirements. The requirements are laid out in the [Water Supply \(Water Quality\) Regulations 2000](#), and Amendment Regulations [2007](#) and [2010](#) ('the Regulations'). Over and above the requirements of the Regulations, water companies will carry out operational monitoring for the purposes of making day-to-day operational decisions. Such decisions would be based on a risk assessment of the relevant water supply.

3): Details of the processes in place at the DWI to "police" the regime in place at the various water companies

The DWI is empowered by Section 86 of the Water Industry Act 1991 (as amended by the Water Act 2003). Proceedings are carried out in the name of the Chief Inspector of Drinking Water. Details of the powers available to the DWI are detailed in [DWI's Enforcement Policy](#). DWI scrutinises regulatory data returns from water companies, audit water company sites and companies' progress with programmes of work to improve drinking water supplies and assess the companies' handling of water quality events and water quality complaints from consumers

With regard to the requested information that is in DWI's Enforcement Policy, as this information is already publicly available and easily accessible to you in another form or format, regulation 6(1)(b) of the EIRs exempts Defra from providing a copy in response to your request.

Part 4): Details of the DWI procedures in place to deal with /manage such incidents

It is the role of the water companies to carry out day-to-day hands on management of an incident. DWI's role is to investigate the actions taken and determine the appropriate enforcement that would be required. Although the Police and Criminal Evidence Act (PACE) does not directly apply to the DWI, investigations are carried out in the spirit of and to the requirements of PACE.

The information that you have requested at parts 1) (all correspondence between United Utilities and the DWI with regard to the incident and all activities since) and 5) (details of investigations undertaken, findings and conclusions) is being withheld under the exception to disclosure at regulation

12(5)(b) of the EIRs, which relates to the ability of a person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature.

In applying this exception, we have had to balance the public interest in withholding the information against the public interest in disclosure.

We recognise that there is a public interest in disclosure of information concerning the incident and the subsequent DWI investigation, its findings and conclusions. Equally, the public have a reasonable expectation that the water company manages water supplies competently and are appropriately held to account by the DWI.

On the other hand, there is a strong public interest in withholding the information because the DWI investigation is ongoing. Release of interim findings before all information has been gathered and all relevant witness statements have been taken would risk the ability of DWI to conduct its investigation fairly and could unduly influence persons who have yet to provide information. This would or would be likely to adversely prejudice the judicial process relating to the investigation which would not be in the public interest.

Therefore, we have concluded that, in all the circumstances of the case, the information that you have requested at parts 1) and 5) of your request should be withheld.

Information disclosed in response to the EIRs request is releasable to the public. In keeping with the spirit and effect of the EIRs and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on [GOV.UK](https://www.gov.uk), together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

I attach Annex A, which explains the copyright that applies to the information being released to you.

I also attach Annex B giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter please contact me.

Yours sincerely


DWI FOIA and EIRs Team

Annex A

Copyright

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

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Annex B

Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: InformationRequests@defra.gsi.gov.uk) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF