



guardians of drinking water quality

DRINKING WATER INSPECTORATE

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Information Letter
6/2006

To: Board Level and Day to Day contacts of Water and Sewerage Companies and Water Companies in England and Wales

Dear Sir/Madam

DWI Drinking Water Quality Improvement Programmes - Process for agreeing changes to improvement programmes associated with legal instruments

Purpose

This Information Letter sets out the process that will be followed by the Inspectorate when a company seeks to alter a legally binding drinking water quality improvement programme.

Background

Following the announcement by Ofwat of the Final Determinations (Price Review) in December 2004, the Inspectorate issued documentation outlining the process for putting in place the appropriate legal instrument for each drinking water quality scheme. These instruments included Cryptosporidium Notices, Turbidity Notices and 'Minded to Enforce' letters. Companies then submitted Undertakings to DWI. For each of these a schedule and annex were developed setting out details of work to be carried out and the dates by when each step was to be completed. The process outlined below sets out the information that a company now needs to provide to the Inspectorate if it wishes to make any change in the content, scope or timescale of these improvement programmes. This process will also apply to improvement programmes established separately from periodic review procedures.

Process for acceptance of a change to a legal instrument

A pro forma is attached as Annex 1. This sets out the minimum information requirements for changing any drinking water quality improvement

programme. Companies may supplement this information if they so wish. Matters to be addressed include:

- a) Is the alternative solution technically sound and will it secure long term compliance?
- b) Is the solution supported by a supplier's process guarantee?
- c) Are there factors outside the Companies control that may affect delivery of the solution, for example:
 - Unforeseen difficulties on site, e.g. ground conditions which would not have been identified until the detailed assessment was completed
 - Land purchase issues
 - Planning permission delays (evidence of timely submission of applications is required)
 - Protracted negotiations involving third parties
 - Can the delays be overcome through application of additional resources to the project?
- d) Will the solution deliver wholesome water within an equivalent timescale?
- e) Is the alternative solution more cost effective? What overall cost savings (if any) can be achieved over the life of the scheme?
- f) What consideration has the Company given to the sustainability of the revised solution? Has the Company liaised with appropriate bodies, for example, in the case of nitrate schemes, has the Environment Agency confirmed it is satisfied with the alternative solution?

For improvement programmes supported as part of the Periodic Review process, companies agreed to submit a summary of investigations to confirm the appropriateness of the solution proposed. DWI will not consider changes to solution after this date (unless circumstances are wholly outside a company's control).

Confirmation of Support for Changes to the Improvement Programmes

If the Inspectorate decides any change is appropriate, a letter of confirmation will be issued to the company and the associated legal instrument will be revised. The letter may be used by the company as evidence of the Inspectorate's acceptance of the proposed change, when making applications under the "Minor Change Procedure" outlined in Ofwat's AMP4 Change Protocol, December 2004. It will be for the company and Ofwat to assess the financial impact of the changes, alongside any other relevant amendments to the water quality enhancement programme. The Inspectorate has consulted Ofwat about this Information Letter and a note setting out how Ofwat will manage changes to AMP4 drinking water quality improvement programmes is attached as Annex 2.

Application of the Process

This process applies with immediate effect to all drinking water quality improvement programmes, including schemes put in place as part of the Periodic Review process, and other programmes carried out on a 'logged-up' basis. Any proposals for change should be submitted by email to dwi_improvement_programmes@defra.gsi.gov.uk.

Copies of this letter are being sent to Pamela Taylor, Chief Executive, Water UK; Richard Wood, Water Supply and Regulation Division, Department for Environment, Food and Rural Affairs; June Milligan, Environment Division, Welsh Assembly Government; Colin McLaren, Drinking Water Quality Regulator for Scotland; Randal Scott, Drinking Water Inspectorate for Northern Ireland; Chairs of the Consumer Council for Water Committees; Rowena Tye, Office of Water Services; Tony Smith, Chief Executive, Consumer Council for Water; and Tony Warn, Environment Agency.

This letter is being sent electronically to Board Level and day-to-day contacts. Please acknowledge receipt by email to dwi.informationletters@defra.gsi.gov.uk. Hard copies are not being sent but the letter may be freely copied. Any enquiries about the letter should be addressed to Laura Moss (Laura.Moss@defra.gsi.gov.uk).

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jeni Colbourne', with a long horizontal line extending to the right.

Prof. Jeni Colbourne MBE
Chief Inspector of Drinking Water

Annex 1

Justification of Proposed Change to Technical Solution and/or Delivery Date for Improvement Programme

Name of Scheme

AMP4 reference number **nnn**
(where applicable)

Undertaking reference number **xxx/nnn**

1. Introduction
2. Works location and supply system description
3. Scheme driver(s)
4. Scheme development and issues arising
5. Options assessment

	Criteria	Original solution	Alternative solution (1)	Alternative solution (2)
a)	Technical solution			
b)	Supplier's process guarantee, if appropriate)			
c)	Risks / Issues			
d)	Timescale for delivery			
e)	Impact on public health and mitigation measures			
f)	Capital cost			
	Operational costs/year			
	Net Present Value (define % over 30 years) Discount rate 5.1%			
g)	Sustainability assessment			

6. Recommendations

Annex 2

Advice from Ofwat on its approach to changes in the water quality enhancement programmes under AMP4 change protocol

If the proposed changes are in aggregate cost-neutral Ofwat will deal with them under the minor changes route of their AMP4 change protocol and thus will not carry out financial adjustments, as long as companies deliver the outputs as required. Ofwat will review the proposed changes to ensure that any proposals are cost-neutral or trivial, if necessary taking into account previous changes to minimise cumulative creep in cost envelopes. If there are non-trivial financial implications, it will not be possible to deal with changes under the 'minor changes' route. Ofwat will be able to give an indication of whether a change is likely to be contentious, or can proceed using the non-contentious route.

Ofwat review of eligibility under the 'Minor changes route'

To help decide whether proposed changes come within the requirements of Ofwat's 'minor changes route', three key areas may need to be assessed:

a) Changes in solution to deliver the same output.

If the same output is delivered, for example length of renovation or volume of water treated, to deliver compliance with a parameter or standard, with the same level of risk of non-compliance to customers, then this would generally be eligible under the minor changes route. Ofwat would not make financial adjustments as long as the outputs are delivered as expected.

b) Change in solution to deliver a different output.

If a company proposes a significantly different output, perhaps to deliver the same outcome, then Ofwat will need to review whether this is eligible for the minor changes route. If the change in output is acceptable to DWI, Ofwat will need to consider whether there is a different risk to companies and their customers in the longer term. For example, carrying out further blending rather than fitting water treatment to reduce nitrate levels. In such cases there is the risk that treatment would be needed in future if the quality of raw water sources deteriorates. In such cases a benefit sharing approach to recognise the risk to all parties should be considered as set down in the AMP4 change protocol.

c) Change to delivery dates.

If a company now proposes to deliver outputs included in price limits at a later date, then it has a delayed need for capital and will incur operating costs at a later date. For small date changes the financial impact may be very small for individual projects. However, Ofwat would expect companies with several changes to projects to rebalance the delivery dates to deliver a new package that was generally cost-neutral compared with FD04 assumptions. This may

mean delivering some projects earlier than originally planned. For single projects Ofwat will value the benefit of delays to the company, taking into account previous minor changes to test whether there is financial creep that overall is non-trivial.

Ofwat will value changes in phasing of expenditure according to the assumptions they made in price limits. As set down in the AMP4 change protocol, Ofwat will inform the company of the basis of the financial adjustments they will make at the next price setting.