



DRINKING WATER INSPECTORATE

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Information Letter 2/2015

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

Dear Sir/Madam

Legal Instruments - Processes for reporting on, agreeing changes to and closure/revocation

1. Purpose

This Information Letter sets out the process to be followed when a company reports on, seeks to alter or completes a statutory drinking water quality legal instrument.

2. Background

The Inspectorate issued documentation during 2013 outlining the process for putting in place the appropriate legal instrument for each drinking water quality scheme associated with the Price Review 2014. This process supplemented the 'business as usual' management of enforcement arrangements that routinely result in regulation 28/29 Notices and Section 19 Undertakings. The Notices and Undertakings set out details of the work to be carried out within improvement programmes and the dates by which each step would be completed to achieve the desired outcome(s).

The processes outlined below set out the information that the company should provide to the Inspectorate when reporting on Notices and Undertakings. This includes progress reports as well as information required when the company wishes to request any change in the content, scope or timescale of a Notice or Undertaking, and when it submits evidence to demonstrate that the outcome has been achieved and support closure of these legal instruments. These processes apply to all Notices and Undertakings and supersede the arrangements set out previously in IL 07/2010 and IL 03/2014.

3. Process for reporting progress

The company is required to report progress on each legal instrument to the Inspectorate annually by the end of January and as defined within each individual Notice and Undertaking schedule of works.

The Inspectorate's intention is to collect from the company the minimum information necessary for it to (i) discharge its duty to monitor progress with legal instruments, and (ii) to conduct periodic audits of progress to confirm the accuracy and integrity of reported information and to clarify issues arising. The requirement to report progress with a legal instrument commences when the relevant legal instrument documentation has been completed.

When reporting on progress, the company should use the templates attached to this letter (Annexes 1, 2 and 3). Progress with all Undertakings should be reported on the template contained in Annex 1. In addition, Annex 2 should be completed for progress with consumer acceptability Undertakings. Progress with regulation 28/29 Notices should be reported on the template contained in Annex 3. A separate report should be completed for each individual scheme and the electronic file should be named in the following format

[Company acronym][improvement programme number]_[annual submission point]_[year covered by report]

E.g. ABC0000_1_14

Progress reports must be a single document including annexes. They should not have several parts (part a, part b, etc), nor consist of a small batch of documents.

- (a) If a company wishes to submit more than one document, these should be embedded within a single 'master' document.
- (b) Reports can be submitted in Word (.doc or .docx), Excel (.xls or .xlsx), rich text (.rtf) or pdf format.
- (c) The size of reports should be minimised by suitable methods such as reducing the resolution of images etc. and emails containing reports should not exceed 15 MB.

Reports should be submitted for all legal instruments in place at the time of reporting where a closure letter or revocation Notice has not been received from the Inspectorate.

Under each step within the progress report the company should indicate the **current** state of progress and provide a summary of measures taken during the reporting year in fulfilment of that step. The due date in the progress report should correspond with the due date against that step in the current Notice or Undertaking. Where a step has been completed, the actual date of completion should be included in the status column. Where a particular step is delayed or a delay is foreseen, the company should expand on this in the report. The report should provide details of the

expected completion date, the reasons for the delay, the consequences and the measures being taken by the company to mitigate any consequences as well as to avoid or minimise the delay.

The company should provide a summary of monitoring, including the number of samples taken during the reporting year as well as maximum and mean concentrations. Further details should be provided on exceedances of the prescribed concentration or maximum deviation of quality value (where appropriate).

Companies must submit progress reports electronically to DWI.Improvement.Programmes@defra.gsi.gov.uk. Reports should not be sent to individual email accounts.

The requirements set out in this letter for progress reporting will apply to all legal instruments for the reporting period for 2015 and thereafter.

4. Process for proposing a change to a technical solution and/or the delivery date of a legal instrument

A two stage pro forma is attached as Annex 4. This sets out the minimum information requirements for most Notices and Undertakings. The company should submit stage one of Annex 4 as soon as reasonably practicable after it is established that any deadline date will not be met (including interim dates and if there will be a delay to the commencement of demonstration of benefit monitoring) or that a change to any part of the technical solution is required.

Companies should note that for Notices, a revised regulation 28 report for the assets involved should accompany stage two of Annex 4.

For any application to change a technical solution (for example where a company has identified an alternative treatment process to that originally proposed) Annex 4 must include (i) an explanation of the rationale for selecting the alternative solution, (ii) the reason for discounting the original option and (iii) evidence that the proposed solution from the options available will adequately mitigate the risk and deliver the required outcome within the agreed timescale. The company must include summary details of the capital costs and the net additional operating cost of the proposed option to demonstrate the cost-effectiveness of the revised solution. These requirements apply to all legal instruments.

If the Inspectorate is satisfied the proposed changes are appropriate, a letter of confirmation will be issued to the company and the associated legal instrument will be revised.

If the Inspectorate considers that the existing solution continues to be appropriate, it will require the company to deliver that solution.

5. Closure of Notices and Undertakings

Companies are required to submit a final report to the Inspectorate on the efficacy of the actions taken for every improvement programme. The report should include evidence to confirm that the actions required by the programme have been successfully completed and that the benefits for consumers have been delivered where appropriate.

The Inspectorate's intention is to collect from companies, data and information which evidences the outputs and demonstrates the outcomes of these programmes.

A template for completion reports for Undertakings is attached in Annex 5 and for Notices in Annex 6. For each section within the respective report the company should confirm that the step has been completed, the date on which it was completed, the reasons for any delays in completing the step and any action taken by the company to minimise the delay. The company should also provide evidence to demonstrate that each step has been completed. This can take the form of certificates of completion or handover or in cases where these are not available, some other form of evidence.

The company should provide at least a reasonable summary of monitoring carried out as part of the programme or audit strategy and should distinguish between samples taken prior to completion of the solution and those taken after completion of the solution. The company should provide further detail on exceedences of the prescribed concentration and when results have breached trigger levels agreed with relevant stakeholders (i.e. Local Health Authorities). The company should confirm that the relevant regulation 27/28 risk assessments have been reviewed and updated in light of the completed work and a revised regulation 28/29 report, which has been subject to appropriate Board level sign off should be submitted to the Inspectorate.

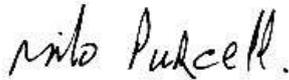
The Inspectorate will assess the information submitted and, where satisfied that the requirements of the Notice or Undertaking have been fulfilled, will send a letter confirming this to the company, copied to other relevant stakeholders. If the evidence submitted does not demonstrate that the required outcome(s) has/have been achieved, the company will be required to carry out whatever additional works necessary to attain the required outcome.

These processes apply with immediate effect to all Notices and Undertakings. All of the attached templates should only be submitted by email to DWI_improvement_programmes@defra.gsi.gov.uk. This email account is manned on a rota system and an automated confirmation of receipt will be sent if the email is successfully received. Companies should limit the size of documents submitted by adopting a reasonable compression of images and attachments and emails should not exceed 15MB.

Copies of this letter are being sent to Pamela Taylor, Chief Executive, Water UK; Carol Skilling, Department for Environment, Food and Rural Affairs; Paul Harrison, Water Management Team, Welsh Government; Susan Petch, Drinking Water Quality Regulator for Scotland; David O'Neil, Drinking Water Inspectorate for Northern Ireland; Tony Smith and Chairs of the Regional Consumer Council for Water; Ambrat Virwani, for Office of Water Services; Ian Barker, Environment Agency; and Frances Pollitt at Public Health England.

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 Annabelle May (annabelle.may@defra.gsi.gov.uk).

Yours faithfully

A handwritten signature in black ink that reads "Milo Purcell". The signature is written in a cursive style.

Milo Purcell
Deputy Chief Inspector (Regulatory Strategy)