

EAST AYRSHIRE COUNCIL

COMMUNITY SERVICES COMMITTEE – 31ST JANUARY 2007

PRIVATE WATER SUPPLIES

Report by Executive Director of Neighbourhood Services

1. PURPOSE OF REPORT

- 1.1 To advise the Committee on the new duties and responsibilities placed on the Council by the Private Water Supplies (Scotland) Regulations 2006 and associated legislation.

2. BACKGROUND

- 2.1 The Private Water Supplies (Scotland) Regulations 1992 previously required local authorities to classify all private water supplies within their areas and left it to the discretion of the authority as to whether to take formal action when supplies failed to meet recognised standards. Local authorities generally provided an informal approach to improvement of the private water supplies.
- 2.2 The Private Water Supplies (Scotland) Regulations 2006 revoke the 1992 regulations and provide for provisions introduced to implement the requirements of EC Directive 98/83/EC for Drinking Water Quality as it applies to private water supplies. The new Regulations are prescriptive and require that formal action is taken by local authorities against any person whose private water supply fails to meet the required standards.
- 2.3 East Ayrshire currently has 144 private water supplies on the existing register. Work is being undertaken to update the register and identify other users of private water supplies for commercial and domestic use.

3. PROPOSALS AND OVERVIEW OF THE NEW LEGISLATION

- 3.1 Supplies are classified as, Type A or B. Type A supplies are defined as those supplies which provide 10 m³ or more water a day or serving 50 or more persons, and irrespective of size, supplies to public or commercial premises. Commercial premises include bed and breakfast establishments, dairy farms, campsites, food production establishments and all let properties. Public premises include hospitals, schools and community halls. Type B are exclusively supplies for residential premises below the stated usage rate of 10 m³ or more water a day or serving less than 50 persons. Where a supply is of mixed use, commercial and residential, the supply is classified as Type A.

- 3.2 A duty is placed on local authorities to identify a “relevant person(s)” who will have a legal responsibility for maintaining the source and distribution system of the supply. This relevant person can be those persons(s) who (a) provide the supply; (b) occupy the land from, or on which, the supply is obtained or located; or (c) exercise powers of management or control in relation to the supply. If a local authority identifies a relevant person and that person contests that decision, there is an appeal procedure available through the Sheriff Court.
- 3.3 Type A supplies must comply with the stringent standards introduced by EC Drinking Water Directive 98/83/EC. Type A supplies are subject to testing programmes referred to in the regulations as audit and check monitoring, the number and frequency of which are determined by supply usage.
- 3.4 The Environmental Health Service is required to undertake a risk assessment on all type A supplies. This risk assessment is a detailed survey of the water supply from source to consumption including such factors as geology, land use and wild life.
- 3.5 Type B supplies must meet national water quality standards. Environmental Health is required to supply information to Type B supply users on risk assessment and must conduct a risk assessment if requested to do so.
- 3.6 Associated legislation, the Private Water Supplies (Grants) (Scotland) 2006, allow local authorities to award a grant to improve supplies.
- 3.7 Further associated legislation, the Private Water Supplies (Notices) (Scotland) Regulations 2006 place a duty on local authorities to serve notices to improve supplies under certain circumstances.
- 3.8 Local authorities will be required to assure the Drinking Water Quality Regulator that they are effectively carrying out their duties and responsibilities under the legislation with the provision of an annual return and provision of a public register. The legislation allows the Local Authority to charge for undertaking sampling, analysis and risk assessment.
- 3.9 Local authorities can recover costs for sampling and analysis of supplies up to maximum charges set by the regulations. Costs can also be recovered to a maximum set by regulations for conducting and administration of risk assessment. For the 2006 Regulations, in respect of Type A (commercial) premises, the maximum permissible charges for sampling and analysis are: £70 for each sampling visit made to a property; £75 per analysis of check monitoring parameters and £435 per analysis of the full suite of audit monitoring parameters.

- 3.10 For type A premises, the 2006 Regulations introduce a compulsory risk assessment of the private water supply to be undertaken by the local authority. Charges can be made for risk assessment visits up to a maximum of £120. The maximum fee which can be charged for a single visit which includes sampling, analysis and risk assessment to a type A premises is capped at £630.
- 3.11 The maximum charge for Type B premises is £118. Local Authorities can however, test for additional significant relevant parameters and charge where necessary. If required to conduct a risk assessment then charges are the same as for Type A.
- 3.12 The Private Water Supplies (Grants) (Scotland) Regulations 2006 allow local authorities to provide grants to assist eligible persons to improve a supply.
- 3.13 Grants are not means tested and can be awarded for houses and businesses. Maximum grant is £800 per premises, however additional discretionary grant can be paid in cases of undue hardship.
- 3.14 The requirements of the new legislation will mean additional work for the Environmental Health Service beyond that of the previous Regulations to include risk assessments, sampling regimes, detailed register keeping and administration of a possible charging and grant scheme within specific timescales. The shared services agenda for East, North and South Ayrshire Councils is reflected in the joint approach to administering the various components relative to the implementation of this legislation. In conjunction with our colleagues in Inverclyde the Ayrshire Local Authorities are working together to ensure that the legislation is introduced and administered in a consistent and uniform manner throughout Ayrshire.

4. FINANCIAL IMPLICATIONS

- 4.1 No additional finance has been allocated to Local Authorities by the Scottish Executive to implement and administer the Regulations and it is anticipated that significant Environmental Health resources will be required to implement the requirements.
- 4.2 The Scottish Executive state that the proposals for a charging regime should cover any additional costs to Local Authorities.
- 4.3 The Scottish Executive have allocated East Ayrshire Council £48,000 for each of the financial years 2006/07 and 2007/08 to administer a grant scheme for eligible individuals.

5. LEGAL AUTHORITY/IMPLICATIONS

- 5.1 The Private Water Supplies (Scotland) Regulations 2006 and associated legislation place a duty on local authorities to serve an improvement notice under certain circumstances and to introduce an offence of failure to comply with a notice.
- 5.2 The legislation imposes a statutory duty on the Local Authority to improve all Type A supplies that fail to meet the prescribed standards.

6. POLICY IMPLICATIONS

- 6.1 The legislation provides for the improvement of Private Water Supplies and protection of human health from the adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean. The aforementioned principles are in accordance with the Improving Health and Improving the Environment themes of the Community Plan.

7. CONCLUSIONS

- 7.1 The Private Water Supplies (Scotland) Regulations 2006 place a statutory duty on local authorities to improve certain categories of private water supplies by formal action if necessary.
- 7.2 The requirements for risk assessing supplies, classification of supplies, monitoring and sampling of supplies, charging for sampling and analysis and formal record and register keeping together with formal reporting are introduced.
- 7.3 The Private Water Supplies (Grants) (Scotland) Regulations 2006 places a duty on local authorities to provide for a grant scheme to improve private water supplies.
- 7.4 The Scottish Executive have made funding available for the administration of a grant scheme.
- 7.5 No additional funding has been allocated by the Scottish Executive to carry out the legislative requirements and the Environmental Health Service will have a significant additional workload to undertake the provisions of the legislation.
- 7.6 The legislation introduces the provision for charging for risk assessments, water sampling and analysis in accordance with specified charges.

8. RECOMMENDATIONS

8.1 The Committee are recommended to:-

- (i) consider the approval of a charging regime for sampling, analysis and risk assessment in accordance with the legislation and as set out in 3.9, 3.10 and 3.11 of the report.
- (ii) consider the approval of the introduction of a Private Water Supply grant scheme to be administered in accordance with the legislation by the Environmental Health Service;
- (iii) note the provisions of the Private Water Supplies (Scotland) Regulations 2006 and associated legislation; and
- (iv) otherwise note the contents of the report.

William Stafford
Executive Director of Neighbourhood Services

WS/PLT/RRS

9th January 2007

LIST OF BACKGROUND PAPERS

1. Private Water Supplies (Scotland) Regulations 2006.
2. Private Water Supplies (Grants) (Scotland) Regulations 2006.

Any person wishing to inspect the background papers listed above should telephone 01563 554021 and ask for Paul Todd.

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