



CABINET - 5TH FEBRUARY 2014

SUBJECT: PRIVATE WATER SUPPLIES (WALES) REGULATIONS 2010

REPORT BY: ACTING DEPUTY CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To seek Cabinet's approval to introduce a scale of fees and to clarify duties under the Private Water Supplies (Wales) Regulations 2010.

2. SUMMARY

- 2.1 There are approximately 98 private water supplies in Caerphilly County Borough used for human consumption and not provided by a water company. The Private Water Supplies (Wales) Regulations 2010 require local authorities to carry out a risk assessment of each private water supply in its area and to undertake monitoring of those supplies. Supplies serving a Single Dwelling are exempt from the Regulations. The Regulations are intended to provide improved health protection for consumers of private water supplies and consumers of food produced or prepared using private water supplies.
- 2.2 The Regulations set the maximum fees which local authorities can charge and also lay down procedural arrangements for appeals. The Local Authority may charge a fee, which is the reasonable cost of administering the legislation, and this report seeks approval for a scale of proposed fees.

3. LINKS TO STRATEGY

- 3.1 Food law enforcement is a statutory duty of the authority and contributes towards the Healthier Caerphilly priority within the Caerphilly Local Service Board single integrated plan, Caerphilly Delivers.

4. THE REPORT

- 4.1 There are approximately 98 private water supplies in Caerphilly County Borough used for human consumption and not provided by a water company. Most are from natural springs, but can also be fed from boreholes, wells, rivers, streams and other sources. Private supplies can range from single supplies providing water to an individual property, to communal supplies serving a number of dwellings and to supplies serving premises that are part of a commercial or public activity
- 4.2 Since the introduction of the original Private Water Supplies Regulations in 1991, local authorities have the responsibility for the monitoring and sampling of private water supplies. Responsibility for maintenance of supplies and water quality rests with the users or owners.

- 4.3 The Private Water Supplies (Wales) Regulations 2010 became operative on 4th February 2010 and replaced the 1991 Regulations. The new provisions require local authorities to carry out a risk assessment of each private water supply in its area. There is an exception to this requirement in the case of an individual private dwelling with its own exclusive supply, however the local authority must carry out a risk assessment and/or monitoring if requested to do so. The Regulations require that all risk assessments be completed within a 5 year period of the operative date in order to satisfy the provisions of European Union law.
- 4.4 A local authority must monitor all private supplies in its area in accordance with Part 2 of the Regulations when carrying out its duties under section 77(1) of the Water Industry Act 1991. The local authority is also required to make and maintain records for every water supply in its area and to send a copy of the records to the Drinking Water Inspectorate and the Welsh Government annually.
- 4.5 The categorisation of supplies and their sampling frequency will be linked to the assessment of risk. The Regulations are intended to provide improved health protection for consumers of private water supplies and consumers of food produced or prepared using private water supplies.
- 4.6 Supplies serving a Single Dwelling are exempt from the new Regulations, however the local authority must carry out a risk assessment and monitor the supply in accordance with regulation 10 if requested to do so by the owner or occupier. In which case it is proposed that the fees set out in the table below would apply. It is also proposed that the discretionary power to routinely sample the water supply serving Single Dwellings is not exercised.
- 4.7 Part 5 of the Regulations make provision for the charging of fees that reflect the reasonable cost of providing the service, subject to a maximum amount. The following table details the maximum fees prescribed by the Regulations and the current and proposed fees for Caerphilly County Borough Council.

| Service | Maximum fees prescribed by new Regulations (£) | Current fees (£) | Proposed Maximum fees (£) |
|---|---|-------------------------|----------------------------------|
| Risk assessment | 500 | N/A | 100* |
| Sampling (each visit)** | 100 plus cost of analysis | No charge | 100 plus cost of analysis |
| Investigation (each supply) | 100 | N/A | 100 |
| Granting an authorisation for temporary exemption from certain limits or impurities. | 100 | No charge | 100 |
| Analysing a sample – | | | |
| Taken under regulation 10: | 25 | N/A | 25 |
| Taken during check | 100 | N/A | 100 |
| Monitoring: | 500 | N/A | 500 |
| Taken during audit monitoring: | | | |
| * The initial risk assessments have been completed; therefore future risk assessments will require less work. As such, a fee of less than the maximum charge has been proposed. | | | |
| ** No fee is payable where a sample is taken and analysed solely to confirm or clarify the results of the analysis of a previous sample | | | |

- 4.8 Welsh Government has put in place a grant scheme to fund the cost of undertaking risk assessments which under normal circumstances would have to be met by the owner of the supply. The level of grant to be paid to the Council will be £100 per assessment. The grant will ensure that no charge will be made for risk assessments undertaken in the initial five years (that is up to and including 2015), except for those supplies serving single dwellings where there is no duty on the local authority to risk assess the supply. There is no indication that this funding will continue beyond the initial 5 year cycle of risk assessment.

5. EQUALITIES IMPLICATIONS

- 5.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the categories identified in Section 6 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report.

6. FINANCIAL IMPLICATIONS

- 6.1 The Regulations give local authorities the power to charge fees for carrying out its duties and functions under the Regulations up to a maximum limit. It is estimated that approximately 90 of the 98 private water supplies within the county borough serve Single Dwellings and are therefore exempt from the Regulations. The remaining private water supplies will require a risk assessment every 5 years and ongoing sampling according to risk. Additional annual income is not expected to be more than £500.

7. PERSONNEL IMPLICATIONS

- 7.1 The Regulations have replaced an existing regime and the duties and functions under the new legislation will be fulfilled within existing resources.

8. CONSULTATIONS

- 8.1 The report has been sent to the consultees listed below and there are no consultation responses that have not been reflected within the report.

9. RECOMMENDATIONS

- 9.1 That Cabinet agree

(a) the following fees:

| Service | Proposed fees (£) |
|---|------------------------------|
| Risk assessment | 100 |
| Sampling (each visit)* | 100 + cost of analysis |
| Investigation (each supply) | 100 |
| Granting an authorisation for temporary exemption from certain limits or impurities. | 100 |
| Analysing a sample – Taken under regulation 10: Taken during check monitoring: Taken during audit monitoring: | 25 up to 100 up to 500 |
| Courier charges to laboratory (when applicable) | Up to 100 |
| <i>* No fee is payable where a sample is taken and analysed solely to confirm or clarify the results of the analysis of a previous sample</i> | |

(b) to have the discretion to charge the actual fees for total cost of analysis of samples where it is less than the maximum fee; and

(c) not to exercise the discretionary power to routinely sample water at single private dwellings.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To obtain Cabinet's approval for fees associated with implementing the duties placed on Caerphilly County Borough Council regarding Private Water Supplies.

11. STATUTORY POWER

- 11.1 The Private Water Supplies (Wales) Regulations 2010.
The Water Industry Act 1991

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Consultees: Councillor David Poole, Cabinet Member for Community & Leisure Services,
Sandra Aspinall, Acting Deputy Chief Executive
Rob Hartshorn, Head of Public Protection
Daniel Perkins, Head of Legal Services
Ceri Edwards, Environmental Health Manager
Gail Williams, Interim Monitoring Officer
David A. Thomas Senior Policy Officer (Equalities and Welsh Language)
Sian Phillips, HR Manager
Mike Eedy, Finance Manager

Background Papers:

The Private Water Supplies (Wales) Regulations 2010.

Private Water Supplies Technical Manual (ISBN 0-7559-5151-4), Scottish Exec. 2006

Legislative background to the Private Water supplies Regs 2009 Section 9 (E) of the Private Water Supplies Technical Manual (January 25, 2010), Drinking Water Inspectorate.

Water Industry Act 1991