

Memorandum of Understanding between



**Drinking Water Quality Regulator
for Scotland (DWQR)**



**Scottish Environment Protection Agency
(SEPA)**



Scottish Water (SW)

WATER SAFETY PLANS AND DRINKING WATER PROTECTED AREAS

MEMORANDUM OF UNDERSTANDING BETWEEN THE DRINKING WATER QUALITY REGULATOR FOR SCOTLAND (DWQR), THE SCOTTISH ENVIRONMENT PROTECTION AGENCY (SEPA) AND SCOTTISH WATER (SW)

May 2007

Introduction

1. This Memorandum of Understanding is between DWQR, SEPA and SW. The Memorandum sets out an agreed framework for co-operation between the three parties. It is not legally binding nor is it intended to cover every detailed aspect of their relationships. Rather, it is a statement of principles, which will guide relations between the three parties and provide a set of workable ground rules.
2. The Memorandum cannot override the statutory duties and powers of the individual parties.

Background

The EC Water Framework Directive is being implemented in Scotland through the Water Environment and Water Services Act 2003 (WEWS) and associated secondary legislation. The Water Framework Directive (WFD) sets out the systems required to deliver an integrated approach to water management and will repeal a number of existing Directives, including the Surface Water Abstraction Directive (75/440/EEC). Scottish Ministers are responsible for the implementation of the requirements and provided the framework for the regulatory systems and river basin management planning in the WEWS Act. SEPA has been identified as the lead authority, alongside a number of Responsible Authorities who must contribute to the objectives of the WFD, including Scottish Water.

In line with the WFD, Scottish Ministers have identified Drinking Water Protected Areas, within which public and private abstractions from surface waters and groundwaters must be protected. This supersedes the obligations of the Surface Water for Abstraction Directive by 22 December 2007. The need for additional water treatment within these areas should also be reduced. In setting out their objectives for Scottish Water, Scottish Ministers have also required Scottish Water to ensure the safety of drinking water supplies through the use of a comprehensive risk assessment and risk management approach that encompasses all steps in water supply from catchment to consumer. Such an approach is set out in the World Health Organisation's Guidelines for Drinking Water Quality and is termed a Water Safety Plan approach.

This MoU sets out how the DWQR, SEPA and SW will co-ordinate their action, in particular in relation to the River Basin Management Planning system and the resource and source protection elements of the Water Safety Plan framework, to achieve these objectives.

Roles and Responsibilities

The Drinking Water Quality Regulator for Scotland

3. The Drinking Water Quality Regulator for Scotland was established in April 2002 and is appointed by Scottish Ministers to ensure that the drinking water quality duties imposed on the public water supplier are complied with. The Regulator's powers are set out in Part 2 of the Water Industry (Scotland) Act 2002 and include the power to obtain information and the power to serve enforcement notices. To assist with establishing whether or not the drinking water quality duties imposed on the public water supplier are being complied with, the Regulator also has powers of entry and inspection. Thus the DWQR:
 - rigorously checks the quality of water supplied by Scottish Water, using information supplied by the Company;
 - carries out audit inspections of Scottish Water in respect of any of its quality-related water supply duties.
 - initiates enforcement action, where necessary, to ensure that drinking water standards are maintained and that Scottish Water is meeting its other regulatory duties; and
 - investigates all incidents that affect or threaten to affect drinking water quality and determines whether Scottish Water took appropriate action to protect consumers, returned supplies to normal as quickly as possible, and had taken suitable action to prevent a recurrence. A case may be prepared for consideration by the Procurator Fiscal if there is sufficient evidence to show that water unfit for human consumption was supplied during the incident.

The Scottish Environment Protection Agency

4. SEPA was established under the Environment Act 1995. This same Act sets out the main functions of SEPA which are supplemented by duties imposed by the Water Environment and Water Services (Scotland) Act 2003. To this end, amongst other things, SEPA:
 - regulates activities which impact upon the water environment including activities liable to cause pollution, abstractions, impoundment, and engineering works;
 - maintains a register of protected areas which include Drinking Water Protected Areas which are bodies of water used for the abstraction of water intended for human consumption;
 - assesses the pressures and impacts upon the water environment, identifying water bodies at risk of failing the objectives of the Water Framework Directive including those of Drinking Water Protected Areas;
 - prepares a monitoring programme (Scottish Monitoring Strategy) which is based upon work by SEPA and others to monitor compliance with the objectives of the Water Framework Directive and in particular focusing upon those water bodies which are identified as being at risk;

- produces a River Basin Management Plan, which sets out a Programme of Measures to deliver the objectives of the Water Framework Directive. including Drinking Water Protected Areas; and
- draws up and maintains a systematic plan of action, including a timetable for the improvement of surface water for the purposes of article 4 of EC Directive 75/440/EEC concerning the quality of surface water intended for the abstraction of drinking water in accordance with the Surface Waters (Abstraction for Drinking Water) (Classification) (Scotland) Regulations 1996

Scottish Water

5. Scottish Water was established in April 2002 from a merger of the three previous water authorities. Its main functions are set out in the Water (Scotland) Act 1980 and the Sewerage (Scotland) Act 1968. Thus, amongst other things, SW :
 - provides a supply of wholesome water to every part of its area where it can do so at reasonable cost;
 - complies (as far as possible) with the requirements of the Water Supply (Water Quality) (Scotland) Regulations 2001 which in effect define “wholesomeness”;
 - should take all reasonable steps and exercise all due diligence to ensure that the water it supplies is fit for human consumption or, if not, that the water will not be used for human consumption;
 - ensures that waters used for abstraction for drinking water are classified and are sampled and analysed at the frequencies laid down and for the parameters specified in accordance with the Surface Waters (Abstraction for Drinking Water) (Classification) (Scotland) Regulations 1996; and
 - contributes to the development of a Scottish Monitoring Strategy for the water environment of Scotland and takes part in the development and delivery of any improvement measures contained in the River Basin Management Plan.

Working Relationship

6. Through this Memorandum of Understanding the three organisations set out to:
 - build on the good working relationships that already exist between DWQR, SEPA and SW by setting out the principles of an effective relationship to which all parties should adhere;
 - enhance co-operation and co-ordination between DWQR, SEPA and SW in respect of the protection of public health through the development of Water Safety Plans and the protection of the environment through the creation of Drinking Water Protected Areas under the Water Framework Directive;
 - highlight the areas of regulation where we interact and sets out our expectations of each other;

- minimise the duplication of activity, wherever possible;
- inform stakeholders about our relationship and how we interact; and
- reduce the scope for regulatory uncertainty.

7. The respective responsibilities of DWQR, SEPA and SW under this Memorandum of Understanding are as follows:

- to share common aims and standards;
- share information and expertise on improvement programmes;
- SEPA, SW and DWQR will, in consultation with stakeholders and other UK administrations, periodically review the appropriateness and relevance of the monitoring programme and the parameters and standards used to assess the status of Drinking Water Protected Areas;
- SEPA and SW will work together to develop an assessment of the risk to drinking water sources through the consideration of Drinking Water Protected Areas and development of Water Safety Plans.
- SEPA and SW will work with the Scottish Executive to develop and implement a plan which will deliver the monitoring obligations for drinking water protected areas by 22 December 2007. The monitoring plan will provide the most cost-effective means of delivering the obligations of the Water Framework Directive.
- SEPA and SW will work together to identify the appropriate additional control measures required to protect sources of public drinking water within drinking water protected areas as part of the River Basin Planning Process.
- SW will contribute to the development of a Scottish Monitoring Strategy by monitoring the quality of water abstracted by it¹;
- SW and SEPA will review annually the raw water quality data from all abstraction points used for the supply of potable water to the public in order to identify and agree those waters where improvements to water quality are required to protect drinking water sources;
- SEPA and SW will use the River Basin Management Planning process to identify and assess the most cost-effective and proportionate measures required to reduce the pressures on drinking water protected areas; and
- work together on the development of Water Safety Plans and River Basin Management Plans in order to identify where improvements are required to prevent the deterioration and improve the quality of drinking water sources with the aim of reducing the need for treatment wherever practicable.

¹ At present SW is only required to monitor its surface water abstractions under the Surface Waters (Abstraction for Drinking Water) (Classification) (Scotland) Regulations 1996. However, these Regulations will be replaced by new Regulations encompassing revised monitoring requirements for abstractions by 22/12/2007.

Working arrangements

8. DWQR, SEPA and SW will each nominate a member of staff to be responsible for handling day to day communications in respect of this Memorandum.

General matters

9. The three parties are committed, wherever possible, to solving any disagreements under this Memorandum through normal administrative channels.
10. Amendments to this Memorandum may be made at any time by agreement between the three parties. In addition, this agreement will be reviewed at intervals agreed between the three parties and be updated, as necessary, in the light of experience of its operation in practice.
11. This Memorandum of Understanding will be published on the websites of the organisations (www.dwqr.org.uk and www.sepa.org.uk and www.scottishwater.co.uk)

Signed by

CM McLaren

Date

23/05/07

Colin McLaren
Drinking Water Quality Regulator for Scotland



Signed by

Campbell Gemmill

Date

4/7/07

Campbell Gemmill
Chief Executive, Scottish Environment
Protection Agency



Signed by

Jon Hargreaves

Date

7th June 2007

Jon Hargreaves
Chief Executive, Scottish Water

