



**Scottish
Water**

Always serving Scotland



Scottish Environment
Protection Agency

**Memorandum of Understanding (MOU)
between Scottish Water and SEPA
(the Scottish Environment Protection Agency)**

**Enabling sustainable economic growth in Scotland:
Provision of Part 4 Asset Capacity**



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1. Purpose

The purpose of this Memorandum of Understanding (“MOU”) is to establish the mechanisms through which Scottish Water and the Scottish Environment Protection Agency (“SEPA”) will maximise the opportunities for sustainable economic growth in Scotland consistent with the Scottish Government’s National Planning Framework 2.

2. Aims and Objectives

- 2.1 Scottish Water and SEPA are committed to supporting and enabling sustainable economic growth and will work together to maximise the opportunities for new developments to be served by public water and waste water infrastructure.
- 2.2 Supporting urban and rural development through the provision of adequate water supply and waste water treatment systems which avoid harm to human health, amenity and the environment is a key aspect of promoting sustainable economic growth.
- 2.3 Scottish Water and SEPA will integrate data on Part 4 assets¹ (referred to in this MOU as “assets”) and environmental data to identify available capacity for new development, in both assets and the water environment, and inform Scottish Water’s investment programme for strategic growth.

3. Roles and Responsibilities

- 3.1 This MOU is considered within the context of the legal functions of Scottish Water and SEPA and in particular the requirements of the Water Framework Directive (2000/60/EC) and the Urban Waste Water Treatment Directive (91/271/EEC).

¹ Part 4 assets are strategic assets such as raw water intakes, water impounding reservoirs, water pumping stations and aqueducts, and water and waste water treatment works.

Scottish Water functions

- 3.2 Scottish Water is required by the Sewerage (Scotland) Act 1968:
- to provide such public sewers as may be necessary for effectually draining its area of domestic sewage, surface water and trade effluent;
 - to make such provision, by means of sewage treatment works or otherwise, as may be necessary for effectually dealing with the content of its sewers;
 - to take its public sewers to such point or points as will enable owners of premises which are to be served by the sewers to connect their or private sewers with the public sewerage network at reasonable cost.
- 3.3 Scottish Water is required by the Water (Scotland) Act 1980 to provide an “adequate and wholesome” supply of water where it is required for domestic purposes and can be provided at a reasonable cost. In relation to quantity, “adequate” is interpreted as meaning sufficient to achieve Scottish Water’s 1-in-40-year drought level of service.
- 3.4 Scottish Water’s functions under the Sewerage (Scotland) Act 1968 and the Water (Scotland) Act 1980 are qualified by the Provision of Water and Waste Water Services (Reasonable Cost) (Scotland) Regulations 2006 which provide explicit details of the funding arrangements required to provide necessary capacity, infrastructure and non-infrastructure.
- 3.5 Scottish Water is responsible in part for delivering the requirements of the Water Framework Directive (2000/60/EC) (as transposed by the Water Environment and Water Services (Scotland) Act 2003 (“WEWSA”)) as required by the Scottish Ministers and SEPA. With respect to this MOU the main requirements are for the sustainable use of water abstracted for water supply, and the protection and enhancement of aquatic ecosystems.
- 3.6 Scottish Water is also responsible in part for delivering the requirements of the Urban Waste Water Treatment Directive (91/271/EEC) as transposed by the Urban Waste Water Treatment (Scotland) Regulations 1994 as required by the Scottish Ministers and SEPA. With respect to this MOU the main requirements are for the provision of waste water treatment works.

3.7 Scottish Water's ability to deliver its statutory obligations is determined in part by the outputs required under the Quality and Standards process as funded under the Strategic Review of Charges undertaken by the Water Industry Commission for Scotland (the water industry economic regulator).

3.8 Scottish Water is legally required to ensure that abstractions from and discharges to the water environment, at their assets, comply with licences issued by SEPA under the Water Environment (Controlled Activities) (Scotland) Regulation 2005 ("CAR").

SEPA functions

3.9 SEPA's existing functions under CAR and the Urban Waste Water Treatment (Scotland) Regulations 1994 enable it to set licence conditions and issue notices for the purpose of protecting and improving the water environment.

3.10 SEPA has a duty under CAR to regulate abstractions from and discharges to the water environment and to monitor compliance with licences. SEPA is specifically required at regular intervals to review and if necessary modify or revoke licences.

3.11 SEPA has a general duty under the Environment Act 1995, in formulating or considering any proposals relating to any of its functions, to have regard to the social and economic needs of any area of Scotland and, in particular, to such needs of rural areas. SEPA also has a general duty under WEWSA to have regard to the social and economic impacts of exercising its functions under CAR.

3.12 Under the Urban Waste Water Treatment (Scotland) Regulations 1994, Scottish Water is obliged to provide sewage collecting systems except in any case where SEPA has certified that the establishment of a collecting system is not justified because it would produce no environmental benefit and that other appropriate systems would achieve the same level of environmental protection.

3.13 SEPA contributes to the Quality and Standards process by making recommendations on the priorities for capital investment required to deliver environmental obligations.

4. Managing Capacity

- 4.1 SEPA and Scottish Water will work together to manage asset capacity and environmental capacity to enable sustainable economic growth.
- 4.2 SEPA and Scottish Water will undertake regular joint reviews of asset capacity and environmental capacity to identify areas where new development can be considered. The reviews will:
- facilitate the sharing of information to maximise the use of existing asset capacity and environmental capacity;
 - consider the aspirations of each Local Authority's current local plan and whether these can be met;
 - identify available capacity for each Water Resource Zone and waste water treatment works;
 - update Scottish Water's Strategic Asset Capacity and Development Plan and Supply Demand Balance.
- 4.3 Scottish Water and SEPA will commit to make available appropriate staff at a local and strategic level to facilitate the reviews.
- 4.4 The results of the reviews will be published on the Scottish Water website. Both Scottish Water and SEPA are committed to communicating about development capacity with local authorities as required.
- 4.5 Scottish Water and SEPA will ensure that all decisions identifying where capacity is limited will be subject to management review to ensure a nationally consistent approach.

5. Engagement with Local Authorities

- 5.1 Scottish Water and SEPA will meet with individual local authorities, or groups of authorities, to compare development proposals with available asset capacity and environmental capacity.

- 5.2 Meetings will involve local Scottish Water and SEPA staff together with local authority development planners.
- 5.3 The intention will be to inform and guide sustainable and deliverable Strategic and Local Development Plans, maximising the use of available asset capacity and environmental capacity.

6. Reporting

- 6.1 Scottish Water is required by Ministerial Directions to publish an annual Strategic Asset Capacity and Development Plan outlining water and waste water treatment capacity. This is supported by the asset capacity webviewer which is updated throughout the year to provide information on the capacity available for development.
- 6.2 SEPA and Scottish Water will share data, specifically asset capacity, water body capacity and water body status. Both organisations will aim to continually improve the quality and robustness of corporate datasets containing asset capacity and environmental capacity. In using data received from the other party, they will respect the security and commercial status applied to information shared and will not release information received from the other party in response to a request from third parties without consultation with the other party.
- 6.3 SEPA and Scottish Water will develop a guidance document detailing the process for capacity assessments.
- 6.4 SEPA and Scottish Water will publish their respective rules for defining whether there is available capacity.

7. Dispute resolution

- 7.1 Where there is a dispute between SEPA and Scottish Water over the interpretation of this MOU the issue will be escalated through the dispute resolution process set out in the current 'Guidance Note'.


8. Review Arrangements

8.1 This MOU is not intended by either party to be legally binding; nor shall it affect the statutory duties or responsibilities of either party. Changes may be initiated by either party at any time and will be subject to the written agreement of both parties.

Signed on behalf of
Scottish Water


R.K. ACKROYD

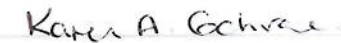
Date: 24th MARCH 2011


LEO J PETCH
Witness

Signed on behalf of
Scottish Environment Protection Agency


GK

Date: 21 February 2011


Witness