

**Private Water Supply legislative changes and proposed changes to the  
Charging Regime.**

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**1.0 EXECUTIVE SUMMARY**

1.1 Purpose: This report outlines the impact on the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 to the Council and proposes a revised charging policy in respect of statutory monitoring samples which are taken from Regulated private water supplies (i.e. there is a commercial business using the supply).

1.2 The purpose of the regulations is to protect the public health of those consuming private water supplies. They will have a significant impact to Argyll and Bute in terms of service resources and to those served by regulated private water supplies. The most significant changes are an increase of 63% in the number of regulated supplies due to the inclusion of residential rental properties; a new requirement to have a 5 year rolling risk assessment program (160 additional visits per year), and the corresponding increases to our statutory monitoring program. The new Regulations replace the maximum fee structure with an ability for the Local Authority to recover all reasonable costs related to the exercise of their statutory function.

1.3 An assessment is ongoing into the impact of these Regulations to our operational procedures although there will be a need for additional resources to meet this statutory duty. The additional income generated will be used to offset the additional resources which are necessary for the Council to meet its new statutory duties.

There is a need to revise our charging structure for those supplies considered commercial or public, (formerly known as type A supplies), and larger domestic supplies serving more than 50 persons. This will ensure a fair, equitable and defensible charging policy that complies with the Regulations, and recovers reasonable costs.

The new fee structure for "regulated supplies" is consistent with Drinking Water Quality Regulator (DWQR) Guidance and the regulations. The sample charge regime includes charges for expenses reasonably incurred for the collection and analysis of samples; a charge for the newly required zonal monitoring for the Council area which will be divided equally between regulated supplies. The new charging regime has been discussed at the Strategic Management Team and will be incorporated within the budget papers going to Council in February, with a recommendation that they take immediate effect.

1.4 The review has identified the need to extend the criteria for financial hardship in terms of the private water supply improvement grant scheme. This will encourage and support more users to improve their supplies by providing an additional financial support, up to a further £800, for treatment of more difficult supplies where improvement costs are higher. This additional funding will be reclaimed from the Scottish Government as part of existing grant scheme.

1.5 Recommendations

Members are asked to consider this report and agree the following recommendations:

- a) To note the impact of the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 in seeking to improve the quality of private water supplies, and the additional work placed on the Councils environmental health service (Section 6.5)
- b) To approve changes to the financial hardship amount for the private water supply improvement grant scheme.
- c) To note that the proposed charging regime which will be incorporated within the budget papers for fees and charges, which will be considered by Council in February 2019

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**2.0 INTRODUCTION**

- 2.1** The Council have a duty to implement the Water Intended for Human Consumption (Private Water Supplies) (Scotland) Regulations 2017 (2017 Regulations) and the Private Water Supplies (Scotland) Regulations 2006 (the 2006 Regulations) as a statutory duty. These Regulations require that Private Water supplies are registered and where appropriate monitored on a regular basis to protect the health of those that use them.

**3.0 RECOMMENDATIONS**

Members are asked to consider this report and agree the following recommendations:

- a) To note the impact of the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 in seeking to improve the quality of private water supplies, and the additional work placed on the Councils environmental health service (Section 6.5)
- b) To approve changes to the financial hardship amount for the private water supply improvement grant scheme.
- c) To note that the proposed charging regime which will be incorporated within the budget papers for fees and charges, which will be considered by Council in February 2019

**4.0 DETAIL AND BACKGROUND**

- 4.1** Argyll and Bute Council currently has 520 commercial private supplies and 2839 domestic supplies. With around 12% of the population relying on private rather than public supplies. This figure can double in the summer months with much tourist accommodation having to rely on private supplies. (Scottish average is 4%) Ensuring that private water supplies are safe for consumers is therefore crucial for the public health of both visitors and residents of Argyll and Bute.
- 4.2** Research has shown that those consuming private supplies can be up to 20 times more likely to fall ill and supplies can regularly be contaminated with bacteria such as Coliforms, E.coli, cryptosporidium and enterococci. Treatment can be fitted to supplies to considerably reduce such risks but this also requires ongoing maintenance and monitoring to ensure that it is working effectively and efficiently. We are therefore required as part of this process to monitor all supplies considered commercial on at least an annual basis and recover costs accordingly. Where supplies fail to meet the standards action to investigate the issue is carried out, as is action taken to protect from any immediate public health concerns.

- 4.3** The new guidance issued to Local Authorities has confirmed that the definition of commercial supplies is to be extended to include all residentially let properties, including Private and Social lets as well as tied accommodation which are served by private water supplies. The rationale behind this decision is that a safe and wholesome water supply should be provided to all accommodation regardless of tenure. The 2017 Regulations also require all such premises to have a risk assessment and be included in the statutory monitoring program for private supplies.
- 4.4** Risk assessment requirements (for regulated supplies) have been extended and now include a statutory inspection/risk assessment program at intervals of no greater than 5 years and, an explicit duty to certify before use following risk assessment, any new supplies or additions to existing supplies and ensure that they will adequately control risks to the consumers of the supply. Risk assessments may still be needed for domestic supplies (Type B in the 2006 Regulations) and may be charged for under some circumstances, the maximum charge for these is laid down in the 2006 Regulations
- 4.5** The current charges made under the 2006 Regulations for private water supplies consists of a visit charge (set by the legislation and intended to cover Councils costs in undertaking its statutory monitoring/regulatory work) and analytical costs. These charges are however 'capped' separately for visit costs and analytical costs and will need to continue at the current capped level for monitoring undertaken of non-Regulated (domestic) supplies. The new 2017 Regulations changes the charging regime for monitoring of regulated (commercial) private water supplies by:
- a. Enabling charges to be levied for expenses reasonably incurred for the collection of water samples
  - b. Removing the maximum costs for analysis parameters and allowing Councils to recover the full analytical costs incurred:
  - c. Introducing new Zonal Samples. This is an extended suite of parameters taken from a low number of representative supplies designed to represent the whole zone for those parameters
- 4.6** The non-means tested grant scheme, which supports users of private water supply to improve their water supplies, will continue to be available through environmental health .The grant scheme is funded by Scottish Government and since the introduction of the improvement grant scheme in 2007, the Council has awarded £1,779,268.04 to users of private water supplies to improve the quality of drinking water, benefitting 594 supplies across Argyll and Bute.

A review of the current grant award scheme has highlighted that it would be of benefit to amend the current hardship criteria to take into account the treatment of difficult supplies where improvement costs are higher. (The current hardship criteria allows for households on low income to apply for discretionary funding over and above the Grant Award limit of £800).

It is proposed to extend the Councils Hardship Criteria to offer additional grant aid to all households of up to a further £800 per property where additional treatment systems over and above the usual filtration and disinfection system are necessary to produce safe drinking water. This cost would be funded by the Scottish Government.

## **5.0 CURRENT CHARGING REGIME**

- 5.1** The Council is required to use a UKAS accredited Laboratory in order to analyse the samples taken under the Regulations. The laboratory used for this by Argyll and Bute Council is Glasgow Scientific Services.
- 5.2** The current charges are dependent on the classification of the supply and type of analysis required. The visit cost is £70 and analysis costs, are borne by the person(s) responsible or shared amongst the users. The total costs for statutory monitoring samples of a commercial Type A supply is £265.54 (chlorinated supply) £207.42 (non-chlorinated supply) and £118.00 for a Type B Supply. As these charges have been set by the 2006 Regulations they are not subject to any annual budget increases for inflation.
- 5.3** The costs for undertaking the preparatory work and site visit for risk assessment purposes has been set at £70 and the risk assessment or risk assessment review part as being £50 making a total fee of £120 for all types of supply.

## **6.0 PROPOSED NEW ARRANGEMENTS**

- 6.1** The impact of the new 2017 Regulations on the Council will be significant and the key issues are as follows:
- a. The quality standards for private water supplies to ensure that users are provided with a safe potable drink water supply are largely unchanged
  - b. The Number of regulated supplies will increase by 63% from 520 to approximately 820. These supplies require to be monitored annually and there will be an increase in our sampling program.
  - c. New requirement for a 5 year risk assessment inspection program for regulated supplies. This will increase the annual number of risk assessments by 160 supplies per year.
  - d. New requirement for new parts of a private supply to be risk assessed before use if it will become designated as a Regulated supply
  - e. There will be an increase in associated enforcement work associated with sample failures and administrative work.
  - f. Need to confirm that current laboratory is accredited for, and has capacity to undertake additional analytical work.
  - g. The costs of analysis of private water supplies will increase although this will be offset by the income from our charging regime.
  - h. Monitoring costs are now fully recoverable and required to be based on risk, meaning more representative sampling.
  - i. Improved enforcement options to support investigations and interventions to reduce risks to consumers.

- 6.2** Residential let properties are to be considered as commercial in relation to the Regulatory requirements. All supplies that include let properties will be considered commercial and subject to risk assessment and routine monitoring if served by a private supply. It is estimated that approximately 650 properties may fall into this category, although many (estimate 350) are likely to be part of a supply that was already considered commercial. All of these premises will require sampling and any new supplies identified will also need a risk assessment.
- 6.3** The Landlord Register has been interrogated and compared with the Scottish Water mains supply zone shape file, to identify private let properties that fall into the private Water Supply Regulated Supply category. All landlords affected will be notified of the new requirements. They will also be offered grant assistance to make improvements to the treatment of supplies where appropriate. For social tenancies, individual housing associations and Registered Social Landlords they will also be contacted to obtain details of premises served by a private supply. To date 657 additional rental properties have been identified.
- 6.4** Further clarification from the Drinking Water Quality Regulator (hereafter referred to as DWQR) has confirmed that the previous revised sampling suite for dairy farms is no longer appropriate and they are to be considered as regulated commercial supplies under the new 2017 Regulations with routine sampling and risk assessments to be carried
- 6.5** There is a continued requirement for every commercial property to be sampled during the calendar year, the exact make-up of the sample suite will be dependent on the supply risk assessment and any treatment that may be fitted to the property.
- 6.6** The new Regulations introduce an additional sampling requirement, through the introduction of zonal monitoring. Supply zones are defined by the DWQR as being representative of a large area for a wide range of parameters based on river basin data. Each zone must be sampled for an extended range of parameters every year, the number of samples required in each supply zone is based on the estimated total volume of water supplied by the private water supplies in that zone. They must be taken for a minimum of three years and if they show no issues in relation to the parameters sampled for, an application can be made to the DWQR for them to be discontinued in future years.
- 6.7** The total cost of these zonal samples is high (approximately £5800). Because of the extent and complexity of the parameters analysed, the intention is to split the cost equally amongst all regulated supplies. The new charge will be introduced once agreed by Council and would be £15 per supply. In future years the exact amount may alter slightly if the total number of supplies increases or decreases. The results for the zone samples will be made available to all on the Council Website.
- 6.8** Our review has also considered the improvement grant scheme. This has highlighted that it would be of benefit to amend the current hardship criteria to take into account the treatment and additional costs required for difficult supplies. The current hardship criteria allows for households on low income to apply for discretionary funding over and above the Grant Award limit of £800. It is proposed to extend the hardship criteria to offer additional grant aid to all households of up to a further £800 per property where additional treatment systems over and above the usual filtration and disinfection system are necessary to produce safe drinking water. This cost would be funded by the Scottish Government

## 7.0 PROPOSED CHARGING REGIME

7.1 The proposed charging regime is as follows:

Visit charge + costs of analysis suite + zonal charging costs = total charge

Key points to note are:

1. The zonal charging costs will be calculated by dividing the total analytical costs of the zonal sample by the total number of commercial, supplies within Argyll and Bute. This provides for a fair system of apportionment. The zonal charge will be charged once only, per supply, per annum.
2. The visit charge has increased to £75 per visit and contributes to the Council's costs in transport and collection of samples, including travel, transport costs, staff costs and administrative costs. This cost derives from the 2006 Regulations visit fee being increased in line with the 2019/20 proposed budget increase of 3% and then rounded up. The visit charge for regulated supplies is now able to be adjusted by the budget process, however the Type B visit charge must continue to remain capped at £70.
3. Where multiple samples are to be taken from the same supply at the same time, but from different properties on the supply, it is proposed to charge only one visit charge of £75 and an administrative fee of £10 per each additional sample. This is rather than charging multiple visit charges for the one visit to the supply.
4. The costs of sampling will be recovered from the responsible person(s) for the supply or, where this is not appropriate, divided equally amongst the users of the supply.
5. The costs associated with undertaking any type of regulated supply risk assessment and providing a report is £125.00 per supply. However, this fee will only provide for up to one hour visit on site with any additional hours spent on site (and parts thereof) being charged at £50 per hour.

The impact of these changes is an increase in the general monitoring charge to £260 for a single commercial premises on a supply (previously was £207.42). Worked examples of some charges are illustrated in Appendix I. It should be noted that the increased sample cost is predominantly due to an increase in analytical charges from the laboratory to the Council.

The table below summaries the proposed new fees and charges for private water supplies which will invariably result in users of commercial supplies having to pay more. These charges are to be incorporated into the Fees and Charges paper which will be considered as part of the budget papers at Council in February 2019

	<b>Charge</b>	<b>Current Charge 2006 Regulations</b>	<b>New Charge/fee</b>
1	Visit charge – Regulated supply	£70	£75
2	Visit charge – Type B	£70	£70 (capped)
3	Single visit to supply with multiple commercial properties	£70	visit charge (1) + £10 per each additional commercial property sampled
4	Analytical parameter cost (full costs recovery) Based on current charges	£137.42 (Non chlorinated supply) £195.54 (chlorinated supply) £48 (Type B) £75 (Request sample)	Full cost recovery based on schedule of parameters
5	Zonal charge per supply	-	Analytical costs divided by number of regulated

**7.2** The income from the monitoring will be used to offset the additional resources which will need to be provided, including laboratory fees and additional posts, to enable the Council to meet its statutory duties under the new Regulations. This will include an additional sampling officer, as well as specialist enforcing officers and administration support. The projected increase in income which will be used to provide the necessary increase in staff resource and is calculated to be £51,675. Appendix 2 gives detail from where this income is derived.

## **8.0 CONCLUSION**

**8.1** This is a public health measure to protect the health of users of commercial private water supplies, some of which may be consumers or tenants with no ability to improve water quality.

**8.2** The Council has a statutory duty to enforce the Water Intended for Human Consumption (Private Water Supplies) (Scotland) Regulations 2017, including the sampling and risk assessing of all Regulated supplies. There will be a significant increase in the work required to meet these new statutory requirements.

**8.3** The Regulations provide for the Local Authority to set its charges based on recovering the costs involved in collecting, analyzing and reporting these water samples. The above charging regime will allow us to do this and also provide a clear method in calculating the costs for individuals involved in the use and provision of a private water supply.

**8.4** Amendment of the hardship criteria under grant availability would increase assistance available to those on difficult supplies that require more complex treatment, encourage grant applications and improve the quality of drinking water in those supplies.

## **9.0 IMPLICATIONS**

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| <b>9.1</b> | Policy     | Supports the Councils outcomes of people living active, healthier and independent lives and encouraging a thriving and diverse economy ensuring all businesses, public premises and let properties are served by a wholesome water supply.  |
| <b>9.2</b> | Financial  | <ul style="list-style-type: none"><li>i. There is a need to recover the full costs of monitoring from users of supplies</li><li>ii. Additional income from the new supplies, will be used to offset the additional resources which will be necessary to undertake this monitoring work.</li></ul> |
| <b>9.3</b> | Legal      | The Council have a statutory duty to monitor private water supplies that are covered by the 2017 Regulations, and recover costs where appropriate.  |
| <b>9.4</b> | HR         | Additional resource will be required and this will be funded from income.   |
| <b>9.5</b> | Equalities | No issues identified through assessment   |



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| 9.6 | Risk             | Adverse publicity to Council regarding costs to users/providers. However, if costs are not fully recovered then costs will require funding from other budgets.            |
| 9.7 | Customer Service | The development of a policy will provide clarity to customers on what the Councils sampling charges are in respect of Private water supplies and how they are calculated. |

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## Appendix 1 Worked Examples of new charging regime

**Example one:** Single commercial on a supply:

Sample Charge = Microbiological parameter costs + Chemical Sample Costs + Zone charge + Admin charge

Sample Charge = £90 + £80 + £15 + £75 = **£260**

**Example Two:** two properties on same supply to be sampled (sampled on same day)

Sample Charge (per property) = Property 1 (Microbiological parameter costs + Chemical Sample Costs + Zone charge + Admin charge) + Property 2 (Microbiological parameter costs + Chemical Sample Costs + Zone charge + Admin charge) /2

Sample charge each Property = £90 +£80 (parameters) = £170 analysis charge per property plus visit charge = £75 + £10 = £85/2 = £42.50 per property, plus £15 per *supply* /2 per property = £170 + £42.50 + £7.50 = **£220.00 per property**

## Appendix 2: Proposed additional income from new private water supply regime which will offset new posts

Visits			
	Income from increase in visit charge from current regulated supplies	Proposed visit charge of £75 (current £70) 520 supplies x £5	£ 2600
	Income from "new" regulated supplies which fall within new definition in Regulations	Proposed visit charge of £75 300 supplies x £75	£22500
	Visits associated with resamples	Projected 5% of total number of supplies.(820) 41 additional visits annually x £75	£3075
Risk assessments			
	Income from risk assessment program of regulated supplies (basic risk assessment)	Projected 164 risk assessments per year (820/5) 164 x £125	£20500
	Income from risk assessments requiring longer time on site	Projected 10 supplies per year will take an additional hour (@£50/hr) 10 x £50	£500
	Unused/disused/new PWS systems requiring Risk Assessment before coming into use	Estimate 20 per year 20 x £125	£ 2500
<b>Additional income</b>			<b>£51,675</b>