

Drinking Water Inspectorate Non-qualifying Regulatory Provisions and Non-regulatory Provisions Summary Report

Business Impact Target Reporting Period Covered: 09/06/2017 to 20/06/2018

List of Main Abbreviations used					
IL	Information Letter	RP	Regulatory Provision	SI	Statutory Instrument
DWI	Drinking Water Inspectorate (the Inspectorate)	Non-RP	Non-Regulatory Provision	RPC	Regulatory Policy Committee
NQRP	Non-Qualifying Regulatory Provision	BIT	Business Impact Target	BRU	Better Regulation Unit

1. De Minimus

All of the Inspectorates' measures are under the *de minimus* exclusion (measures with an EANDCB below +/- £5 million) but the Inspectorate has also reviewed its measures using the BIT exemptions categories (set on 20 June 2018) in Section 2 below for added transparency of our measures. For full, legal definitions of these exclusion categories, please see [here](#)¹.

¹ <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-06-20/HCWS776/>

2. Non-qualifying Regulatory Provisions Summary Table

Excluded Category	Summary of measure(s), including any impact data where available		
	Measure title	Measure Description	Justification
EU Regulations, Decisions and Directives and other international obligations, including the implementation of the EU Withdrawal Bill and EU Withdrawal Agreement	1. Limit of detection consultation.	The launch of a consultation on a change to the blue book (SCA) requirements for limit of quantification, replacing the current requirements (bias, uncertainty of measurement, precision and limit of detection) as required by the 90/83/EC	This is an EU requirement, originating from Annex III of the Drinking Water Directive 98/83/EC with no gold-plating but could also have been excluded under 'Policy development by Regulators' as this is a consultation.
<i>De minimus</i> exclusion	2. Long Term Planning Guidance Note	A Guidance Note issued to the industry to inform long term business planning going into the next investment period.	This concludes as a NQRP under the <i>de minimus</i> exclusion (measures with an EANDCB below +/- £5 million).
	3. Changes to the guidance on the Water Supply (Water Quality) Regulations 2016	Various amendments to the regulators interpretation of the regulations.	This concludes as a NQRP under the <i>de minimus</i> exclusion (measures with an EANDCB below +/- £5 million).
Civil Emergencies	Nothing to Report		
Measures certified as relating to the safety of tenants, residents and occupants in response to the Grenfell tragedy	Nothing to Report		
Measures certified as concerning EU Withdrawal Bill operability measures	Nothing to Report		

Fines and Penalties	Nothing to Report		
Pro-competition	Nothing to Report		
Misuse of Drugs	Nothing to Report		
Systemic Financial Risk	Nothing to Report		
Measures certified as relating to the safety of tenants, residents and occupants in response to the Grenfell tragedy	Nothing to Report		
Casework	4. Metaldehyde correspondence	A letter to relevant water companies to provide an update on the requirements for Legal Instrument Progress Reports related to Metaldehyde.	Directly relates to the specific companies that have S19 Undertakings, under the Water Industry Act 1991, in place for Metaldehyde.
	5. Publication of event report for Franklaw	Publication of the event report for the United Utilities Franklaw <i>Cryptosporidium</i> incident.	The report was the result of and the conclusions of the DWI's investigation into the United Utilities Franklaw <i>Cryptosporidium</i> event.
	6. Copeland EAL publication	Publication of an event report following the United Utilities Copeland taste and odour event.	Related to specific casework for a single water quality event.
	7. Tap disinfection advice to non-compliant companies	Letter to non-compliant companies (following a review of all the industry) reminding them of the correct procedure for monitoring	This concludes as a NQRP as relating regulatory casework.

		chlorine following disinfection of taps with a chlorine based solution (during sampling).	
	8. Consolidated review of the widespread loss of supplies arising from the freeze/thaw events affecting England and Wales in March 2018.	Publication of consolidation review of the widespread loss of supplies arising from the freeze/thaw events affecting England and Wales in March 2018.	This concludes as a NQRP as related to assessment of specific events in March 2018.
	9. Periodic Review Decision letters	Decision letters on the industries Periodic Review (PR19) submissions were sent-out on 30 May 2018.	This concludes as a NQRP as related to individual assessment of company submissions.
	10. Legal Instruments	The Inspectorate issued Legal Instruments throughout this BIT period to achieve compliance with the Regulations.	This concludes as a NQRP as related to compliance of individual cases.
Education, communications and promotion	11. Information Letter 03/2017	Informing water companies of the publication of the Long Term Planning Guidance Note (see measure 3 above) and updates to guidance of the public water Regulations (see measure 8 above).	This letter was a communication measure to draw attention to the publication of guidance.
	12. Chief Inspector's Report 2017 Quarter 1 & Quarter 2	Publication of the 2017 quarter 1 and quarter 2 Chief Inspectors reports. These reports intend to review the outcomes of the requirements and standards in securing compliance with the Water Supply (Water Quality) Regulations through the objectives they set.	This concludes as a NQRP due to being a communication (under 'Educational, communications activities, etc. by regulators') but would also have been excluded under Regulatory casework.
	13. Chief Inspectors Report 2016	Summary report of the four quarterly reports on the performance of water companies for water quality indices (public water supplies). These reports intend to review the outcomes	This concludes as a NQRP due to being a communication (under 'Educational, communications activities, etc. by

		of the requirements and standards in securing compliance with the Water Supply (Water Quality) Regulations through the objectives they set.	regulators') but would also have been excluded under Regulatory casework.
Activity related to policy development	14. Consultation on changes to the Water Supply (Water Quality) Regulations 2016	A consultation on proposed changes to the Water Supplies (Water Quality) Regulations 2016.	This was a consultation for the development of policy.
	15. Consultation on new guidance for the Water Supply (Water Quality) (Amendment) Regulations 2018	A consultation on the revision of the Inspectorate's guidance, on the implementation of the 2018 Amendment of the Water Supply (Water Quality) Regulations 2016.	Consultation with those being regulated, on the interpretation of the Amendment Regulations 2018 for development of policy.
	16. New Risk Assessment Report submission specification consultation	A new specification for the format in which monthly risk assessment report submissions are to be submitted to the Inspectorate.	This was a consultation for the development of policy.
	17. Consultation on the Monitoring Variations process.	When The Water Supply (Water Quality) (Amendment) Regulations 2018 come into force (11 July 2018), the industry will be able to apply for 'Monitoring Variations' to adjust the frequency of regulatory monitoring. This consultation sought views on how companies will apply for Monitoring Variations.	This was a consultation for the development of policy.
Changes to management of regulator	Nothing to Report		

3. Non-Regulatory Provisions Summary Table (provided for transparency)

a) In relation to Statutory Instruments

Measure	Description	Reason non-RP
Consultation on amendments to Private Water Supply Regulations 2016	The consultation on Amendments to the Private Water Supplies Regulations 2016.	RPC & BRU confirmed in 2017 that Regulatory activities relating to Private Water Supplies are not Regulatory Provisions as these measures affect businesses that are controlled by a public authority as excluded under the SBEE Act 2015 (also confirmed in the 2018 Better Regulation Framework (Interim Guidance) from BEIS (pg 4, point 5)).
IL04/2017	Information letter on regulatory sampling programmes.	Measure takes affect for <12 months. Only applied to the 2018 sampling year, following which the new regulations will replace it. This is just a transitional measure.
PWS Welsh information note	New Welsh Information Notes to align with the Private Water Supply (Welsh) Regulations 2017	Applies to businesses that are controlled by a public authority, who are excluded under the BIT and applies to Welsh Government.
Network and Information Systems (NIS) Regulation Day 1 Guidance	Guidance published for day 1 of the implementation of the NIS regulations 2018.	Measure takes affect for <12 months. It will be replaced by the full technical guidance on the NIS Regulations, which is due to be published by November 2018. This is an interim measure. In addition, DWI are not the owner of the NIS regulations, they are being implemented nationally (by the Department of Culture, Media and Sport) and Defra are the body that 'owns' them for the water industry.
Amendments to the Private Water Supplies Regulations 2016	Amendments to the Private Water Supplies Regulations 2016 (Statutory Instrument). This measure is expected to come into force before the end of this BIT period.	RPC & BRU confirmed in 2017 that Regulatory activities relating to Private Water Supplies are not Regulatory Provisions as these measures affect businesses that are controlled by a public authority as excluded under the SBEE Act 2015 (also confirmed in the 2018 Better Regulation Framework (Interim Guidance) from BEIS (pg 4, point 5)).

b) In relation to DWI regulatory activity

Measure	Description	Reason non-RP
Business performance report 2016	An annual report of the regulators business performance in respect to its regulatory duties.	This is an annual "for information only" report and requires no action from those being regulated.
Private Water Supplies Chief Inspectors Report 2016	An annual report on the water quality performance of private water supplies in England and Wales.	RPC & BRU confirmed in 2017 that Regulatory activities relating to Private Water Supplies are not Regulatory Provisions as these measures affect businesses that are controlled by a public authority as excluded under the SBEE Act 2015 (also confirmed in the 2018 Better Regulation Framework (Interim Guidance) from BEIS (pg 4, point 5)).
Publication of industry summary 2016 data for sampling of public water supplies.	A set of reports summarising water quality data for public supplies in England and Wales.	Just a publication of information, imposes no requirements.
Press release on Franklaw Event case outcome.	The Inspectorate prosecuted United Utilities under section 70 of the Water Industry Act 1991 for supplying water unfit for human consumption. This is the press release that followed.	Merely a publication of the outcome of a court case, does not make or amend requirements.
Research news Issue 11	Publication of a summary of research carried by/on behalf of the DWI.	This is published for information only. It makes no new provisions, recommendations or guidance.
New office location publication	The DWI moved offices and told the water companies of this fact in a formal publication.	It sets no requirements whatsoever, merely informs the industry of the Inspectorate's new postal address. The measure to move office locations belongs to Defra.
Southampton Event - press release	Press release on the outcome of the prosecution of Southern Water following the Southampton discolouration event (in which the company pleaded guilty to supplying water unfit for human consumption under section 70 of the Water Industry Act 1991).	Makes no new requirements or guidance for water companies, simply publishes the facts of the case.
Press release - Southampton Event sentencing	Press release following the sentencing of Southern Water for the Southampton discolouration event.	Does not make or amend any requirements, just publishes the facts of the sentencing.
Research paper published for Franklaw Event	The Chief Inspector and the Principal Inspector for water quality events published a paper in an academic journal on the Franklaw event (The Lancashire Cryptosporidium Event of August 2015, authors J. Atkinson and M. Rink), to share lessons with industry.	This was a publication for information only and sharing of best practice, which makes no requirements on the industry.
CRI & ERI definitions publication	Publication of the definitions of the two new metrics (Event Risk Index and Compliance Risk index) on DWI website and provision of data to companies.	This is the publication of information using data already provided by the water companies and an explanation of how it is done. It imposes no requirements.

Castle Donnington Event - press release	Water quality event press release following the Castle Donnington chlorine dosing event and subsequent caution for supplying water unfit for human consumption under section 70 of the Water Industry Act 1991	Not a regulatory provision, just a publication of information.
Private Water Supplies Regulatory Activities	Measures includes individual guidance given to Local Authorities as Regulatory case work, updates to guidance, new Risk Assessment tool and accompanying guidance video etc (please follow link for further examples).	RPC & BRU confirmed in 2017 that Regulatory activities relating to Private Water Supplies are not Regulatory Provisions as these measures affect businesses that are controlled by a public authority as excluded under the SBEE Act 2015 (also confirmed in the 2018 Better Regulation Framework (Interim Guidance) from BEIS (pg 4, point 5)).
Potential for Formation of Disinfection By-Products from Advanced Oxidation Processes (DWI 70/2/317 WT 2207) publication on DWI website	Publication of research on the DWI website	Not a regulatory provision, just a publication of research.
Sweetloves Event - press release	Press release following the sentencing of United Utilities for the Sweetloves event.	Does not make or amend any requirements, just publishes the facts of the sentencing.

4. Other Items for Information

[The Network and Information Systems Regulations 2018](#)

The Network and Information Systems Regulations 2018 came into force on 10th May 2018, implementing the European Network and Information Systems Directive within the United Kingdom. The Regulations have been implemented nationally by the Department of Culture, Media and Sport. The Secretary of State for England (Defra) and the Welsh Government for Wales are the designated competent authorities for the water sector in England and Wales, however operational responsibilities of the competent authority function have been conferred to the Drinking Water Inspectorate on their behalf. As such, the Inspectorate is not the relevant body to log the NIS Regulations measure but it is included here for information purposes only.

Drinking Water Inspectorate

Department for Environment, Food and Rural Affairs

Non-qualifying regulatory provision assurance statement: **confirmed**

The Regulatory Policy Committee (RPC) is content that, on the basis of the summary information provided, none of the measures or activities covered in the summary document should be considered as a qualifying regulatory provision for the purposes of the business impact target. This statement does not provide a detailed view of any specific activity in the regulator's summary document. Nor does it comment on any activities not included in the summary. Some activities might, however, have been the subject of separate assessments of qualifying regulatory provisions.

Comments on the non-qualifying regulatory provision summary

The regulator has provided an adequate description. It would have been helpful if the assessment gave some information to support their assertion that these items are *de minimis*, such as a description of impacts.

The regulator has included a number of measures against the 'monopoly providers (or those with significant market power)' exclusion. The RPC notes that this exclusion is not included, at least in this form, in the exclusions listed for the framework for the current parliament, as announced on 20 June 2018. The RPC notes, however, that the regulator has stated that the measures are, in any case, under the *de minimis*, and therefore non-qualifying.

The regulator has helpfully, at Appendix 1, identified the exclusion categories from the 2015-17 BIT framework to which the measures would apply if those categories applied to the current BIT reporting period. The RPC welcomes the clarity and transparency this additional material provides.

Regulatory Policy Committee

Date of issue: 29 June 2018
www.gov.uk/rpc

Regulator: Drinking Water Inspectorate

Business Impact Target Reporting Period Covered: 8 June 2017 to 20 June 2018

Excluded Category*	Summary of measure(s), including any impact data where available
De minimis (measures with an EANDCB below +/- £5 million)	<p>All of the Drinking Water Inspectorates' measures for the BIT period 8 June 2017 to 20 June 2018 are under the <i>de minimus</i> exclusion. The Inspectorate's Regulatory Provision measures (i.e. not including Non-regulatory Provisions) can be split in the following way (for further details on all of these measures, please see Appendix 1):</p> <ul style="list-style-type: none"> - Two European measures relating to the direct transposition of EU Directives. - Six measures relating to the regulation of the public water industry (a monopoly industry), including publication of the Chief Inspector's Report, Information Letters and Guidance Notes, to inform the water industry on compliance with the Regulations. - Three specific measures of regulatory casework, alongside regular day-to-day casework. Two of these informed the public water industry of good practise and lessons learnt from the Inspectorate's review of individual cases. One related to individual advice given to relevant water companies. - One communication measure to inform the public water industry of the publication of guidance. - Two consultation measures to inform the Inspectorate's development of policy.

*This column will be updated with the other exemption categories once the Business Impact Target has been announced. Complete the summary box as 'Following consideration of the exclusion category there are no measures for the reporting period that qualify for the exclusion.' where this is appropriate.

Version History

Date	Version no.	Sections changed	Reason
03/07/2018	1	Original	Original publication
19/11/2019	2	RPC's Non-qualifying regulatory provision assurance statement added.	Regulatory Policy Committee's Non-qualifying regulatory provision assurance statement was obtained after the date by which this document had to be published. Document republished to add the RPC's validation opinion.