

**OFFICER DELEGATION SCHEME  
RECORD OF DECISION**



<b>Date:</b>	30 October 2023	<b>Ref No:</b>	971
<b>Responsible Officer:</b> <b>Laura Swann AD Operations Strategy</b> <b>Ben Thomson Head of Public Protection</b>			
<b>Title/Subject matter:</b> Approval to engage a consultant to carry our duties under Private Water Supplies Regulations			
<b>Budget/Strategy/Policy/Compliance:</b>			
(i) Is the decision within an Approved Budget?			Yes
(ii) Is the decision in conflict with the council's policies, strategies or relevant service plans?			No
(iii) Does the decision amend existing or raise new policy issues?			No
(iv) Is the decision a non-key decision (below £100,000, outside the MO definitions)			Yes
Is publication still required? (See guidance)			Yes

## **1.0 Background**

The Private Water Supplies Regulations 2016 and 2018 Amendment Regulations cover all private water supplies and private distribution systems. They require local authorities to safeguard public health by ensuring that supplies are safe to drink by risk assessment and regular sampling. Costs up to specified maximums can be recovered by the local authority for some of the regulatory tasks.

Private water supplies are categorised into four groups:

1. Single domestic dwellings: A supply serving only one owner occupied property.
2. Small supplies (Regulation 10): Supplying fewer than 50 people with water used for domestic purposes.
3. Large supplies (Regulation 9): Supplying over 50 people with water for domestic purposes or serving commercial premises including: B&Bs, holiday lets, any rented domestic properties, food production businesses, public buildings, etc.
4. Private distribution systems (Regulation 8): Where mains water is supplied to a number of properties through a private network of pipes.

The following table shows the breakdown of the types of PWS in Bury

Type	Total
Reg 10	12
Reg 8	5*
Reg 9	5
Single Domestic	44
Grand Total	68

\* New guidance has been provided regarding the definition of Regulation 8 supplies and therefore we need to reassess these as it is likely that the supplies identified here are not private distribution systems .

## **2.0 Risk assessments and monitoring requirements**

### **2.1 Risk assessment**

The regulations require the council to carry out a risk assessment of Regulation 8, Regulation 9 and Regulation 10 private water supplies at least every five years. This involves surveying the supply to identify the risks (potential failures of standards and risks to human health) and to take action to control those risks. This risk assessment will also assist in identifying which additional parameters, if any, need to be sampled when testing the water supply. Up to £500 can be reclaimed to cover the cost of a risk assessment.

### **2.2 Monitoring and sampling**

The regulations stipulate how frequently and for which parameters each category of PWS will be sampled:

1. Single domestic dwellings: Unless requested by the supply owner no sampling is required.

2. Small supplies (Regulation 10): Sampling is carried out at least once every five years and samples are tested for a reduced set of parameters compared to Regulation 9 supplies.
3. Large / commercial (Regulation 9): Sampled at least annually (or more frequently) depending on the volume of water used or if there are concerns that warrant increased monitoring. Parameters for Regulation 9 supplies are more comprehensive than those for Regulation 10 supplies.
4. Private distribution systems (Regulation 8): Receive the same five-yearly sampling as small supplies, unless there is a requirement for increased monitoring.

Cost for sampling can be recovered up to maximum values laid down in the Regulations.

### **3.0 Current Situation in Bury**

#### **3.1 Resources**

From 2014 an Environmental Health Officer from the Commercial Team covered the private supply duties. Initially this work was quite intensive as all our Regulation 9 and 10 supplies needed to be risk assessed and sampled and we employed an external consultant to train and assist the EHO to deliver this work. Following this initial activity, the level of work reduced to annual sampling requirements, dealing with enquiries, requests for sampling and completing an annual return for the DWI. 2020 (Emergency Pandemic Response) was a demanding time for EHOs in Public Protection who were required to divert a lot of time to COVID related enforcement. This meant that PWS duties became a secondary priority and very little was done in this area of work in that year. In September 2021, the trained EHO who carried out the PWS work suddenly retired leaving Bury Council with no existing expertise or experience in relation to this area of work nor means to breach the sudden knowledge gap.

#### **3.2 Risk Assessments**

As pointed out above, the statutory requirement for risk assessments to be undertaken is every 5 years and Bury's existing Regulation 8,9 and 10 supplies were assessed in December 2014 and January 2015. Consequently, all were due to be risk assessed in 2019/2020. We have therefore not met this statutory requirement for at least 17 supplies.

Nationally we are not alone in falling behind with this duty as many local authorities struggle with resources and relevant experience and expertise in their workforce. The Drinking Water Inspectorate (DWI) figures show that nationally there are only 38.4% of relevant private water supplies that have a current risk assessment.

#### **3.3 Sampling**

No sampling has been carried out since 2020 and therefore we have not met our statutory duties in relation to this.

## 4.0 Options Considered

**Internal resource** - there is no existing knowledge, experience or spare capacity within our existing resource to cover this task.

**Extend existing contract re water sampling in our buildings.** We have investigated this, and the existing suppliers do not have the expertise to carry out the PWS work.

**Other local authorities** – We have approached all local GM councils and Rossendale DC, but no one has been able to offer support with this service.

**Appoint a consultant – Preferred option** – Following the above challenges we approached the Councils contractor Reed to use their channels to actively search for a suitable candidate.

### 4.1 Results from Reed

Reed have sourced a suitable consultant who is a qualified Environmental Health Practitioner with significant experience in assessing and sampling Private Water Supplies with a local authority and as a consultant.

This consultant's hourly rate is £42 per hour, and we have been able to make an estimate that the cost for the consultant's time along with sample analysis and all other associated costs will be circa £ £7000. The legislation will allow us to claim back £5800 for risk assessments and sampling which leaves a cost to the council of approximately £1200.

The risk assessments and sampling may require follow up work where water supplies need remedial action. This work will also have to be carried out by the consultant and therefore will have a further cost. Any such cost would be submitted for approval prior to any further works being commissioned.

### 4.2 Alternative Specialist Contractor

As an alternative to Reed, we have identified a further option. Our initial risk assessments that were carried out in 2014 were completed by David Clapham who is an ex EHO and is considered a national expert on Private Water Supplies. David operates as Valid Consultancy Ltd, and his services are likely to be more expensive (see "Financial Implications" below) than a regular consultant but worth considering as he has indicated that he could carry out this work and could probably complete the risk assessments this year and follow with samples early next year.

### 4.3 Valid Consultancy Ltd (David Clapham)

David has indicated that he would require 4 weeks to carry out the risk assessments and sampling and this likely to take place over a number of months from November 2023 into early 2024 to fit in with his schedule.

His totals costs for 4 weeks would be £13,600 and to this we would need to add sampling analysis and additional mileage which we estimate at £1650.

The legislation will allow us to reclaim circa £8950 of this leaving a cost to the council of approximately £6300.

David would not want to carry out any follow up work but is willing to assist with advice re enforcement when he carries out the risk assessments. This approach would mean that additional pressure would be placed on an already 'at capacity' Environment Team within Public Protection to deliver the follow-up actions.

## 5.0 Recommendations

To appoint and engage the consultant identified by Reed appears who offers the necessary skills and is the best value to the council. It is recommended that Reed be instructed to engage their consultant to carry out the necessary risk assessments and sampling needed to ensure we comply with Private Water Supply legislation. If this work leads to further follow-up action, the costs of employing the consultant for this will be presented for further approval.

### Options considered:

1. Internal resource - there is no existing knowledge, experience or spare capacity within our existing resource to cover this task.
2. Extend existing contract regarding water sampling in our buildings. This has been examined and the existing suppliers do not have the expertise to carry out the statutory PWS work.
3. Other local authorities – All local GM councils and Rossendale DC have been approached but this resulted in no offer support with this service.
4. **Appoint a consultant** – Following the above challenges we approached the Councils contractor Reed to use their channels to actively search for a suitable candidate. – **Preferred option** –

**Decision:** Approve the engagement of the consultant identified by Reed to carry out the statutory requirements for the risk assessment and sampling of Private Water Supplies in our borough. This action will allow us to comply with legislation and ensure the Council is compliant with our Statutory Duties whilst offering the best value to the council.

Decision made by:	Signature:	Date:
Executive Director of Operations		31/10/23
Assistant Director		31/10/23
<b>Members Consulted (if applicable) [see note 1 below]</b>		

Cabinet Member		
Lead Member		
Opposition Spokesperson		

**Notes**

1. Where, in accordance with the requirements of the Officer Delegation Scheme, a Chief Officer consults with the appropriate Cabinet Member they must sign the form to confirm that they have been consulted and that they agree with the proposed action. The signature of the Opposition Spokesperson should be obtained if required, to confirm that he/she has been consulted. Please refer to the MO Guidance.
2. **This form must not be used for urgent decisions.**
3. Where there is any doubt, Corporate Directors should err on the side of caution and seek advice from the Council's Monitoring Officer.