



# The role and performance of the Inspectorate

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## Part 2

### Drinking Water in England 2004



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# The role and performance of the Inspectorate

In this chapter, we give details on the role of the Inspectorate, our approach to regulation and our practices in carrying out our duties including an overview of how and where our resources were deployed in 2004.

We also report on our targets and performance in meeting them.

### Our responsibilities

Our role is to provide independent reassurance that human health is safeguarded through the provision by water companies of safe public water supplies of a quality acceptable to consumers.

A public water supply is one provided by a water company, appointed by The Director General of Water Services, for the purposes of drinking, washing, cooking or food production. The Director General can also grant a licence to a company to supply water in part of another water company's supply area. This is referred to as an "inset appointment".

The regulatory framework for water supplies in England and Wales is set out in the Water Industry Act 1991 (the Act). The Act defines the powers and duties under which the Inspectorate operates and also the duties of the water companies. The Act was recently amended by the Water Act 2003 (see Part 4 of this report for more information on these amendments). Under the Act the authorities responsible for regulating the quality of public supplies are the Secretary of State for Environment, Food and Rural Affairs and the National Assembly of Wales. The Chief Inspector of Drinking Water is appointed by these authorities and acts on their behalf.

Water supplies that are not provided by statutorily appointed water companies are known as private water supplies. The Act places responsibility on local authorities for checking on the safety and sufficiency of all water supplies in their area, including private supplies. Our role in respect of private supplies is to provide technical advice to the local authorities (see Part 4 of this report for more information on private water supplies).

To be safe, drinking water must be wholesome at the time of supply. Wholesomeness is defined by reference to drinking water quality standards and other requirements set out in regulations (available on our website). Many of the drinking water quality standards come from the 1998 EC Drinking Water Directive which came into force fully on 25 December 2003. The Directive focuses on those parameters of importance

to human health (known as mandatory parameters) together with others that reflect the control of water treatment processes and the aesthetic quality of drinking water (known as indicator parameters). The Directive allows member states to set national standards to ensure the good quality of drinking water already achieved is not allowed to deteriorate. Our role is to provide guidance to water companies on how to carry out these regulatory tests and how to report the results. We carry out independent checks that the testing has been carried out to a high standard of quality control. Our purpose here is to provide public reassurance that the robustness and integrity of water company results is beyond question. Our role extends also to publishing summaries of water company results together with a commentary about the significance of the information for consumers, water companies, local authorities, health professionals and other regulators (see Part 1 and Part 3 of this report).

Some of the regulations address specific aspects of drinking water safety. For example, there is a legally enforceable treatment standard for the parasite, *Cryptosporidium*, a requirement to adequately treat and disinfect water supplies, and controls over the use of chemicals and materials of construction used in public water supplies. Our role here is to provide guidance to water companies on how these requirements can be met. We carry out independent technical audits of water company records and sites to ensure their operational and management procedures are robust and appropriate. We also provide a technical resource to facilitate the approval, nationally, of chemicals and materials of construction by an independent expert committee (see Part 5 of this report for more information on the approvals process).

Section 70 of the Act makes it a criminal offence for a water company to supply water that is unfit for human consumption. However the Act provides a defence for the company if it can show that it had no reasonable grounds for suspecting that water would be used for human consumption or it took all reasonable steps and exercised all due diligence for securing that water was fit for human consumption on leaving its pipes. Water companies must notify the Inspectorate of any event, which by reason of its effect or likely effect on the quality or sufficiency of drinking water may give rise to a significant risk to consumers' health. Others, including consumers, may bring such events to our attention. Our role is to investigate and report on all these circumstances, and, where necessary, initiate proceedings or issue a caution. Our findings and recommendations are made public (see Part 3 of this report).

Section 18 of the Act requires enforcement action to be taken for any breach of the drinking water standards and other regulatory requirements. Water companies must investigate the cause of each adverse test result. They are also required to investigate when they believe there is a likelihood of failure at some time in the future.

Companies can apply to the Inspectorate for authorisation on a temporary basis to supply water that does not meet one of the drinking water standards. Our role is to assess the company's information and, where appropriate, take enforcement action, to enable companies to bring about the necessary improvements so that standards can be met in a timely and cost effective way.

The Department of the Environment, Food and Rural Affairs (Defra) sponsors the Inspectorate. Defra's governance arrangements for the Inspectorate are set out in a Statement of Roles and Responsibilities published in Annex 4 of this report. The levels of service that water companies and members of the public can expect to receive from the Inspectorate are published on our website in the form of a Code for Enforcement. Our role is to report on our performance in the same open way as we report on drinking water quality and the performance of water companies.

## Our approach

All of our activities recognise that the framework in which we operate is that of self regulation by the water companies. We do not duplicate the work of companies, for example, we do not test samples of drinking water, although we can commission testing should we feel the need to do so. The starting point for all of the tasks carried out by one of our inspectors is to evaluate information given to us by water companies. Sometimes the inspector will need to seek further information from the company and they will discuss with the company the most efficient way of doing this, for example, a visit by the inspector to the company offices to view records may be more effective than the preparation of reports by its staff.

Our inspectors have the power to make unannounced visits, and for all but the most exceptional of circumstances, the inspector will give advance notice to the company and also explain the purpose of the visit. To aid this process, companies have identified a day-to-day contact person for inspectors and, each company has a named inspector, who is their point of contact within the Inspectorate for raising enquiries or resolving concerns. Through the industry's association (Water UK) a practitioners' network has been established, to provide feedback to the Inspectorate on matters of common interest or concern to companies. Through this mechanism the Inspectorate is able to consult the water industry on, for example, any new information requirements.

## Guidance to Companies

The Inspectorate publishes its guidance to water companies in the form of numbered Information Letters. These are sent to nominated Board level contacts in each water company and also published on the section of the Inspectorate's website developed as a resource for staff of water companies. For particularly complex interpretations of existing or new regulatory requirements, these Information Letters will be developed by the Inspectorate in collaboration with an expert industry group under the aegis of Water UK.

In 2004 the Inspectorate issued 14 Information Letters and two Guidance Documents compared to an annual average of 17 for the period 1997 – 2004.

## The technical audit process

Technical audit is the term for the process by which the Inspectorate checks that water companies are complying with their statutory obligations. The audit process

also allows the Inspectorate to observe whether current good practice is being followed. The process consists of three elements:

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| <b>Annual assessment of drinking water quality data</b> | <ul style="list-style-type: none"><li>• A check on the quality of water supplied throughout the year, based on information provided by the water companies.</li><li>• Checks that companies have met their obligations in respect of sampling programmes and improvement programmes.</li></ul> |
| <b>Inspection of operational sites</b>                  | <ul style="list-style-type: none"><li>• Announced visits to observe selected activities of each water company, relevant to any of its drinking water quality related duties.</li></ul>   |
| <b>Interim checks</b>                                   | <ul style="list-style-type: none"><li>• Carried out on aspects of compliance and based on information provided periodically by companies.</li><li>• Unannounced visit to observe a specific activity.</li></ul>  |

Although the key elements of the technical audit process remain the same as those introduced in 1990, the detailed application of the process is kept under continuous review. During 2004 the major part of the technical audit process was carried out by inspectors. Consultants, acting as Temporary Technical Assessors and working under the general direction of an inspector, carried out a few of the audit tasks, notably those relating to chemical analysis of drinking water, *Cryptosporidium* monitoring and improvement programmes.

All audits are tailored to the individual water company, with a number of core tasks carried out for every company. Inspection tasks for one or more of the companies in 2004 are listed in Table 2.1 below.

Table 2.1: Audit tasks undertaken during 2004

Audit Purpose	Specific Activity
Response to Recommendations	Review of actions taken in response to recommendations made during 2003
Sampling arrangements (for the new regulations)	Review of sampling programme and sample points; review of pesticide monitoring; audit of sampling procedures, audit of bowser sampling arrangements
Reporting arrangements (for the new regulations)	Audit trails for a selected number of parameters Specific parameter audit trails
Drinking water quality improvement programmes	Audit of selected completed schemes; Review of programmes to meet the new and revised regulatory standards Review of distribution system. undertakings Review of plumbosolvency treatment and control programmes of work for lead.
Water treatment	Inspection of a water treatment works, review of alarm responses
Water distribution	Inspection of a service reservoir/ water tower On-site inspection of water mains relining
Laboratory operations	Audit of laboratory procedures
Consumer complaints	Audit of response to selected consumer complaints
<i>Cryptosporidium</i>	Audit of monitoring installations; audit of membrane treatment process; audit of sampling procedures; Inspection of a laboratory Unannounced audit of laboratory

In 2004, the technical audit programme generally ran smoothly and the Inspectorate acknowledges the continued co-operation of companies.

During the year, the Inspectorate continued to develop its use of detailed checklists for each audit task, which can be completed in draft and presented to the company soon after the inspection visit. This approach is both effective and efficient in terms of communicating the outcomes to the company. Each audit report summarises the findings and presents the main conclusions and any recommendations made. Audit report summaries are published on our website in the 'Business and Technical' section under 'Audit and Inspection'.

A clear distinction is made in audit reports between recommendations, which require a formal written response from the company, and suggestions. **Recommendations** are made only where, in the Inspector's opinion, action is required in order to avoid a foreseeable risk of a breach of a regulatory duty. If such a breach has occurred then enforcement action may be considered. **Suggestions** are made in relation to matters which do not present such a risk, instead they relate to an aspect of best practice.

In 2004, we began the implementation of our strategy for all, rather than some, aspects of our technical audit process to be risk prioritised. This approach was applied initially to laboratories used by water companies and subsequently extended in the latter part of the year to inspections of water treatment works and service reservoirs. It is intended that from 2005 onwards, all tasks will be subject to risk-based prioritisation. This will allow the maximum benefit to be gained from the technical audit process by directing the resources of the Inspectorate to areas where we assess a company needs to achieve significant improvements in its operations or drinking water quality. This also acknowledges and rewards good practice in a company, by a reduced audit burden. This approach also introduces greater flexibility in the deployment of our audit resources enabling these to be carried out at any time throughout the year and whenever needed. This may mean that in some years, some companies may not be audited very often, if at all.

Table 2.2 shows how the Inspectorate’s technical audit resources were deployed during 2004 in relation to each of the four categories defining the overarching purpose of specific technical audit tasks: monitoring of drinking water, responding when standards are not met, protecting public health and responding to consumer concerns.

**Table 2.2: Deployment of the Inspectorate’s technical audit resources**

	Monitoring of drinking water	Responding when standards are not met	Protecting public health	Responding to consumer concerns
Technical audit resources	30%	7%	28%	35%

Table 2.3 details how the technical audit process impacted on each company during 2004. This information gives a broad indication of our risk prioritisation for 2004. In looking at this information it is important to appreciate that risk is inherently higher for the larger companies (because of the relatively high number of consumers served and thus potentially exposed to a drinking water hazard). Also, nowadays, many companies contract out aspects of drinking water analysis to laboratories owned and operated by another water company. This concentration of analytical capability which has occurred over recent years means that the impact of an analytical deficiency within a single laboratory has the potential to impact on the integrity of, and confidence in, drinking water quality information over a far larger area of the country than hitherto was the case. So, for example, this factor contributes to the greater amount of technical audit resource necessarily assigned to companies such as Severn Trent Water and Thames Water. The relatively high resource effort focused on United Utilities and South West Water reflects other factors, such as consumer complaints, water quality incidents and responding to standards not being met.

**Table 2.3: Deployment of Inspectorate technical audit resources by company**

Company	Relative Proportion (%)
United Utilities	10
Severn Trent, South West, Thames	7
Anglian, Dŵr Cymru Welsh water, Southern, Yorkshire	6
Northumbrian, Wessex	5
Three Valleys	4
Bournemouth & West Hampshire, Bristol, Dee Valley, Portsmouth, South East, South Staffordshire	3
Cambridge, Essex and Suffolk	2
Albion, Folkestone & Dover, Mid Kent, Sutton & East Surrey, Tendring Hundred	1
Cholderton, Hartlepool	< 1

## Improving our practices

During 2004, a memorandum of understanding was established between the three UK Drinking Water Quality Regulators (the Inspectorate, the Office of the Drinking Water Quality Regulator in Scotland and the Drinking Water Inspectorate for Northern Ireland). Our Inspectors were involved in a series of benchmarking exercises, deploying Inspectors from all three regulators to sites in each of the countries. These exercises help to make sure that the work of the all drinking water regulators is of the highest standard and that a consistent approach is taken to the interpretation of the common components of the regulatory framework.

Through the year there have been a number of government sponsored reviews all on the general theme of “better regulation.” We have provided information about our responsibilities and activities to each of these review teams and we have also used the criteria emerging from such reviews to evaluate our own activities. To a very great extent, we have found that our practices already conform to the current and the emerging views on best practice for regulators. We believe this is due in great measure to the following facts: we regulate a clearly defined industry (currently 26 companies), we have a clear and recently updated regulatory framework, and our longstanding policy of publishing all that we do (save only for any information that could put our industry or public health and drinking water quality at risk) means we have the confidence and respect of the businesses we regulate, as well as other stakeholders, including the media and the public.

## Measuring our performance

In our Code for Enforcement (the Code) we set out the levels of service that water companies and members of the public can expect to receive from the Inspectorate. The latest version of the Code was published in October 2000 and is available on the Inspectorate's website. In 2005 we will be updating the Code in light of changes in our approach and feedback from the regulated water companies and others, such as local authorities.

### Performance in 2004

Performance has been recorded for all tasks with target dates in 2004, and also for ongoing tasks, which have target dates that run into 2005 (for example assessment of drinking water quality incidents).

Table 2.4 describes the targets and shows how well we performed in meeting them. In nearly all cases our performance this year was comparable or better than last year with the greatest improvement being in the timeliness of provision to companies of draft reports of audits. Our performance with regard to resolving consumer complaints about drinking water quality was not good this year because some of the cases were very complex. For some it was not possible to achieve a satisfactory outcome for the complainant. The Inspectorate is frequently the last port of call for persistent complainers who have exhausted all other avenues for airing their grievances. Quite often, these are perception driven complaints for which there is no technical or regulatory remedy.

Table 2.4: Performance against Code for Enforcement targets in 2004

Task	Target	Performance 2004	2003
Send letters notifying the consideration of enforcement action as a result of 2004 inspections.	To be sent to the company concerned within four weeks of the end of the inspection.	n/a	n/a
Prepare draft inspection reports for inspections carried out during 2004.	To be sent for comment to the company within four weeks of the end of the inspection or receipt of further information.	63%	47%
Prepare final inspection reports for inspections carried out during 2004.	To be sent to the company within four weeks of receipt of its comments.	88%	91%
Assessment of 2004 compliance data.	To be sent within four weeks of the Inspector receiving the processed data files.	100%	100%
Send letters notifying the consideration of enforcement action following compliance assessments.	To be sent to the company within four weeks of their response to the preliminary assessments.	n/a due to implementation of new systems	100%
Process and deal with applications for new or revised undertakings.	To be completed within four weeks of receipt of the final signed undertaking.	85%	81%
Process and deal with applications for authorised departures.	To be completed within four weeks of receipt.	No authorised departure applications during 2004.	n/a
Assessment of drinking water quality notifications received during 2004.	To be completed within three months of the receipt of all requested information.	87% of all notifications received.	83%
Send letters notifying the consideration of enforcement action following assessments of drinking water incidents.	To be sent within three months of the receipt of all requested information.	100%	n/a
Investigate water quality complaints.	To be completed within three weeks of the receipt of all requested information.	55.5%	79%
Deal with applications for approval of chemical and materials.	When required, arrange meetings within four weeks. Provide information on progress made at Committee meetings within two weeks.	100%	100%
Respond to all general enquiries.	Response to be made within three weeks of receipt.	98.3%	99.3%

## Our handling of enquiries

The Inspectorate received a total of 443 general information enquiries from business and the public during 2004, a reduction of 64 per cent compared with the total number received in 2003. This decline in enquiries reflects the substantial benefit of our making more information available on our website, including leaflets for the general public and a Frequently Asked Questions area. The number of hits on our website in 2004 was approximately 135,000 per month compared to 100,000 per month in 2003.

Our performance in responding to enquiries is shown in Table 2.5 below. From this it can be seen that for greater than 98% of the time we were able to give a full response in less than three weeks. When our response took longer (eight occasions in 2004) this was due to the complexity of the enquiry and our need to consult with other accountable agencies, for example, local authorities in connection with private water supply issues.

**Table 2.5: General enquiries received by the Inspectorate during 2004:**

Form of enquiry	Number received where response has been within 3 weeks	Number received where response has exceeded 3 weeks	Total	% meeting target
Phone	194	4	198	98.0%
Letter/Fax/E-mail	241	4	245	98.4%
<b>Total</b>	<b>435</b>	<b>8</b>	<b>443</b>	<b>98.2%</b>

## Complaints about the Inspectorate

If a formal complaint is received about the way in which the Inspectorate handles or deals with any of its tasks, the Chief Inspector or the Deputy Chief Inspector carries out an investigation. If the complainant is not satisfied with the outcome of this investigation they can take their complaint further to the Water Director, Defra.

No such complaints were made about the Inspectorate during 2004.



