

Introduction

This guidance note is intended to assist stakeholders of private water supplies manage periods of water insufficiency. It supersedes the previous guidance document (Provision of alternative supplies in emergency and non-emergency situations) which was associated with the 2009 (2010 in Wales) Private Water Supply Regulations.

This guidance is applicable only to private water supplies in the context of the scope of the following regulations:

- The Private Water Supplies (England) Regulations 2016.
- The Private Water Supplies (**Wales**) Regulations 2017.

Further guidance for these Regulations can be found here:

<http://www.dwi.gov.uk/private-water-supply/regs-guidance/Guidance/info-notes/england/reg-3.pdf> (England)

http://www.dwi.gov.uk/private-water-supply/regs-guidance/Guidance/info-notes/wales/Reg-2_3.pdf (Wales)

Private water supply stakeholders include local authorities, water companies, and any relevant person (e.g. owner and occupier of a premises supplied by a private water supply) as defined in Regulation 2 of The Private Water Supplies Regulations (**England**) 2016 and in section 80 of The Water Industry Act 1991 (<http://www.legislation.gov.uk/ukpga/1991/56/contents>).

Typically insufficiency situations arise as a result of drought or severe cold weather (e.g. when the source dries up or freezes); from undetected leaks or pipe bursts or a pump failure; or when users are disconnected inadvertently or intentionally, typically by a person in control of a supply. Temporary insufficiency can also occur as part of planned maintenance or improvement works.

Section 1: Proactive Emergency Planning for Insufficiency by local authorities

Framework agreements between local authorities and water companies

Local authorities are advised to meet with local water companies to identify the local options available for the provision of alternative water supplies in emergency situations, for example, during periods of national drought or extreme flooding. It is recommended that these discussions should lead to the setting up of framework agreements between local authorities and water companies so that arrangements are in place and available to be called upon immediately when needed. This could include use of a designated standpipe when required, much in the same way that commercial contractors may have

arrangements with water companies to draw from their supply, or bottled water, or water in tankers or bowsers. These frameworks should clarify:

- I. the type of assistance that is available and the circumstances in which each water company would deploy alternative supply arrangements. This knowledge would allow local authorities to identify gaps in provision that may need to be filled by other means;
- II. any local limitations; for example a water company may not be able to provide tankers or bowsers but may be able to provide bottled water.
- III. any restrictions on availability?use throughout the year.
- IV. The cost to provide each arrangement

Water companies may not always be able to provide an emergency supply of water in bowsers or in bottles (e.g. if they have their own emergency on-going such as a mains burst). Local authority are advised to explore alternative arrangements or plans (e.g. with private providers of emergency water supplies) for such potential scenarios as appropriate.

Planning for insufficiency by relevant persons

The relevant person(s) should ensure that robust documented contingency procedures are in place to mitigate risks when supplies are temporarily interrupted, for situations such as planned maintenance work on distribution systems or when reactive unplanned work is necessary, for example repairs following burst mains. Procedures should include arrangements for alternative supplies of water. Local authorities should ensure that such documentation is in place through their Regulation 6 risk assessments (with the exception of those serving a single domestic dwelling, unless a request has been made to do so) and take appropriate action where this is missing or considered deficient. This is particularly important for large supplies and those where the water is consumed as part of a commercial or public activity (Regulation 9 supplies). Local authorities may assist the relevant person(s) with their procedures by providing details of recognised providers or their framework agreement with the local water company.

As a guideline, if a public water supply fails, public water companies are required to plan to supply their customers with alternative supplies of at least 10 litres per person per day for the first 24 hours, and for a prolonged event, 20 litres per person per day.

Additionally, attention is drawn to BS 8551 'The Provision and Management of Temporary Water Supplies and Distribution Networks (not including provisions for statutory emergencies)' Code of Practice, which contains estimated flow demands for temporary supplies in a wide range of different settings. This Code of Practice also sets out best practice for securing that a temporary supply is wholesome including any sampling arrangements.

When land and property is sold, or ownership/rights transferred, searches can be made that will identify details of any water supply arrangements (e.g. through environmental searches, drainage searches or water authority searches). To ensure that any deficiencies are made known to those acting for the property purchasers/vendors it is advised that local

authorities and water companies when responding to search requests flag up any concerns about sufficiency as well as details of testing to demonstrate wholesomeness.

To minimise the likelihood of insufficiency disputes arising in the future, where local authorities are aware of the existence of any informal water supply arrangements in their area then these should be prioritised for risk assessment and appropriate advice given to the relevant person(s) to seek professional legal advice to formalise the arrangement or appropriate action taken as a result of the findings of the local authorities risk assessment.

Section 2: Guidance in the Event of Insufficiency

Contingencies during drought conditions

If a private water supply should become insufficient due to drought conditions (i.e. where a borehole or spring no longer yields water), a relevant person(s) should refer to their contingency plan. Where a contingency plan is not yet in place, the relevant person(s) may seek advice from the local authority or the water company, but there is no obligation on either to provide an alternative supply of water (irrespective of the supply type and volume consumed) except where the local authority considers the circumstances to pose a danger to life or human health. Where the local authority considers there to be a danger to human health, the local authority has power to require, if practicable, the local water company to supply water by means other than in pipes at reasonable cost for a specified period (e.g. a supply of bottled water, or water supplied in tanks or bowsers). Those costs can be recovered from any relevant persons.

Options for provision of an emergency supply include:

- Commercial providers of alternative supplies; relevant person(s) can put in place arrangements directly with commercial suppliers. The local authorities can be asked to assist with this process for example where there are multiple stakeholders involved. Arrangements must ensure that the temporary water supply is wholesome by specifying best practice (e.g. BS 8551); the local authorities should be able to offer advice in this respect.
- Water company alternative supplies; as a general rule, the provision of alternative supplies by a water company (i.e. bottles, tanks or bowsers) where no agreement is in place, should be limited to short term unplanned emergencies.

Local authority powers to secure an alternative supply where required

Where no emergency plan exists and the supply is likely to, or has, become insufficient, or where a person in control of a supply (see later) intends to permanently disconnect the supply, the local authority can secure a remedy by serving a notice under section 80 (s80) of the Water Industry Act 1991 ('the Act'). This is because s80 powers address sufficiency of supply, as well as wholesomeness. All costs incurred by the local authority in making a



temporary emergency supply available would be recoverable from the appropriate relevant person(s) (where a s80 notice has been put in place).

Where there is a risk of a supply becoming insufficient on a longer term basis due to reasons such as adverse weather conditions, or where a supply has become compromised through severe contamination that cannot be readily remediated, then under section 79 of the Act, the local authority may require the local water company to provide a wholesome water supply to the premises for a length of time that the local authority specifies. However, this would only apply if:

1. the supply of water for domestic purposes is either of insufficient quantity or quality (unwholesome) such that it causes “a danger to life or health”, and
2. It is practicable at reasonable cost for the water undertaker to provide a supply of wholesome water for domestic purposes by means other than pipes (i.e. in bottles, tanks, bowsers, etc).

In the above situation, the water company would charge for providing these supplies, which is recoverable from the relevant person(s) to which the supply is provided.

Local authorities may also want consider the Protection from Eviction Act 1977 where a landlord in charge of a private water supply has deliberately disconnected water to any of their tenants served by that supply in a bid to remove them from the premises.

Deliberate disconnection of a private water supply

Where a person in control (or other relevant person) of a private water supply threatens to disconnect users and there is no clear legal agreement in place which permits disconnection of domestic users under specified circumstances, and the facts are not disputed by any user, then the local authority may serve a notice under Section 80 of the Water Industry Act 1991. In accordance with section 80(3)(b) of the Act the notice can specify a reasonable time period for those affected to arrange for alternative supplies, preventing their disconnection in the meantime by the relevant person intending to disconnect a supply. Local authorities are advised to clarify the legal situation on a case by case basis and can serve a section 85 notice to obtain information from any person if necessary. Usually this will involve the relevant person(s) seeking advice from a property lawyer as water supply arrangements are generally set out in property title deeds, leases or covenants. Local authorities are advised not to revoke any notice served until such time as the parties have confirmed that valid legal agreements have been signed up to, or an alternative supply is in place. These documents should be kept on the private water supply record for reference in the event of any future similar dispute arising.

Other links

[Well Drillers Association](https://www.welldrillers.org/)
<https://www.welldrillers.org/>
Tel: 07736 364259



Drinking Water Inspectorate

<https://intranet.defra.gov.uk/>

Tel: 030 0068 6400

Local authorities

<https://www.gov.uk/find-local-council>

Ofwat

Guidance on getting a new public water supply connection and associated charges:

<http://www.ofwat.gov.uk/households/supply-and-standards/getting-a-connection/>

Water Regulatory Advisory Scheme

<https://www.wras.co.uk/>