

Information note on Regulation 18



Regulation 18 requires that if any private supply of water intended for human consumption constitutes a potential danger to human health, a local authority acting under these Regulations MUST serve a Notice on any relevant person. The Water Industry Act 1991 defines relevant persons in Section 80. A Notice may be served on one, several or all of the relevant persons, depending on the cause of the potential danger to health and the appropriate mitigation required. In addition, the local authority should take into account any local agreements, covenants or deeds which specify responsibilities for specific aspects of the supply or its management.

If a supply is a **potential danger** to human health (identified through risk assessment and/or sample results) the local authority must:

- first ensure that consumers are informed as required by Regulation 15 and given advice to enable them to minimise the danger to human health;
- then serve a Notice under Regulation 18 on the relevant person(s)¹ (provided the serving of the Notice will not cause a greater potential danger) requiring the prohibition or restriction of the use of the supply and specifying what other action is necessary to protect human health (such as improvements to the supply, if these are known at the time). It may be that the Notice contains various actions to be carried out by different relevant persons but this can be captured on one Notice copied to all;
- inform consumers of the Notice and provide any necessary advice (see Information Note for Regulation 15). As consumers are also relevant persons (see below) they should be copied into the Notice;
- carry out an investigation (see Information Note for Regulation 16) to determine the cause of the failure which will inform the local authority about the improvements necessary, if not already known and update the risk assessment for the supply; and
- if necessary, amend the Notice served under Section 18.

Examples of restrictions are:

- to boil all water for drinking, cleaning teeth, food preparation, and cooking (when there is a microbiological risk or sample failure);

¹ see Information Note for Regulation 2 for definition of relevant person.

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- to run off the water standing in the pipework to waste before drawing water for drinking, food preparation, or cooking (when there is a risk of elevated levels of lead, copper, nickel or antimony parameters) until the pipework or fittings within the premises contributing to the failure have been replaced;
- not to use water for drinking, teeth cleaning, food preparation, and cooking (when there is a significant failure of a chemical parameter that represents an immediate risk to human health), in this case consumers will require an alternative supply in tankers, bottles or other containers;
- not to use water for bathing and showering when there is a significant failure of a chemical parameter that represents a potential danger to human health, if inhaled or is absorbed through the skin or penetrates the skin through an open cut or wounds. In this case, consumers should be advised to use an alternative supply. The alternative supply provided by the relevant person could be from tankers, bottles or other containers.

If information is not provided by a relevant person, the local authority can use its powers under Section 85(1) of the Water Industry Act 1991 to serve a Notice on any person requiring that person to provide information about premises on a supply.

Where a risk to health is identified in a supply to a single domestic dwelling, a local authority must serve a Notice under Regulation 18 on the owner/occupiers requiring action to be taken. Examples of the advice that may be offered, or the action that may be required to be taken, are shown below:

- for a microbiological failure, to remove inserts from the tap and thoroughly clean and disinfect the tap or replace the tap or, if the tap is connected to a tank, clean, disinfect and adequately cover the tank, and pending that action advise consumers to boil water for drinking, food preparation and cooking if the local authorities consider the failure a potential danger to human health. Any relevant advice from the local health board should be taken into consideration at this stage;
- for lead failures, to replace the affected pipework with copper or plastic pipework, and flush water standing in the pipework to waste as an interim measure before drawing water for drinking, food preparation or cooking; or
- relocate an upstream appliance (for example a water softener) downstream of the kitchen tap.

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Where a private water supply serves premises in more than one local authority area, Section 80(4) of the Water Industry Act 1991 requires that either:

- the local authorities act jointly in serving the improvement Notice; or
- one local authority serves the improvement Notice with the consent of the other local authorities.

The local authority must serve a Notice under Regulation 18 on the relevant person (or persons) provided that the serving of the Notice will not create a greater potential danger to human health than not serving the Notice. This means that the local authority may wish to consult with the local health professionals and, before serving the Notice, must balance the danger to human health between prohibition of the supply or restriction on the use of the supply against the danger to human health of maintaining the supply. Prohibition of supply means that in addition to having no piped supply for drinking, food preparation and cooking (an alternative supply would need to be provided in bottles for these purposes) there would be no water for washing/bathing/showering or toilet flushing (unless a relatively large volume can be made available for these purposes, for example by tanker), which brings hygiene dangers. It is likely that prohibition of supply will be a last resort. It is more likely that in nearly all cases the local authority will consider restriction of the use of supply.

Where a potential danger to human health has been identified on a private water supply the local authority should not serve multiple Notices on different relevant persons. A single Notice should be served specifying the names of relevant persons required to carry out remedial measures as the local authority sees fit. A copy of the Notice should be sent to all relevant persons.

The Notice must include the following:

- identification of the private water supply (the name and other details of the supply);
- a unique identification number;
- the grounds for serving the Notice (why the water is a potential danger to human health, and for failures to meet the standard the parameter involved and its concentration);
- short-term health protection measures such as prohibiting or restricting the use of the supply (advice to boil water for drinking etc for microbiological failures, not to use water for drinking etc for serious chemical failures such as contamination with hydrocarbons, not to use water standing in the pipework for drinking etc for serious failures of the lead standard);

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- longer term actions to remediate the supply to protect human health. This should include steps to improve the supply to mitigate the risk and make the supply wholesome; and
- advice to boil water is appropriate only as a short-term measure while an investigation is undertaken. It should not be regarded as a permanent solution and the completion deadline for the investigation on the Notice should reflect this.

A Notice can be amended or re-issued in light of new information (e.g. results of investigations). Any new Notice should specify all actions required, including those from the previous Notice if relevant. The Notice should have a new unique identifying number, and reference the previous Notice.

Local authorities may make the Notice subject to conditions. It is the local authority's responsibility to ensure all users of the supply (consumers) are aware of the contents and advice in the Notice. They can delegate this to an agreed nominated relevant person, for example, make it a condition of the Notice that the Notice should be displayed in a prominent place so that the contents and advice can be seen by all users. Local authorities could also make it a condition of the Notice for the relevant person(s) to provide information about the supply (such as any treatment, the distribution network, the source location, etc) and the users of the supply to assist the local authority.

When it serves the Notice the local authority must advise the relevant person that they can appeal against it (see Information Note for Regulation 19).

The local authority must revoke the Notice as soon as it is satisfied that the risk to health has been sufficiently mitigated.

The local authority should monitor progress of compliance with the Notice. Where the relevant person(s) has not complied with the Notice, they have committed an offence under Regulation 18(6). The local authority should initiate legal proceedings.

Penalties for non-compliance with Notices are described in Information Note on Regulation 20.