



What is meant by emergency and non emergency?

Section 2.2.2.2 of the Guidance on the Private Water Supply Regulations gives examples of emergency situations where a private supply becomes insufficient due to an unplanned loss of the supply; typical situations are those caused by drought or severe cold weather (when the source dries up or freezes), but insufficiency can also arise from undetected leaks or pipe bursts or a pump failure; it also covers situations where users are permanently disconnected by a person in control of a supply. A temporary insufficiency for reasons of planned maintenance or improvement works does not constitute an emergency situation.

What has happened in the past?

Historically emergency assistance for private supply users who find themselves without water has been provided through informal arrangements by the local water company. This arrangement has worked well mainly because the situation has not occurred very often. However requests for such assistance are likely to increase due to greater knowledge of insufficient or unsafe supplies that will come about through local authority risk assessments and the identification of situations where there are problems with the sufficiency or safety of a private water supply. The purpose of this guidance is to advise local authorities and water companies how to plan for the provision of an alternative water supply in both emergency (short and long term) and non emergency situations.

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 either emergency or non emergency (planned maintenance work) situations. 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. These frameworks should clarify:

- I. what type of assistance is available and in what circumstances would each water company 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. details of other providers of temporary water supplies who have been given permission by the water company to draw from the public supply network to provide temporary supplies or otherwise provide recognised services in the area.



Planned improvement or remedial works

In many situations the need for a local authority to instigate emergency provision of water can be avoided by ensuring that remedial or improvement works are planned well in advance by the owner/manager of the supply and this planning includes arrangements for a temporary alternative supply. It is advisable therefore to include this requirement in any notice or written advice regarding improvement works and it is a question that should be asked when carrying out the risk assessment. This is the best point in time to raise the matter with the owner/manager so that they are made aware of the need to develop contingency arrangements. Private supply owners are responsible for putting alternate arrangements in place but if local authorities are able to provide details of recognised providers to owners then it is more likely that the arrangements will be satisfactory.

If a public water supply fails water companies are required to plan to supply their customers with at least 10 litres per person per day within 24 hours, and for a prolonged event, 20 litres per person per day. These figures provide a useful guide for local authorities and private supply owners/managers to work from, however attention is drawn to BS 8551 - The provision and management of temporary water supplies and distribution networks –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.

Actions to secure an alternative supply when required

Where the owner or “relevant person” has no emergency plan in place and the supply is likely to, or has, become insufficient through either leaks or pipe bursts or a pump failure or as a result of actual or threat of a permanent disconnection by a person in control of a supply (see later), the local authority can secure a remedy by serving a notice under section 80 of the Water Industry Act 1991 (WIA91) 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 owner 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 Water Industry Act 1991, the local authority may be able to 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);

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In the above situation, the local authority would be liable for the cost of providing these supplies, but is only entitled to recover the costs of providing the alternative supply from the owner or occupier of the premises to which the supply is provided.

Options for provision of an emergency supply include:

- **Commercial providers of alternative supplies;** local authorities may choose to put in place arrangements with commercial suppliers themselves but it is preferable to encourage private supply owners to enter into arrangements directly with a commercial provider. Local authorities should emphasise the need to ensure that any arrangement secures that the temporary water supply is wholesome by specifying best practice (e.g. BS 8551).
- **Water company alternative supplies;** As a general rule, the provision of alternative supplies by a water company i.e. bottles, tanks or bowsers, should be limited to short term unplanned emergencies. The use of such alternative supplies to address longer term situations of insufficiency is not appropriate because it would mean that water company resources are tied up and not available for deployment when another emergency situation arises.

Arrangements for alternative supplies in short and long term emergency situations should be considered in the discussions referred to above to set up a framework agreement between local authorities and water companies.

Deliberate disconnection of a water supply

The Water Industry Act 1999 superseded the Water Industry Act 1991 with regard to the power of a water company to disconnect customers for non payment. This power is no longer exercisable in relation to any premises (Section 1 of the WIA 1999) – a list of types of premises can be found at Schedule 1 to the 1999 Act and includes any dwelling considered a home (e.g. private dwelling houses, caravan parks, housing for the elderly, residential care home, nursing home, hospital etc.

Where an owner of a private supply threatens to disconnect users, local authorities should have regard to the principles of the Water Industry Act 1999 when seeking to resolve such disputes. Unless there is a legal agreement in place which is unambiguous and permits disconnection of domestic users under specified circumstances, and the facts are not disputed by any user, then the local authority must ensure that the owner continues to provide a supply until such time as permanent alternate supply arrangements are in place for the affected users. If necessary, and also in circumstances where there is no clarity regarding the legal arrangements, the local authority should serve an s80 notice requiring all the parties (relevant persons) to clarify the legal

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situation prior to any disconnection taking place. Usually this will involve the owners and users in seeking advice from a property lawyer because any water supply arrangements are generally set out in property title deeds, leases or covenants. Local authorities are advised not to revoke any notice until such time as the parties have provided copies of valid legal agreements about the water supply arrangements. These documents should be kept on the private supply record for reference in the event of any future similar dispute arising.

Recent changes in property law mean that nowadays when land and property is sold, or ownership/rights transferred, searches will be made to identify details of any water supply arrangements. To ensure that any deficiencies are made known to those acting for the property purchasers/vendors it is important 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 owners/users to seek professional legal advice to formalise the arrangement.