

Drinking Water Inspectorate

A Hampton Implementation Review Report

March 2010

Drinking Water Inspectorate

This is one of a series of reviews of regulatory bodies focusing on the assessment of regulatory performance against the Hampton principles and Macrory characteristics of effective inspection and enforcement. It was carried out in December 2009 by a Review Team drawn from the Better Regulation Executive, the Health and Safety Executive, and the Food and Environment Research Agency.

Further information on the reviews can be found at:

<http://bis.gov.uk/policies/better-regulation/improving-regulatory-delivery/implementing-principles-of-better-regulation/reviewing-regulators>

EXECUTIVE SUMMARY AND CONCLUSIONS

Key findings from the review:

Overall, the Review Team found that the Drinking Water Inspectorate (DWI) demonstrates very good compliance with the Hampton principles in many areas.

The Review Team found that the DWI had effective relationships with the water industry and had developed approaches to ensure that a sustainable approach was taken to water supplies.

Key findings are:

- DWI is a learning organisation, committed to building a competent workforce and ensuring that water supplies are safe and clean for the public.
- DWI's staff are experienced, committed, enthusiastic and motivated. With over 90% of staff coming from the regulated industry, DWI's knowledge of the industry is exceptional.
- DWI is a well-respected regulator and is held in high regard by the industry it regulates.
- DWI is an intelligence-led organisation, effectively using data submissions from the industry and designing processes such as data sharing protocols to minimise the risk of duplicate requests to business from different regulators.
- Considerable effort has been, and continues to be made to integrate a risk-based approach to DWI's operations and this has produced a targeted and proportionate approach to inspection, focused on the highest risk areas.
- DWI has shown itself to be an organisation striving for openness and transparency. This was demonstrated by the effectiveness and efficiency review of DWI conducted by one of the water operators in 2007.
- DWI's internal performance monitoring arrangements are very good, making effective use of peer challenge process. The Inspectorate has made good progress in developing Key Performance Indicators for its services to industry.

<p>Main issues for follow-up identified during the review:</p>	<p>The key follow-up issues identified are:</p> <ul style="list-style-type: none"> • DWI should further enhance the visibility and transparency of its work. Steps could include making its process of horizon scanning for emerging issues and risk methodology more readily available. • We recommend reviewing and updating DWI's Enforcement Code, last revised in 2000, to take into account recent changes in the Regulators' Compliance Code. Suggested additions range from an appeals process to an enhanced mechanism to provide water companies with the opportunity to respond, and suggest alternatives, to proposed enforcement actions. • Industry greatly valued DWI's website as a means to access guidance and information, for example on statutory requirements. The website would benefit from investment to improve its navigability. • DWI should translate its ambitious 5 year Business Strategy into specific objectives and performance measures and then re-consult with industry. Industry would find it helpful if DWI reported its outcomes against these objectives alongside and linked to the Chief Inspector's Annual Reports, rather than just placing the information on its website.
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INTRODUCTION

Introductory background information about the regulator such as the rationale for establishing it:

The Drinking Water Inspectorate (DWI) is the regulator of public water supplies in England and Wales.

It was formed in 1990 on the privatisation of the water industry. It is part of the Department for Environment, Food and Rural Affairs (Defra), and its Chief Inspector is appointed by the Secretary of State for Environment, Food and Rural Affairs (in England) and the Welsh Assembly Government.

The overarching objective of DWI is to maintain public confidence in the safety and quality of public water supplies through the exercise of its powers of reporting, audit, inspection, enforcement and prosecution. DWI also plays a role in providing government with advice on water supply and quality matters.

The legislation establishing the regulator:

DWI is part of the Department for Environment, Food and Rural Affairs (Defra). DWI differs from other management units within the department in that its role is recognised in statute and it exercises powers delegated directly to it by the Secretary of State for Environment, Food and Rural Affairs. The Chief Inspector of Drinking Water and inspectors are appointed under the Water Industry Act 1991 (the 1991 Act).

The Water Floods, Environmental Risk & Regulation section of Defra holds policy responsibility on drinking water quality in England and carries the sponsorship role for DWI.

The regulatory framework for water supplies in England and Wales is set out in the 1991 Act. The 1991 Act was amended by the Water Act 2003 (the 2003 Act). The Water Supply (Water Quality) Regulations 2000 and 2001 (in Wales) set out additional functions in relation to drinking water which are delegated to the Chief Inspector. These Acts define the powers and duties under which DWI operates and also the duties of water companies and licensees. They provide for DWI to act on behalf of the Secretary of State in fulfilling some or all of its powers relating to the enforcement of drinking water quality.

	<p>DWI is accountable to the Secretary of State and Welsh Ministers for the delivery of its statutory functions and to the Director of the Water in Defra in respect of other matters.</p>
<p>The regulator's statutory remit or objectives:</p>	<p>The water companies in England and Wales are responsible in law for supplying water that is safe to drink and meets the standards set in the Water Quality Regulations. DWI's primary responsibility is to ensure that water companies are meeting their statutory obligations.</p> <p>It is the duty of suppliers to collect water samples and test these for each of the substances and organisms listed in the regulations. Approximately 2.5 million tests are conducted each year at consumers' taps, at service reservoirs and at treatment works. Companies must make the results of this testing available to their customers on request. The Inspectorate's role is to carry out independent checks to ensure this testing is being carried out to a high standard of quality control</p> <p>Inspectors carry out technical audits of each water company. These have two main parts:</p> <ul style="list-style-type: none"> • Month by month assessment of the quality of drinking water supplied by the companies. • Inspections of the individual companies. <p>DWI also carries out a range of functions that fall outside the scope of this review, due to the nature of the activity or to time and resource constraints. These include:</p> <ul style="list-style-type: none"> • Providing expert technical advice to local authorities to assist them in regulating private water supplies that supply water to around 1% of the population, chiefly in rural and remote areas. • Approval of treatment chemicals, construction products and materials for use with drinking water (in accordance with Regulation 31 of the Water Supply (Water Quality) Regulations 2000).
<p>The regulator's budget:</p>	<p>DWI has operating costs of just under £2.5m per year. These are funded by Defra.</p> <ul style="list-style-type: none"> • The DWI budget covers • Salaries and associated costs of DWI Inspectors and other staff;

	<ul style="list-style-type: none"> • Staff training costs • Staff Travel and Subsistence and any costs involved in events staged by DWI • Consultancies commissioned and managed by DWI • Prosecution costs, including Counsel's fees • Publication of Annual Reports and other drinking water quality external communications (when use of the services of Defra Communications Directorate budget would create a potential conflict of interests)
<p>Number of staff (including breakdown of policy and frontline staff):</p>	<p>DWI has around 39 staff, comprising 29 inspectors and 10 technical and support staff. Most of its staff are based in Whitehall but the nature of their inspection work means that they work flexibly across England and Wales.</p>
<p>The sectors and number of businesses regulated either directly or indirectly:</p>	<p>There are currently 27 statutory water companies supplying water in England and Wales responsible for approximately 5945 assets such as water treatment works and service reservoirs, and some 230,000 kilometres of water mains.</p> <p>DWI has many customers and several collaboration partners including the World Health Organisation and the European Commission. Stakeholders are made up from the water industry, Government and academia. DWI's work is UK-based although its reach is extended through a large network of international contacts and stakeholders.</p>

THE HAMPTON VISION

“Both the Hampton and Macrory reports are concerned with effective regulation – achieving regulatory outcomes in a way that minimises the burdens imposed on business. Key to this is the notion that regulators should be risk-based and proportionate in their decision-making, transparent and accountable for their actions and should recognise their role in encouraging economic progress.”

<p>Any findings relevant to whether the regulator is risk-based:</p>	<p>Since 2007 DWI has fundamentally shifted its regulatory approach to one which is focused on the risks to water quality and safety. Providing strong, effective and proportionate regulation over the next 5 years is a principle tenet of the (currently draft) DWI Business Strategy for 2010-15. This principle is reflected across the range of DWI's regulatory activities and in how it targets its limited resources to greatest effect.</p>
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<p>Any findings relevant to whether the regulator is transparent and accountable:</p>	<p>DWI is principally held to account for its activities by its parent department, Defra. DWI recognises the need to make more transparent to industry and the public how it categorises water industry assets according to risk, and how it measures and reports on its own achievements. The new Corporate Strategy document provides the main vehicle for this, and the Review Team would encourage the Chief Inspector to provide a narrative on DWI's achievements against its strategy objectives at the same time and linked to the publication of annual drinking water quality reports. The Review Team would also encourage DWI to continue with the use of impact/effectiveness studies by external stakeholders to provide as independent and rich a picture of its achievements as possible.</p>
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<p>Any findings relevant to whether the regulator encourages economic progress:</p>	<p>DWI's statutory function forms part of the overall regulatory framework established with the privatisation of the water industry. This is aimed at stimulating investment to deliver, amongst other things, high standards of water quality. DWI is consequently a key player in the Economic Regulator's Price Review process and uses this mechanism in a balanced and proportionate way to enable water companies to make sustained improvements to their assets. DWI also works closely with all its key stakeholders including other water regulators in the UK and Europe to ensure a regulatory 'level playing field'. The Review Team recommends that DWI should take more opportunities to emphasise this 'enabling' role to all of its key</p>
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DESIGN OF REGULATIONS

Hampton principles

“All regulations should be written so that they are easily understood, easily implemented, and easily enforced, and all parties should be consulted when they are being drafted.

When new policies are being developed, explicit consideration should be given to how they can be enforced using existing systems and data to minimise the administrative burden imposed.”

Key findings on Design of Regulations:

- DWI plays a significant role in developing legislation in England and Wales.
- DWI operates within a good regulatory framework to achieve its outcomes. There are no obvious gaps.
- DWI works hard to influence EU drinking water policy. For example, the Inspectorate works with the World Health Organisation to influence water policy at a more strategic level.
- The regulations are designed to be proportionate, with due attention given to enforcement.

Background information such as the regulator’s role in developing regulations:

DWI takes a proactive role in developing regulations.

Within England, Defra has lead responsibility for drafting and presenting drinking water legislation, and DWI has significant input into this process. A similar process is followed in Wales, with WAG leading and DWI again providing input.

The Inspectorate seeks to influence forthcoming legislation in Europe through a variety of channels. Key among these are:

- Providing technical input for the development of new and revised European Directives. The Inspectorate was co-founder of ENDWARE; a group of bodies with responsibility for drinking water regulation across member states.
- Working hard to influence the international agenda by working with the World Health Organisation, where DWI has established a four

	year work programme on drinking water safety.
Example(s) of good practice:	<p>Water companies can apply to DWI for 'Authorised Departures' when their supply is failing, or likely to fail, a standard. These are only granted when the failure does not constitute a risk to human health and are only valid for a set duration. This mechanism encourages openness and promotes good engagement between the regulator and the regulated, while maintaining the necessary focus on public protection.</p> <p>DWI has been proactive in ensuring that the regulatory regime works well, dovetails and does not feature problematic overlaps between bodies.</p> <p>The Inspectorate participates in a negotiation process around Ofwat's Price Reviews which involves direct engagement with the Economic Regulator, the Environment Agency (EA), the Consumer Council for Water (CCWater) and individual water companies. A particular benefit of this process is that it facilitates strategic engagement on the longer term future of water supply. DWI has also assisted in refining and publicising data-sharing arrangements with the EA and DEFRA.</p>
<p>Review findings:</p> <p>The extent to which the review team believes the regulator is acting in line with the Hampton principles:</p>	<p>DWI plays an active role in developing the regulations that impact upon its activities. Its focus on influencing the European and international agenda is of particular merit.</p> <p>There is a significant level of engagement between DWI and the water companies. This engagement is particularly evident, and important, during the Price Review.</p> <p>Some stakeholders from the water companies are unaware of DWI's efforts and influence in the international arena. More could be done to make all stakeholders aware of their strategic engagement with Water UK and Eureau about this.</p>

ADVICE AND GUIDANCE

Hampton principle

“Regulators should provide authoritative, accessible advice easily and cheaply.”

Key findings on Advice and Guidance:

- DWI recognises its role in providing advice and guidance and performs to a good standard in this area
- Perhaps partly as a result of the limited number of organisations it regulates, DWI has a good deal of contact with each of the water companies. The companies are able to obtain advice online, by phone or face to face during inspections.
- The availability of information letters on the DWI website is good practice, making it straightforward to locate and check guidance issued by the Inspectorate. However, a minority view was that some found it difficult to differentiate between guidance on statutory requirements and more general good practice guidance.
- DWI recognises that improvements could be made to its website: particularly regarding the site’s accessibility and ‘user-friendliness’. A wealth of information is made available online, but it can be difficult to locate.
- DWI has been proactive in working with private water suppliers to ensure that the new requirements of the Private Water Supplies Regulations 2009 are implemented

Background information such as the means by which the regulator provides advice and guidance:

When DWI provides advice and guidance, it is almost always to organisations within the industry. This means that much of the advice is relatively in depth and technical.

DWI designates a Liaison Inspector for each water company. This gives the company a direct contact for advice and guidance, which can be given remotely, by phone or in writing, or in person during visits to the company’s premises.

DWI issues specific guidance when issues arise in its

	<p>area of expertise or responsibility. This guidance is generally issued through information letters, with any relevant attachments. These information letters are sent electronically to affected parties. Information letters that DWI considers to be currently relevant, or of particular interest, are available on the website. Other information letters are indexed and can be requested.</p>
<p>Example(s) of good practice:</p>	<p>While there are issues to be addressed around the organisation of DWI's website, the range of information available is comprehensive. This demonstrates a good level of commitment to transparency and accountability. DWI has invested resource to drive improvements in the quality of private water supplies which historically has poor compliance rates. For example, some 30% of large private water supplies, and some 40% of small supplies currently fail to meet requirements. The Inspectorate's recent appointment of an environmental health officer will assist local authorities in ensuring that private water supplies are fit for human consumption and is an example of DWI taking a strategic approach to the regulatory landscape and sharing their knowledge and expertise.</p>
<p>Review findings:</p> <p>The extent to which the review team believes the regulator is acting in line with the Hampton principle:</p>	<p>DWI is well set up to provide advice and guidance to stakeholders. It has a number of channels through which it can do this and its policy of making information letters available on its website is welcome.</p> <p>Allocating specific Liaison Inspectors to water companies is a positive step, promoting more engagement and consistency.</p> <p>Some stakeholders highlighted issues with the consistency of guidance, which 'can vary from overly prescriptive to not clearly defined'. This was a minority view, but it should be addressed nevertheless.</p> <p>More could be done to make the website a more accessible resource, in order to get the maximum effect from it. The Review Team recommends that DWI considers how best to improve navigation of the guidance and information it provides and considers further consolidating its guidance to ensure industry has clarity over its requirements and the currency of that information.</p>

DATA REQUESTS	
<i>Hampton principle</i>	
<i>“Businesses should not have to give unnecessary information or give the same piece of information twice.”</i>	
Key findings on Data Requests:	<ul style="list-style-type: none"> • DWI collects a large amount of data from the businesses it regulates, principally in the form of water results and analysis. • Information Direction that details data requirements, and other requirements for events and improvement programmes. Stakeholders understood and were generally very content with DWI’s data requirements including the amount of information required as standard and the amount gathered through detailed returns in relation to specific enquiries. • The Inspectorate uses electronic data submission to reduce burdens and increase efficiency for all involved in the process. • DWI’s database is comprehensive and is used intelligently to inform prioritisation and targeting of activities. • DWI makes good use of data sharing arrangements to minimise the burdens placed on the water companies. But a small number of stakeholders expressing concern that they were duplicating information to the different regulators.
Background information such as the data required by the regulator; the means by which business can return data, etc:	<p>The fundamental principle of the regulatory regime is the onus placed on the water operators to ensure compliance. Over 2.5 million annual tests are conducted and results are returned to DWI who then target reactive assessment and verify water quality. DWI receives this data on a monthly basis and upon request in relation to specific events.</p> <p>DWI requests data from the main water companies via e-mail, using a spreadsheet. The data requested is already recorded by the water companies for business reasons, so no significant additional burden is imposed by DWI’s requests.</p> <p>However, requests for non-standard data (relating to operational events, for example) tend to be more</p>

	demanding, requiring a more detailed response from the business. As with the more standard requests, this data is submitted by email.
Example(s) of good practice:	DWI's IT database is very impressive and is fundamentally important to the Inspectorate's operations. It is a secure, risk-based system that not only records the data required but also analyses it and highlights non-compliance. It is, therefore, able to specifically target potential problems and events and allows inspectors to be more comprehensively briefed prior to undertaking audits.
<p>Review findings:</p> <p>The extent to which the review team believes the regulator is acting in line with the Hampton principle:</p>	<p>DWI has made efforts to streamline the data collection process by sharing data with other statutory bodies. New processes have been developed and existing processes updated. DWI recognised the potential for duplication of data requirements and negotiated a data sharing protocol to address this issue. The new IT system has aided the Inspectorate's work by significantly simplifying procedures. This, in turn, has led to more efficient use of DWI's resources which has enabled greater data sharing with other regulatory organisations.</p> <p>However, some companies remain unaware of this data sharing protocol arrangement and the Review Team recommends that DWI should take steps to inform the operators about the protocol. DWI has invited operators to come in and view databases, and reissuing this invitation would go some way to enable the water companies to challenge other regulators who request duplicate information and so minimise unnecessary burdens to business.</p> <p>The water companies would like more transparency and detail on how the new IT system operates. The new system went live early in 2009 and, although DWI has provided a number of seminars via Water UK, further guidance would be helpful. This guidance could be targeted at appropriate staff within the companies or could, once again, be delivered through Water UK. This would help to ensure that those organisations regulated by DWI understand how the risk-based process works and, as a result, the rationale behind DWI's visits.</p>

INSPECTIONS	
<i>Hampton principle</i>	
<i>“No inspection should take place without a reason.”</i>	
Key findings on Inspections:	<ul style="list-style-type: none"> • DWI has developed a system for ranking water companies’ assets that enables inspections to be targeted according to risk and duty holder performance. Work is in hand to develop and refine the methodology further and to take account of other sources of risk information including water companies’ supply system risk assessments. DWI recognises the need to ensure the methodology is transparent to water companies and other stakeholders • The water industry values the advice and guidance provided by DWI inspectors at inspections. DWI is generally seen as a competent and responsive regulator. • The DWI’s inspector recruitment policy, training and development programme, and relatively small size mean that the quality of advice given to water companies, inspector competence, and consistency of approach can be readily assured. • Inspections tend to focus on technical issues and compliance with standards. Processes of to provide a broader picture of individual water companies’ overall leadership and management of water quality, including internal peer review is less clear to stakeholders. Some focus in these areas would also provide scope for joint working and/or sharing of information with other regulators inspecting the water industry, e.g. HSE and EA.
Any relevant background information such as the number of inspections and the number of businesses inspected; the regulator’s risk model etc	<p>Inspection activity by DWI is in essentially three forms.</p> <ul style="list-style-type: none"> • Technical audits of water company assets. Audits may also include the inspection of water company contractors’ activities, for example, mains laying and maintenance. • Compliance (or vertical) audits that target drinking water quality results submitted by water companies and check the robustness of the

	<p>sampling, record keeping and reporting process.</p> <ul style="list-style-type: none"> Investigation of water quality incidents (or events) and complaints. <p>For the current financial year, 2009/10, DWI has identified 56 sites for audit. 26 of these audits were conducted between April and October 2009. During 2008/09 there were 496 reportable events, and DWI received 68 complaints about drinking water quality.</p>
<p>Example(s) of good practice:</p>	<p>Since 2009 DWI has developed and introduced a risk-based approach to technical auditing, based on the water quality data companies are required to send DWI, event notifications, complaints, past performance, etc. DWI has assigned risk scores to every asset in the industry.</p> <p>DWI identifies at risk sites for audit on a quarterly basis and in the period May 2009-end of March 2010, a total of 65 sites were identified as being at risk and requiring an audit. Monthly compliance data returns, water quality events and consumer complaint data is used to assess the risk posed by sites. DWI is currently working with IBM to develop an IT system which will use this data to categorise risks for every company site (Water treatment works, service reservoirs and laboratories) in England and Wales. This new application is due to be completed in 2011.</p> <p>Changes to drinking water regulations in 2007 introduced new provisions for, amongst other things, water companies to conduct comprehensive risk assessments of each of their water supply systems; quantifying associated risks and implementing necessary risk reduction measures. The information contained in companies' risk assessments is increasingly being used by DWI to target its audit activity.</p>
<p>Review findings: The extent to which the review team believes the regulator is acting in line with the Hampton principle:</p>	<p>No DWI inspection takes place without a reason. The DWI's developing risk-based approach means that it will be increasingly able to target its limited resources where they will have greatest effect. This was borne out by industry, who also felt, however, that there was still a need for greater transparency over, for example, how sites and topics are selected for audit. DWI's risk methodology is not currently published. The Review Team believes that it would increase transparency if</p>

	<p>the risk methodology was made available.</p> <p>DWI inspectors routinely explain the aims and objectives of audits at the start of visits and discuss the outcomes with site staff at the conclusion. Some water companies commented that demands for documentation, both prior to and following visits, could occasionally be burdensome. DWI has a key performance indicator (KPI) for the production of its audit reports within 30 working days of the receipt of all additional information requested after the site visit. During the first quarter of 2009/10, 89% of the audit reports met the KPI, with the two outstanding reports delayed because of the need to take formal enforcement action (notices).</p> <p>The water industry values the advice and guidance provided by DWI inspectors at inspections. Some water companies reported inconsistency of approach between DWI inspectors and that inspections sometimes focused on minor issues, but they were confident that the DWI was making arrangements to improve the position.</p> <p>DWI inspectors are technically qualified and most have been recruited from the water companies or related industries. DWI recognises the need to maintain the audit skill level of their inspectors. DWI has a systematic approach to the professional development of its staff; for example, using a peer review process for completing audit reports. DWI inspectors who are not part of core audit teams are expected to carry out at least one technical and one vertical audit each year. DWI also benchmarks its approach to inspections against water quality inspectorates in Scotland, Northern Ireland and the Republic of Ireland. The Review Team also recommends that DWI should formalise its approach to maintaining individual training and development records.</p>
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SANCTIONS

Hampton & Macrory principles

“The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions.

Regulators should be transparent in the way in which they apply and determine administrative penalties.

Regulators should avoid perverse incentives that might influence the choice of sanctioning response.

Regulators should follow up enforcement actions where appropriate.”

Key findings on Sanctions:

- The DWI Code for Enforcement was published in October 2000. DWI recognises that its enforcement policy needs to be revised to reflect regulatory developments in the interim such as changes to enforcement powers and the Regulators’ Compliance Code.
- DWI applies a wide range of civil and criminal sanctions flexibly and proportionately. Informal mechanisms such as cooperation, negotiation, and discussion are most frequently used to secure sustained compliance, with criminal prosecution reserved for the most serious breaches.
- DWI makes active use of drinking water quality improvement programmes developed through discussion with water companies to secure sustainable improvement, rather than using more formal enforcement orders. Statutory improvement programmes are also a feature of Ofwat’s water pricing review process and thereby take account of wider economic considerations.
- DWI’s enforcement procedures assist DWI inspectors in exercising their discretion consistently and in line with DWI’s purpose. Not everyone inside companies was clear about the enforcement decision-making process, and the existing mechanisms for challenging and influencing enforcement decisions.

Background information such as a summary of sanctions available

DWI has a range of regulatory powers and civil and criminal sanctions to deal with breaches of water quality legislation. These range from advice and guidance, the making of recommendations, through to

<p>to the regulator and any data on sanctions imposed by the regulator:</p>	<p>formal enforcement (including notices, enforcement orders, or authorised departures), warning letters, criminal cautions and prosecutions. Each year, DWI publishes detailed incident data and the main findings from its investigations into breaches of standards. Amongst other things, this serves to encourage improved performance by water companies.</p> <p>The numbers of enforcement notices served, authorisations granted, etc, in 2009 were as follows:</p> <ul style="list-style-type: none"> • Enforcement notices (Reg 19, etc) 2 • Minded to enforce letters 125 • Regulations 20 & 42 Authorisations nil • S.18 enforcement orders nil • S.19 Undertakings 52 • Warning letters (criminal) nil <p>Criminal cautions and prosecution are reserved for the most serious of cases where water is supplied that is unfit for human consumption. Between 1995 and 2008 DWI brought 40 successful prosecutions comprising 159 separate counts. 21 cautions were also given in this period.</p>
<p>Example(s) of good practice:</p>	<p>DWI's enforcement procedure, produced in 2009, sets a clear framework for inspectors' enforcement decision-making. Progress with cases likely to lead to a recommendation to the Deputy Chief Inspector (Operations) is regularly reviewed at operational management level and peer reviewed. DWI has Key Performance Indicators (KPIs) for informing water companies of any enforcement or prosecutions under consideration.</p>
<p>Review findings:</p> <p>The extent to which the review team believes the regulator is acting in line with the Hampton principles and Macrory characteristics:</p>	<p>DWI is one of three water industry regulators and its approach to enforcement aims to achieve the right balance between assisting the water industry in meeting its statutory obligations and taking firm and fair action through the effective use of formal enforcement to secure the necessary improvements. The standards of water quality currently achieved by water companies point to an effective use of sanctions.</p> <p>However, DWI recognises the importance of robust arrangements for ensuring that enforcement decision-making is proportionate and consistent, and staff find the decision-making flow-charts in the enforcement procedure particularly helpful. Such transparency will become increasingly important as DWI moves towards</p>

	<p>a charging regime for its activities.</p> <p>The consensus in the water industry is that DWI sanctions are proportionate and risk-based. However, some stakeholders identified a lack of clarity over enforcement criteria around specific regulations and the need for processes for appealing against enforcement decisions. One stakeholder went as far as to suggest that DWI enforcement actions should be subject to independent audit.</p> <p>DWI recognises that its Code for Enforcement needs to be revised and could helpfully include:</p> <ul style="list-style-type: none">• an explanation of what the water operators can expect from their interaction with DWI,• more clarity on and better signposting of the opportunities available to water companies to respond to, and suggest alternatives to, proposed enforcement actions, and• arrangements for appealing against enforcement decisions where these are permitted within existing legislation. <p>Publishing the updated DWI enforcement procedures would also improve the transparency of DWI's enforcement decision-making arrangements.</p>
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FOCUS ON OUTCOMES

Hampton principle

“Regulators should measure outcomes and not just outputs.”

Key findings on Focus on Outcomes:

DWI sets out to be recognised as the effective guardian of drinking water quality. It measures its success against this in a number of ways.

- Most obviously, the safety and cleanliness of drinking water is measured, monitored and reported. The act of doing this represents a large proportion of DWI’s activities. Quite clearly, this indicates that DWI has a significant focus on outcomes, as cleaner, safer drinking water is a key outcome for which DWI strives.
- Additionally, DWI monitors public confidence through consumer complaints received by the water companies. Given that public confidence is an important element of DWI’s aim, measuring consumer perception is a key part of focusing on outcomes.
- DWI has agreed and published MOUs with the other water regulators, clearly defining respective roles and responsibilities. This brings clarity to the landscape, allowing each regulator to fulfil its own functions with confidence. This clarity does not extend, however, to all stakeholders, who are, in some cases, unclear of each regulator’s specific role.
- There is a lack of clarity around DWI’s objectives and targets. However, in Spring 2010 DWI plans to publish a Corporate Business Plan for 2010 to 2015 setting out ambitious strategic objectives and performance indicators. This is to be supplemented by way of specific and measurable delivery objectives and targets. The plan also provides a helpful framework for engaging with industry and other stakeholders with a view to setting the strategic direction for water quality as a whole.
- The format of DWI’s Chief Inspector’s annual reports on drinking water quality would benefit from being supplemented with another report

	<p>covering the principles of better regulation. The practice of producing regional reports is good, but there is a need for reintroducing a national report about DWI's performance. DWI plans to do this in the context of its 5 year Corporate Business Plan.</p>
<p>Background information such as the regulator's key objectives:</p>	<p>DWI's mission, as set out in 2001, is to be recognised as the effective guardian of drinking water quality.</p> <p>This is further detailed in DWI's draft 2010-15 Business Strategy, which sets out 5 strategic objectives:</p> <ul style="list-style-type: none"> • Water suppliers deliver water that is safe and clean • The public have confidence in their drinking water quality • Drinking water legislation that is fit for purpose and implemented in the public interest • A progressive and trusted organisation • Accessible and globally recognised technical experts in drinking water regulation <p>DWI's main objective is to maintain public confidence in safety and quality of public water. This is achieved through:</p> <ul style="list-style-type: none"> • The Inspectorate carrying out its statutory duties • Its close relationship with its stakeholders • The bond that exists with the other statutory partners
<p>Example(s) of good practice:</p>	<p>DWI should be applauded for commissioning an effectiveness and efficiency review of their operations. The review, conducted in 2007, was carried out by one of the water operators, demonstrating a real commitment to transparency and stakeholder engagement.</p> <p>Roles and responsibilities within DWI are clearly defined, enabling the team to undertake additional delegated responsibilities such as contingency planning, yet remain focused on key areas. This provides flexibility for staff to assist, when required, in achieving overarching goals and deadlines.</p>
<p>The extent to which the review team believes the regulator is acting in line with the</p>	<p>DWI's core activity is the collection and monitoring of water companies' test data. To a large extent, the outcomes achieved by the water companies are DWI's outcomes. It follows, then, that the core activity of DWI necessitates closely monitoring and measuring its own</p>

<p>Hampton principle:</p>	<p>outcomes. In this respect, DWI's actions are closely aligned with the Hampton principle.</p> <p>DWI has developed a five year strategic business plan, through consultation with industry, linked to Defra's strategic policy. This defines ambitious and clear objectives to be achieved and leads to better transparency - not only within DWI but also to the regulators and stakeholders. The business plan will need to be underpinned by more specific delivery objectives and targets against which DWI can monitor, measure and report its achievements. The strategic business plan focuses on the role and responsibilities of DWI, However, primary responsibility for delivering the first two strategic objectives (ie. safe and clean water, and public confidence) lies with the water companies. The business plan, therefore, provides a framework for setting the strategic direction for the water industry as a whole and the Review Team would like to see water companies engaged more actively in the process DWI has put in place for consulting the industry. In addition, the Inspectorate is instigating a rolling plan of development and upgrades to the water system to replace the previous plan. This ensures that there is a clear programme of maintenance work to maintain the safety and quality of public water in the medium to long term.</p> <p>DWI has also implemented a rolling programme of research to ascertain how to maintain the quality of drinking water in the face of future emerging issues, such as changing environmental conditions. The Review Team suggests that further efforts could be made to raise awareness of this horizon scanning process, and its aims, among stakeholders; particularly the other water regulators.</p> <p>DWI has recently refined its organisational structures and working practices, leading to high levels of efficiency. There appears to be a lack of awareness of this among the other water regulators and the Inspectorate's other partners, however. DWI needs to address this in order to maintain its good record of working effectively with the other regulators.</p> <p>DWI is presently implementing a strategic policy with the other regulators and with its stakeholders to set out clear aims and objectives to address future issues. While DWI measures its performance against its objectives internally, there does not appear to be an</p>
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	<p>effective mechanism in place for communicating the resulting findings to stakeholders. The Review Team recommends that more information regarding this should be provided; either within the Chief Inspector's report, DWI's business plan or through a separate publication. This would lead to greater transparency, allowing stakeholders to gain a better understanding of DWI's objectives and performance.</p>
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**Appendix 1:
Review team
membership**

Peter Baker is a Deputy Director & Head of Chemical Industries Division at the Health and Safety Executive. His background is in health and safety regulation in a wide range of industry sectors and regulatory regimes.

Graham Brookes is a regional manager for the Inspectorate section of the Food, Environment and Research Agency.

Rachel Holloway is an Assistant Director in the Better Regulation Executive (BRE). Prior to joining the BRE, Rachel worked for the Civil Contingencies Secretariat in the Cabinet Office where she project managed legislation through Parliament.

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