

**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE OFFICE OF WATER SERVICES  
AND THE HEALTH AND SAFETY EXECUTIVE**

**INTRODUCTION**

- 1) This Memorandum of Understanding is between the Office of Water Services (Ofwat) and the Health and Safety Executive (the Executive).
- 2) The Office of Water Services (Ofwat) is the economic regulator of the water and sewerage industry in England and Wales. Ofwat is a government department led by the Director General of Water Services (the Director). The Director's general duties are laid down in Section 2 of the Water Industry Act 1991 (WIA91). The Director must use his powers, and carry out his duties, in a way that he considers best so that:
  - the functions of the water and water & sewerage companies, as specified in WIA91, are properly carried out; and
  - the companies are able to finance their functions, in particular by securing a reasonable rate of return on their capital.

He sets out to

- monitor the water and water & sewerage companies' performance and work with the quality regulators to monitor and report on their progress in complying with environmental and water quality obligations;
  - make sure that the companies give their customers a good quality, efficient service at a fair price – he must promote economy and efficiency and facilitate competition between water service suppliers;
  - set price limits.
- 3) The Health and Safety Commission and the Health and Safety Executive were established under the Health & Safety at Work Act 1974. The Health & Safety at Work Act and regulations made under it impose on employers in the utilities industries (as elsewhere) comprehensive duties. These are designed to secure the health and safety of their employees and all other persons who may be affected by their work activities. This includes the general public. In particular, the 1974 Act says:

“It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees” (section 2); and

“It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health and safety” (section 3).

## **RESPONSIBILITIES OF OFWAT AND THE EXECUTIVE UNDER THIS MoU**

- 4) The responsibilities of Ofwat and the Executive under this Memorandum of Understanding are as follows:
- Ofwat and the Executive will consult each other on health and safety issues. Each will allow reasonable time for the other to respond.
  - The Executive will advise Ofwat about those health and issues which it believes are important or where Ofwat requests advice in the light of the water and water & sewerage companies’ obligations as employer, cited in (3) above.
- 5) A “health and safety issue” is an issue which may affect the health and safety of:
- persons directly employed in the water and sewerage industries; or
  - employees of contractors working in these industries; or
  - others who may be affected by the industries’ work activities,
- where responsibility for enforcement falls to the Executive.

## **WORKING ARRANGEMENTS**

- 6) This Memorandum of Understanding sets out the general arrangements to achieve:
- co-operation and the exchange of information; and
  - effective consultation between both parties.
- 7) The joint aims of the Executive and Ofwat under this MoU are to:
- foster their mutual understanding and effective relations between them;

- ensure the ability of each to fulfil its statutory functions is not adversely affected through action or inaction by the other;
  - consult each other on forward work programmes, specific issues of concern, e.g. construction and design management related issues, cost effectiveness and cost benefits of investments to maintain or improve water and water & sewerage companies' service to customers and the environment which have an impact on health and safety, risk assessment of asset maintenance and operation, safety performance improvements initiatives, and any other appropriate matters as and when they arise; and
  - ensure that information relevant to health and safety issues and the industry's health and safety performance is shared, subject to any limits imposed by statute or secondary legislation, including the need to respect personal or commercial confidentiality.
- 8) The Director General of Water Services and the Director General of the Executive, or their nominees, will meet as necessary. They will review matters of common interest and review annually the effectiveness and functioning of this Memorandum. They will also meet as required to resolve matters arising which concern health and safety.
- 8) The Executive's contact point is the head of the Safety Policy Division (General and Technical Safety). Ofwat's contact point is the Director of Costs & Performance and Chief Engineer. They are responsible for the maintenance of communication links, the exchange of information and consultations between Ofwat and the Executive.
- 9) Executive and Ofwat officials will meet as often as required to resolve matters concerning health and safety.

## **DISCLOSURE OF INFORMATION**

- 10) Ofwat and the Executive are open about their activities as part of their commitment to the Citizen's Charter and the Code of Practice on Access to Government Information (1994) (OG Code), and in meeting their obligations under the Freedom of Information Act 2000 (FOIA). Information requested will be disclosed unless its release would be likely to cause significant harm or where covered by a statutory restriction or an exemption either under the OG Code or in due course under the FOIA. Each undertakes to make the other aware of any significant relevant disclosure to members of the public, including the media.

**SIGNED BY**

Philip Fletcher  
Director General of  
The Office of Water  
Services

\_\_\_\_\_ Date \_\_\_\_\_

Timothy Walker  
Director General,  
Health and Safety Executive

\_\_\_\_\_ Date \_\_\_\_\_

14.2.03

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