

**WATER REGULATIONS ADVISORY COMMITTEE**

**FOLLOW UP TO WRAC'S REVIEW OF  
ENFORCEMENT OF THE WATER SUPPLY  
(WATER FITTINGS) REGULATIONS 1999**

**JUNE 2003**

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## Executive Summary

The audit of enforcement of the Water Supply (Water Fittings) Regulations undertaken by WRAC between April 2000 and March 2001, published April 2002, identified a series of areas where further action was required to either improve the enforcement regime or to ensure that the Regulations would continue to support innovative appliance design and a sustainable environmental policy. A series of 10 recommendations were proposed, each with an action plan that would involve WRAC, Defra and the water industry in further activities over the period July 2002 to July 2003. This report details the progress made in delivering the actions required by each of the 10 recommendations and identifies the outstanding areas requiring further consideration and action on the part of Defra and possibly WRAC.

In order to cover the range of activities necessary during 2002-03 WRAC established three working groups, each with responsibility for a number of recommendations.

**Recommendations 1-3**, handled by the Enforcement Working Group, called for a Best Practice Manual to be developed by the water industry with WRAC involvement, the exercise to be led by the Water Regulations Advisory Scheme (WRAS). The full and enthusiastic support of WRAS and the industry led to the delivery of a manual in June 2003. While this manual meets the general requirements set out in the audit recommendations WRAC considers that the industry needs to give further thought to detailing the frequency of inspections for different fluid risk categories. WRAC also recognises that the manual will require updating and would expect to see a mechanism for this put in place.

**Recommendation 4** called for a re-appraisal of the Approved Contractor arrangements, particularly in relation to the proliferation of schemes. The Plumbing Working Group addressed these issues and proposed the establishment of an overarching committee with an independent chair that would provide, through a twice yearly forum, a mechanism by which the various schemes could be monitored and common criteria applied. In addition to representatives of the schemes, membership would include WRAS, Defra, ODPM/Building Regulations, DTI/Quality Mark and representatives from other key sectors, including representatives of the plumbing training community.

**Recommendation 5**, considered by the Enforcement Working Group, addressed the need for a review of the notification procedures in the Regulations, which had been found to be somewhat disproportionate by the audit. A forum was held and as a result a series of potential refinements to the Regulations were identified. This requires further work and probable modification to the Regulations. WRAC considers that it will be essential to continue to both monitor this element of the enforcement regime, through regular contact with WRAS and the companies and to assess the application and enforcement of any modifications to the notification process by means of a second water industry audit, commencing in either 2006 or after 2 years of any changes to the Regulations.

**Recommendations 6-8** were dealt with by the Technical Working Group and were concerned with ensuring that the Regulations do not become a barrier to

innovation, particularly in the areas of water conservation and sustainability. In addition these recommendations also covered point of sale control and the provision of test facility certification.

The development of test criteria to allow new product to be accepted within the Regulations was considered and the establishment of a WRAS/Defra body, similar to the previously existing WRAS Technical Criteria Panel was thought appropriate.

In the case of Point of Sale Control WRAC remained convinced of the necessity for this measure to be introduced when possible. In the meantime it supports wholly, and regards as essential, the introduction of a labelling system to cover both compliance with Regulations and water usage, both essential to a sustainable environmental policy. Despite opposition from some UK manufacturers this proposal has support from the Market Transformation Programme, the Environment Agency and the National Water Conservation Group as well as representing the best practice in other developed countries, notably Australia where it is viewed as essential to a 'sustainability agenda'.

Third party certification of test facilities is further recommended to ensure that compliance claimed in one test facility can be confidently assumed to represent compliance elsewhere. Evidence presented to Defra suggests that such a scheme, based on either the use of WRAS as a certification body or reliance on other established certification bodies would be a welcome addition to the Regulations and would enhance the labelling initiative.

**Recommendation 9** was concerned with strengthening the role of WRAS within the water industry enforcement regime. The role played by WRAS in delivering the Best Practice Manual, as well as its participation in the actions following the other audit recommendations, demonstrate that this recommendation has been noted and acted upon by WRAS and the industry.

**Recommendation 10** concerned the future establishment of a reconstituted WRAC to continue to provide technical and enforcement advice to Defra and in particular to undertake a further enforcement audit in 2004-05. Following discussions and input from other interested organisations, such as the Environment Agency, the committee recommends that a new WRAC be appointed.

The outcome of the actions arising from the enforcement audit recommendations and followed in this past year have demonstrated that there are a range of ongoing activities where WRAC's input could be helpful to Defra. In particular the updating of the Best Practice Manual and the development of more coordinated Approved Contractor schemes are areas where WRAC still has a role. Similarly the modifications necessary to the notification content of the Regulations and the assessment of such changes within future enforcement audits would be a suitable and necessary role for WRAC.

## Recommendations 1-3: Best Practice Manual

1. WRAC's review of enforcement of the Water Supply (Water Fittings) Regulations 1999 included the following recommendations:

*'A best practice manual should be developed by the water companies, WRAS, Defra and its advisors to cover all aspects of enforcement. This should recognise the differing priorities of individual water companies and be kept under review to ensure it reflects current good practice. WRAS should lead these discussions with a view to producing a guidance manual by April 2003.'*

*'The best practice guidance manual should include the development of model Service Level Agreements to aid water companies in formulating risk assessment and return inspection cycle protocols for either internal or outsourced resources.'*

*'The best practice guidance manual should include advice on database requirements, validation techniques and staff IT training. The use of such databases would be of considerable benefit to companies in the management of their enforcement activities. Where certain enforcement activities are outsourced adherence to these guidelines would be essential to ensure satisfactory transfer of data at the end of any agreement period.'*

2. The water industry, under the guidance of WRAS and in discussion with WRAC, has produced a comprehensive Best Practice Manual to meet the objectives set out in the recommendations above. This was published in June 2003. WRAC is aware of the water industry's concern that the timescale set for producing this guidance did not facilitate the level of input into preparation of contributions and consultation that would have been desirable. As set out in the introduction to the document, the WRAS Management Committee has endorsed the publication of the document now, but with a commitment to review and make any necessary revisions by April 2004.
3. WRAC welcomed the swift production of this document by the water industry. It will now be essential that the individual water companies take ownership of it and make use of the guidance to deliver more consistent enforcement across England and Wales. WRAC considers that the water industry should give further thought to setting aspirational targets for the frequency of inspections for different fluid category properties. This would provide Defra and the Welsh Assembly Government with greater assurance that the Regulations were being enforced uniformly across all water company areas. WRAC would also like to see the arrangements for updating the Best Practice Manual formalised between Defra and the water industry.

## Recommendation 4: Approved Contractor schemes

4. WRAC's review of enforcement of the Water Supply (Water Fittings) Regulations 1999 included the following recommendation:

*'There should be one national model for Approved Contractor schemes. The current situation of eight separate schemes with variable entrance requirements is untenable. Defra should lead discussions with WRAS, the water companies and other organisations operating schemes to develop a minimum entry threshold and benefit structure for implementation by April 2003.'*

5. This recommendation highlighted the need to reduce confusion and increase the credibility of Approved Contractor schemes both to consumers and plumbers, as well as the need to create incentives for plumbers to become scheme members. However, it was recognised that the primary purpose in harmonising schemes was to promote compliance with the Regulations.
6. A full summary table of the proposed minimum requirements is attached at **Annex A**. The eight schemes have broadly agreed a common set of minimum requirements for entrance to individual Approved Contractor schemes. These comprise of:
  - a minimum achievement in a plumbing qualification
  - a test in the Water Supply (Water Fittings) Regulations 1999
  - an agreement to have plumbing work inspected
  - appropriate insurance liability
  - a commitment to an appropriate complaints mechanism
  - a commitment to ongoing training and development
  - carrying appropriate identification
7. WRAC also proposes the establishment of an Approved Contractor Scheme Working Group (ACSWG), which would meet on a twice yearly basis. The aim and terms of reference for this group are set out at **Annex B**. The group would also work towards the wider integration of Approved Contractor schemes with other industry contractor schemes, such as Quality Mark and self-certification under the Building Regulations.

### Common minimum entrance requirements for Approved Contractors

#### Plumbing Qualification

8. Plumbers would need to hold a minimum level of plumbing qualification for entrance to Approved Contractor schemes.

#### Water Regulations Test

9. All Approved Contractors would need to hold a certificate in the Water Supply (Water Fittings) Regulations 1999. The ACSWG would work towards developing a common standard of test within a specified time span to reduce ambiguity. Within a single plumbing company, a plumber qualified in the Regulations would be able to sign off and assume responsibility for the work of other non Regulations-qualified plumbers at a maximum ratio of 1:5, provided the work was closely supervised by that Approved Contractor. Firms that

operated this ratio would be required to have arrangements in place to provide satisfactory cover for instances when the Approved Contractor was not available to supervise others' work. It was agreed to work towards the reduction of this ratio over time.

#### Inspection of Plumbing Work

10. Members noted that there were two aspects to this requirement:

- a) An inspection of installed plumbing work. In principle, members considered that there would be merit in water companies assisting the industry schemes with this type of inspection as part of their duty to enforce the Regulations, although there would no obligation to do so. It was considered quite possible, if not likely, that water companies would already inspect the work of Approved Contractors on other schemes as part of their proactive inspection programmes. Additional cost would tend to be minimal assuming that plumbing industry scheme Approved Contractors were evenly distributed across the water company areas. It was not proposed that this should be a substitute for inspections by plumbing organisations, but a recognition of the different enforcement responsibilities. For example, plumbing industry schemes could be expected to carry out an agreed level of inspections either on an annual basis and/or an initial inspection of all plumbers on application. An initial minimum figure of one inspection per plumber per annum was proposed, although the details of this requirement would need to be established by the ACSWG.
- b) An audit of members. All schemes provide some method of reviewing the compliance of their members with the terms of their particular scheme. Individual schemes would retain responsibility for ensuring that these checks continued to provide consistency of compliance across all schemes with the new common minimum requirements.

#### Insurance

11. Schemes needed to ensure a minimum level of public and, where appropriate, employer's liability insurance for Approved Contractors.

#### Consumer complaints mechanism

12. Schemes needed to have in place a mechanism to address customer complaints related to non-compliance within the terms of the Approved Contractor scheme, and to ensure that contraventions are dealt with.

#### Training and development

13. Schemes should have a stated policy on training and development for their members. This would include a mechanism to ensure that any developments in the Water Supply (Water Fittings) Regulations were widely publicised to members.

#### Identification

14. Approved Contractors would need to have a credible means of identification which would include reference to their Approved Contractor status.

## Other issues

### Approved Contractor Scheme Working Group

15. It was agreed that a twice-yearly meeting of stakeholders would be essential to oversee the quality requirements of schemes and their development, and to share information and good practice. The aim and Terms of Reference for this group are set out at **Annex B**.

16. The proposed ACSWG provides the opportunity to deliver and, where necessary, work up some of the finer details of the minimum requirements that have been agreed by WRAC's Plumbing Working Group. WRAC considers that there would be merit in having a public record of both the terms of reference of schemes and a unified list of all Approved Contractors.

### Existing members' non compliance with new minimum entrance requirements

17. It was established that existing members of schemes to which this issue applies would have generally been assessed under a previous Water Byelaws test and, since the introduction of the Regulations, have been satisfactorily inspected at least once a year. Water companies have a duty to enforce the Regulations so it would be in their best interests to ensure that plumbers on its schemes were fully conversant with the Regulations. This is aided by schemes' commitment to continuing education. Recognising the practical difficulties in achieving compliance with the new minimum requirements by all existing Approved Contractors, members considered that the situation should be kept under regular review and a deadline to achieve total compliance should be established by the ACSWG. It was previously suggested that there were diminishing numbers of plumbers in this category and that the issue should resolve itself within 6 years.

### Links to other schemes

18. Members considered the benefits of exploring how Approved Contractor schemes could be linked to, or deemed to satisfy the requirements of, other schemes such as the Quality Mark and self-certification under the Building Regulations. The development of relationships with other schemes would need to be kept under review by the ACSWG.

### Benefits

19. WRAC also gave some consideration to the benefits provided by Approved Contractor schemes. It was noted that the minimum benefits are contained in the Water Supply (Water Fittings) Regulations 1999 and beyond that it was the prerogative of the scheme operator to provide additional benefits. However, WRAC considers that there would be merit in pursuing the benefits regime further within the remit of the ACSWG.

## Recommendation 5: Notification

20. WRAC's review of enforcement of the Water Supply (Water Fittings) Regulations 1999 included the following recommendation:

*'There is an urgent need to review the whole notification procedure. Defra should lead a broad forum to assess the current notification requirement. In this area the Regulations do not currently allow any proportionality or risk assessment approach. Defra [and the Welsh Assembly Government] should be prepared to amend the Regulations if necessary. The objective should be the identification of issues and actions necessary to improve the operation of the notification procedure by December 2002.'*

21. On 15 January 2003 Defra, with WRAC, hosted a broad forum to consider all aspects of the notification requirement. The forum was attended by representatives from 11 water companies and 13 representatives from other sectors affected by the notification provisions, including the plumbing industry, fittings manufacturers, trade associations and professional bodies. A list of the organisations represented is at **Annex C**. A further 19 organisations were invited, but did not attend.

22. In preparation for the forum Defra invited the 23 water companies in England and Wales to provide details of notification activity over a recent 3 month period that could be compared with the data collected for the original report in 2000-01. 18 companies responded with data. This indicated a general improvement in notification returns both with respect to new connections and work in existing premises. It was noted that about 94% of notifications received were for new installations. WRAS also conducted a survey of water companies, to which 16 had responded by 15 January, with a view to establishing a common industry position.

23. The discussion at the notification forum led to a broad consensus on the following points:

### The procedure

- The notification procedure worked well where there was a need for a water company response as with new connections, but otherwise it was considered that the extent of notification was low. Water companies presently manage the current level of notifications because only a small percentage of the required notifications were received by water companies. This confirmed the findings of WRAC's enforcement report.
- It was not worth putting greater resources into administering a requirement that did not provide greater protection of water supplies. It was possible that the requirement was drawing water companies' attention away from more useful enforcement activity.
- There was scope for much improved liaison with other authorities that collected relevant information, such as Building Control and Planning Departments.
- The notification procedure provided little or no incentive for plumbers to become Approved Contractors under the Regulations. The merits of sector

approval schemes to improve compliance with the Regulations also needed further consideration.

#### The requirement

- The notification requirement was useful in principle, but the installations requiring notification should be reviewed. The requirement needed to be simplified and would work most effectively by focussing the Regulations – and hence water companies’ enforcement activities – on the high risk issues.
  - A number of additions to the notifiable list would be beneficial – domestic fire sprinklers, recycled water systems with a connection to the water supply and installations on contaminated land were suggested.
  - There were doubts as to whether the water conservation aspects of the notification requirement were an effective means of achieving that goal. This was intended to enable water companies to meter premises on the installation of high water using fittings, but very few notifications were received and companies rarely took the option to meter as a result.
24. The notification forum confirmed that there is considerable scope to improve the notification requirement so that it is aligned more clearly with the aims of the Regulations. In view of that, WRAC believes that Defra and the Welsh Assembly Government should consider amending the Regulations to make the notification requirement more proportionate to the risk of non-compliance. This process should be started by reference to the suggested initial modifications to Regulation 5, indicated in **Annex D**. However, it was clear that further consideration of several particular issues was also required, including the role of notification in promoting water conservation and the scope to provide greater incentives for plumbers to become Approved Contractors. WRAC considers that a future audit of enforcement commencing in either 2006 or 2 years after any changes to the Regulations would be necessary to assess the impact of changes to the notification requirement and progress with other issues outlined in this report. This requirement would be in addition to on-going monitoring through regular contact with WRAS and the water companies.

## **Recommendation 6: evolution of the Regulations**

25. WRAC's review of enforcement of the Water Supply (Water Fittings) Regulations 1999 included the following recommendation:

*'The content of the Regulations, their interpretation in guidance documents and the Regulator's Specifications should be kept under review to recognise and encourage new technology and to prevent the Regulations becoming a barrier to innovation or trade. WRAC, DEFRA and WRAS should work to establish suitable evolutionary mechanisms by December 2002.'*

26. This gave rise to two distinct but related issues for consideration:

- a. Mechanisms available to address anomalies and to allow consideration of innovative products under the Regulations; and
- b. Establishing a mechanism to keep the Regulations under review and to ensure they continue to meet the objectives of preventing contamination, waste, misuse and undue consumption.

### **A. Mechanisms to address anomalies and innovative products**

27. There were several potential issues to consider:

- An innovative product for which there is no standard or means of testing its compliance with the Regulations;
- An innovative product that is currently prohibited by the Regulations as a result of clauses that may no longer be appropriate;
- An anomaly in the Regulations, Regulator's Specifications or Guidance.

### Product compliance with the Regulations

28. In addition to being suitable for the circumstances in which they are used, Regulation 4(2) provides four options for water fittings to be deemed compliant with the Regulations:

*'For the purposes of this regulation, a water fitting is of an appropriate quality or standard only if –*

- (a) it bears an appropriate CE marking in accordance with the Directive;*
- (b) it conforms to an appropriate harmonized standard or European technical approval;*
- (c) it conforms to an appropriate British Standard or some other national specification of an EEA State which provides an equivalent level of protection and performance; or*
- (d) it conforms to a specification approved by the regulator.'*

29. In consideration of the compliance of innovative products with the Regulations where no approval route exists, each of these routes should be considered. While CE marking and harmonised European Standards for most products are at least several years away, the European Technical Approval and equivalent national specifications routes are available, but in practice have not been used in the UK. WRAC believes there would be merit in establishing a group comprising at least Defra and WRAS to consider new products and, where

appropriate, develop suitable test requirements for assessing compliance with the Regulations. This would be along the lines of the former WRAS Test Criteria Panel. With respect to WCs the provisional European Standard, prEN997, which incorporates the Regulator's Specification for WC suites, is expected to be adopted as the harmonised European Standard for WC suites during 2003. Its introduction will enable CE marking for compliant products, which will provide Trading Standards officials some powers of enforcement at the point of sale. Regulator's Specifications also exist for many other water fittings.

#### Changing Specifications

30. There are a number of mechanisms that already exist within the Regulations to enable change to accommodate new or revised products. Regulation 12 makes provision for the adoption of additional product specifications or the modification of specifications. Any modification would be subject to public consultation and notification to other Member States under the Technical Standards and Regulations Directive (98/34 EC). However, for requirements that are specified in Schedules or specifications it may be appropriate to consider a relaxation made in accordance with Regulation 11. Where the intention of the Regulations has been clarified through guidance it is possible to modify guidance to address anomalies or reflect advances in technology. Defra, and the Welsh Assembly Government in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales, will consider applications for modifications to specifications, relaxations and for changes to the guidance although the water industry, through WRAS, also has an important role in clarifying and in some cases advising on interpretation of the Regulations via its guidance. Nonetheless, this highlighted the need for Defra and the Welsh Assembly Government to have continued access to sound technical advice and evidence on which to base its decisions.

31. To exemplify how these options might work in practice WRAC considered a number of perceived anomalies in the Regulations and cases where innovation was felt to be unnecessarily restricted. For example, the Regulations did not originally permit the installation of dual or interruptible flushing devices into existing larger volume WCs, despite evidence that showed water savings were possible. This was subsequently addressed by a relaxation under Regulation 11 in June 2003, having been supported at meeting of WRAC's Technical Working Group. A number of issues were also considered related to the operation of certain test procedures in the Regulator's Specification for WC Suites. Attention was also drawn to the original submission by one water company that detailed what it believed to be about 40 anomalies with the Regulations or with guidance.

#### **B. Establishing a mechanism to keep the Regulations under review**

32. WRAC considers that there are sufficient routes available to address concerns raised with the Regulations, but that there remains the need to establish a mechanism to keep the Regulations under review. To this end, WRAC believes that a technical group should be established to consider the issues that have arisen and may arise in the future. Through the mechanisms outlined above, this group should be able to ensure that the Regulations do not become a barrier to innovation, or present anomalies hindering their effective enforcement. It is recommended that the group should comprise

representatives from Defra, its advisors and the water industry, primarily through WRAS. WRAC's enforcement report also recommended consideration of re-establishing WRAC after its current remit expires (now in July 2003) to ensure the continuation of independent technical advice to Defra and the Welsh Assembly Government.

33. As a longer term objective, WRAC believes there would be benefit in Defra and the Welsh Assembly Government reviewing the overall format of the Regulations. For example, some of the content of the Regulations that might prove technically prescriptive could be moved to guidance to support a more performance-based approach. The Building Regulations, with their use of Approved Documents, were considered a good model. Consideration might also be given to closer working between WRAC and the Building Regulations Advisory Committee where the two sets of Regulations covered related issues to ensure that they remain complementary. For example, there are obvious links between the water use of fittings and appliances and drainage requirements, which are currently in separate Regulations.

## Recommendation 7: product certification

34. WRAC's review of enforcement of the Water Supply (Water Fittings) Regulations 1999 included the following recommendation:

*'Uncertainty over the mechanisms for approval under the Regulator's Specifications requires further consideration of the system of self-certification allowed by the Regulations. The introduction of quality control mechanisms to ensure that test equipment meets national standards should be considered by December 2002.'*

A glossary of terms is at Annex E.

35. WRAC has considered both regulatory and voluntary routes for improving the certification of water fittings. However, it was recognised that levels of attestation of conformity for different construction products are set at European level by the Construction Products Directive (CPD). It is likely that for most water fittings the minimum requirement will be for Factory Production Control with a type test by the manufacturer. This is already the case for WC suites and backflow prevention devices. Under this level of attestation, no specific accreditation of test facilities by a third party (such as UKAS) is deemed necessary. Nonetheless, WRAC considers that there is a need to improve certification routes for water fittings.

36. To have a credible system of product certification it is essential that measures are in place to ensure that different test facilities yield comparable test results. A system of Factory Production Control alone, even with a quality management system such as ISO 9001, may not achieve this objective because it would not necessarily require the calibration or testing of test equipment or procedures. The internationally recognised standard for establishing 'the technical competence of a laboratory for a defined set of tests, measurements or calibrations' is ISO 17025. *'In applying ISO 9001:2000 to a laboratory's operations, the emphasis for certification bodies is to establish compliance with quality management systems requirements. Unlike ISO/IEC 17025, it does not contain technical requirements for laboratory personnel and operations and, as such, certification against ISO 9001:2000 should not be interpreted to mean that it demonstrates the technical competence of a laboratory to produce valid data and results.'*<sup>1</sup>

37. Alternative options that may be considered were the WRAS proposal for manufacturers to have their test facilities audited by an appropriate body as a means to having products entered in the Fittings and Materials Directory, or for products to be submitted for testing at an accredited laboratory. Although initial uptake of the WRAS route was slow, at least two manufacturers have now had their test facilities audited to enable the approval and listing of their products.

38. WRAC also considered the initial work under the Market Transformation Programme (MTP) to assess and rank water using products and appliances according to their water efficiency. This work could be used to support the

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<sup>1</sup> IAF-ILAC-ISO Joint Working Group on Image and Integrity of Conformity Assessment, November 2002 (CASCO 95/2002)

introduction of a labelling scheme for water products, which already exists for the energy efficiency of electrical goods. The National Water Conservation Group (NWCG) had previously considered the development of a water efficient labelling scheme and WRAC strongly endorses this being taken forward. In addition to ranking water efficiency, WRAC's view is that a labelling scheme should also provide assurance of that product's compliance with the Regulations. Therefore, to gain a label it should be a requirement for a product to have been tested at a laboratory using test equipment traceable to national standards. This would improve the awareness of installers and others of the Regulations and the requirement that only compliant products may be installed. While this would be a voluntary scheme, it has the support of the Environment Agency, the water industry and some – but not all – manufacturers. This approach has also been used to good effect in countries such as Australia. Defra is seen as the natural delivery mechanism for such a labelling scheme. It was felt that the opportunity to gain additional promotional and marketing support for products, which have been tested to demonstrate compliance with regulatory requirements, would also give manufacturers a greater incentive to support this initiative.

## Recommendation 8: point of sale control

39. WRAC's review of enforcement of the Water Supply (Water Fittings) Regulations 1999 included the following recommendation:

*'While the Regulator's Specifications were intended to control the acceptance of water fittings installed in the UK, the lack of point of sale control allows noncompliant products to be lawfully sold but unlawfully installed. Defra should consider the introduction of point of sale control of water fittings.'*

40. Defra sought legal advice on the feasibility of introducing point of sale control for water fittings. This confirmed that the powers under section 74 of the Water Industry Act 1991 do not extend to making general criminal offences in respect of the sale of non-compliant water fittings. Consequently, it would require primary legislation to make the Regulations enforceable at the point of sale for non-compliant products.

41. While this was not an impossible aim, it would require a significant change in policy and present some real practical difficulties. For example, the Regulations are not of universal application, in that they do not generally apply to water fittings which are not connected or to be connected to water supplied by a water undertaker (Regulation 2(3)). If point of sale enforcement was introduced it would become a criminal offence to sell fitting "X" in some circumstances, but not in others. Commission of an offence would therefore depend on the circumstances of the sale, including (for example) the information given by the purchaser to the vendor. It would be very difficult to make a vendor's liability depend on any supposed ability to assess the veracity of information supplied by a purchaser, when that person's intentions may in any event change. Equally, many of the Regulations' requirements depend crucially on the circumstances in which a particular fitting is (to be) used (e.g. Regulation 4(1)(b)). It would not be possible to enforce these sorts of obligations at the point of sale.

42. Whilst accepting that point of sale legislation cannot be a short-term objective, WRAC believes that in the longer term it would be beneficial to address this issue. In the interim there are some steps that could be usefully taken to improve point of sale control, for example through improved information on products. This is an objective that, in part, the water industry is seeking to address in conjunction with the larger retail outlets. In addition, as explained above, WRAC is aware of discussions in the National Water Conservation Group about the possibility of introducing a water efficiency label for certain products. This is known to have support from a number of key organisations, including the Environment Agency and water companies and reflects practice in other developed countries that see water conservation as an essential part of a sustainable environmental policy, notably Australia. WRAC strongly supports the notion that in the absence of point of sale control a product labelling scheme should be introduced, and include verification that water fittings meet the technical requirements of the Regulations subject to correct installation. This would enable consumers and installers to make more informed choices about their purchases and increase customer confidence and protection. This approach would also provide a clear means of identifying compliant products,

which would be of considerable benefit to installers and the water industry in its enforcement capacity.

## **Recommendation 9: Water Regulations Advisory Scheme**

43. WRAC's review of enforcement of the Water Supply (Water Fittings) Regulations 1999 included the following recommendation:

*'WRAS should strengthen its central role in assisting the water industry to enforce the Regulations by becoming the focus for the development of the best practice guidance manual and a national Approved Contractor scheme.'*

44. WRAC has been very encouraged by the response of WRAS, and the water industry as a whole, to the recommendations contained in its enforcement report. WRAS has played a central role in developing the conclusions of this work, not least in the production of the Best Practice Manual, which has improved the position and profile of the organisation.

## **Recommendation 10: future of WRAC**

45. WRAC's review of enforcement of the Water Supply (Water Fittings) Regulations 1999 included the following recommendation:

*'Defra should extend the current WRAC membership to July 2003 and thereafter consider re-establishing the Committee with the remit:*

*"To advise the Secretary of State for Environment, Food and Rural Affairs [and the Welsh Assembly Government] on the technical aspects and evolution of the Water Supply (Water Fittings) Regulations; to support the development of a national best practice approach to enforcement including Approved Contractor schemes and Regulator's Specifications; and to undertake a second review of enforcement commencing in 2004."*

46. The extension of WRAC's remit from July 2002 to July 2003 allowed the Committee to carry through the actions identified as necessary in its conclusions following the 2001-02 audit of enforcement of the Water (Water Fittings) Supply Regulations. In the main the objectives of that extension were achieved. However WRAC also recommended in July 2002 that there would be a continuing role for a successor committee to provide independent technical advice to Defra. The conclusions reached in this report on each of Recommendations 1-8 support that view.

47. Recommendations 1-3 have resulted in the water industry compiling a 'Best Practice Manual' which will be taken up by the various water companies and applied to their individual situations. There will be a need for this manual to be updated on a regular basis. In addition there is at least one area of further concern that will require attention, namely the issue of defining more accurately the required frequency of enforcement visits to be undertaken across the spectrum of risk within any water company's area. Defra may find it convenient to have a body such as WRAC to ensure that this remains on the agenda in any future update of the manual.

48. Recommendation 4 has led to the proposal for an overarching review body for Approved Contractor schemes with responsibility for ensuring a degree of equality across schemes and to provide a forum for innovation and improvement. The appointment of an independent chair to this body would be essential, which could be from within a reconstituted WRAC. WRAC could also provide scrutiny for the review and re-approval of the three Approved Contractor schemes approved by the Secretary of State and the Welsh Assembly Government in 2003-04.

49. A reduction and modification to the notification procedures included in the Regulations was clearly indicated by the Forum organised in January 2003. It will be necessary for Defra to take forward these changes in notification in consultation with the water industry and other interested organisations. WRAC could continue to be the vehicle for such discussions and modifications.

50. WRAC believes strongly that Regulations should not be a barrier to innovation. There is a need for a body independent of the main interest groups to ensure this by providing independent technical advice to Defra and the Welsh

Assembly Government. The processes considered by WRAC would provide that confidence.

51. Recommendation 8 dealt with point of sale control, which WRAC believes to be necessary. A labelling scheme would provide a degree of consumer protection and information in the absence of legislation to deliver point of sale control. This is supported by a wide range of interested and relevant bodies, including the Environment Agency, the National Water Conservation Group and several water companies and manufacturers. It also represents a growing international practice. However it has opposition from representatives of some UK manufacturers and will need to be argued through. It might be helpful for Defra to have the independent commitment of WRAC to ensure that this important consumer and water conservation measure is implemented as part of a sustainable environmental policy.
52. Recommendation 8 also dealt with certification of test facilities and again the independence of WRAC would be supportive to Defra and the Welsh Assembly Government in ensuring that adequate and suitable certification is put in place to ensure that compliance claims by one organisation may be assumed to have been undertaken against independently validated standards.
53. WRAC was influential in encouraging WRAS to take a lead role in developing the Best Practice Manual, an example of its role in achieving Recommendation 9 that called for WRAS to strengthen its central role in assisting the water industry to enforce the Regulations. A reconstituted WRAC would continue that support.
54. Finally Recommendation 10 introduced the concept of a follow up Audit of Enforcement to take place in 2004-05. Such an audit will be essential to ensure that the benefits of the 2001-02 audit are retained within the system. In addition the range of changes to the Regulations and their enforcement inherent in the current report will require to be assessed and a further audit would be a vehicle to ensure that that is achieved. The audit was an extremely valuable exercise for all concerned and was fully supported by the water industry – as evidenced by the input from all the water companies and the subsequent work on the Best Practice Manual and the other issues raised by the study's findings and recommendations. WRAC would be essential to that process as its members could again provide a means of independent assessment that would assist Defra, the Welsh Assembly Government and the water industry in delivering effective enforcement.
55. The considerations above therefore lead WRAC to recommend most strongly that it be reconstituted to assist Defra and the Welsh Assembly Government. In this recommendation the Committee has the strong support of external interested organisations, for example the Environment Agency.

## Annex A

### Common minimum requirements for Approved Contractor schemes: Summary of key issues

Requirement	Common Minimum Standard	Notes
<b>Plumbing Qualification</b>	Approved Contractors need to possess: <ul style="list-style-type: none"><li>○ (S)NVQ mechanical services level 2; or</li><li>○ City and Guilds intermediate or ordinary craft certificate in plumbing; or</li><li>○ Completed formal apprenticeship in plumbing (craft based); or</li><li>○ Plumbing registration card issued by a Construction Skills Certification Scheme (CSCS) affiliated organisation; or</li><li>○ Members of the IoP Register of Plumbers</li></ul>	
	In rare cases where it was not possible to demonstrate any of the above qualifications, a portfolio of work approach would be acceptable. As a minimum, this should include: <ul style="list-style-type: none"><li>○ Demonstration of appropriate range of plumbing work completed;</li><li>○ Minimum of one job to be audited; and</li><li>○ Suitable reference(s) covering last 3 years.</li></ul>	Members accepted the need for this exception to recognised plumbing qualifications in rare cases, for example where a contractor had not followed a traditional qualification route.

<b>Water Regulations Test</b>	<p>Applicants must have a Water Regulations certificate from:</p> <ul style="list-style-type: none"> <li>○ BPEC – WRAS; or</li> <li>○ City and Guilds; or</li> <li>○ Equivalent water company test</li> </ul>	<p>Agreed as an interim arrangement. Members agreed to work towards a common standard of test through the ACSWG.</p> <p>Details of water company tests need to be made publicly available.</p>
	<p>In plumbing companies a minimum ratio (1:5) of plumbers with a Regulations qualification is acceptable, provided the installer is closely supervised by the Approved Contractor, prior to issuing the contractor's certificates for work carried out.</p>	<p>Aim to improve ratios in the longer term: Matter for the ACSWG.</p>
<b>A) Inspection of plumbing work</b>	<p>Schemes must include a physical inspection mechanism to ensure that standards are upheld and that the Regulations are being adhered to.</p>	<p>Precise details of this requirement are to be more clearly agreed within the remit of the ACSWG</p>
<b>B) Audit of scheme members</b>	<p>Schemes must include a requirement to review the compliance of their own members with the individual terms of their scheme, including those terms which pertain to the new national Minimum Entrance requirements.</p>	
<b>Insurance</b>	<p>Approved Contractors need to possess:</p> <ul style="list-style-type: none"> <li>○ Public Liability insurance (min. £2m);</li> <li>○ where appropriate, Employer's Liability insurance at the statutory level.</li> </ul>	

<p><b>Complaints procedure</b></p>	<p>Schemes must have in place a mechanism to address customer complaints related to non-compliance with the Regulations, and to ensure that contraventions are dealt with.</p> <p>As a minimum, this should include the following elements:</p> <ul style="list-style-type: none"> <li>○ all Regulations compliance complaints to be investigated;</li> <li>○ plumber/company to rectify any non-compliance;</li> <li>○ defined procedure for dealing with complaints including an appeals and disciplinary procedure</li> <li>○ sanctions available – these could include: more frequent auditing, removal from the scheme for repeated infringements.</li> </ul>	<p>Details of the mechanism should be defined in writing and available on request.</p>
<p><b>Ongoing training and development</b></p>	<p>Each scheme must have a declared policy on what they will provide in the way of ongoing training and development. As a minimum, this should include regular communication with membership to provide information/updates on the Regulations, access to training, seminars, etc.</p>	<p>Details should be defined in writing and available on request.</p>
<p><b>Identification</b></p>	<p>Approved Contractors must have a credible means of identification, either being:</p> <ul style="list-style-type: none"> <li>○ photo ID Card showing Approved Contractor status; or</li> <li>○ equivalent means of identification, such as an Approved Contractor certificate to be used in conjunction with existing ID.</li> </ul> <p>This needs to be sufficient to identify individual and company members and include a mechanism to ensure ID remains current.</p>	

## **Annex B**

### **Terms of Reference for the Approved Contractor Scheme Working Group**

#### Aim

To oversee and steer strategy on Approved Contractor schemes in a co-ordinated manner and to work towards improving plumbing standards within schemes by sharing information and good practice. To oversee the development of schemes and make appropriate recommendations to Defra and the Welsh Assembly Government.

#### Terms of Reference

1. The group will be formed from representatives of the following organisations:
  - o Each Approved Contractor scheme
  - o WRAS
  - o Defra
  - o National Association of Plumbing Teachers
  - o ODPM/Building Regulations team
  - o DTI/Quality Mark team
  - o Other relevant organisations as needs arise
2. The group will report and make recommendations to Defra and the Welsh Assembly Government in accordance with its Terms of Reference.
3. The group will consider the harmonisation of the Water Regulations Test used as entrance criteria to Approved Contractor schemes by an agreed date. It will also continue to assess progress in improving the ratio of certificate holders: non certificate holders within plumbing companies.
4. The group will consider the introduction of sub-sector schemes to the Approved Contractor scheme and ensure that all ACSWG members are content with the arrangements for such specialised groups.
5. The group will be a forum to share information and discuss good practice amongst schemes, working to improve schemes in a harmonized manner and promote their uptake amongst both plumbers and consumers. This will include a review of the benefits structure.
6. The group will examine the nature of the current inspection regime and consider how this should progress in the future in a satisfactory manner across all schemes. This will include a consideration of inspection frequency and the suitability of moving towards a risk assessment approach.
7. The group will monitor compliance with the terms of the Approved Contractor Schemes by ensuring all Approved Contractors are proficient to the agreed, tested standard and to work towards ensuring all Contractors pass a test in the Water Supply (Water Fittings) Regulations by a specified date.
8. The group will review the development of Approved Contractor schemes in view of other related schemes, including Quality Mark and self-certification under the Building Regulations.

## **Annex C**

### **Organisations represented at the Notification Forum**

#### Water industry

Wessex Water/WRAS Technical Committee Chairman  
Thames Water  
United Utilities  
Anglian Water  
Northumbrian Water  
South Staffordshire Water  
Three Valleys Water  
South East Water  
South West Water  
Cambridge Water  
Sutton & East Surrey Water

#### Other sectors

Institute of Plumbing (IoP)  
Scottish & Northern Ireland Plumbing Employers Federation (SNIPEF)  
Environment Agency  
Drinking Water Inspectorate (DWI)  
Association of Building Engineers (ABE)  
British Water  
British Automatic Sprinkler Association  
Arrow Valves  
British Soft Drinks Association  
Coca-Cola Enterprises  
National Caravan Council  
NHS Estates  
House Builders Federation

## Annex D

### Initial view of WRAC on changes to the notification requirement

#### Notification

5. - (1) Subject to paragraph (2), any person who proposes to install a water fitting in connection with any of the operations listed in the Table below-

(a) shall give notice to the water undertaker that he proposes to begin work;

(b) shall not begin that work without the consent of that undertaker which shall not be withheld unreasonably; and

(c) shall comply with any conditions to which the undertaker's consent is subject.

#### TABLE

1. The erection of a building or other structure, not being a pond or swimming pool. <b>Modify to exclude premises where water is only for domestic purposes, on the basis that these are generally low risk and water companies already receive requests for new connections.</b>
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2. The extension or alteration of a water system on any premises other than a house.
--

3. A material change of use of any premises.
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4. The installation of-
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(a) a bath having a capacity, as measured to the centre line of overflow, of more than 230 litres; **Delete.**

(b) a bidet with an ascending spray or flexible hose;

(c) a single shower unit (which may consist of one or more shower heads within a single unit), not being a drench shower installed for reasons of safety or health, connected directly or indirectly to a supply pipe which is of a type specified by the regulator; **Delete or define.**

(d) a pump or booster drawing more than 12 litres per minute, connected directly or indirectly to a supply pipe; **Clarify intention of 'indirectly'.**

(e) a unit which incorporates reverse osmosis;

(f) a water treatment unit which produces a waste water discharge or which requires the use of water for regeneration or cleaning;

(g) a reduced pressure zone valve assembly or other mechanical device for protection against a fluid which is in fluid category 4 or 5;

(h) a garden watering system unless designed to be operated by hand; or

(i) any water system laid outside a building and either less than 750mm or more than 1350mm below ground level.

**Add: domestic fire sprinklers and recycled water systems, as well as installations on contaminated land if change to item 1 is adopted.**

5. The construction of a pond or swimming pool with a capacity greater than 10,000 litres which is designed to be replenished by automatic means and is to be filled with water supplied by a water undertaker.

(2) This regulation does not apply to the installation by an approved contractor of a water fitting falling within paragraph 2, 4(b) or 4(g) in the Table. **Further consideration is needed to review how this clause could be modified to provide a greater incentive for plumbers to become Approved Contractors.**

(3) The notice required by paragraph (1) shall include or be accompanied by-

(a) the name and address of the person giving the notice, and (if different) the name and address of the person on whom notice may be served under paragraph (4) below;

(b) a description of the proposed work or material change of use, and

(c) particulars of the location of the premises to which the proposal relates, and the use or intended use of those premises;

(d) except in the case of a fitting falling within paragraph (1)(d)(iii)-(v) or (1)(e) above-

(i) a plan of those parts of the premises to which the proposal relates, and

(ii) a diagram showing the pipework and fitting to be installed; and

**There may be merit in modifying (i) and (ii) to define the (more limited) circumstances when plans and diagrams would need to be provided.**

(e) where the work is to be carried out by an approved contractor, the name of the contractor.

(4) The water undertaker may withhold consent required under paragraph (1), or grant it subject to conditions, by a notice given before the expiry of the period of ten working days commencing with the day on which notice under that paragraph was given.

(5) If no notice is given by the water undertaker within the period mentioned in paragraph (4), the consent required under paragraph (1) shall be deemed to have been granted unconditionally.

**Annex E**  
**Glossary of terms for recommendation 7**

Accreditation	Confirmation that a test facility is sufficient to test products against national standards or product specifications.
Attestation of conformity	A level or system of confirmation deemed necessary to demonstrate that a product complies with national standards. (e.g. attestation of conformity to the WC specification is through Factory Production Control, as set out in the Construction Products Directive)
Audit	Inspection of a test facility to ensure it is sufficient to test products to national standards.
Factory Production Control	A quality control procedure that supports self-certification by manufacturers that their products comply with national standards or product specifications.
Product certification	Confirmation – either independent or from the manufacturer – that a product meets national standards.
Self certification	Declaration by manufacturers that a product complies with national standards or product specifications.
Test facility	Facility for the purpose of testing products against national standards or product specifications.
Third party approval (or accreditation)	Confirmation by an independent party that a product, or test facility, is sufficient to meet, or test to, national standards or product specifications.