

Equality Analysis - Enforcement following non-compliance with notice

Date of EqA	05/01/17	EqA Lead Officer	Vicki Dawson
Is this a change to service delivery?			Yes
Does the policy/strategy/service affect our workforce or employment practices?			No
Is this a financial or budget decision that may affect any of the protected groups differently?			No
Could this policy or service and the way we deliver it affect some groups in society differently?			No
Does this policy/strategy/service affect service users or the wider community?			Yes
Low Impact			
Summary Statement	<p>Background</p> <p>One of the functions of the Environmental Health Service is to regulate private water supplies within the district. A private supply of water may be from a spring, well or borehole and is under the control of private individuals or companies. Where such water supplies more than one dwelling, or a commercial premises, then the Council has duties and powers to make sure it is wholesome, sufficient and safe to use. To do this Environmental Health Officers sample the water and carry out risk assessments of supplies. Where problems are identified, notices can be served on the persons responsible for the provision of the water, requiring them to carry out work needed to improve the supply.</p> <p>This report concerns the private water supply in Allowenshay where a notice was served requiring works to improve the supply. That work has not been completed and the Council now needs to consider what, if any, further action it should take. This could include informal negotiations with the relevant persons or carrying out the works itself.</p> <p>Options identified:</p> <p>Option 1</p> <p>All parties agree that work to the infrastructure of the private water supply is required. The main point of disagreement is regarding who should pay for the work. This is not a matter for the Council to resolve. The service of the Notice does not</p>		

preclude Rutter Bros from recovering costs from other parties, or apportioning them elsewhere.

Rutter Bros legal representatives have contacted residents setting out their understanding of the legal position and their responsibilities. Essentially they are inviting residents to become part of the Allowenshay Water Company project, and to contribute to the costs and agree to requirements regarding the future of that supply.

The Council could therefore consider that it has made all reasonable efforts to resolve the matter and it should now be left as a private matter between the residents and Rutter Bros.

Option 2

Under section 82 of the Water Industry Act 1991, the Council may carry out the work required by the Notice themselves. Any costs incurred can be recovered from the person who failed to do the work, in this case Rutter Bros.

The Notice requires that the works identified in the asset condition are carried out. This confirmed that the pipework on the spring supply required replacement. The options presenting themselves therefore were, to either replace the pipework from the spring, or to provide new pipework from the borehole and discontinue use of the spring supply. The pipework installed by the Allowenshay Water Company has gone a long way to fulfilling the requirements of the latter option. Clearly though, only properties who have contributed to, and joined this scheme have been connected to the supply.

The Council is currently of the opinion that we are unable to legally connect villagers to the supply owned and provided by AWC without further research and formal processes to allow that to happen. The formal processes may be service of further notices and/or compulsory purchase of land and/or property which would be at significant expense.

The only option for works to be carried out by the Council would therefore be replacement of the original pipework to the spring or provision of further distribution pipework from the borehole around the village, possibly requiring provision of a new borehole. It is estimated that the cost doing this would be in excess of £200,000 based on the works that have been carried out. If this option is pursued a detailed specification and accurate quote would be required.

Option 3

The Council could offer a subsidised low interest loan (up to £15,000), via Wessex Home Loans, to householders for

them to use towards the cost of connecting to AWC supply. The cost of connection is believed to be approximately £3,800 per household. There may be legal costs for householders regarding changes to property deeds and private agreements between the parties involved. Householders may also need to agree to ongoing maintenance payments.

From the letter that has been sent out to residents by Rutter Bros legal representatives it is also understood that they would be required to make a payment towards the cost of work already undertaken. The amount of this payment is not currently known.

Option 4

There is a possible further enforcement action available to the Council, given the findings of the asset condition survey regarding coal tar lining of the pipework. Given this, and the general condition of the pipework, a further Notice under regulation 18 of the Private Water Supply (England) Regulations 2016 could be served. This is used where water intended for human consumption constitutes a potential danger to health. The notice would be served on one or all relevant persons in the same way as the S80 Notice referred to above, and it would require prohibition or restriction of the use of the supply and appropriate works to improve the supply. Non-compliance with such a notice would be an offence and the person served with the Notice would be liable to prosecution.

Whilst this option would provide the Council with the possibility to pursue a legal case for non-compliance with a notice, if that situation arose, it would otherwise seem to be repeating what has already been done, and would potentially just serve to cause further delay to any resolution.

Conclusion

Option 3 is recommended. The provision of a sufficient and wholesome water supply is needed by all groups and no individual or group of individuals would be unfairly impacted by this decision. To ensure all groups receive the same level of support, loans will be made available to all parties, including those who have already contributed to the Allowenshay Water Company.

**Equalities Officer
Approval
Comments**

Jo Morgan

Status

Approved