



Department
for Environment
Food & Rural Affairs

POST-IMPLEMENTATION REVIEW THE BATHING WATER REGULATIONS 2013

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Contents

Introduction	4
Background.....	4
Scope of the Post Implementation Review (PIR)	5
Research and Analysis	6
Conclusions	7
Responses to telephone interviews/questionnaire	8
List of Stakeholders who responded	9

Post Implementation Review: Bathing Water Regulations 2013

Introduction

1. This document provides an overview of the Post Implementation Review ('PIR') of the Bathing Water Regulations 2013 (the 'Regulations'), which is attached at Annex 2. The PIR focuses on the parts of the Regulations which:
 - a. place a duty on local authorities to display signage at privately owned bathing waters; and
 - b. require such signage to include classification symbols (which are used at all bathing waters in Europe).
2. The review covers England only and considers:
 - a. the objectives intended to be achieved by the Regulations;
 - b. the extent to which those objectives have been achieved;
 - c. whether there are any unintended consequences from the changes made to the Regulations; and
 - d. whether the objectives could be achieved in a "less burdensome" way.

Background

3. The Regulations implement the Bathing Water Directive¹ in England ("the Directive"). Their purpose is to protect public health from faecal pollution in coastal and inland waters that are expected to be used by a large number of bathers. They do this by setting standards for *E.coli* and intestinal enterococci in the water and monitoring for compliance with these standards during the bathing season (which is between 15 May and 30 September each year).
4. The Regulations revoked and replaced, with minor changes, the Bathing Water Regulations 2008 ("2008 Regulations").

¹Directive 2006/7/EC of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC

Scope of the Post Implementation Review (PIR)

5. The 2008 Regulations transposed the water quality parameters and standards, assessment and classification methods, pollution management measures and implementing requirements set out in the Directive. These technical requirements cannot be separated from the 2013 Regulations. We note that data on compliance with the water quality standards set by the Directive demonstrate that the Regulations are achieving their overall goal of improving water quality and thus protecting bathers' health. The Environment Agency ("EA") assessed that only 81.7% of designated bathing waters in England would have been classified as Good or Excellent if the current standards had been in force in 2007 and 7.3% would have been classified as Poor. In 2017, 92% were classified as Good or Excellent and 1.7% were classified as Poor. This indicates that the overall Regulations have succeeded in driving improvements to bathing water quality.
6. When the Regulations were made, they were designed to implement, in part, the following policy objectives:
 - a. To transfer the responsibility for private owners of designated bathing waters to: (i) inform the public about the water quality at the site; and (ii) respond to pollution incidents. It was felt that this was necessary to counter the significant risk that information would not be provided at a number of privately owned bathing waters for a range of reasons, including the cost and burden to small businesses and to the private individuals responsible for the bathing water. In the light of this, the approach in the Regulations was changed to transfer this responsibility to local authorities.

Defra provides funding to local authorities in line with its obligations in Section 31 of the Local Government Act 2003 to assist with the cost of producing and maintaining bathing water signage.
 - b. To include classification symbols on signs to inform the public whether the water quality at the bathing water is Excellent, Good, Sufficient or Poor. At bathing waters which only held the "Poor" classification, the information would also contain advice against bathing, the "advice against bathing" symbol, information on the pollution sources and action being taken to address the pollution. These symbols are set by the European Union and used at all designated bathing waters in Europe.
7. It is these policy objectives which were the focus of the Impact Assessment that accompanied the 2013 Regulations, and are therefore the focus of the PIR. The PIR considers the effectiveness of the Regulations in meeting these policy objectives. This is in line with government guidance² on PIRs, and given the Regulations are not high profile, contentious, or have a substantial impact on

² Guide for Conducting Post Implementation Reviews V6, Revised Draft August 2015

businesses and/or the voluntary sector, a light touch PIR has been applied to the analysis.

8. The Impact Assessment for the Regulations in 2013 explained that no impacts on business were expected (i.e. the Equivalent Annual Net Direct Cost to Business was zero). The review has confirmed this assessment. As the impacts are smaller than the threshold of +/-£5m, this PIR has not been submitted to the Regulatory Policy Committee for an opinion.

Research and Analysis

9. In order to answer the main questions of the PIR, Defra approached:
 - a. local authorities who were directly affected by the changes to the Regulations (e.g. where they had privately owned bathing waters within their jurisdiction);
 - b. private bathing water owners;
 - c. environmental NGOs;
 - d. Water UK Marine Network; and
 - e. Visit Cornwall.
10. A full list of all respondents can be found together with a summary of responses at Annex 2.
11. The review was carried out through 15 telephone interviews and 3 email exchanges.
12. In response to the extent to which the objectives have been achieved, the majority of respondents thought that local authorities were the right bodies to be responsible for providing bathing water information signage, as this was considered to be the best way to achieve a consistent approach. The classification symbols were generally considered to be clear and easy to understand. Star ratings and pictograms were regarded as a good way of communicating information.
13. The EA's signage audit taken during the 2017 bathing season showed that out of 413 bathing waters, 242 had signs showing all the required information on display, 126 had incomplete information and 45 had no bathing water signage. The 2018 audit shows that out of 422 bathing waters, 320 bathing waters have all the required information in place, 96 have incomplete signage and only 6 appear to have no relevant signage at all. This indicates that compliance with the public information requirement is improving. From 2018 the EA has also introduced a signage generator that bathing water managers can use to create a sign. This is designed to further alleviate the burden on local authorities who are struggling to meet their statutory requirements and to help to improve compliance in the future.
14. In response to whether there have been any unintended consequences from the changes made to the Regulations, most respondents had not noticed any.

However, it was acknowledged that the impact of the changes is greater for councils covering a large geographic area, especially where there are bathing waters within that area that are covered by the Short Term Pollution system³.

15. With regards to whether the objectives could have been achieved in a “less burdensome” way, the signage situation is improving, and that further efforts have been made to facilitate it (e.g. by the EA introducing the signage generator). This suggests that the current method is appropriate, and should be given more time to bed in before further adjustments to the regulations are considered.

Conclusions

16. Overall the changes introduced by the Regulations to meet the above-mentioned policy objectives have been considered successful and proportionate. It is acknowledged that the impact of the modifications is greater for councils. For some local authorities with bathing waters covered by the Short Term Pollution system additional time, and therefore cost, is involved in travelling to beaches to put up daily notices when pollution is predicted. However, the number of correct signs at bathing waters is increasing each year and the EA’s signage generator is helping to improve this objective even further, saving time for local authorities.

³ “Short term pollution” is defined in the Regulations as contamination by intestinal enterococci or E. coli where the EA has identified the cause and does not expect the contamination to affect bathing water quality for more than approximately 72 hours.

Responses to telephone interviews/questionnaire

Question 1: Do you regard the requirement to provide public information on water quality and pollution sources at bathing waters as a positive thing?

All respondents were in favour of the requirement to provide public information on water quality and pollution sources, although some commented that visitors spend little time reading signs.

Question 2: Do you consider it more appropriate for the local authority or landowner to provide the required information at privately owned sites?

The majority of respondents thought that local authorities should be responsible for providing bathing water information signage, as this was felt to be the best way to achieve a consistent approach. The classification symbols were generally considered clear and easy to understand.

Three local authorities said that the landowner for the relevant bathing water should be responsible, although they recognised that the owner may need support and advice from the council.

Question 3: Can you suggest another way the required information could be provided to the public?

The majority of respondents thought it important to have access to online information before making a decision about visiting the beach. The EA data explorer website, the Good Beach Guide, the Safer Seas Service, BeachWise (in the south west), the Visit Cornwall online map and councils' or beach owners' own websites were all cited as good examples. Social media was also suggested as another way to publicise water quality information.

It was also generally regarded as important to have water quality information available on site as not everybody either owns a smartphone or would take it down to the beach. Coloured flags was also another suggestion as a way of communicating water quality updates at the beach, although there is a risk that these could be confused with Royal National Lifeboat Institution (RNLI) safety flags.

Question 4: Have the Regulations led to any unintended consequences or costs?

Most respondents had not noticed any unintended consequences or costs. However, the impact is greater for councils with bathing waters covered by the Short Term Pollution system because additional time, and therefore cost, is involved in travelling to beaches to put up daily notices when pollution is predicted. Some private beach owners also spend

extra time putting up pollution warning notices but this is not a requirement of the Regulations.

One respondent mentioned that a Poor classification and “advice against bathing” symbol may have a negative economic impact on local businesses if people are deterred from visiting the beach but we have no evidence to support this.

Question 5: Do you think the classification symbols are a clear way of giving information about water quality?

The classification symbols were generally considered clear and easy to understand. Star ratings and pictograms were regarded as a good way of communicating information.

List of Stakeholders who responded

Local Authorities:

Arun District Council

Cornwall Council

Isle of Wight Council

North Devon Council

Northumberland Council

Purbeck District Council

South Hams District Council

South Lakeland District Council

West Dorset District Council and Weymouth & Portland Borough Council

Private Beach Owners

East Looe Town Trust

The Flete Estate

Three private bathing water owners responded but preferred not to be named

NGOs

Marine Conservation Society

Surfers Against Sewage

Others

Visit Cornwall

Water UK Marine Network