
THE MONITORING & REGULATION OF PRIVATE WATER SUPPLIES IN THE SCOTTISH BORDERS 2018 – 2022

Report by Service Director Regulatory

EXECUTIVE COMMITTEE

19 June 2018

1 PURPOSE AND SUMMARY

- 1.1 This report is to update the Executive on the changes arising from new legislation enacted in October 2017 in relation to private water supplies (PWS) under the '*Water Intended for Human Consumption (Private Supplies)(Scotland) Regulations 2017*'.**
- 1.2 The report seeks Executive approval for changes to the charging regime for private water supplies permitted under the new regulations which are essential to fund the increased level of resource that will be required for the Council to be able to meet the statutory requirements of the legislation.

2 RECOMMENDATIONS

- 2.1 It is recommended that the Executive Committee notes**
 - (a) the impacts of the legislative changes on the Council's obligations to monitor and regulate private water supplies in its area and the requirement for the council to be fully compliant with the legislation;**
 - (b) the additional workload and resource requirements that will be incurred as a result of implementing the legislation and;**
 - (c) approves the proposed changes to the Fees & Charges regime in Appendix III to this report, as permitted by the new legislation.**

3 BACKGROUND

- 3.1 Private Water Supplies (PWS) are those that are not provided by a statutory provider (i.e. Scottish Water). Nearly 4% of the Scottish population use a private supply as their water supply and many others may use a private supply while holidaying in remote parts of the country such as the Borders. In the Scottish Borders, 13% of the population (almost 15,000 residents) are served by a private supply. There are approximately 1,600 private water supplies in the Scottish Borders serving almost 4,000 domestic properties in the area. Private water supplies also serve a number of commercial properties in the Borders.
- 3.2 Whilst the responsibility for PWS rests with owners and users of the supplies, local authorities have long-standing statutory duties to regulate and monitor PWS under the supervision of the Drinking Water Quality Regulator (DWQR) who acts on behalf of Scottish Ministers.
- 3.3 These duties include the obligation to sample and report on the test results of all regulated supplies on at least an annual basis, carry out a risk assessment of all regulated supplies and take enforcement action where a supply is a risk to public health or does not meet the standards required.
- 3.4 In October 2017, the existing Private Water Supplies (Scotland) Regulations 2006 were superseded by the Water Intended for Human Consumption (Private Supplies)(Scotland) Regulations 2017.

4 LEGISLATIVE POSITION

- 4.1 The main change in the new regulations is that supplies will no longer be classified as Type A and Type B supplies. The regulations apply to what is now defined as a '*regulated*' supply (i.e. any supply which supplies 50 or more persons or more than 10m³ per day or is used in a commercial or public activity). Supplies previously classified as Type B supplies will now be known as '*exempt*' supplies. Exempt supplies are still covered by the 2006 Regulations however, these supplies are due to be reviewed by the DWQR in the near future.
- 4.2 Although the new regulations came into force in October 2017, the DWQR has been clear that it does not expect local authorities to be immediately compliant with the legislation and anticipates a gradual implementation by January 2022.

5 IMPACT OF THE NEW LEGISLATION

- 5.1 A review carried out by Protective Services has identified that the main impact associated with the implementation of the new regulations is the significant increase in the number of private water supplies which will require annual monitoring visits.
- 5.2 A regulated supply is defined as any supply which supplies 50 or more persons or more than 10m³ per day or is used in a commercial or public activity.
- 5.3 Guidance issued by the DWQR advises that '*Commercial...activity should be regarded as any commercial...premises where a private supply is used for human consumption. This includes all food production undertakings...*

*caravan sites, campsites, hotel and bed and breakfast establishments, holiday let accommodation, **domestic rented premises (including those listed on the landlord register and from registered social landlords), church or village halls, hospitals.***

- 5.4 Under the previous regulations, domestic rented premises were not considered to be commercial activity. These supplies were classified as Type B supplies and only monitored when requested to do so. Due to this being a change in advice rather than legislation, the Scottish Government has offered no additional funding to local authorities to implement the regulations.
- 5.5 It is anticipated that the number of private water supplies requiring annual monitoring will increase from approximately **150** Type A supplies under the 2006 Regulations to approximately **1000** regulated supplies under the 2017 Regulations.
- 5.6 In addition to the annual monitoring visits required, all regulated supplies require to be risk assessed by January 2022 and the risk assessment for every supply requires to be reviewed at least every 5 years. The outcome of the risk assessments require to be reported to all consumers on the supply to enable them to make decisions about how the supply is managed and maintained.
- 5.7 Approximately 50-60% of samples taken during monitoring visits fail to meet the legislative standard of 'wholesomeness' and therefore these supplies require additional resource time to investigate and secure compliance.
- 5.8 Scottish Borders Council currently administers and issues grant on behalf of the Scottish Government to assist with the improvements to a private supply. Currently every property served by a private supply is entitled to £800 towards the cost of upgrading supplies. It is anticipated that a knock-on effect of increased sample failures will result in an increase in grant enquiries.

6 RESOURCE REQUIREMENTS

- 6.1 In order to estimate the resource required to meet the statutory obligations placed on SBC by the new regulations, Protective Services designed a scenario based on 1000 regulated private supplies. Since the introduction of the regulations, over 500 regulated supplies have been identified through the landlord register. Officers have also found a number of regulated supplies which are not on the register and in addition, over 300 farms require to be reviewed to determine whether they are a commercial activity.
- 6.2 Work was then carried out to estimate the weekly workload of an officer and targets that could be achieved. Further information is available in Appendix I of this report. It is estimated that a total of 10 officers (8 operational / 2 non-operational) are required to meet the expectations of the new regulations.

- 6.3 Previously, all monitoring and regulation of private water supplies was carried out by qualified Environmental Health Officers (EHOs). A review of competency and capacity into this concluded that although this area of regulation should be EHO led. The majority of operational activity (and some areas of enforcement) can be carried out by technical staff recruited with the right skills and attributes.
- 6.4 In light of this review, it has been determined that the PWS Team should comprise of:
- 1 Lead EHO - This role requires a qualified Environmental Health Officer to have a well-developed expertise in PWS and in particular, the legislative requirements that cover the functions. The role involves partial supervision of other team members in day to day activities. The role also forms a key relationship with the DWQR, local / national Liaison Groups and contractors such as Scottish Water. This role has minimal case load management and focuses on escalated / difficult cases, procedures and policy development.
 - 2 Technical Officers - This role is focussed on day to day operational activities such as sampling, risk assessment and Grant administration. It is envisioned that 2 Technical Officers will each lead an area 'team' and assist the Lead EHO in monitoring workload targets, advising technical assistants and undertaking enforcement action where necessary.
 - 6 Technical Assistants - The main focus of this role is sampling and risk assessment of private supplies as well as grant administration. This role does not have enforcement responsibilities which will be escalated to Technical Officers and the Lead EHO where required. It is envisioned that there will be three technical officers in each 'area' team under the support and guidance of a Technical Officer.
 - 1 Information Support Officer - PWS operations requires the processing of large volumes of data and information. The PWS register contains over 40 columns of information which is updated on a daily basis. A time management exercise which took place in 2014 revealed that just over 50% of operational officer time was spent on administrative duties. Further analysis showed that although some of this administrative work was necessary (such as updating case notes, writing up risk assessments and sending letters, notifications etc.), a large proportion of the administrative tasks are more focussed on data and information management (e.g. keeping the register updated, processing grant applications, inputting sample results etc.). This process requires in depth knowledge of PWS policies and procedures and is beyond competencies required of clerical officers in Business Support. It is therefore proposed that a new post is created to ensure that the monitoring and regulation of PWS is efficient and productive. This role will also provide much needed support to the Lead EHO in preparing monthly and annual reports, database

management and updating policy and procedures.

It is anticipated that the staffing numbers will increase gradually over the next 5 years in line with workload demands and the number of regulated supplies. The proposed staffing changes from 2018-2022 are given in Appendix II.

7 PROPOSED CHARGING STRUCTURE

- 7.1 The Scottish Government has been clear that no extra funding will be made available to local authorities to implement the new legislation. However, the new regulations do allow local authorities to charge a person for expenses reasonably incurred:
- for collecting water samples
 - for the analysis of water samples
 - for carrying out a risk assessment
 - For reviewing a risk assessment
- 7.2 A charging mechanism was available under the previous 2006 regulations, however these charges were capped at statutory maximums. Protective Services have reviewed the fees and charges and the proposed charging structure is given in Appendix III.
- 7.3 Visit fees of £70 have remained the same as before and costs associated with courier and laboratory services will also remain the same. The most significant change is the introduction of an hourly rate of £49.03 for the investigation time associated with sample failures and also for undertaking a risk assessment of a supply and writing up a report of the risk assessment.
- 7.3 The hourly rate has been extrapolated from guidance issued by the Association of Chief Trading Standards Officers and accounts for costs associated with salary, tax, NI contributions, pension contributions, IT provision, office accommodation and other costs involved in supporting council services.

8 INCOME GENERATION AND EXPENDITURE

- 8.1 In order to examine the financial impacts of the proposed staffing changes, a costings model was developed and is contained in Appendix IV. The model is based on a scenario of there being 1000 regulated private water supplies in the Scottish Borders.
- 8.2 The model takes account of the expected annual workload undertaken by an operational officer (sampling, investigations, risk assessments and grant administration) and the income that will be generated by that workload based on the proposed fees and charges.
- 8.3 The model also takes account of all staffing costs (including posts that do not generate income) and additional costs of office accommodation, training and equipment etc.

- 8.4 The graph in Appendix V illustrates the anticipated income for 2018-2022 which is well below the overall annual costs of running the service however, the income generated covers the cost of the additional staffing requirements with the exception of 2020/21 where the number of risk assessments decreases. However, the likelihood is that the workload can be more evenly spread to mitigate this loss of income.

9 IMPLICATIONS

9.1 Financial

- (a) The only way that budget can be provided for SBC to fulfil its statutory responsibilities under the new legislation is by delivering an income stream that will cover the cost of providing the new enhanced service that is expected of a Local Authority.
- (b) Failure to implement a revised Fees & Charges policy, as permitted under the new legislation could create a significant revenue budget pressure or leave the Council unable to fully execute its statutory responsibilities.

9.2 Risks and Mitigation

In the development of a strategy to implement the 2017 regulations, a number of risks have been identified;

- (a) All PWS activity undertaken by SBC is reported annually to the DWQR. The information provided is published in the DWQR Annual Report. Failure to meet statutory obligations will result in a directive being issued to the Council by the DWQR. The DWQR will then inform the relevant cabinet secretary who can also issue a directive to the Council.
- (b) Assumptions have been made in the number of regulated supplies that will be identified however, the costings model can be adjusted to illustrate different supply number scenarios which will then inform the resource levels required. Therefore, if supply numbers are significantly more or less than 1000, adjustments to the recruitment process can be made accordingly.
- (c) Assumptions have also been made in terms of workload and productivity of operational officers. This will be mitigated by ensuring that the recruitment process captures the key skills and attributes required. The costings model also allows for a 6 month training period for each officer to ensure competency levels are met and a sufficient management structure is in place to monitor performance.
- (d) The issue of the UK leaving the European Union leaves a level of uncertainty particularly where legislation such as the PWS legislation is EU derived. Grant funding is sourced from the EU and therefore it is not clear if grant funding will remain post-Brexit.

- (e) The 2006 regulation still remain in place for exempted supplies. The DWQR has indicated that these regulations will be reviewed in the coming year and there is the possibility that there will be additional monitoring in relation to exempt supplies in the coming years. If this is the case, the current strategy and costing will require to be reviewed.

9.3 **Equalities**

It is anticipated that there are no adverse impact due to race, disability, gender, age, sexual orientation or religion/belief arising from the proposals in this report.

9.4 **Acting Sustainably**

There are no direct economic, social or environmental issues with this report.

9.5 **Carbon Management**

There are no direct carbon emissions impacts as a result of this monitoring report; however, there may be within individual projects and these will be identified and addressed as appropriate as part of their specific governance arrangements.

9.6 **Rural Proofing**

The effects of this legislation are most likely to affect primarily rural areas where most private water supplies tend to be located. The new legislation will also bring benefits to the properties involved by ensure a wholesome water supply.

9.7 **Changes to the Scheme of Administration and Scheme of Delegation**

No changes to the Scheme of Administration or Delegation are required as a result of this report.

10 **CONSULTATION**

- 10.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Service Director HR and the Clerk to the Council are being consulted and any comments received will be reported verbally at the Committee Meeting.

Approved by

Brian Frater

Service Director Regulatory Services Signature

Author(s)

Name	Designation and Contact Number
Lynn Crothers	Principal Regulatory Services Officer

Background Papers: None.

Previous Minute Reference: None

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Lynn Crothers can also give information on other language translations as well as providing additional copies.

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ESTIMATED RESOURCE REQUIREMENTS

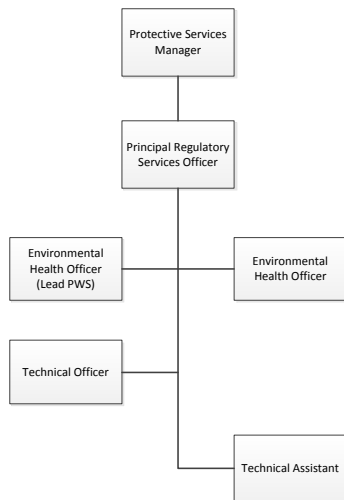
A – Resource Requirements

i	It is estimated that the number of regulated supplies will rise from 150 per year to approximately 1000 per year.		
ii	Each officer is expected to be operational for 46 weeks per year	1000 supplies / 46 weeks = 22	22 monitoring visits per week required to meet statutory requirement
iii	Each operational officer can reasonably expect to sample 2-3 supplies per week (NB. if no admin support then this will reduce).	22 visits per week / 3 visits per week per officer = 7.3	8 Officers will be required to meet statutory requirement
iv	Typical working week for an operational officer will comprise of:	2-3 monitoring visits (5 hrs)	
		1-2 Risk Assessment Visits (6 hrs)	
		1-2 Risk Assessment reports issued (6 hrs)	
		1-2 supply failure investigations (6 hrs)	
		1 Sample request (3hrs)	
		Grant Administration (4hrs)	

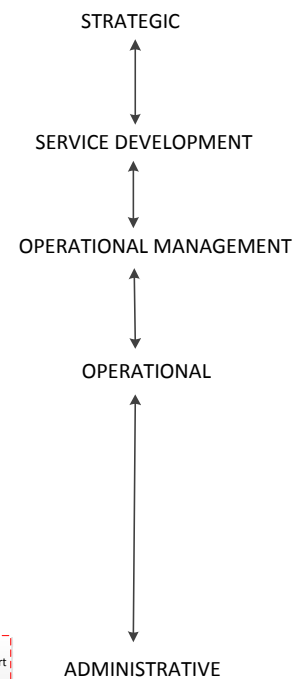
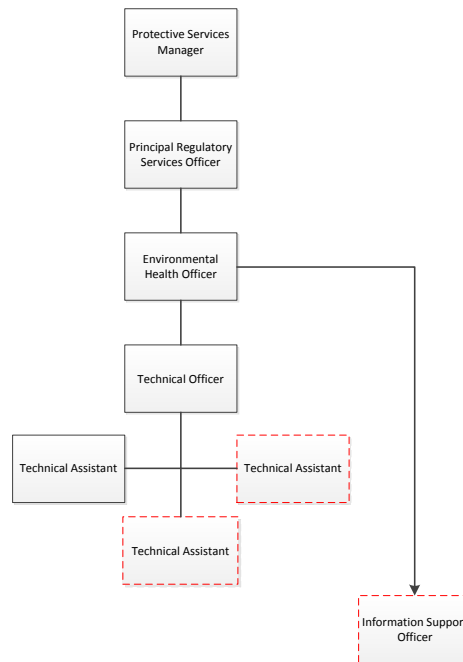
B – Proposed Resourcing Structure

i	Lead Environmental Health Officer	Grade 9	Existing Post
ii	2 x Technical Officers	Grade 8	1 Existing / 1 additional post reqd
iii	6 x Technical Assistants	Grade 7	1 Existing / 5 additional posts reqd
iv	Information Support Officer	Grade 6	1 additional post reqd

2017 - 18

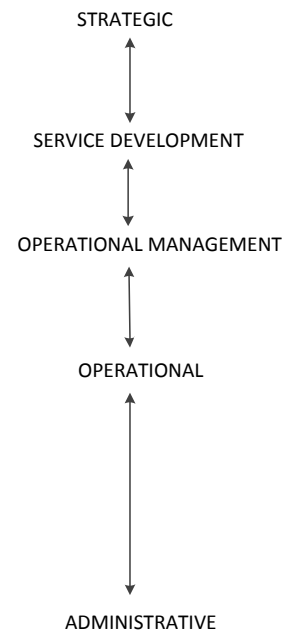
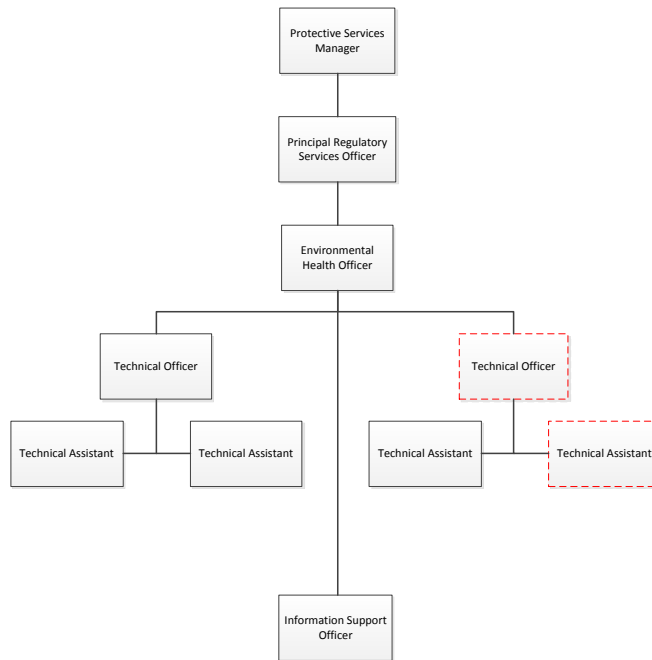


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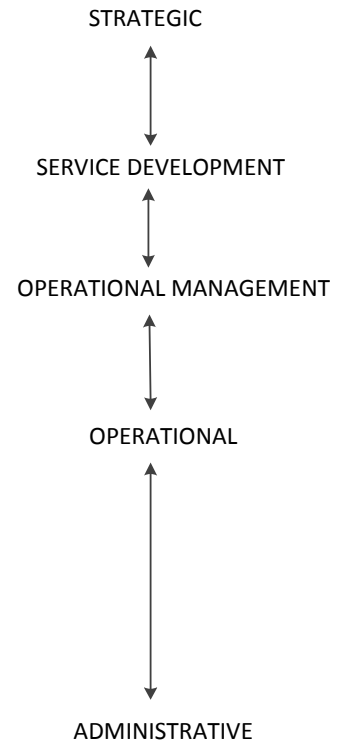
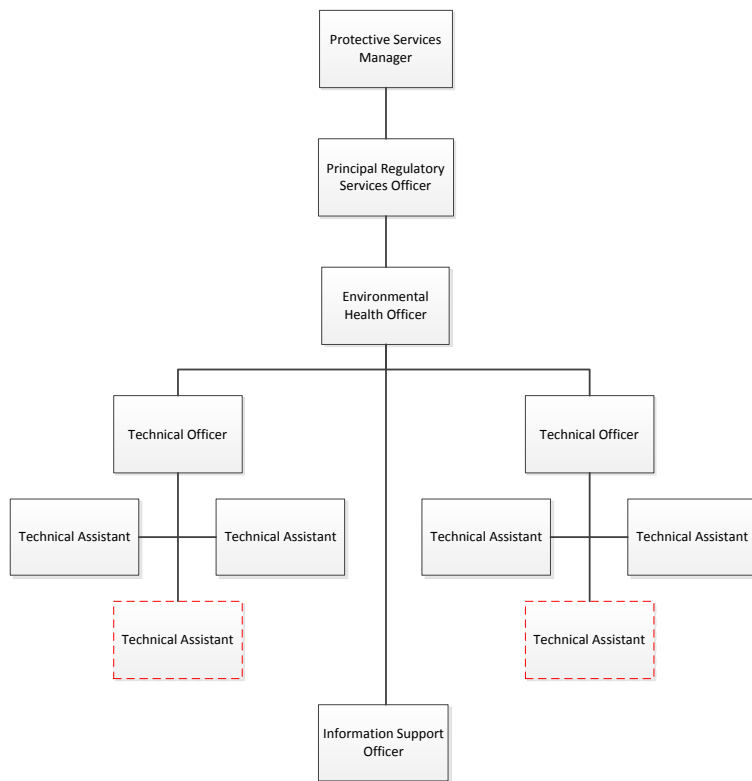
--- NEW POST

2019 - 20



NEW POST

2020 - 21



WATER SUPPLY MONITORING & SAMPLING	
A. REGULATED SUPPLIES	£
Sample Visit Fee* (<i>Initial sample visit</i>)	70 (single property) / 50 (per property for multiple properties)
Sample Visit Charge* (<i>Additional visits following initial visit</i>)	49.03 per hour
Analysis of Monitoring Parameters*	As per Scottish Water laboratory costs
Additional Monitoring	As per Scottish Water laboratory costs
Risk Assessment (<i>Preparatory work</i>)*	£70.00
Risk Assessment (<i>Site visit</i>)*	49.03 per hour up to a maximum of 4 hours
Risk Assessment (<i>Write up & issue of information</i>)*	49.03 per hour up to a maximum of 3 hours
Risk Assessment Review (<i>Preparatory work</i>)	£70.00
Risk Assessment Review (<i>Failure investigation</i>)	49.03 per hour up to a maximum of 3 hours
Risk Assessment Review (<i>5 yearly update or inadequacy</i>)	49.03 per hour up to a maximum of 3 hours
B. EXEMPT (Type B') SUPPLIES (2006 Regulations)	£
Sample Visit Fee*	70 (single property) / 50 (per property for multiple properties)
Analysis of Monitoring Parameters*	As per Scottish Water laboratory costs
Additional Monitoring	As per Scottish Water laboratory costs
Risk Assessment (<i>Preparatory work</i>)*	£70.00
Risk Assessment (<i>Site visit & report</i>)*	£50.00
C. EXEMPT 'Mains' SUPPLIES (Non Statutory Sampling)	£
Sample Visit Charge	£49.03 per hour
Analysis of Monitoring Parameters	as per Scottish Water laboratory costs
<p>*Where sampling of a water supply is undertaken for risk assessment or grant purposes, the above charges will not be made where the provisions of Scottish Government PWS Information Letter 2/2014: Financial Implications - Reimbursement claims under Section 47 of the Local Government in Scotland Act 2003 ("PWS Information Letter 2/2014") are appropriate and can be applied.</p>	

APPENDIX IV PWS COSTINGS MODEL

PWS INCOME ASSUMPTIONS (5)		2018/19			2019/20			2020/21			2021/22			2022/23		
Service	Unit	Charge	Number per Year	Gross Income £	Charge	Number per Year	Gross Income £	Charge	Number per Year	Gross Income £	Charge	Number per Year	Gross Income £	Charge	Number per Year	Gross Income £
Monitoring Visits	Number	70.00	184	12,880	72.10	460	33,166	74.26	644	47,825	76.49	736	56,297	78.79	1,000	78,786
Risk Assessment Visits Prep Visit	Number	70.00	138	9,660	72.10	345	24,875	74.26	483	35,869	76.49	234	17,899	78.79	150	11,818
Risk Assessment Reports	Hours	49.03	552	27,065	50.50	1,380	69,691	52.02	1,932	100,495	53.58	136	7,286	55.18	450	24,833
Supply Failure Investigations	Hours	49.03	368	18,043	50.50	920	46,461	52.02	1,288	66,997	53.58	1,472	78,864	55.18	2,000	110,367
Sample Requests	Number	70.00	60	4,200	72.10	60	4,326	74.26	60	4,456	76.49	60	4,589	78.79	60	4,727
Improvement Grant Work	Hours	49.03	368	18,043	50.50	920	46,461	52.02	1,288	66,997	53.58	1,472	78,864	55.18	2,000	110,367
				89,891			224,979			322,638			243,801			340,898

STAFFING COST ASSUMPTIONS		2018/19			2019/20			2020/21			2021/22			2022/23		
Position	Grade	FTE	Full Cost per FTE	Total Cost	FTE	Full Cost per FTE	Total Cost	FTE	Full Cost per FTE	Total Cost	FTE	Full Cost per FTE	Total Cost	FTE	Full Cost per FTE	Total Cost
Protective Services Manager	12	0.1	69,580	6,958	0.1	70,624	7,062	0.1	71,683	7,168	0.1	72,759	7,276	0.1	73,850	7,385
Principle Regulatory Services Officer	10	0.3	53,028	15,908	0.3	53,823	16,147	0.3	54,630	16,389	0.3	55,450	16,635	0.3	56,282	16,884
Environmental Health Officer	9	1.0	46,241	46,241	1.0	46,935	46,935	1.0	47,639	47,639	1.0	48,354	48,354	1.0	49,079	49,079
Technical Officer	8	1.0	38,497	38,497	2.0	39,074	78,149	2.0	39,660	79,321	2.0	40,255	80,511	2.0	40,859	81,718
Technical Assistants	7	2.0	33,619	67,238	4.0	34,123	136,492	6.0	34,635	207,810	6.0	35,154	210,927	6.0	35,682	214,091
Information Support Officer	6	0.5	28,979	14,490	1.0	29,414	29,414	1.0	29,855	29,855	1.0	30,303	30,303	1.0	30,758	30,758
Additional Staffing Costs				48,109			170,857			242,690			246,328			250,027
Total Staffing Cost		4.9		189,332	8.4		314,199	10.4		388,182	10.4		394,005	10.4		399,915

Wages & Salaries Inflation 1.5% 1.5% 1.5% 1.5% 1.5%

STAFFING WORKLOAD ASSUMPTIONS		2018/19			2019/20			2020/21			2021/22			2022/23		
Monitoring Visits	Visits		184			460			644			736			1,000	
Risk Assessments	Visits		138			345			483			234			150	
Risk Assessment Reports	Hours		552			1,380			1,932			136			450	
Supply Failure Investigations	Hours		368			920			1,288			1,472			2,000	
Sample Requests	Number		60			60			60			60			60	
Improvement Grants	Hours		368			920			0			1,472			2,000	

Other Costs																
Office Accommodation (1)			3,000			3,750			4,500			4,500			4,500	
Transport (2)			0			0			0			0			0	
Workwear (3)			1,000			1,750			2,250			2,250			2,250	
Third Party Costs			0			0			0			0			0	
Lab & Courier			0			0			0			0			0	
Training			3,000			3,750			3,500			2,000			2,000	
Sub-Total Other Costs			7,000			9,250			10,250			8,750			8,750	

TOTAL INCOME			89,891			224,979			322,638			243,801			340,898	
ADDITIONAL COSTS			48,109			170,857			242,690			246,328			250,027	
TOTAL COSTS			196,332			323,449			398,432			402,755			408,665	

Based on 10 FTE with 40% Agile Working, 6 m2 per position and £75 per m2 per annum, NDR £50 per

- (1) m2
- (2) Assumes Pool Cars are used for all travel. No charge to the service.
- (3) Assumes £250 per employee per annum
- (4) Assumes £1,000 per employee initial training and £250 per annum for refresher training thereafter
- (5) Charges assumed to be inflated by 3% per annum

