

Scottish Government submission of 14 December 2022

PE1988/A: Review the process for disposal of household raw sewage

Background: legislation

The EU Water Framework Directive (WFD) was introduced in 2000 for the purpose of establishing a common framework for the sustainable management of Europe's water environment. The WFD was transposed into Scots Law by the Water Environment and Water Services (Scotland) Act 2003. This introduced a framework of River Basin Management Planning (RBMP), requiring objectives to be set for every waterbody in terms of ecological and chemical status.

In order to help achieve these objectives, the Act also gave Scottish Ministers powers to introduce regulations to control activities that can have an adverse effect on the water environment. Such controls have been put in place through the Water Environment (Controlled Activities) (Scotland) Regulations 2011, which gives the Scottish Environment Protection Agency (SEPA) powers to control a range of activities including sewage discharges.

Recognising that a purely regulatory approach would not facilitate the development of more strategic solutions where required, the Act also introduced an obligation for Ministers, the Scottish Environment Protection Agency (SEPA) and certain 'responsible authorities' to work together to secure compliance with the WFD.

Key public bodies such as local authorities, SEPA and Scottish Water are required to work collaboratively to deliver appropriate solutions to more complex water quality issues.

Rural wastewater treatment - introduction

Some 8% of households in Scotland have private sewerage treatment arrangements. In rural Scotland, privately-owned individual or community septic tanks are widely used for the collection and treatment of household wastewater. Septic tanks are a valid form of wastewater disposal and are often the most appropriate form of treatment in rural areas.

Where they are properly maintained, individual septic tanks do not cause deterioration at a waterbody scale; however, cumulatively these can have a potential adverse impact on surface and groundwater quality. The risks of impacts on human health is a particular consideration in catchments where drinking water supplies, shellfish, and bathing waters are at risk from pollution from such sources.

SEPA deals with over 200 reports a year related to private sewage discharges. More than half of these relate to public nuisance issues rather than water environmental impacts. A number of issues have been identified which are being addressed with respect to privately-owned systems:

- individual/ community septic tank owners failing to register their tank with SEPA
- individual/ community septic tank owners failing to carry out routine maintenance/emptying
- some discharges with inadequate or no treatment still in existence

It is recognised that the impacts from these inadequacies may not pose a significant risk to the water environment in general; and that resources must be targeted at the greatest areas of risk. In the interests of equity, it is important that proportionate steps are taken to ensure that all sources of pollution are well-managed. Septic tank owners have a role to play in minimising pollution and improved management of septic tanks can contribute to that goal. Responsibility for the regulation of private sewage treatment systems is split between local authority Planning, Building Standards, and Environmental Health and SEPA.

Scottish Environment Protection Agency's (SEPA) regulatory approach

SEPA requires that discharges of sewage into the water environment are authorised under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR). In determining an application to discharge SEPA must assess the risk to the water environment from the discharge in order to minimize the impacts from sewage pollution on the environment and wildlife. SEPA's guidance states that it requires treatment for all discharges and that those into or near bathing waters and shellfish waters may require enhanced treatment. This guidance provides more detail [wat-rm-03-regulation-of-sewage-discharges-to-surface-waters.docx \(live.com\)](#).

Not all private sewage discharges are currently authorised. SEPA estimates from modelling that there are about 170, 000 properties on a private sewage system in Scotland. The current register of septic tanks held by SEPA is known to be incomplete. The number of unauthorised discharges is likely to be high and it is intended that those remaining unauthorised private sewage discharges are picked up and authorised through due diligence during house sales.

SEPA believes that there remains a significant number of untreated discharges in Argyll and Bute owned by private individuals. Under CAR, the householders are responsible for their own wastewater provision. As agreed with Scottish Government at the introduction of CAR in 2006, SEPA is dealing with these in a phased manner over the long term. Householders are required to register their private wastewater discharge with SEPA during conveyancing for any house purchase. At this time, owners are required to install appropriate treatment if there is currently none provided.

SEPA's position statement [WAT-PS-08-01: Untreated Sewage Discharges](#) sets out its policy on continuous discharges of untreated sewage and how these are to be regulated under CAR. In cases where application is made to formalise an existing discharge that does not have treatment SEPA will require that an appropriate level of treatment be provided within a reasonable timescale through conditions in the authorisation.

For example, there has been significant SEPA involvement to address issues with the discharge of untreated sewage and sewage effluent from properties in Kames, Tighnabruaich, Argyll and Bute. Whilst this does continue, SEPA is actively reviewing the approach that it takes to dealing with the regulation and particularly the enforcement of matters relating to these discharges across the whole of Scotland. These issues can require a considerable amount of resource to attempt to resolve what is most often a relatively insignificant environmental impact.

In general, the approach that SEPA takes, with partners, to resolve these matters is summarised below:

- Working with Scottish Water to identify the households in the area not currently connected to the public sewer that could most easily connect to the existing network. The aim would then be to encourage these households to take advantage of the opportunity which exists to connect to that system and remove further private

sewage discharges. SEPA is also continuing to work with Scottish Water to bring about improvements to the existing public sewer network.

- For properties that cannot / will not connect to the public sewer, SEPA starts to target enforcement action prioritised on the highest risks to the water environment. SEPA now has variable monetary penalties available to it, which are an effective tool in encouraging households to instal a proper sewage treatment system to connect to the public sewer rather than risk such a penalty. At the other end of the enforcement scale SEPA can seek prosecution by submitting a report to the Crown Office and Procurator Fiscal Service for consideration.
- SEPA is reviewing its regulation of private sewage systems across Scotland given the prevalence of these in our rural communities, the number of reports to SEPA from members of the public of concerns relating to these discharges and the relatively insignificant nature of the pollution which is typically occurring as a result of these discharges.

Further information on SEPA's enforcement policy and variable monetary penalties is available at

<https://www.sepa.org.uk/regulations/enforcement/>.

Scottish Water: First time provision

Scottish Water's focus during the 2021-27 investment period is to deliver the improvements required across the country within its existing network. During this period, Scottish Water expects to engage with customers and communities on a wide range of topics including investment priorities and this may include rural provision schemes where the need is identified as urgent or appropriate. This new process is still in the early stages of development.

It is important to note that some 8% of households in Scotland have private sewerage arrangements and therefore, whilst extending the public networks may offer a solution in some cases, we need to understand the needs of communities, the costs, and the appropriate technologies that will deliver the compliance with statutory requirements in the most effective and efficient manner. There are no plans to provide additional funds to Scottish Water to provide connections to households with private sewerage arrangements during the current investment period.

Households do have the option to connect to the public network at their own expense and Scottish Water will make a reasonable cost contribution towards the costs of the project should a new main be required. The contribution is set out in the Reasonable Cost Regulations and is worth some £1986 per domestic property. Further information on connections to the public supply is available at:

<https://www.scottishwater.co.uk/Business-and-Developers/NEW-Connecting-to-Our-Network/Single-Household-Customers>. Scottish Water will be able to provide further information on connecting to the public network if required.

Conclusion

In summary, there are still many private sewage systems which are poorly maintained leading to problems of environmental pollution and public nuisance with, consequently, reports being made to SEPA for investigation.

SEPA's principal means of resolving complaints is to educate and encourage those responsible for pollution to fix the problem. Use of enforcement powers to penalise those who do not act is rare, often for reasons of proportionality in relation to the risks to the environment. Managing pollution reports involving private sewage treatment to a satisfactory solution, whilst simultaneously managing the expectations of the reporter, is often difficult due the high costs of first time public sewer provision. Ultimately, financial responsibility for the provision of private sewage treatment rests with the individual home owner or community.