

Terms of Reference

The Utility Regulator's Investigation into NI Water's Handling of the 2010/11 Winter Freeze/Thaw

Introduction

During late December 2010 and early January 2011, water supply was lost to a significant number of premises in Northern Ireland during adverse weather conditions. The Utility Regulator will carry out an investigation into the causes of this loss of supply and the performance of Northern Ireland Water in planning for and reacting to this event. The investigation will also make recommendations to mitigate against a reoccurrence.

The full terms of reference of that investigation are set out below.

The Investigation

The purpose of the investigation is to -

- establish the causes of the loss of water supply in Northern Ireland during the adverse weather conditions experienced in late December 2010 and early January 2011.
- examine the performance of Northern Ireland Water in planning for and reacting to this event.

This investigation will consider whether NI Water has contravened any licence condition or other statutory requirement, and if it is continuing to do or is likely to do so in future. The Utility Regulator's Board will be informed of its conclusions. In the light of this the Board will then determine whether any enforcement or other regulatory action is necessary or appropriate.

The report will also be submitted to the NI Executive for its consideration.

Scope of the Investigation

The investigation will review the following aspects of the case:-

1 Contingency planning and Implementation

- Was the risk of such an event identified and what were the contingency plans for such a major incident?
- What pre-emptive measures were taken to mitigate the severity of the incident on customers?
- How were these plans implemented in this case and were they sufficient?
- Were the plans sufficient and did they incorporate lessons from previous such incidents?

- How did the plans and their implementation compare to that of other companies in the UK and Ireland?

2 Internal and External Communications

- Was there a communications plan in place for dealing with a major incident?
- How was the plan implemented and what measures were identified to increase communication channels in light of demand?
- What were the means of communication between NI Water and consumers, agencies, departments, other bodies and how effective were they?
- What were the shortfalls in communications from consumers and other stakeholders perspective?
- How effective were internal communications during the event. Was the information communicated timely and accurate?
- How did the means of communication and their implementation compare to that of other companies in the UK and Ireland?
- What shorter and longer term measures can be taken to improve the effectiveness of communications?

3 The Cause and Extent of supply problems

- What was the root cause of the supply problems throughout the incident?
- What factors could reasonably have been foreseen and were within the control of the company?
- What factors could reasonably have been foreseen but were not within the control of the company, what measures were taken to mitigate the impact of these factors on supply?
- How did the company's assets perform throughout the incident?
- What short, medium and longer term measures can be taken to improve the performance of the infrastructure in such adverse weather conditions?

4 Governance, Leadership and Management

- How effective was the leadership immediately before and during the incident?
- Was the management of the operational response adequate?
- Were the roles and responsibilities clearly defined?

Approach to the Investigation

The Utility Regulator will establish an experienced and expert operational team and an oversight committee. The oversight committee will steer the investigation and review the analysis and findings of the operational team. The Oversight Committee will include representation from the Utility Regulator's Board together with independent experienced experts. The members of the committee will be announced as soon as possible. The investigation will involve engagement with NIW and other key stakeholders.

The Investigation Report

The report will make recommendations and identify those to be addressed in the short and longer term. The Utility Regulator is planning to publish its report by the end of February. The Utility Regulator acknowledges that further work may be required after the publication of this report to consider whether any regulatory action is required.

During the investigation and where feasible any short term recommendations will be identified for the company to consider and progress to improve performance, should a similar event recur this winter.

Timing

The Utility Regulator intends to complete its report by the end of February.

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The OFMDFM Appointees' Review into the Handling of the 2010/11 Winter Freeze/Thaw

The Review

On behalf of the Executive, OFMDFM will appoint two individuals to:

- Review the Regulator's Report recommendations and issues considered within it.
- Assess the effectiveness of the governance arrangements and responsibilities of those involved in relation to the capacity to deal with the incident, also considering the role and responsibilities of the Minister and the Department in this respect.

The Report will be submitted to the NI Executive for its consideration.

Timing

The OFMDFM appointees will work alongside the Regulator and within the same timescale

In terms of handling arrangements for the final composite report, it will consist of two parts: the Regulator's report and the report of the two appointees. The reports will be presented to the Board of the Regulator and to the Executive.