



Scottish Executive Environment Group

**The Draft Private Water Supplies  
(Scotland) Regulations 2005 and  
Proposals for a Private Water Supplies  
Grant Scheme**

Consultation Report

November 2005  
Paper 2005/31

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The Scottish Executive website at:  
[www.scotland.gov.uk/PrivateWaterSupplies/ConsultationReport](http://www.scotland.gov.uk/PrivateWaterSupplies/ConsultationReport)

Copies of responses (other than those where confidentiality was requested) are available at the Scottish Executive's library (telephone: 0131-244-4552).

## CONTENTS

	Page
Introduction and background to consultation	1
Discussion of responses – summary	2
Discussion of individual consultation points	3
Conclusions and next steps	20
Annex A	22



## **INTRODUCTION AND BACKGROUND**

### **Purpose and Scope of Consultation**

1. In March 2005 Lewis Macdonald, then Deputy Minister for Environment and Rural Development, published a consultation paper seeking views on draft Private Water Supplies (Scotland) Regulations (“the draft 2005 Regulations”). These would implement Council Directive 98/83/EC (“the Drinking Water Directive”) on the quality of water intended for human consumption in respect of private water supplies. The consultation also sought comments on proposals for a Grant Scheme to assist users of water supplies not connected to the public system to bring their supplies up to modern standards. The full text of the consultation paper is available on the Scottish Executive’s website at:

<http://www.scotland.gov.uk/Publications/2005/03/20902/55270>

2. The 1998 Drinking Water Directive represents a fundamental review of the previous Directive (80/778/EEC) to take account of advances in medical, scientific and technological understanding of matters likely to affect drinking water quality. The Executive has already implemented the Drinking Water Directive in respect of the public water supply in Scotland, through ‘The Water Supply (Water Quality) (Scotland) Regulations 2001’ (SSI No. 207).

### **Consultation Period**

3. The consultation period ran from 24 March 2005 to 17 June 2005.

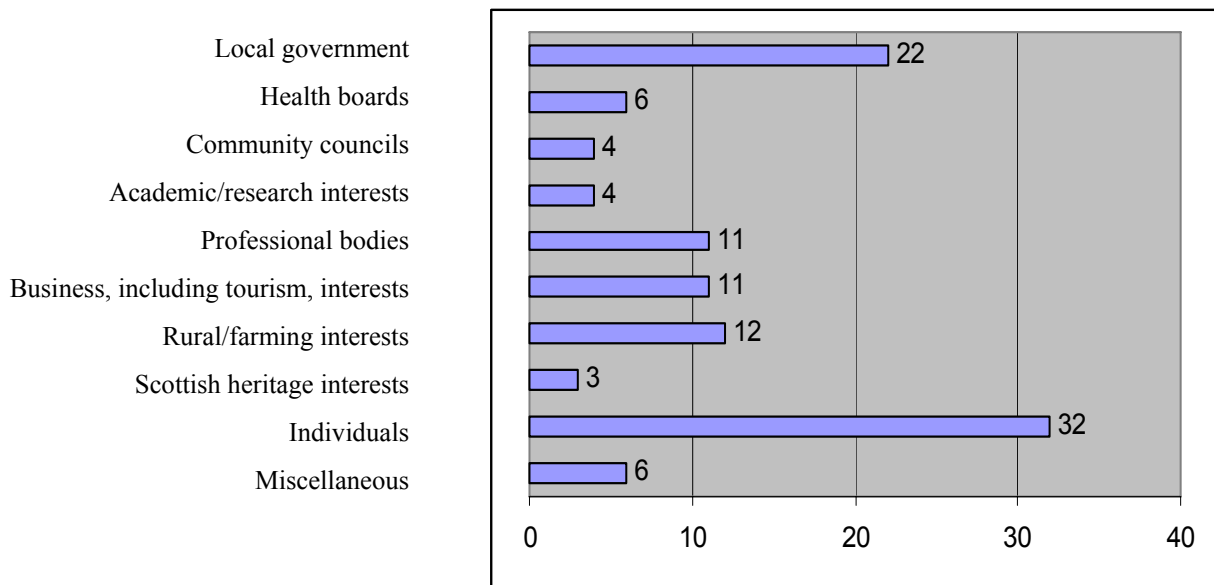
### **Publication and Distribution of Consultation Paper**

4. 1,036 copies of the consultation paper were issued directly to interested parties including MSPs, Scottish MPs and MEPs, local authorities, Health Boards, the Association of Community Councils, academic and professional institutions and rural, farming and business organisations. It was published on the Scottish Executive’s website and made available through Blackwell’s Bookshop, Edinburgh. It was also publicised through press notices. A summary of the stakeholder categories in the initial distribution is set out in Annex A. In order to engage with rural communities, the Executive asked a number of local authorities to distribute copies of the consultation document directly to a range of individuals and businesses who rely on a private water supply. In addition, officials met with the Convention of Scottish Local Authorities, Health Protection Scotland, representatives from local authorities, the Royal Environmental Health Institute of Scotland, the Federation of Small Businesses and the Scottish Tourism Forum to explain the draft 2005 Regulations in detail, listen to concerns and answer questions.

### **Responses**

5. The consultation closed on 17 June, and late responses were accepted for a couple of weeks after that date giving a total of 111 responses. Figure 1 shows the number of responses by category and confirms that comments were received from a cross section of interested parties.

**Figure 1 – Analysis of Responses**



## **DISCUSSION OF RESPONSES - SUMMARY**

6. The responses indicated widespread support for the improvements promoted in the draft 2005 Regulations, particularly from health professionals. However, the compliance costs for rural communities and rural businesses which depend on private supplies attracted criticism. There were also concerns regarding the resource implications for local authorities in administering the new regime. In addition, many considered that the proposed maximum grant of £650 was inadequate given the possible improvement costs arising from the requirements of the draft 2005 Regulations.

7. A minority of responses suggested that that it was premature to introduce legislation, arguing that this would place unnecessary and onerous burdens upon private individuals and businesses in rural areas, on the basis that many of these supplies had been in use for long period without recorded ill effects. There were a number of comments referring to the public supply, pointing out a choice was not available to most private water supply users, and including a suggestion that Scottish Water should take over responsibility for all private water supplies and charge for the service. There were also comments relating to improving technical skills, including the suggestion that training all those involved in private water supplies would be necessary to deliver real improvements to water quality and identify appropriate solutions.

8. There was strong criticism of the Executive's proposal to treat tied and tenanted properties as being a 'commercial activity' and therefore subject to the full provisions of the draft 2005 Regulations and the Drinking Water Directive. Local authorities argued that this would substantially increase burdens on them by greatly increasing the number of supplies where sampling was mandatory. And rural interest groups were concerned that the inclusion of rented properties, combined with the impact of the Housing (Scotland) Bill 2005, would significantly reduce the supply of affordable housing for rent in rural areas.

9. The consultation also contained proposals for the creation of offence provisions. A number of responses supported the need to add 'teeth' to the regulatory framework but strong

views were expressed that improvements in water quality were best achieved through information and education, using formal enforcement action as a last resort for the most serious disregard of public safety. Rather than prosecution through the courts, suggestions were made that the Executive should consider other enforcement options such as the use of Fixed Penalty Notices.

10. A number of suggestions were made to improve the clarity of the draft 2005 Regulations particularly in relation to the key definitions. Local authorities also sought further clarification in relation to the operation of the draft 2005 Regulations, particularly risk assessments, and this will be provided in the detailed guidance which the Executive is preparing to support the introduction of the draft 2005 Regulations. Information and education material will also be made available to owners and users of private water supplies.

11. Respondents' views were sought on 19 specific consultation points and their responses to each is summarised in the following section.

## DISCUSSION OF INDIVIDUAL CONSULTATION POINTS

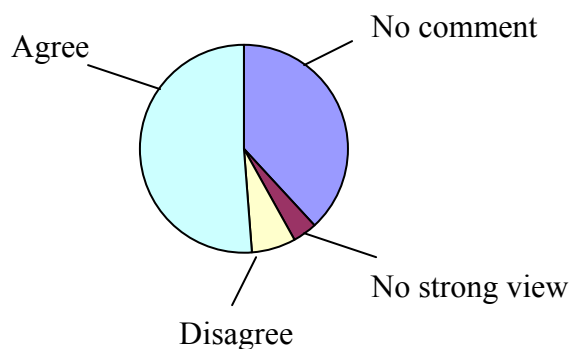
### Consultation Point 1

12. The consultation paper explained that the long term expectation is that all private water supplies will eventually meet the revised quality standards set by the Drinking Water Directive. It is recognised that not all supplies will be in a position to immediately comply and in the interim it is possible for the relevant person to apply to their local authority for a temporary departure from the chemical standards of the Directive, provided that there is no risk to human health. If granted, and for the period specified in the departure notice, this would mean that certain chemical parameters would be exempt from the audit monitoring requirements of the Directive. The temporary departure will include terms and conditions and the steps which, in the opinion of their local authority, the relevant person(s) needs to take to bring their supply up to the required quality standards.

13. The Directive requires EU Member States to take active steps to promote compliance with the revised standards: it is not an option to do nothing. The consultation sought views on what action was appropriate where the relevant person either failed to apply for a temporary departure or failed to comply with the terms and conditions of a temporary departure including the completion of remedial works.

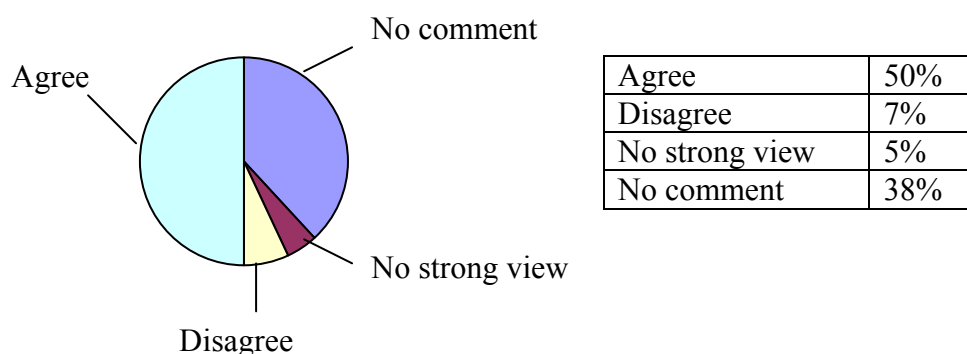
**Consultation point 1** - *Do you agree with proposals that local authorities should issue improvement notices both where the relevant person(s):*

*(a) fail to apply for a temporary departure under regulation 5?*



Agree	51%
Disagree	7%
No strong view	4%
No comment	38%

(b) fail to comply with the conditions attached to a departure issued under regulation 6?



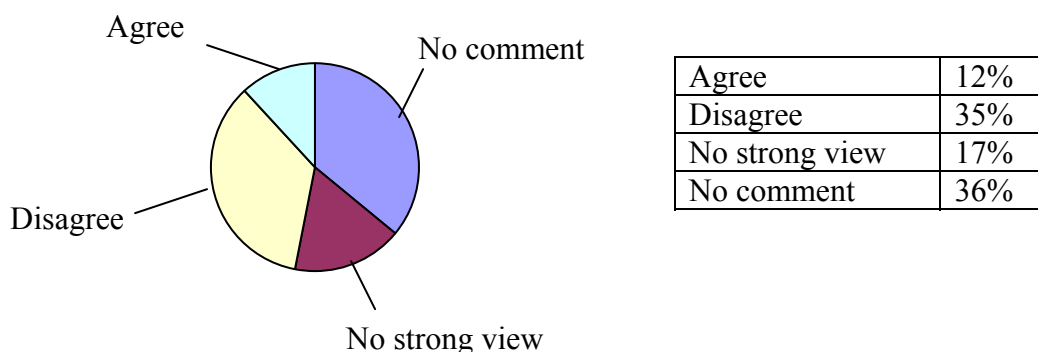
14. Overall, there was general support for the Executive’s proposals to add ‘teeth’ to the regulatory regime to ensure that active steps are taken to improve the quality of drinking water from private supplies. Some respondents argued that enforcement action should be seen as a last resort and only for the most serious and blatant disregard of public safety. The following specific comments were received:

- Consideration should be given to individual circumstances when issuing improvement notices, allowing local authorities some discretion.
- Sufficient time should be allowed for the appropriate persons to improve water supplies and apply for temporary departure notices.
- Local authorities should not issue an improvement notice without first having carried out a risk assessment to ensure that the notice is comprehensive and provides the most effective options for safeguarding and treatment of the supply.
- Questions regarding how the ‘relevant person(s)’ would be identified.

**Consultation Point 2**

15. While recognising the resource implications for local authorities, and the financial implications for rural communities, the Executive is required to comply with the more onerous sampling and monitoring requirements of the Directive. Wherever possible, the Executive has taken steps to minimise the financial implications for owners and users whilst ensuring compliance with the Directive in terms of the protection of the quality of water intended for human consumption. The consultation sought views on the Executive’s proposal that local authorities should have three months, from the coming into force of the draft 2005 Regulations in which to sample all Type A supplies in their area.

***Consultation Point 2 - Is the three month transitional period sufficient to enable local authorities to meet this regulatory requirement?***



16. The majority of respondents (53%) either commented that they had no strong views or that this was for local authorities to answer. Of those that did comment, and including the majority of local authorities respondents felt that the 3 month transitional period was too short. In particular, respondents mentioned that:

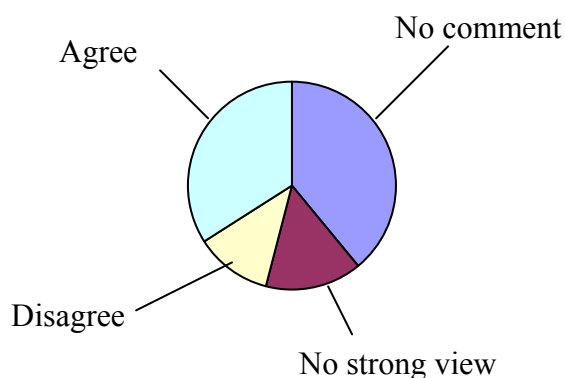
- Ability to comply would depend greatly on local authority resources.
- For local authorities with few supplies, 3 months might be achievable but it might be much more difficult for those with large numbers of private supplies.
- Limits on laboratory capacity could delay this process.
- Periods of 6 to 12 months was proposed as a more realistic time frame in many responses.

### **Consultation Point 3**

17. The consultation sought views on the Executive’s proposal to impose a duty on a local authority to take and analyse a representative sample of water within 28 days of being requested to do so by a relevant person.

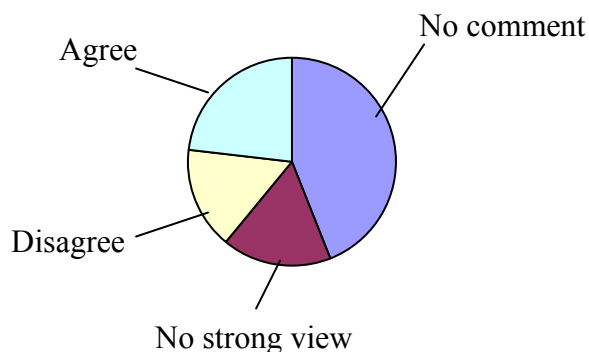
*Consultation point 3 Is the 28 day period:*

*(a) appropriate?*



Agree	34%
Disagree	12%
No strong view	15%
No comment	39%

*(b) deliverable?*



Agree	23%
Disagree	16%
No strong view	17%
No comment	44%

18. There was general support for this health driven aim although some doubt was expressed as to whether or not it was deliverable. Particular points raised included:

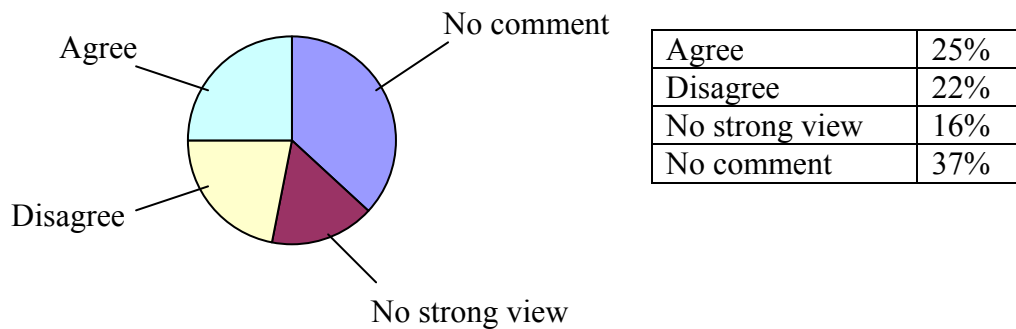
- The achievability of these targets would depend greatly on local authority resources.

- Constraints on laboratory resources might also affect local authorities’ ability to achieve the 28 day target, although use of commercial laboratories could reduce the burden on the public analyst.
- The target might pose particular difficulties for local authorities serving remote or island communities.

**Consultation Point 4**

19. The draft 2005 Regulations require local authorities to find out the cause of a supply failure and initiate remedial action. A key aspect of the Executive’s policy to meet this Directive obligation is the introduction of risk assessments, from ‘source to tap’, based on World Health Organisation guidelines. Risk assessments are seen as an essential element of an effective drinking water and surveillance programme. Local authorities will be under a duty to complete risk assessments for larger, Type A supplies and to provide information and advice to enable owners to complete a risk assessment for smaller, Type B supplies. The consultation suggested that local authorities should complete risk assessments for Type A supplies in their area within 18 months of the draft 2005 Regulations coming into force.

*Consultation Point 4 - Is the proposed 18 month timescale sufficient to enable local authorities to complete risk assessments for all Type A supplies in their area?*



20. Opinion was divided on the proposed 18 month timetable for the completion of assessments and concern was expressed about the potential resource implications for local authorities. The Drinking Water Quality Regulator for Scotland commented that risk assessment would be a significant development in the protection of private water supplies and that early implementation should be encouraged, a view which was supported by health professionals. Specific comments included:

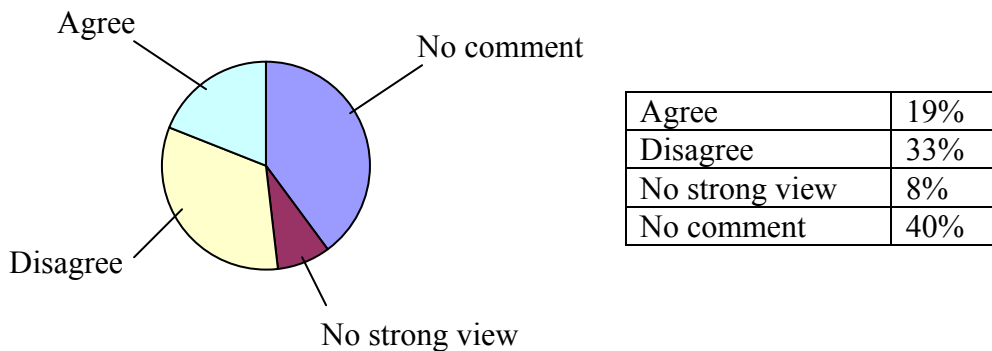
- The time required to complete risk assessments in any local authority area would depend on the number of supplies and how widely drawn the definition of Type A supplies was. In some areas, the number of supplies might mean that longer than 18 months was required to complete risk assessments.
- Other respondents felt that 18 months was too long and sent the wrong message about the importance of water quality.
- Local authorities commented that they needed sufficient lead-in time for staff recruitment and training.
- Risk assessment was not “rocket science” but good basic competence in private water supply management.

- The use of risk assessment should ensure a more informed, responsive and better approach to dealing with problems associated with private water supplies.

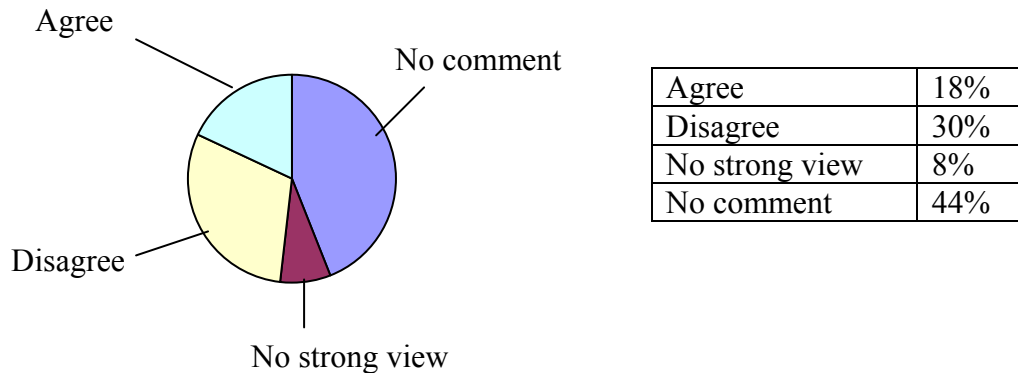
**Consultation Point 5**

21. In line with provisions of the current legislative framework, the draft 2005 Regulations provide local authorities with discretionary powers to charge for taking and analysing samples from private water supplies in its area. Consultation point 5 sought views on the proposed maximum charge per visit.

***Consultation Point 5 (a) - Is the maximum charge per visit appropriate?***



***(b) should such charges be levied on the basis of full cost recovery?***



22. The issue of charging attracted a wide variety of comments and fairly general concern about the compliance costs for rural communities and rural business. The Convention of Scottish Local Authorities argued that nothing less than full cost recovery was appropriate. The Federation of Small Businesses saw this as further financial burden on small businesses in rural areas. The main issues or suggestions that respondents raised were:

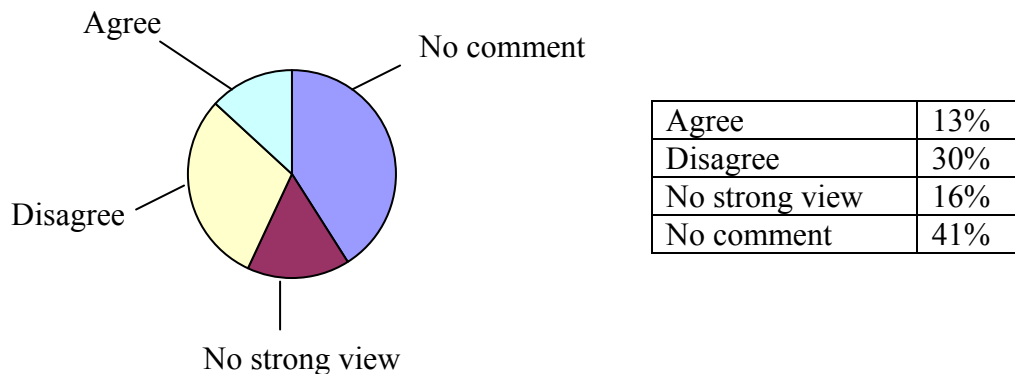
- That the maximum charges were too high and would place a burden on rural businesses, particularly in the tourism sector, which may have no choice but to remain on a private supply.
- A number of local authorities supported the proposed £95 charge as more accurately reflecting their actual costs in undertaking a 'site' visit but argued that the proposed £25 risk assessment fee was much too low.

- Charges should reflect users' financial means with local authorities having the power to reduce them where appropriate.
- The costs should be subsidised either in full or part by local authorities.
- A number of respondents felt that all homes should be put onto the public supply, with Scottish Water responsible for the provision of safe drinking water.
- Possible alternative charging schemes were suggested by some respondents, including 50% cost recovery, capping charges at £75 or linking the level of charges to water use or council tax or business rates.
- Other respondents believed that no fees should be charged and cited the example of food safety inspections where no fees are charged for the service.
- Consideration should be given to a method of spreading payment for these costs, e.g. through instalments, to make them more affordable and acceptable.

### **Consultation Point 6**

23. In line with current practice under the existing legislative framework, the consultation proposed that local authorities should have discretionary powers to undertake 100% cost recovery (up to a prescribed maximum) for analysis costs arising from the check and audit monitoring requirements of the draft 2005 Regulations and the Directive. The costs involved are based on commercial laboratory charges for the chemical analysis of the water sample.

#### ***Consultation Point 6 - Are the proposed analytical charges appropriate?***



24. The issue of analytical charges attracted many similar comments to the proposed charging regime in general, with respondents concerned at the burden these could place on private water supply users. Additional comments included:

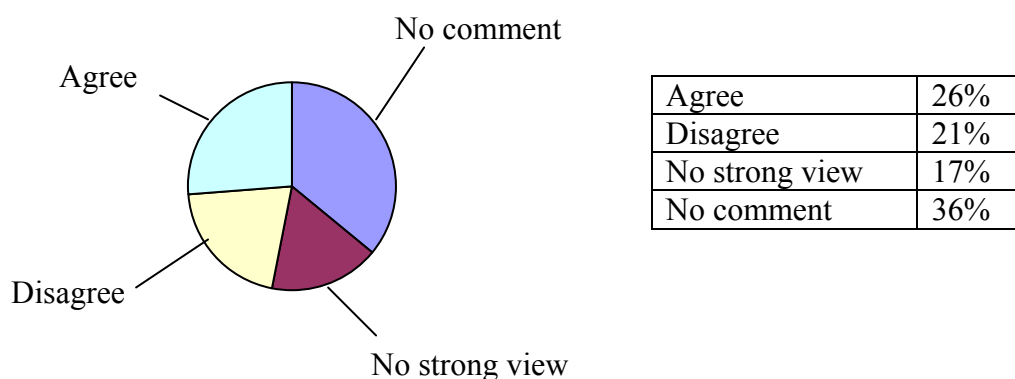
- Concern that these charges might be unaffordable, particularly for economically vulnerable sectors. This was also reflected in responses from the Federation of Small Businesses and the Scottish Tourism Forum, who expressed considerable concern about the adverse effect these costs would have on rural businesses, particularly in the tourism sector.
- It was suggested that all users should be liable for these costs, not just those businesses using the supply.
- A suggestion was made that analytical charges should be variable and based on the size of the supply and related to council tax or business rates.
- Alternative suggestions included that only those who failed to comply with improvement notices should face charges, and capping charges at a maximum of £75.

- Several respondents asked about transitional arrangements to help support individuals and businesses during the introduction of these charges.

### **Consultation Point 7**

25. Local authorities are already required to maintain a public register of information on private water supplies but the revised Directive makes further requirements for consumers to be informed of the quality of private water supplies. The consultation sought views on whether a 6 month period would be sufficient to enable local authorities to populate the more detailed public register with basic information about supplies in their area.

*Consultation Point 7 - Do you agree that the proposed 6 month period is sufficient to enable local authorities to make initial entries in the public register?*



26. This consultation point did not attract substantial comment, with a few additional issues being raised as follows:

- This should be relatively straightforward task given that local authorities already hold records. However, it might be a more significant task for those local authorities with large numbers of private supplies in their area.
- Some local authorities noted that records were incomplete, particularly in relation to ‘single house’ supplies.
- Concerns were raised about the resource implications for local authorities.
- Several local authorities suggested that the Executive should produce a standard software package to record the required information.
- One respondent felt that monitoring and a register would do nothing to improve water quality and the resources involved should be given to Scottish Water to improve the standards of private water supplies.
- One local authority argued that responsibility for ensuring that the register is kept up to date should lie with the ‘relevant person’ rather than the local authority and that consideration should be given to making it an offence for relevant persons to fail to register private supplies with their local authority.

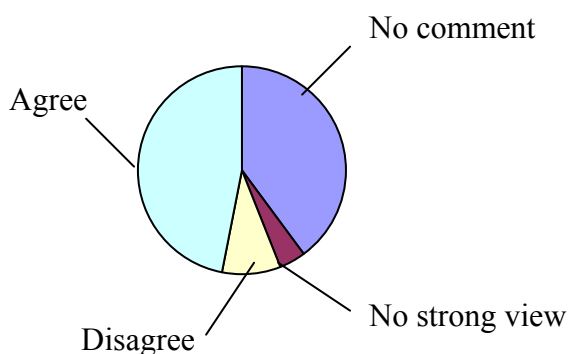
### **Consultation Point 8**

27. Article 4 of the Drinking Water Directive imposes a general obligation on Member States to take the measures necessary to ensure that water intended for human consumption is wholesome and clean. Rather than the widely cast objective of the previous Directive, the purpose of the revised Directive is much more targeted and will mean that the current

informal approach of encouraging relevant persons to maintain and improve supplies is no longer sufficient. In order to address this aspect of the Directive, the draft 2005 Regulations place local authorities under a duty to take remedial action in respect of private supplies which are failing to provide wholesome water. In order to further promote compliance, the consultation proposed that there should be the sanction of a power to prosecute relevant person(s) for failing to comply with specific requirements of the draft 2005 Regulations.

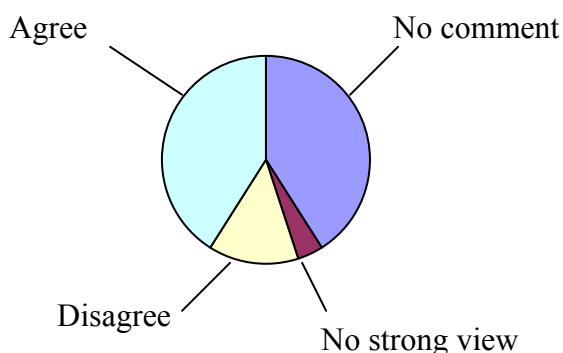
**Consultation point 8** - Do you agree that offences should be created for failure to comply with:

(a) an improvement notice?



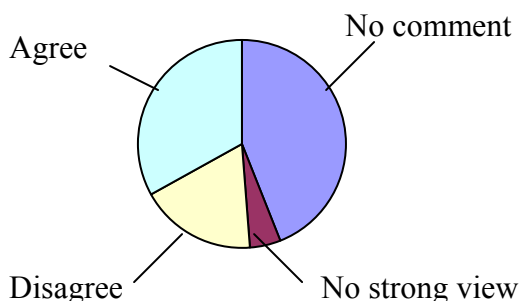
Agree	47%
Disagree	9%
No strong view	4%
No comment	40%

(b) the notification provisions of regulation 5?



Agree	41%
Disagree	14%
No strong view	4%
No comment	41%

(c) the requirements of regulation 31 to display an information notice?



Agree	33%
Disagree	18%
No strong view	5%
No comment	44%

28. Overall, responses to these questions showed broad support for the creation of offence provision in order to deliver real improvements in water quality. Most felt that prosecution should be seen as a last resort and only for blatant disregard of public safety. It was also

suggested that fixed penalty notices might be a simpler therefore more effective method of enforcing compliance. Other comments included:

- There was no need for three separate offences, the same objective could be achieved by widening the scope of ‘improvement notices’.
- The best way to achieve water quality improvements was to offer grants not threaten prosecution.
- Enforcement seen as excessive interference by the state.
- Scottish Water should take on responsibility for all private water supplies and charge no more than domestic water rates.
- Improvements in water quality best achieved through information and education not prosecution.

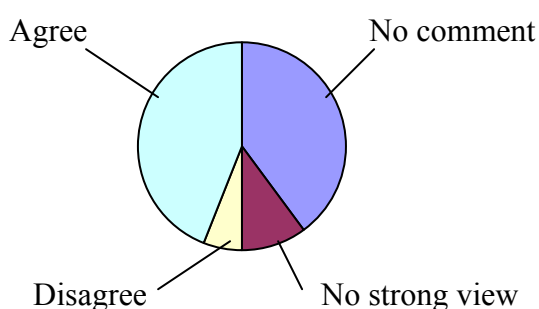
29. There was least support for the proposal to make it an offence to fail to display an information notice where responses included the following comments:

- There should be a positive information notice praising water quality if a supply was found to pass all tests.
- Displaying a notice even where a supply had passed all relevant tests may prove confusing especially to foreign visitors and cause unnecessary concern.
- The need for the notice to be displayed ‘prominently’ seemed excessive.

### **Consultation Point 9**

30. The draft 2005 Regulations would require local authorities to make a number of determinations in relation to private water supplies some of which may give rise to disagreement. The consultation proposed that an aggrieved party should have recourse to the courts to determine matters of dispute.

***Consultation Point 9 - Do you agree that appeals should be determined by the courts?***



Agree	44%
Disagree	6%
No strong view	10%
No comment	40%

31. 44% of respondents agreed with this proposal, mostly on the basis that the courts have the expertise and authority to adjudicate in disputes that may have significant financial implications. Some respondents supported some form of arbitration in the first instance, with the courts only being used as a last resort. Other comments included:

- Several comments that Ministers were not the appropriate body to hear appeals due to a lack of technical expertise in this area.

- A suggestion was made to appoint an independent body or dedicated ombudsman to determine appeals.
- Support for financial aid being available for businesses to appeal to the courts.

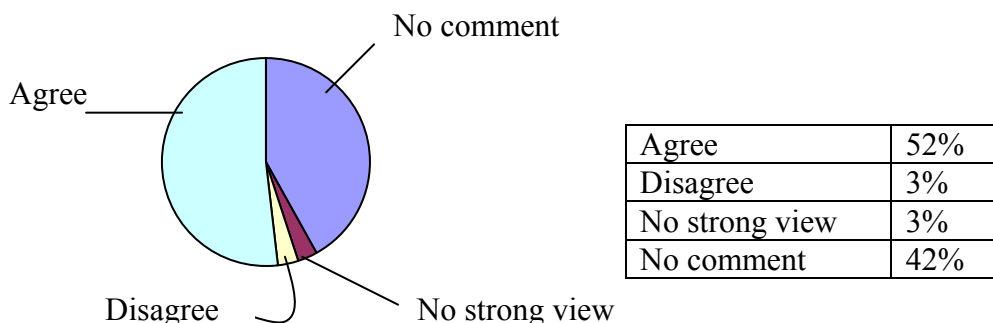
**Consultation Point 10**

32. The consultation document also set out the Executive’s broad policy proposals for a Grant Scheme to assist the users of water supplies not connected to the public system to bring those supplies up to modern standards. Views were invited on whether the three broad objectives for the Scheme:

- To improve public health by bringing private water supplies up to modern standards of wholesomeness;
- To minimise the financial impact of the draft 2005 Regulations on individuals and businesses; and
- To ensure through effective targeting of funds that rural consumers are not disadvantaged

were the correct objectives.

*Consultation Point 10 - Are these the right objectives for the proposed Grant Scheme? If not, what objectives would you support?*



33. 52% of respondents supported these objectives, with only 3% of respondents disagreeing. A minority advocated that grants should be available for ongoing maintenance as well as one-off improvement costs. Some respondents suggested that priority should be given to grants to enable connection to the public supply or that Scottish Water should take over management of all Type A supplies. Other comments included suggestions that grants should be used to:

- Target reductions in specific illnesses;
- Incentivise improving the wholesomeness of private water supplies; and
- Provide education and support for those involved with private water supplies.

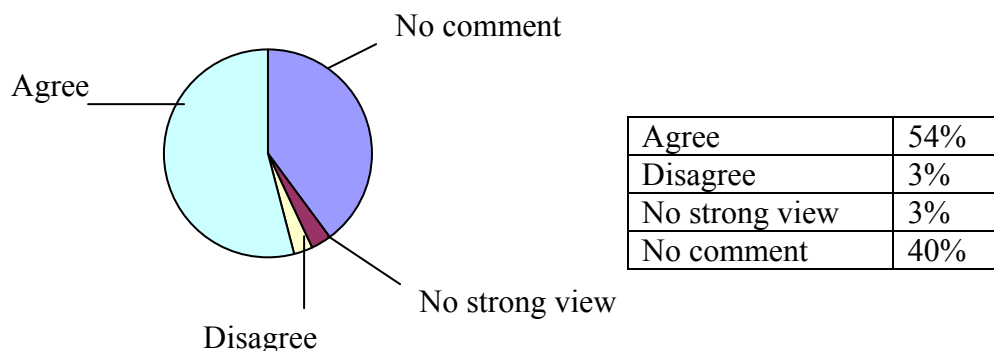
**Consultation Point 11**

34. The primary purpose of the draft 2005 Regulations is to secure improvement in public health and the Grant Scheme is intended to support that aim by helping to ensure that the rural consumers most affected are not disadvantaged. Given the overriding public health

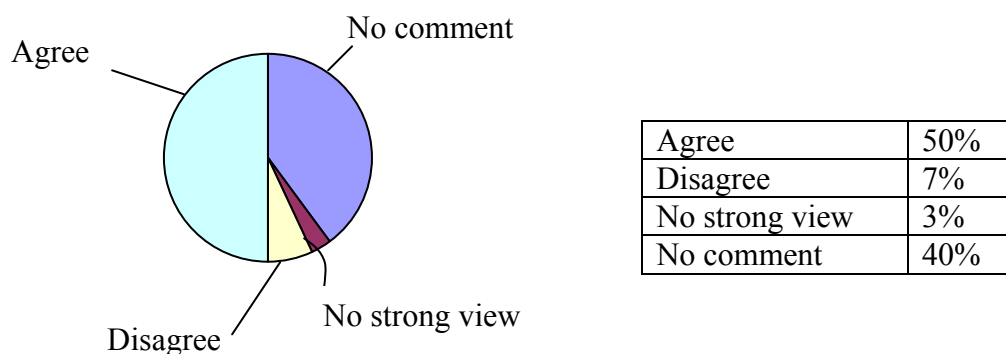
benefits of a wholesome water supply, the consultation proposed that the Grant Scheme should be available to individuals and businesses and non-means tested.

**Consultation Point 11** – do you agree that the proposed Grant Scheme should be:

**(a) available to both individuals and businesses?**



**(b) non means-tested?**



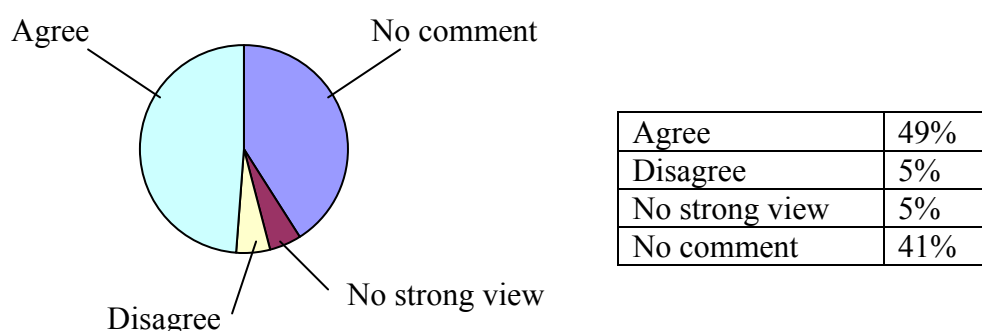
35. 54% of responses were in favour of the Grant Scheme being available to both individuals and businesses, and 50% agreed that the Grant Scheme should be non means-tested. General comments included the following:

- A small number of respondents considered that businesses should not be eligible for financial assistance, and others felt that businesses should only be eligible for part funding, e.g. 50%, of costs involved.
- Grants to provide connections to the public supply should have priority.
- Questions as to whether the Grant Scheme would replace or work alongside existing grant schemes for rural housing improvements.
- Some concern that despite support for non means-testing, where funds were limited, means-testing was the most appropriate method of targeting areas where assistance is most needed.
- Some views that wealthy individuals and businesses should not be eligible for 100% grants.

### **Consultation Point 12**

36. The consultation sought views on how the Grant Scheme should operate in practice and suggested that it needed to be sufficiently flexible to address improvements for individual houses or businesses attached to a supply as well as situations where those on a supply work together to implement a 'whole supply solution'. The consultation also proposed that local authorities should work with consumers, on the basis of a completed risk assessment, to identify different technical solutions which were available and promote the most effective in public health and economic terms.

***Consultation Point 12 - Do you agree to the proposed flexible, risk assessment based method of identifying the most effective solution and that consideration of grant applications should be based on this? If not, then what approach would you support?***



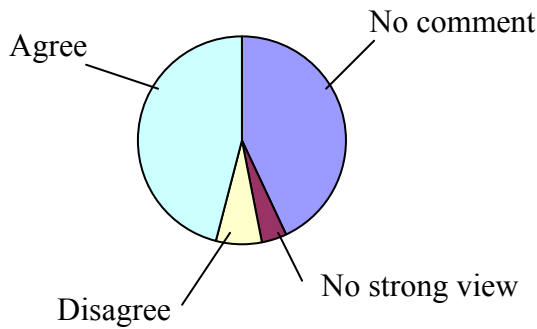
37. There was general support for the Executive's proposals, with 49% agreeing and only 5% disagreeing. Other comments received focused on a number of specific issues:

- Connection to the public supply should be the preferred solution.
- There should be provision to require relevant persons to make improvements at the source rather than have less effective solutions implemented further down the supply.
- The draft 2005 Regulations appeared to be geared towards preventing bacteriological rather than chemical failures.
- Suggestion that Scottish Water should take over responsibility for private water supplies.
- Some local authorities expressed concern about resource implications and their ability to meet competing priorities.

### **Consultation Point 13**

38. The consultation proposed that applicants for grants must use a private water supply, where that supply is the main or sole supply of water for human consumption to their household or business. In addition it was suggested that applicants would be required to meet one of three eligibility criteria in order to ensure that grants are awarded for work that is necessary to improve public health.

**Consultation Point 13** - Do you agree that grant applications should have to meet one of the three proposed eligibility criteria?



Agree	46%
Disagree	7%
No strong view	4%
No comment	43%

39. 46% of respondents agreed that applicants should be required to meet one of the three proposed eligibility criteria. 7% disagreed, stressing that a grant process should be based solely on a risk assessment since this, rather than a temporary departure or improvement notice, would identify the potential risks to the supply and what improvement measures are necessary to minimise those risks. Additional comments included:

- A view that users should be compelled to use their grant to connect to the public supply if that was a feasible option rather than improve their private supply. An opposite view stressed that grants should be available to improve private supplies regardless of the proximity of the public supply, if that was the user's preference.
- General concern that the maximum grant level was too low.
- A suggestion that the main eligibility criteria should be that the individual has a legal right to use water from the supply.
- Concerns that the grant application process was too reactive, preventing users from taking pre-emptive action to improve their supply until the outcome of their grant application had been determined.

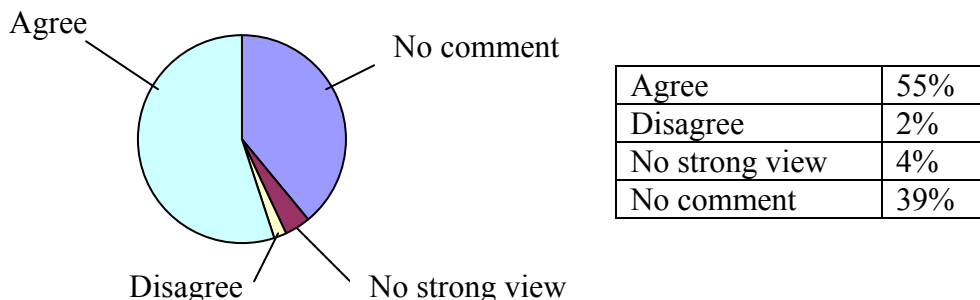
**Consultation Point 14**

40. The consultation paper provided that the Grant Scheme would be available to contribute towards the capital improvement costs to private water supplies but not towards ongoing maintenance or testing of the supply which are the responsibility of the consumer. This would allow the limited funds available for the Grant Scheme to help the widest range of customers in bringing their supplies up to modern standards

41. It also proposed that local authorities should be responsible for determining grant applications, including approving that the proposed work is required in order for a particular supply to comply with the strengthened water quality standards.

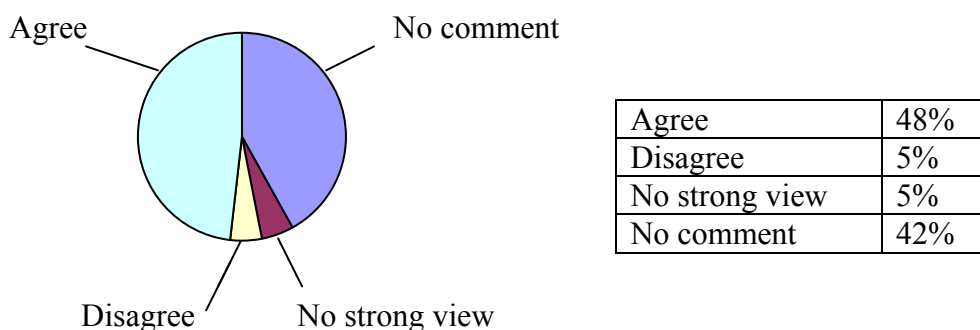
**Consultation Point 14 – Do you agree that grants should be available for:**

**(a) capital improvements to private water supplies?**



**(b) Do you agree that local authorities must agree the work is necessary?**

*If not, what other work do you believe should be eligible for a grant and why?*



42. The great majority of responses to this consultation point agreed that grants should be available for capital improvements and that local authorities should agree that the work is necessary. Specific comments included the following:

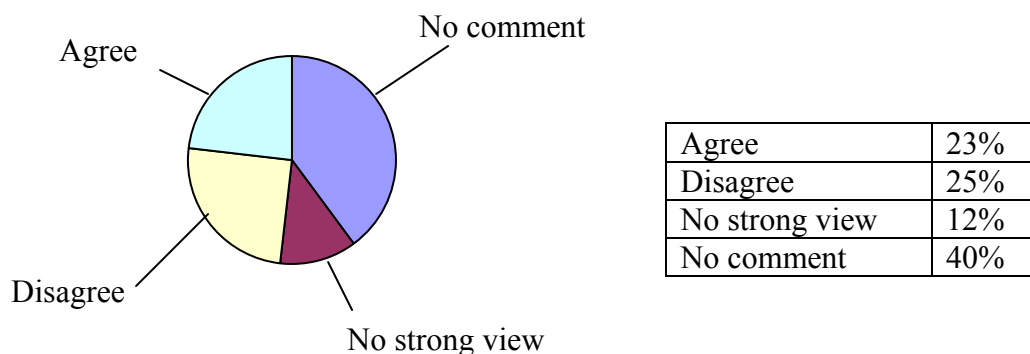
- A few respondents wanted local authorities to have powers to direct that grants should be used to connect to the public supply, rather than improve an existing private supply, where mains connection was the preferred solution in health and economic terms.
- Several responses suggested that grants should not be limited to expenditure deemed necessary by the local authority – any improvement works should be eligible for financial assistance.
- Several responses wished money to be available for the provision of new private water supplies rather than just improvement of existing ones.
- A suggestion was made that an independent water consultant, rather than the local authority, should decide what improvement works are necessary.
- A few respondents felt that grants should be available for ongoing maintenance costs.
- Concern about the effect administration of the Grant Scheme might have on local authority staffing and budgets.
- A view that there should be an appeals process for the Grant Scheme.

**Consultation Point 15**

43. The consultation paper set out proposals for applying for and awarding grants. Views were sought on the Executive’s proposal to provide a model application form but leave the

exact format of the application form to individual local authorities to determine. This approach would provide flexibility to local authorities to tailor the form to meet any individual requirements, perhaps to maintain consistency with their existing systems, and wider flexibility to improve the form in the future without the need for amending Regulations.

**Consultation Point 15** - *Do you agree that the format of application forms should be left to individual local authorities?*



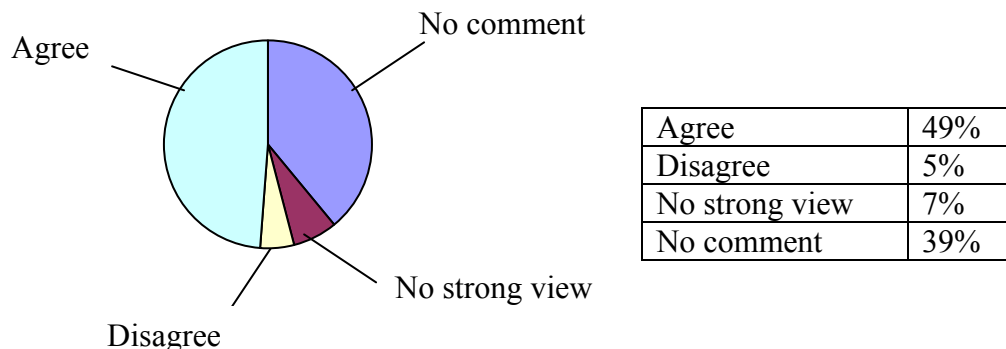
44. Opinion was divided on this issue with slightly more responses opposed to the proposal that local authorities should determine the format of their application form within a prescribed framework.

- Several responses highlighted the fact that different local circumstances may mean that different information may be required from individuals therefore identical forms were not ideal. A suggestion was put forward that the national application form should have a section where local authorities can add in local information / questions.
- A number of respondents suggested that the Executive should produce a standard application form in the interests of consistency.
- Others considered that if flexibility was required to allow forms to vary from area to area, the Executive should issue guidance on the general format of the form.

### **Consultation Point 16**

45. The consultation proposed that as private water supplies are regulated by local authorities that it would be appropriate, and would help ensure effective links between this responsibility and the provision of financial assistance, if local authorities administered the Grant Scheme.

**Consultation Point 16** - *Do you agree that decisions on awarding grants, as defined in the Grant Scheme Regulations, should be delegated to local authorities?*



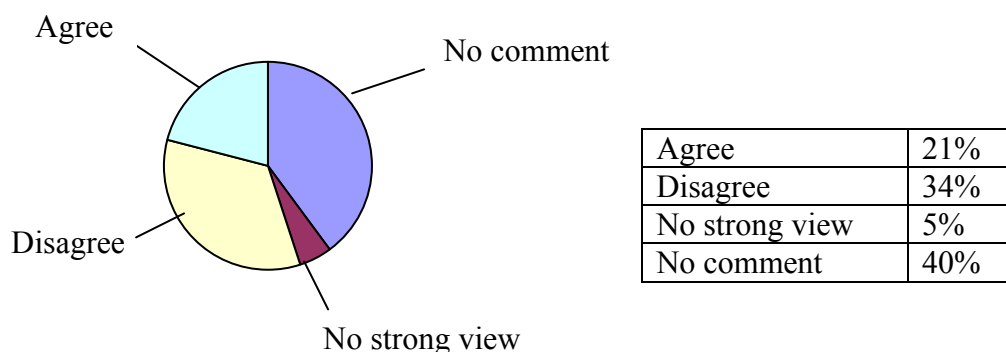
46. 49% of respondents agreed that local authorities should be responsible for considering and determining grant applications, with only 5% of respondents disagreeing with the proposal. Two general points were raised by respondents:

- Many supported an appeals process to a higher authority, with suggestions that this should be to the Scottish Executive.
- Many respondents suggested that while local authorities should be responsible for determining individual grant applications, the Scottish Executive should provide guidance to ensure a consistent approach throughout Scotland.

### **Consultation Point 17**

47. The consultation proposed that grants should not be means tested. Instead, to ensure that the available funds make the maximum contribution to public health across all consumers of private supplies, and are used effectively towards solutions that offer good value for money, the consultation proposed that grants should be capped at a maximum of £650. For most private water supplies it is expected that this level of grant would be sufficient to make the improvements necessary to bring the quality of water up to the requirements of the draft 2005 Regulations. It was also proposed that the maximum grant figure would be open to periodic review to take account of changes in costs or technology.

**Consultation Point 17** - *Do you agree that grants should be available up to a maximum level of £650? If not, what alternative arrangement would you support?*



48. Of those who expressed a view on this question, the majority (34%) disagreed, largely on the basis of concern that £650 would be insufficient to cover required improvements. Instead, many respondents proposed a variety of alternative grant levels or approaches. These included:

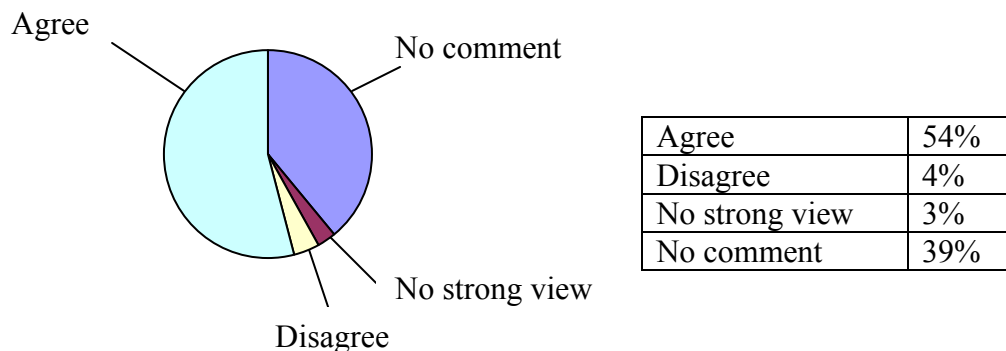
- Suggestions for a grant scheme that paid a set proportion of costs, ranging from 50-70% of the estimated improvement costs.
- Means tested provisions, or a fixed proportion grant plus means tested ‘top ups’ to address financial hardship.
- 100% grants with no maximum limit, to cover the full costs of any improvements needed to supplies.
- The level of grant should be subject to periodic review.
- A higher limit should be available for businesses.

- Scottish Water should pay for improvement costs or loan arrangements should be introduced.
- Other financial limits were suggested of £800, £950, £1000 and £15,000.

### **Consultation Point 18**

49. The consultation paper set out that it is expected, on the basis of an independent economic assessment, that the proposed £650 grant limit will be sufficient to meet the average costs of implementing an individual solution but there will be a minority of supplies which require greater investment. In such cases it will be the responsibility of the applicant to provide the balance. However, it also recognised that for some users with very limited means, making even a modest financial contribution would be difficult. The consultation therefore sought views on providing local authorities with a limited discretion under the Grant Regulations to make additional grants available in exceptional circumstances.

***Consultation Point 18 - Should local authorities be given a limited discretion to offer increased grants in exceptional circumstances?***



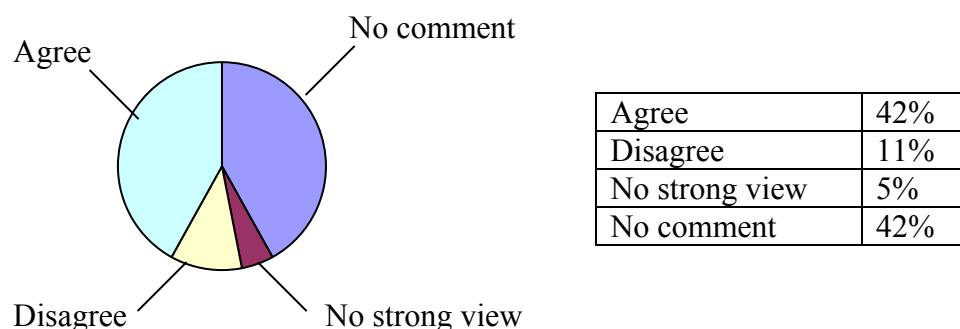
50. The great majority of respondents who commented on this question agreed with this proposal. Specific comments included the following:

- Local authorities should have full rather than limited discretion to increase grants.
- A request for clarification as to what would constitute exceptional circumstances, and the suggestion that this interpretation should be consistent across Scotland.
- Opposition to any discretionary provision as it would introduce an element of means testing to the process and this was not appropriate.

### **Consultation Point 19**

51. The final consultation point sought views on proposals to exclude an application for a grant because other statutory provision is available to provide assistance or in a number of specific circumstances.

**Consultation Point 19 - Do you agree with the proposed exclusions? Should any other type of application be excluded?**



52. There was general (42%) agreement with the proposed exclusions although a number of respondents commented on these.

- Exclusions should apply to properties rather than persons in order not to disadvantage those who own more than one property.
- Unoccupied houses should not be excluded from the grant scheme.
- Grants should be available for homes under renovation.
- In order to minimise development constraints in rural areas, new houses should not be excluded from the grant scheme.
- It was unfair to penalise those who had done work on their private supplies in advance of these Regulations.
- The scheme needs to allow for a flexible approach, for example, it may be unrealistic for the tourism sector to wait for grant applications to be approved given that their business is seasonal and they will want to carry out improvement work in low season.
- Persons in council tax arrears should be excluded from Grant Scheme.
- The Grant Scheme would need to be strictly audited to prevent fraud.
- There should be as few exclusions as possible in order to promote improvements to water supplies.

## CONCLUSIONS AND NEXT STEPS

53. The consultation received a strong response, with widespread support for the primary objective of ensuring the safety of private water supplies through a strengthened regulatory regime. A large number of detailed issues were raised, and clear concerns were expressed about meeting the costs of improved water supplies, particularly for rural communities and rural businesses, as well as the increase in local authorities' responsibilities.

54. The provision of a Grant Scheme, which recognised the need to assist users of private water supplies in bringing those supplies up to modern standards, was unanimously welcomed but significant concerns were raised that the proposed £650 grant maximum would be insufficient for the required improvements to private supplies.

55. The Executive is giving careful consideration to the points raised through consultation, with a view to finalising the Private Water Supplies Regulations and the Grant Regulations and laying these before Parliament in the next few months. This process will ensure that we introduce proportionate Regulations that make the minimum requirements

necessary to protect health and comply with the Drinking Water Directive, and promote real improvement in private water supplies in Scotland.

56. Both sets of Regulations will be supported by detailed guidance for local authorities and education and information material for owners and users of private water supplies.

Water Division  
Scottish Executive  
Victoria Quay  
Edinburgh

November 2005

## **Distribution of Consultation Document**

This general list summarises the stakeholder categories in the initial distribution.

Academic and Research Institutions  
Age-related Groups  
Analytical Laboratories  
Association of Community Councils  
Association of Public Analysts  
Building Industry organisations  
Business  
Church / Religious Groups  
Citizen's Advice Scotland  
Communities Scotland  
COSLA  
Environmental Protection Groups  
Equality Groups  
Forestry Commission  
Health (e.g. Health Boards)  
Historic Scotland  
Federation of Small Businesses  
Food Standards Agency (Scotland)  
Individual owners / users of private water supplies – representatives  
Law Society of Scotland  
Libraries  
Local Authorities  
MSPs  
National Park Authorities  
Political Parties  
Poverty Action Groups  
Professional Institutions  
Rural and Farming organisations  
Scottish Consumer Council  
Scottish Environment Protection Agency  
Scottish Executive Departments  
Scottish Federation of Housing Associations  
Scottish MEPs and MPs  
Scottish Natural Heritage  
Scottish Water  
Scottish Whisky Research Institute  
Specialists and experts  
Scottish Trade Union Congress  
UK Government Departments  
Visit Scotland  
Voluntary Sector  
World Health Organisation