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CC Feargal O' Coighligh,  
Assistant Secretary, Water

15 March 2022

**Re: Enforcement Powers under the Drinking Water Regulations (S.I. 122 of 2014, as amended)**

Dear Graham,

The Environmental Protection Agency (EPA) is the drinking water quality regulator for public water supplies and works to ensure that drinking water supplied by Irish Water meets the standards of the Drinking Water Regulations, so that public water supplies are safe to drink. The EPA Advisory Committee recently discussed the enforcement powers available to the EPA under the Drinking Water Regulations and asked that their concerns be raised with you.

During 2021, the EPA brought to your attention two incidents at public drinking water treatment plants (DWTP) in Gorey, Co. Wexford and Ballymore Eustace, Co. Kildare, which allowed unsafe water discharge into the public drinking water supply and endangered human health. These incidences are similar to two boil water notices for approx. 650,000 consumers of the Leixlip public water supply in late 2019. The EPA prepared a report for the Minister at the time on the matters associated with those boil water notices, which included several recommendations to the Minister for consideration to improve public confidence in the governance of drinking water protection so that public health is protected.

The role of the EPA is to enforce the Drinking water standards under the Drinking Water Regulations 2014 (as amended). The limited nature of the enforcement powers available to the EPA under these Regulations prohibited the EPA from taking suitable enforcement action for these incidents in 2019 and 2021 and highlighted the necessity for enforcement powers to be extended. For example, under the current regulations, the EPA make take legal action when a Direction it issues is not complied with, but it cannot take action where the operator (i.e. Irish Water) supplies non-compliant or unsafe water to consumers even if it is the cause of a major health outbreak, such as that which occurred in Gorey during August and September 2021.

The EPA recommends that the Minister consider extending the powers of the EPA to enable it to undertake enforcement actions, appropriate and proportionate to the severity of the risks, where deemed necessary. The suggested additional powers include:

- The power to take a prosecution for supplying water that is not clean and wholesome (e.g. where supply of water has caused illness);
- The power to take a prosecution where the water supplier has failed to adequately disinfect water supplied to consumers;
- The power to take a prosecution where a water supplier has acted negligently and posed a risk to public health;
- The power to review and assess risk assessments done by the water suppliers (i.e. drinking water safety plans).

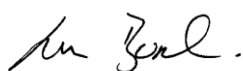
Enhancing the enforcement powers of the EPA will increase public confidence and ensure that Irish Water is subject to enforcement appropriate and proportionate to the severity of the potential risks and impacts on the public and public health.

As you will also be aware, a recast Drinking Water Directive (EU 2020/2164) is set to supersede the existing Directive 98/83/EC in January 2023 and the Department of Housing, Local Government and Heritage have put in place an expert group of all stakeholders, including EPA, to seek input and views, as well as technical expertise and knowledge. This will facilitate the transposition of the Directive by Ireland to ensure it enters into force by January 2023. The EPA considers now is the opportune time to examine the strengthening of the enforcement powers for supervisory authorities of drinking water suppliers.

The EPA has also already brought to your attention that the current arrangements for the delivery of safe drinking water in terms of managerial oversight, operational control and responsiveness are not working satisfactorily and are placing unacceptable risk on public health by failing to ensure safe and secure drinking water. The EPA is aware of the ongoing work towards the transformation of Irish Water to a national water services utility by 2023, replacing the current Service Level Agreement (SLA) between Irish Water and the Local Authorities. This work needs to ensure that there is no residual legal ambiguity in terms of responsibility and accountability for the production of safe public drinking water.

Finally, the EPA Advisory Committee believe that it is important to bring these matters to the Department's attention, given the very serious nature of the incidents that have already occurred and the opportunity that currently exists to address deficiencies in enforcement powers. I am happy to discuss these matters further with you at your convenience.

Yours sincerely,



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**Laura Burke**  
**Director General, EPA & Chair of EPA Advisory Committee.**