



PRIVATE WATER SUPPLIES – CASE STUDY (2011/12)

Prohibition of disconnection and securing the sufficiency of private supplies

This case study relates to a relatively large supply serving five houses and a holiday park with more than 100 chalets. Ownership of the chalets is mixed; private individuals own some chalets, either as permanent homes or as commercial or holiday lets, other chalets are owned and let out by a holiday park company. Occupancy varies from 8 to 12 months. The supply was the subject of a Regulation 18 Notice in 2010 because water quality was unsatisfactory.

When subsequently carrying out the regulatory risk assessment of this supply, the local authority observed supply pipes above ground and others that were buried at a very shallow depth. Occupiers reported how during cold weather they lost supply due to water freezing in these pipes. Taken together this information identified that the supply had failed in the recent past, and was likely to fail again, for reasons of insufficiency. The site owner was advised that he was under a duty to provide a sufficient supply of water for domestic purposes (as defined in the Water Industry Act 1991) therefore outside water fittings required frost protection and any buried supply pipe must have a depth of cover to prevent water freezing. These technical requirements are set out in BS EN 806 Parts 1-5¹ and also Schedule 2 (7) (4) of the Water Fittings Regulations².

The site is owned by a limited company, but one individual appears to be in control. This person refused to carry out works to protect the sufficiency of the supply and instead threatened to disconnect some of the chalets. Some chalet owners who having experienced loss of supply had refused to pay their water bills provoked his reaction. Guidance to local authorities entitled 'The provision of alternative supplies in emergency and non-emergency situation' published by the Inspectorate³ explains to local authorities that disconnection of a supply to a customer for non-payment of a water bill is not permitted under the Water Industry Act 1991. This guidance also explains that water supply owners have a duty to provide an alternative supply of water to the consumers if a supply by means of pipes is insufficient.

To resolve this situation, the local authority informed the owner that they were minded to enforce using a Notice under Section 80 of the Act thereby making the consequences of disconnection

¹ With the publication of BS EN 806-5, BS6700 will be withdrawn on 01 August 2012 and BS8558 will become the lead document in the area of domestic water supply.

² Water Supply (Water Fittings) Regulations 1999

³ <http://www.dwi.gov.uk/stakeholders/guidance-and-codes-of-practice/pws-alt-supplies.pdf>



clear. The local authority also notified the local water company of the situation so that they were aware of the possibility that they may be called upon to provide an emergency supply. Letters were also sent to all chalet owners and the land owner formally asking them to provide copies of agreements setting out the terms under which a supply was being provided to each chalet and making them aware that a Section 80 Notice would be issued if there was non-cooperation. This is necessary in a disputed situation to ensure all the relevant persons are informed and treated fairly and impartially.

This case study illustrates how the Section 80 enforcement process can be used to resolve disputes between relevant persons and/or users which threaten either the sufficiency or wholesomeness of a private water supply. It highlights key principles in water supply law that have not been well understood historically and, as a consequence, have not been applied to prevent or resolve disputes. The Inspectorate recommends that when carrying out a risk assessment, local authorities use the opportunity to explain to supply owners that disconnecting a water supply for non-payment is not lawful and when a temporary disconnection is needed for the purpose of carrying out repairs or improvements then an alternative supply must be made available to all consumers. Owners should also be advised that while water companies will assist with the provision of emergency supplies to consumers who have been disconnected (or if a supply fails for any other unexpected reason), the cost of providing this emergency supply is not paid for by the water company. If water companies did provide free emergency supplies to the owners of private supplies then this would mean that public supply customers of water companies would be subsidising private supply owners and users. The law prohibits this type of cross subsidy, however, it does recognise that water companies are best placed to enable a timely emergency supply and it therefore permits local authorities to commission these from water companies and, if needs be, to pay for them and recover the costs from the private supply owner/manager. By explaining these matters during the risk assessment, local authorities can encourage owners to think ahead by developing emergency plans and putting in place contingency arrangements for alternate supplies. Local authorities should inform owners that the standard for temporary or emergency supplies is BS8551 and this standard should be specified in any contract they enter into with a commercial provider.

Any case of a loss of supply or poor pressure where the cause is damaged or burst pipes poses a potential risk of contamination due to ingress of surface or foul water or as a result of backflow. In these circumstances, a Regulation 18 Notice (rather than a Section 80 Notice) should be used to protect public health and secure a remedy.