



PRIVATE WATER SUPPLIES – CASE STUDY 2019/02

Establishing what constitutes a private water supply

This case study also highlights a further example of a water company and local authority cooperation. Private and public water supplies can sometimes be very difficult to differentiate and therefore resolve. Where there are added complexities then it is not unusual for the Inspectorate to provide additional advice. One such case arose in March 2019 when a water company discovered a particular property was not on their billing records following a request by the local authority. The assumption must therefore be

that the property possessed a private supply. Unexpectedly, after the local authority contacted the property owner it was discovered that they were in possession of an historic covenant associated with the property, which allowed them a supply of water free of charge from their nearby water treatment works owned by the water company.

On further investigation the water company discovered that this land had previously been part of a wider private country estate, and that this parcel of land had been sold off by the then owner in 1907 to the water company's pre-privatised predecessor. An apparent condition of the sale was that properties fed from this site would continue to receive a free supply of water as set out in the above-mentioned covenant. The arrangement is therefore a historical concession granted by the water company.

Such a type of supply is far from unusual and is known as a concessionary supply, which is one that is owned by a water company, yet one or more of its assets (including distribution mains) are located on and/or accessed via privately owned land. In these cases, water company staff are permitted access for maintenance and sampling purposes by way of an historical legally binding agreement between the land owner and the water company. This is on condition that no charges for water consumption will be made to the land owner.

To complicate matters further other properties on the estate, including a number that had been built since 1907 were however being fed from a water company distribution main but historically the occupiers had never paid for it. Their reasoning for this was based on rights as they understood it, which they were afforded under the afore-mentioned covenant. This is now a matter of dispute since many of these houses are being fed from the water company assets located on their land, via public supply distribution mains. The status of these whether, public supply, onward distribution and therefore private supply or concession remain as of February 2020. Furthermore, the legal implications of the covenant at the properties remain unclear.

The company continues to work with the local authority to understand which set of water supply (water quality) regulations apply and where, so that the appropriate set of regulatory requirements (public or private) can be applied and public health standards are maintained. This is essential should any enforcement be necessary where the water is shown or suspected to be unwholesome.

The Inspectorate is regularly contacted by local authorities seeking to understand the classification of supplies in their area, often where arrangements have changed over time. Some arrangements are covered by property law and without specialist knowledge in this field it is difficult to determine the classification of supplies and the rights of relevant persons on the supply. Local authorities should seek legal advice on any agreements or deeds relating to water supplies in order to help determine rights and responsibilities in relation to supplies.