



## PRIVATE WATER SUPPLIES – CASE STUDY 2016/01

### Change of status of a Regulation 8 supply

In October 2012 the Inspectorate received a contact from a consumer complaining of particulates in their drinking water. The Inspectorate's investigation revealed that this consumer was receiving their supply of water from a public distribution system via a storage reservoir sited on a neighbour's property which served both the consumer and their neighbour. This arrangement constituted a Regulation 8 supply under the Private Water Supplies Regulations 2009 as water arising from a water company was being distributed by the neighbour, who was a customer of the water company, through their reservoir to the consumer who was not a customer of the water company.

It was found that the complainant's water quality problem was the result of sediment disturbance in the reservoir. This occurred each time the neighbour turned off the pumps, which were located on his land and used to fill the reservoir. A long-standing dispute existed between the two neighbours originating over billing and maintenance costs and although both consumers had access to the pump under the terms of a covenant agreement, the complainant refused access on the grounds of trespassing, unless he first obtained written permission from his neighbour. Furthermore he was advised by the local water company that if he was granted permission to fill the reservoir for his own purposes by this action, that by default he would become a bill paying customer and be responsible for the reservoir remediation costs and those of upgrading the pump house. Consequently he refused to do so.

In December 2012, the water company carried out a water fittings inspection on this supply as part of the ongoing water quality investigation, under The Water Fittings Regulations 1999. This revealed contraventions associated with the storage reservoir, which presented water quality hazards from ingress. Remediation work to mitigate this risk was required of the owner by February 2013.

The local authority recognised this arrangement as a private water supply under Regulation 8 of the Private Water Supplies Regulations 2009. These Regulations bestow powers on the local authority to enforce on a relevant person under Section 80 of the Water Industry Act 1991 if the water is unwholesome or insufficient, and under Regulation 18 if the water presents a danger to human health. Unfortunately the local authority did not act in accordance with these requirements in a timely manner and between that time and February 2013 the owner of the primary premises disconnected his supply pipe from the water company's communication pipe in preference to repairing the reservoir. As a consequence of this the water supply arrangements ceased to constitute a Regulation 8 supply or a public supply and both the local authority and the water company were then unable to enforce under the respective regulations for which they are



responsible, to bring about the necessary remediation of the reservoir.

The owner of the primary premises then set about establishing alternative water supply arrangements for his own property, allegedly using a redundant rainwater collection system, and gave the keys to and permission for, his neighbour to access the pumping system, should he wish to reconnect to the supply. However, the neighbour returned the keys, refusing to step onto his neighbour's land and instead sought assistance from the local water company to make a direct connection to the public main at the required pressure to maintain sufficiency. The costs associated with this were, however, very expensive due to the topography of the land, and were beyond his means. He remained therefore without a supply of drinking water, other than bottled water, and water for other sanitary purposes from a relative living in the near vicinity into 2014.

During this time the local authority sought further legal advice regarding their position and concluded they had no further responsibility for the case. The water company felt that they had done all that they could and had no further obligation to pursue the matter. This left only the Inspectorate to lobby for a solution as a duty of care.

In the summer of 2014, the Chief Inspector engaged with the water company at a senior level to ask them to step in and further investigate other options to remediate the situation. The Inspectorate acknowledges and welcomes that the company responded accordingly without any regulatory obligation to do so. In September 2014, the company put forward a feasible compromise proposal to bring about a solution, which was subject to agreements and the funding by both parties. This entailed installing a new water supply from a powered pump, removing the need for the water reservoir and land access to operate the pump except for essential maintenance purposes. Once a new water supply was installed a new billing arrangement would be set up so that both parties paid for their water usage directly to the company without being incumbent on each other.

***Unfortunately an agreement to accept this arrangement could not be reached by both parties due to ongoing conflicts of interest and eventually in 2015 the owner of the secondary parcel of land sold the premises to a developer who has since renovated the property.***

A service pipe (common supply pipe) has since been installed to the boundary of the primary premise, from where the pipe divides to supply both properties on each privately owned premises. Each property will have its own meter.

This case study demonstrates how water supply arrangements between neighbours sharing water within the context of Regulation 8 can lead to disputes, resulting in public health risks and compromising situations that are difficult to resolve. In this scenario the unhelpful response of an individual acting under these circumstances led to the unusual position where those empowered under the Water Industry Act 1991 to bring about the necessary remedial actions on a failing supply through enforcement were unable to do so. Nevertheless this very protracted and concerning unsanitary situation was avoidable if the local authority had acted in a timely manner to issue an appropriate Notice when the risk of insufficiency was known.





This case study also highlights the varying nature of private water supply arrangements, particularly those of Regulation 8 supplies. ***This illustrates that while the Inspectorate has developed guidance for local authorities providing basic criteria to determine where Regulation 8 applies, realistically, circumstances will vary and may involve factors that complicate remediation of identified risks in a timely manner.*** This particular case study is an example of where the Inspectorate has used its discretion as an independent advisory body for private water supplies to bring about

