



## PRIVATE WATER SUPPLIES – CASE STUDY 2014/09

### Disconnection of a supply

This case study relates to a Regulation 9 supply to a large country estate in Hampshire, the source of which is a borehole located on a parcel of land upon which there are various cottages and farms. The supply serves 28 properties and businesses directly (150 – 160 persons), and of these six customers who use the water supplied for agricultural purposes. The total estimated usage is 68m<sup>3</sup> per day. There are additional subsidiary users supplied via these directly supplied customers. One such customer is a farm, which until recently onwardly supplied untreated water to several other properties including six cottages. Under this arrangement the farm paid the estate for the water used.

Over the years, four of the cottages were sold off by the farm, but it continued to supply them using the existing private water supply and distribution network. Water meters were installed to enable the farm owner to charge the cottages for the water they used at comparable local water company charges plus a standing charge for pipework repairs to the cottages. The local authority has been led to believe that deeds exist which state that the farm is obliged to supply the cottages as long as the water is supplied by the original estate, but to date have not seen a copy.

In the spring of 2013 the owner of the farm wrote to the occupiers of those four cottages to say that he was proposing to sink his own borehole, but would continue to supply all the cottages from the new supply and levy charges in line with local water company charges. The cottages attempted to negotiate with the estate to stay on the original estate supply, but this was deemed impractical due to cost, additional rights of easement required and a perceived reluctance of the estate to connect 'new' customers to their supply.

In November 2013, the new borehole was installed at the farm together with a pre-filter and UV treatment. The four privately owned cottages appointed a solicitor to negotiate a written contract to ensure sufficiency and to fix charges, but the farm owner responded that no legal agreement was required, as he would continue to supply as previously. This resulted in a standoff during which the owners of the cottages did not pay any water bills. In April 2014 the farm owner wrote to the solicitor stating that he was giving the four cottages notice to seek an alternative supply as he would cease supplying them on October 31 2014. Under the Water Industry Act, it is permitted for private supplies to be terminated or withdrawn where all parties agree. Where agreement is not reached, then a local authority may serve a Section 80 Notice preventing immediate disconnection by the supply owner, but allowing a reasonable timescale for consumers to find a new supply. What constitutes a reasonable period will be determined by availability of alternative sources, the quality of any alternative source, proximity to public supplies etc. It is notable that in this case the local authority were not made aware of the intended disconnection.

The cottage owners independently contacted a borehole contractor and three new boreholes were sunk; one borehole supplying two cottages and one at each of the other two cottages. The owner of one of these had taken out an indemnity insurance to cover such an eventuality when he purchased the property and the insurance company would not fund a shared borehole.



On 28 October 2014 the borehole contractor for the farm contacted the farm owner to say that it was unlikely that all cottages would be connected in time for the deadline by which the farm said it would cease supplying the cottages. A further call was made by the contractor on the 30 October, again seeking confirmation of an extension at which time the request was allegedly refused.

On Friday 31 October, cottage No.3 was connected to a new supply and at 0900 the following day the supply from the farm to the cottages was disconnected and the pipework was dug up leaving cottages 1, 2 and 4 without water.

On Monday 3 November the supply to cottage 4 was connected, but cottage 2 contacted the local authority to report that they had been without water over the weekend. The farm alleged that they had misunderstood the status of the works and thought that all cottages were connected, and they could stop supplying.

The following day cottage number 1 was connected but cottage 2 had no supply due to an internal blockage. The owner of cottage 2 had apparently declined to have any treatment installed. The supply was eventually reinstated on the Wednesday. However, by the Friday of the same week further blockages at cottage number 2 occurred, causing the supply to fail. Investigations revealed that during the sinking of the borehole, the drillers had dropped a plastic sleeve into the borehole and rather than remove it conventionally, had elected to use the drilling rig to break it into smaller pieces which could then be pumped out of the borehole and into supply. The lack of filtration on the supply meant that these fragments were continuing to cause blockages. The owner of this cottage contacted the local authority to request action be taken against the farm owner for disconnection of supply in contravention of the Water Industry Act 1991 ('the Act'). He is pursuing civil damages against the farm owner and alleges the cutting off of the water was a breach of human rights. He also requested that the authority provide him with an alternative supply until the situation was resolved.

Under the Act, the local authority has the discretion to serve a Notice where a supply is failing, has failed or is likely to fail to provide a supply of water sufficient for domestic purposes. In this case, the local authority was made aware of the insufficiency issue after it had occurred, and they were assured that a new supply was due to be connected within a few days. Therefore they decided that a Section 80 Notice would not be beneficial.

The owner of cottage 2 has since employed a different borehole driller to sink another new borehole for himself and cottage 1, and is in dispute with the original contractor over non-payment of invoices.

This case study highlights several points. Firstly, the fact that the current regulations do not obligate creators of new private supplies to inform local authorities. Had the local authority known about the new private supply to the farm, and the threatened disconnection, they could have served a Notice under Section 80 of the Act for threatened insufficiency to ensure the relevant parties agreed a sensible plan.

Secondly, it highlights the need to be aware of the implications of purchasing a property on a private water supply. The owner of cottage number 3 was astute in taking out indemnity insurance against any problems with the supply, and was therefore funded to develop their own supply once notice of disconnection was given.

Finally it demonstrates that borehole drilling can be a complex operation and competent contractors need to be employed. DWI were instrumental in organising a borehole users conference in October 2014 to engage borehole drillers in the first steps towards an industry code of best practice for borehole installation. This conference also introduced the industry to the needs of regulators and public health professionals with regard to private water supplies and a follow-up conference is planned for 2015. The Inspectorate has provided a useful link on its website to some guidance for borehole drillers produced by our counterparts in Ireland

<http://www.epa.ie/pubs/advice/drinkingwater/advicenote14.html>. The risk assessment tool produced by the Inspectorate for use by local authorities carrying out risk assessment of supplies identifies a number of aspects of





borehole design as potential hazards. This may be used as the basis of advice by authorities to anyone considering developing a new private supply as to what they should ensure their contractor installs, together with any quality validation.

