

IN THE MATTER OF WATRS ADJUDICATION

BETWEEN:-

MR JOHN LAYTE

And

SOUTH WEST WATER LIMITED

DEFENCE OF SOUTH WEST WATER LIMITED

DATED 22 JANUARY 2018

1. This claim is made by the Customer ("Mr Layte") against South West Water ("SWWL") Mr Layte's water and sewerage provider to his property at Winter Cottage, Goongumpas, St Day, Redruth Cornwall. ("the Property").
2. When asked which service the complaint relates to Mr Layte advises that his complaint relates to "Water Supply Services" and "Other" stating that there have been "multiple complaints over the years". To outline his complaint Mr Layte provides a URL to his website:
goongumpas.com/docs/20decresponetosww25nov2016letterwithlinks.pdf.
3. Mr Layte also provides a four and a half page document outlining the key issues with SWWL that he wishes to complain about. This document is broken down into 3 subheadings:
 - SWW's failure to investigate low/zero pressure by claiming it to be a "private pipe"
 - SWW's failure to ensure the water supply is safe to drink

- The regulation issues with the rainwater harvesting system and other appliances at Goonhillend and the behaviour of regulation officers involved.
4. By way of resolution Mr Layte seeks the following:
- Compensation of £15,000 for reasons undisclosed
 - Payment of £5000 for the invoices issued by him for monitoring the water supply
 - The resignation or retraining of SWWL members of staff
 - The disconnection of several properties from the mains water supply
5. It should be noted that as Mr Layte is a household customer the maximum claim that can be made through WATRS is £10,000; this includes payment of compensation and the costs of any action that Mr Layte wishes SWWL to undertake.
6. Further, it should be noted that the Water Industry Act 1991 prohibits water undertakers such as SWWL from disconnecting properties from mains water supply apart from in certain extenuating circumstances, or at the request of the customer, however none of the situations would be justifiable in this case as Mr Layte is requesting that SWWL disconnect other properties from the water supply, not his own. As such Mr Layte's request that SWWL disconnect several properties from the mains water supply is not a resolution that can be awarded in this case.
7. The objection letter by SWWL dated 22 December 2017 proposed that points 2 and 3 of Mr Layte's complaint could not be considered as point 3.5 of the Scheme confirms that the Scheme cannot be used to adjudicate disputes which fall into the category of water quality legal standards and regulatory enforcement cases.
8. Following this letter it has been confirmed that "the concern raised about water quality is an entirely separate and discrete issue that does not need to be

dealt with in order for an adjudicator to make a determination on the other issues in dispute.”

9. For this reason the defence will only address the issue raised by Mr Layte regarding “SWWL’s failure to investigate low/zero pressure by claiming it to be a “private pipe” and the resolutions sought by Mr Layte.
10. It should be noted that the Guaranteed Standards Scheme created by the Water Supply and Sewerage Services (Customer Service Standards) (Amendment) Regulations 2017 confirms that a Water Undertaker must “maintain a minimum pressure in the communication pipe of 7 metres static head (0.7 bar). SWWL are of the opinion that the water pressure in the communications pipe is greater than the required standard as pressure tests taken at the boundary are always a minimum of 40 meters per static head (4 bar) which are well above the required standard.
11. It is suspected that the reason Mr Layte has low water pressure is due to the fact that his private supply pipe, that used to supply just Winter Cottage, was reconfigured by Mr Layte and now supplies water to three properties, namely Goonhillend Cottage, Winter Cottage, and Winter Cottage Annex. Additionally, Mr Layte surmised that other properties may be connected to his supply pipe which could also contribute to the low pressure experienced by Mr Layte. Finally, the length of his supply pipe itself could also be a factor in causing some loss of flow and pressure.
12. It has been explained to Mr Layte on a number of occasions that because he owns and is responsible for the supply pipe to his property, any leakage and “illegal connections” allegedly made to his supply pipe by his neighbours would be a private issue and SWWL would not be able to involve themselves in this matter.
13. Mr Layte states that SWWL’s position is that its responsibility for the pipework supply to his property ends at the end of the water main at Lower Goongumpas Lane, near the property Tailings End (circled in blue on the map exhibited as HP/1).

14. Mr Layte alleges that SWWL believes the estimated route of this pipework is marked in pink on HP/1. It should be noted that SWWL have never advised Mr Layte that this is correct, it is possible that Mr Layte has misinterpreted a letter sent by Tracy Symons dated 25 November 2016 (exhibited as HP/2). This letter explains to Mr Layte that his communication pipe runs from the SWWL main to the boundary of the private road, and that from this point the pipe is a private supply pipe and thus his property. Mr Layte appears to have incorrectly interpreted this letter (which he mistakenly refers to as being dated 25 November 2015) as meaning that SWWL believes his private supply pipe enters the land belonging to Five Acres.
15. SWWL has not made comment regarding the route of Mr Layte's private supply pipe to his property and has created HP/1 based on the information provided by him. As the supply pipe is a private pipe, owned by Mr Layte, SWWL would not be aware of or have records of its location. The pink line indicated on the map has not been endorsed by SWWL as being correct.
16. Mr Layte believes that the pipe from Tailings End is laid in the lane until it reaches close to Goon Farm (marked in yellow on HP/1) with the supply pipe then crossing Goon Farm to reach his property (marked in red on HP/1). He states that this therefore means that his property is not serviced by a supply pipe directly from the water main located at Tailing's End, and that he shares a communication pipe with seven other properties (marked in green on HP/1). Mr Layte asserts that because of this it is SWWL's responsibility to ensure that his water supply pressure is not low.
17. Mr Layte's understanding of the pipe network supplying the neighbouring properties is incorrect. The properties circled in green on the map HP/1 each benefit from their own water connection and private supply pipe, this has been confirmed by two members of SWWL staff and the schematic map of these connections is exhibited as HP/3. It should be noted that this drawing was mapped on 18 June 2015.

18. Mr Layte's own single private supply pipe provides water to his three properties. Historically the land all belonged to Goon Farm but over time parcels of land have been sold off for development, including the land owned by Mr Layte. Despite Mr Layte's assertions, Goon Farm along with the other properties highlighted in HP/1 each have their own water supply connections.
19. To support his contention Mr Layte has provided a copy of an easement containing the provision that the grantees are granted the "right to lay, maintain and renew a water pipeline in the enclosures numbered part 802, 807,808, 701, and 705 on the 2nd Edition 1908 of the Ordnance Survey Map for the Parish of Gwennap.... In the position shown by a red verge line on the said plan", the plan is also included with the easement. A copy of this easement being provided by Mr Layte to SWWL in an email dated 04 March 2013.
20. Mr Layte states that he has asked SWWL to investigate this matter on a number of occasions due to the water supply issues he is experiencing at his property but that SWWL has always refused, citing "cost".
21. SWWL strongly disagrees with this suggestion; the reason for not investigating further is not the cost but the fact that it is a private issue. SWWL has invested considerable time, money and resources in connection with this matter generally and Mr Layte's various concerns have all been investigated and the conclusion drawn is that the issue is a private matter. To date Mr Layte has provided nothing to suggest that this is not a private matter.
22. Mr Layte asserts that because of SWWL's refusal he has undertaken an excavation on Lower Goongumpas Lane near our boundary stop tap and check meter. He states that his findings confirm that the water pipe leading off from his stop tap travels along Lower Goongumpas Lane in the route marked yellow on HP/1. These excavations were performed on 20 June 2017 and details were provided to CCWater by Mr Layte in a letter dated 27 June 2017.

23. Regardless of Mr Layte's excavations SWWL still maintains that the pipework is private and laid in private land. This has been relayed to Mr Layte on a number of occasions in writing. The letter exhibited as HP/2 confirms this as it states that SWWL does not know the exact path of his private supply pipe and he is advised as to the location where SWWL's liability ends. It should also be noted that SWWL set out their final decision on the matter in their letter addressed to Stacey Harper, the case manager at CCWater who was responsible for communicating with Mr Layte at that time. This email is exhibited as HP/4 (please note that for the sake of brevity the appendices referred to in HP/4 have not been included as they will have been provided with the CCWater pack. They can however be made available upon request).
24. SWWL records show that a water main is located in Lower Goongumpas Lane installed in 1955 and is evidenced in the map I exhibit as HP/5. The blue dot at the end of the water main signifies a fire hydrant which is standard apparatus to enable routine maintenance to take place such as flushing. SWWL's responsibility would also include the communication pipe which runs from the water main to the boundary of the private road in which the water main is laid.
25. It should be noted that all of the property owners in the Goongumpas area are responsible for their supply pipes from the connection to the main (excluding the communication pipe) at Tailings End until it reaches their property, not just Mr Layte. In 2012 Harmony Cottage's supply pipe was connected to the main located at Tailings End. The property owners had to lay their new supply pipe in a private track, which is similar in length to Mr Layte's, at their expense as all customers are responsible for installing/maintaining their private supply pipes from their property up to the boundary of the street in which the water main is laid. The same requirement has been applied to a prospective water connection at a property in the Goongumpas Area (Purple Haze), as it is for all customers. However this connection has yet to be made.
26. The photograph I exhibit as HP/6 taken from Lower Goongumpas Lane shows the position of the fire hydrant indicating the end of the water main, along with the sign that Mr Layte erected at the location of the boundary stop tap that

supplies his premises (Goonhillend Cottage, Winter Cottage, Winter Cottage Annex). The communication pipe runs from the SWW main to the boundary of the road. The pipe from this point to Mr Layte's property is his private supply pipe and therefore his responsibility. It should be noted that on one occasion Mr Layte took it upon himself to install a padlock on SWWL's stop tap and meter chamber housing and erect a sign to advise people that he was investigating illegal connections to his supply pipe (I attach proof of this as Exhibit HP/7). He did this so that he could isolate the water supply for prolonged periods of time, as part of his own investigations into alleged illegal water connections he believed were made on his private supply pipe, for which he has invoiced SWWL. Mr Layte did not seek permission before interfering and damaging SWWL's apparatus by installing a padlock; and this act was a direct contravention of Section 174 of the Water Industry Act 1991, however in the interests of good customer relations SWWL did not pursue this matter.

27. The exact location of the communication pipe from SWWL's main to Mr Layte's stop tap is unknown but can be assumed from the location of the hydrant and the stop tap for Mr Layte's water supply as demonstrated in HP/6.
28. If the easement map is correct and the water pipe is laid in Lower Goongumpas Lane, then this does not mean that SWWL is responsible for the pipe after Tailings End. The easement clearly shows the line of Mr Layte's supply pipe running from his property across private land, near to Goon Farm, then down the privately owned track/drive where it joins Lower Goongumpas Lane, which is third party/private land. Ordinance Survey maps do not give this track/drive any designation as they do with other roads. Of the tracks that do not belong to the individual properties, it is understood that many of the unnamed tracks in this area (including the section of Lower Goongumpas Lane in which SWWL's water main is laid) belong to West Country Minerals Limited and are not in public ownership, I exhibit proof of this as HP/8. This therefore reinforcing SWWL's contention that Mr Layte's pipework becomes a private matter immediately after it leaves the boundary Lower Goongumpas Lane, this being where the stop tap to Mr Layte's supply is located.

29. Notwithstanding the fact that all of Mr Layte's pipework is laid in private land, SWWL has not excavated Lower Goongumpas Lane due to the location of the pipework and the size of the road, as such an excavation would require a full road closure to ensure the safety of SWW workers, it would also require SWW obtaining the permission of the relevant landowners or serving the relevant notices, both of which would inevitably take a considerable amount of time. For this reason the costs would not be proportionate to the issue. As a regulated business operating within a regulatory price control South West Water must balance the needs of all of its customers. A disproportionate amount of money spent on a single customer, on what is a private matter, would compromise the total budget available for all customers. Consequently, any works must be prioritised accordingly against strict criteria so that maximum benefit is achieved.
30. Further, it should be noted that the photographs of Mr Layte's excavation do not in any way demonstrate or confirm the direction in which the pipe travels after it leaves his meter located next to his stop tap. SWWL were concerned to see these photographs as certain permissions have to be obtained to excavate a public highway or third party private land, namely the privately owned section of Lower Goongumpas Lane where the end of SWWL's main and Mr Layte's communication pipe are located.
31. Regarding the invoices submitted by Mr Layte which include amongst other things his time spent "monitoring the water supply" Mr Layte suggests that he performed this monitoring in January 2015 until the end of August 2015 in order to investigate who was using the water supply leading to his property. Mr Layte's belief being that other properties were connected to his water supply pipe and were using his water.
32. It is SWWL's contention that these do not have to be paid as these are actions taken by Mr Layte of his own volition to satisfy his own suspicion that one or more of his neighbours had connected to his supply pipe. Further it should be noted that Mr Layte was undertaking an investigation on his own asset (located on private land), not one belonging to SWWL. This being the case,

any connections made to Mr Layte's supply pipe would be a private matter for him to investigate and resolve at his expense. Whatever resolution chosen, whether to excavate and disconnect any connections identified, lay an entirely new supply pipe or seek redress through the legal system, owing to the fact that this is a private supply pipe on private land these costs would have to be borne by him.

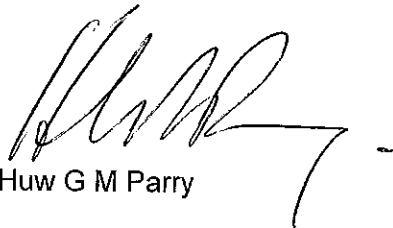
33. SWWL's position has been conveyed to Mr Layte since this issue was raised, this being that, as his water supply is deemed private from Tailing's End onwards, any alleged connections that may be made to this supply would be a private issue between Mr Layte and any individuals who were connected to his supply. As stated at paragraph 29 above SWWL has not considered it necessary to excavate the road in question as it is believed that other significant investigations have been conducted and the matter is considered to be private. As such SWWL cannot pay invoices for actions taken to settle private matters.
34. It should be noted that despite this and as a gesture of goodwill, SWWL has assisted Mr Layte in his investigations in this issue as much as possible as previously mentioned.
35. It is believed by SWWL that Mr Layte's request for the resignation or retraining of SWWL staff likely relates to one member of staff in particular, this being the Water Regulations Inspector Richard Harrison. Throughout Mr Layte's four and half page document he mentions Richard Harrison on numerous occasions none of which are in a flattering manner.
36. Further, in his time liaising with Mr Layte, Richard Harrison has been subject to what could be considered defamation. In postings on his website Mr Layte implies that Richard Harrison is being untruthful and has on numerous occasions in correspondence bluntly accused him, together with a number of other staff, as being "liars". He is however a little less direct in his most recent complaint to WATRS where he states that Richard Harrison "*falsely claimed I had deliberately installed pipework to restrict access*", he states that Paul Mitchell "*should apologise for being so easily deceived and in future ... he*

takes anything Richard Harrison tells him with a pinch of salt". Mr Layte also suggests that Richard informed him that he could not visit Goon Farm as the *"last time he had tried he had been threatened with a shotgun by a farm worker."* It should be noted that SWWL does not accept that this comment was ever made or that such an incident occurred. Mr Layte has also on one occasion taken a video recording of Richard Harrison and published the video to YouTube without his permission.

37. As far as SWWL is concerned Richard Harrison's conduct in this matter is in no way questionable. He is a highly respected member of SWWL staff with over 20 years of service between his employment with both Severn Trent Water and SWWL in customer facing roles. He has all of the necessary qualifications required of him to undertake his role of Water Regulations Inspector, including a City and Guilds Qualification in Water Regulations Enforcement. As such it is not accepted that Richard Harrison has behaved in any way during this matter that would make it necessary for him to be retrained or to resign.
38. It should be noted that Mr Layte has benefited from the assistance of a great number of different SWWL staff either in person, over the phone or in written correspondence. Between February 2015 and February 2017 28 letters have been received in relation to this matter from either Mr Layte, his MP or his tenant. SWWL has ensured that a response has been provided to all correspondence, either by email, letter or telephone call. SWWL consider that they have gone above and beyond what is reasonable in attempts to assist Mr Layte and resolve the issues presented.
39. Finally it is difficult to address Mr Layte's request for compensation as he fails to explain why he believes he is entitled to such an amount. It is SWWL's belief that throughout the time spent investigating Mr Layte's issue in order to resolve it, nothing has occurred that would suggest he would be due compensation. SWWL has explained its rationale to Mr Layte for its finding regarding the ownership of the pipe in detail on several occasions and there is little that SWWL can do if Mr Layte fails to accept SWWL's response and continues with his own actions afterwards.

40. Despite this SWWL has offered Mr Layte payment of £1,500 as a gesture of goodwill for his time spent investigating his private issue which to date he has declined to accept. Exhibit HP/2 refers to this offer which was first made in September 2015 and has been offered on a number of occasions since. The offer was made in an attempt to draw this matter to an amicable conclusion and avoid SWWL staff being subject to further distress by having their personal details posted on social media. SWWL remains willing for that sum to be available for acceptance now should Mr Layte wish to accept it in full and final settlement of all of his complaints against SWWL.

Signed:

A handwritten signature in black ink, appearing to read 'Huw G M Parry', with a long horizontal stroke extending to the right.

Name: Dr Huw G M Parry

Position: Customer Support Manager

Date: 22 January 2018

