



Water today, water tomorrow

**Dispute referred under section 45 and 30A of the Water
Industry Act 1991**

Mr Karl Aziz vs. Thames Water

Final Determination

22 September 2014

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1. Introduction

A. The complaint

- 1.1 This determination concerns a dispute under section 45 and 30A of the Water Industry Act 1991 (“**the Act**”) regarding the expenses reasonably incurred that Thames Water can recover for providing a new water supply at [REDACTED] (“**the Property**”), a premises owned by Mr Karl Aziz (“**the Complainant**”). Consideration of the reasonableness of the charge includes consideration of the reasonableness of the works undertaken by Thames Water in order to provide the supply.
- 1.2 To provide the new water supply, Thames Water chose to lay a new section of main (“**the New Main**”) to connect with an existing main (“**the Existing Main**”) in an adjacent street. Thames Water then ran a service pipe to the **New Main** instead of either connecting a new service pipe to the **Existing Main** or tapping on to the existing shared supply network serving the neighbouring properties.
- 1.3 On completion of the works, Thames Water sought to recover from the **Complainant** a final charge of £9,413.98 comprising:
- £8,991.04 for the **New Main**. This figure was based on the discounted aggregate deficit (otherwise known as the statutory commuted sum) method of charging used for mains requisitions (under section 42 of the **Act**) rather than the charging provisions within the **Act** relating to service connections (sections 45 and 46); and
 - £422.94 for the service connection to the **New Main**.
- 1.4 In addition Thames Water had previously charged the **Complainant** £200 as a processing fee for his water supply application, bringing the total charge for the new supply to £9,613.98.
- 1.5 The **Complainant** disputes the reasonableness of both Thames Water’s decision to provide the **New Main** (rather than provide a service connection to the **Existing Main**) and the amount of money Thames Water has sought to recover from him.

B. Purpose of this document

- 1.6 This is our final determination of this dispute.
- 1.7 Before reaching this final determination, we issued a draft determination to the parties to the dispute on 15 August 2014. We provided the parties with the opportunity to make representations on the draft determination we were minded to

make. The **Complainant** responded to us on 9 September accepting the conclusions of our draft determination. Thames Water submitted representations to us on the draft determination on 5 September.

- 1.8 Where a party has presented their view to us either ahead of our draft determination and/or in their representations to us on the draft determination, their views are set out in section 4 against the relevant part of our determination.

C. Overview of our determination

- 1.9 In determining this case we considered three key issues:

- a) the provision by Thames Water of a main instead of a service pipe;
- b) the legal provisions for charging for a new water supply; and
- c) the reasonableness of costs for a service connection to the **Property**.

- 1.10 Our determination and our reasoning for it are set out in full in section 4 of this document but an overview of our determination is set out below.

- 1.11 We consider that Thames Water was acting in compliance with section 46(8) of the **Act** when it decided to lay a water main instead of a service pipe to provide a water supply to the **Property**. Thames Water is not legally required to provide any justification for its decision to do so.

- 1.12 Where a water undertaker chooses to exercise its power under section 46(8) to lay a water main instead of a service pipe, section 46(9)(b) of the **Act** states that “*the expenses recoverable ... shall not exceed such amount as it would have been reasonable for the undertaker to have incurred in laying a service pipe instead of the main*”.

- 1.13 Having taken into account both section 46(9) and the fact that the new supply was for a single premises adjoined to others already served by Thames Water via service connections, we conclude that Thames Water should only recover from the **Complainant** the amount it would have reasonably incurred in laying a service pipe to the **Property**.

- 1.14 Thames Water has told us that it estimates that it would have incurred costs of £6,540.94 if it had provided a service connection to the **Property**. This figure is based on standard rates provided by their term contractor and includes £973 attributable to administration and overhead costs.

- 1.15 We have assessed the reasonableness of this estimate, using the Hyder Report (see paragraph 4.25) and ‘the Review of Section 45 Costs’ Report (see paragraph 4.27) as guidance.
- 1.16 We consider that, given the length of the service pipe that would have been laid and the types of ground that would have been excavated, Thames Water’s notional construction costs are reasonable as they fall within the range of appropriate benchmark costs for works of this nature.
- 1.17 In addition to these estimated construction costs, we further consider that, for a standard single service connection such as the one that would have applied to the **Property**, administrative and overhead costs (including application fees) should not generally exceed £105.30.
- 1.18 As a result, we determine that the expenses that would have reasonably been incurred in providing a service connection are £5,673.24 (comprising construction costs of £5,567.94 and administration and overhead costs of £105.30).
- 1.19 The **Complainant** has already paid an application fee of £200 (paid on 9 March 2011) and made an advance payment (on 24 June 2011) of £5,000 as security towards the final costs of providing the water supply. This leaves an outstanding charge of £473.24. The charge we have determined is £3,940.74 less than Thames Water had sought to recover.
- 1.20 These amounts exclude the statutory infrastructure charges that would be payable for the new connection and which are not part of this dispute. In 2011 these would have been £312.19 each for water and sewerage.
- 1.21 In line with section 48 of the **Act**, interest is payable on the payments made to Thames Water by the **Complainant** ahead of the provision of the supply since they are considered security for the works. This interest is payable from the date(s) on which they were made until the date (17 November 2011) Thames Water signed off the site completion following a defect rectification and the supply could be considered provided.
- 1.22 On the basis of our determination of the costs reasonably incurred, Thames Water should now calculate the interest payments due on payments made ahead of the supply being provided and re-issue a final invoice to the **Complainant** reflecting our determination that the costs they can recover are £5,673.24. This invoice should be issued within 20 working days of the final determination being issued to the parties. Interest rates should be applied in accordance with [Ofwat’s Information Notice on interest rates](#).

2. Factual Background

A. The Parties

Complainant

2.1 Mr Karl Aziz is the owner and developer of the **Property** [REDACTED]

Company

2.2 Thames Water is appointed under the **Act** to provide water and sewerage services to customers in London and the Thames Valley. The **Property** is located within Thames Water's area of appointment.

B. The Property

2.3 The **Property** [REDACTED] abuts [REDACTED] which before the **Property** was built was the last of a row of eight terraced houses ([REDACTED] [REDACTED]). The road in that section of [REDACTED] is asphalted up to [REDACTED]. Access to the remaining houses including the **Property** is via a footpath on the verge of a lawn. (See picture in Appendix B).

C. The request for water supply

2.4 In March 2011, the **Complainant** made a telephone application to Thames Water for a water supply for domestic purposes to the **Property** which he was then in the process of constructing. He paid Thames Water an application processing fee of £200 on 9 March 2011.

2.5 At the time of the application, Thames Water had an existing main (the "**Existing Main**") in the main section of [REDACTED] (see the blue line in [REDACTED] in Appendix C). The existing properties located on adjoining cul-de-sacs of [REDACTED] [REDACTED] are each connected to the **Existing Main** through a network of shared supplies.

2.6 When Thames Water received the **Complainant's** application, it sent a field engineer to the site of the **Property**. The engineer assessed that the **Property** was 58 metres away from the **Existing Main** and concluded that in order for a 25mm diameter service connection to be made to the **Property**, Thames Water would first have to lay a new section of main in the cul-de-sac section of [REDACTED] in which the **Property** is located, connecting to the **Existing Main**. Thames Water explained this to the **Complainant's** builder who was present at the site of the **Property** at the time of the visit.

- 2.7 Following the site visit, Thames Water sent a quote to the **Complainant** on 7 April 2011 for £13,083.41 to provide a new main 58 metres long and 90mm in diameter (the "**New Main**"), connecting to the **Existing Main** (see broken red line P1 P2 in Appendix C). This quote was based on a discounted aggregate deficit calculation for the costs of providing a new main (see Legal Framework section for an explanation of this term). This quote stated that Thames Water would provide a separate quote for the service connection needed to connect to the **New Main** (see the green line to the New Main in Appendix C). Thames Water subsequently stated that this would be £422.94.
- 2.8 Thames Water provided an additional quote of £1,354.17 as the asset payment it would pay to the **Complainant** to adopt the **New Main** if the **Complainant** opted to self-lay that main.
- 2.9 When the **Complainant** received these quotes, he considered the self-lay option and consequently arranged for a quote from a local contractor. The contractor supplied one on 21 April 2011 for £5,849.00 to lay 47 metres of 32mm diameter pipe connecting to the **Existing Main**.
- 2.10 On 8 June 2011 the **Complainant** contacted us to highlight the significant difference between the quotes provided by Thames Water and the local contractor. He asked us to investigate the reasonableness of Thames Water's quote.
- 2.11 On 24 June 2011, the **Complainant** paid a deposit of £5,000 to Thames Water as security towards the final charge for providing the water supply. This was after Thames Water had issued a revised, lower quote for the **New Main** for £10,545.15 (again based on a discounted aggregate deficit calculation). This was based on revised estimated costs of £11,899.32 for the works.
- 2.12 The work to lay the **New Main** commenced on 15 August 2011. 58 metres of 90mm diameter main were provided. It was put in commission on 9 September 2011, the same date that the actual work to physically connect the **New Main** to the **Existing Main** was carried out. However, the site completion was not signed off until 17 November 2011 due to defect rectification.
- 2.13 In terms of capacity, the **New Main** has a peak flow rate of 1.4 litres per second. The expected peak flow requirement for the **Property** is 0.02 litres per second.

D. Request for a determination

- 2.14 On 8 September 2011, the **Complainant** formally requested us to determine the reasonableness of the amount that Thames Water was seeking to recover from him for providing a new water supply. He asked us to consider whether Thames Water's

decision to provide the **New Main** was reasonable given that: (a) he had not specifically requisitioned a main; and (b) a cheaper option to provide a water supply to the **Property** was available. Our determination does not include consideration of the statutory infrastructure charges recovered by Thames Water. These are payable for each new premises connected to the network for the first time for water and sewerage services.

2.15 Since the time the **Complainant** first contacted us on 8 June 2011, we have had a significant amount of correspondence with Thames Water to enable us to understand better the facts surrounding three issues which we have identified as key to this dispute, namely:

- a) the provision of a main instead of a service pipe;
- b) the legal provisions for charging for a new water supply; and
- c) the reasonableness of the costs for a service connection to the **Property**.

3. The Legal Framework

This section outlines the key legislative provisions relevant to this case.

A. Definition of a water main and a service pipe

3.1 Section 219 of the **Act** provides the following definitions:

- a) A water main is: *“...any pipe...which is used or to be used by a water company...for the purposes of making a general supply of water available to customers or potential customers of the undertaker..., as distinct from for the purpose of providing a supply to particular customers”*. This definition includes tunnels or conduits which serve as a pipe and to any accessories for the pipe.
- b) A service pipe is: *“...so much of a pipe which is, or is to be, connected with a water main for supplying water from that main to any premises as (a) is or is to be subject to a water pressure from that main; or (b) would be so subject but for the closing of some valve.”*

B. Water mains requisitions

- 3.2 Under section 41(2) of the **Act**, an owner or occupier of a premises may require a water company to provide a water main to provide a supply of water to the premises to be used for domestic purposes (this is termed a **“requisition”**). Subject to the conditions set out in section 41 of the **Act** being fulfilled, the water company is under a duty to provide the water main.
- 3.3 Under section 41(1)(c) and section 42(2) of the **Act**, as part of the duty to comply with a water main requisition, a water company can recover a contribution from the owner or occupier of the premises towards the costs of providing the water main (the **“requisition charge”**).
- 3.4 As set out under sections 42-43A of the **Act**, the requisition charge is calculated by reference to i) the annual borrowing costs of a loan of an amount that would be required to cover the costs incurred in providing the main and ii) the revenue which will be recovered by the water company by means of the water main (i.e. the bills paid by customers connected to that main, which is in turn derived from the premises' occupancy rates) over each of the 12 years following provision of the water main. Where, in any of those years, the revenue exceeds the borrowing costs, the owner or occupier of the premises will not be required to make any payment. Where the borrowing costs exceed the revenue, the water company is entitled to require the owner or occupier of the premises to pay the difference to the water company.

- 3.5 Section 42(2)(a) provides for the owner or occupier of the premises to pay the water company the requisition charge either by way of an annual amount over each of the 12 years following provision of the water main (the “**relevant deficit**”), or a single lump sum payment made following provision of the water main, which is referred to as the discounted aggregate deficit (the “**DAD**”) and otherwise known as the statutory commuted sum.
- 3.6 The relevant deficit is calculated in accordance with section 43 and the DAD is calculated in accordance with section 43A. The final requisition charge can only be requested once the water main has been provided and all the final actual costs are known, albeit a security payment can be requested in advance by the water company based on estimated costs.

C. Service connections

- 3.7 Section 45(1) of the **Act** imposes a duty on a water company (subject to certain conditions) to make a connection, where the owner or occupier of any premises serves notice on the water company requiring the water company to connect a service pipe to those premises with one of the water company’s mains for the purposes of supplying water for domestic purposes.
- 3.8 Under Section 45(6) WIA91 the water company may recover from the person who has required the water company to make such a connection the expenses reasonably incurred by the water company in making the connection.
- 3.9 Section 46 imposes a further duty on a water company to carry out such ancillary works that are required for purpose of making the service pipe connection with the main. This comprises the laying of so much of the service pipe to be connected with the water main as it is necessary to lay in a street.
- 3.10 Section 46(8) provides that in complying with its duty to carry out these ancillary works, a water company has the powers to lay a water main instead of a service pipe. Where a water company exercises this power, section 46(9)(b) states that “*the expenses recoverable by virtue of section 45(6) ... shall not exceed such amount as it would have been reasonable for the undertaker to have incurred in laying a service pipe instead of the main.*”

D. Interest payments

- 3.11 Under section 47(2) of the **Act** a water company can reasonably require a security payment from the person requesting a service connection as a condition for complying with its section 45 duty.

3.12 Under section 48, where “*any sums have been deposited with a water undertaker by way of security for the discharge of any obligation, the undertaker shall pay interest at such rate as may be*” approved or determined by Ofwat on “*every sum of 50p so deposited for every three months during which [the deposit] remains in the hands of the undertaker.*”

E. Disputes

3.13 Section 42(6) of the **Act** provides that any dispute between a water company and any other person regarding the amount of any undertakings or security required for the purposes of section 42 or the amount required to be paid in pursuance of any such undertakings can be referred by either party to Ofwat for determination under section 30A of the **Act**.

3.14 Section 45(6A) of the **Act** (which is applicable to costs incurred under section 46 by virtue of section 46(7)) allows any dispute between a water company and any other person as to whether the expenses related to service connections were incurred reasonably to be referred to Ofwat by either party for determination.

4. Our determination

4.1 This section sets out our determination of the expenses reasonably incurred that Thames Water can require from the **Complainant** for the provision of a new water supply for domestic purposes. This determination has been informed by our findings and decisions on the three issues we have identified as key to this dispute:

- a) the provision of a main instead of a service pipe;
- b) the legal provisions for charging for a new water supply; and
- c) the reasonableness of the costs for a service connection to the **Property**.

A. Provision of the New Main

Complainant's view

4.2 The **Complainant** states that he did not explicitly requisition a main from Thames Water. He has been unable to provide documentary proof of his request to Thames Water because he made his application by telephone. When the **Complainant** sought an alternative quote from a local contractor, this was on the basis of a service connection to the **Existing Main** rather than a new main and service connection.

Company's view

4.3 At the time of the **Complainant's** application, Thames Water had a single application form for a new water supply connection, used for applications for both new mains and service connections. Thames Water noted on the application form that if an applicant was unsure of what they needed or Thames Water considered it necessary to provide a new public water main it would contact the applicant to discuss the applicant's proposals.

4.4 Thames Water has been unable to provide us with a record of the specific application made to them by the **Complainant** (be it for a service connection or to requisition a main), stating that this is due to the application having been made by telephone. Instead on 14 April 2014 Thames Water submitted a document to us that it states includes collated details of the discussions its helpdesk had with the **Complainant** at the time of his application. This document contains information which purports to show that the **Complainant** had discussed with Thames Water the provision of a 25mm diameter water supply connection (i.e. a service connection) to the **Property**.

- 4.5 In correspondence to us on 7 July 2011, Thames Water pointed out that under section 46 of the **Act** it may choose to provide a new main to a single property that is not already served by an existing water main following a request by a customer.
- 4.6 Thames Water provided several operational reasons why it did not consider the provision of a service pipe as a viable option. It states that a 58-metre length of service pipe running along a public highway: would not be traceable; could be illegally connected into; would be subject to ownership issues; and would result in a considerable length of unmetered pipework that would make leakage detection difficult.
- 4.7 Thames Water further explained to us in a letter dated 14 April 2014 that it considered that providing a long service pipe to the **Property** would not have been best practice and would have likely resulted in low flow and pressure for the **Property**. Thames Water said it had selected to provide a 90mm diameter main instead because this is the smallest size of main it could lay under its design practice. It also confirmed that there were no plans for the additional capacity in the **New Main** (beyond that required by the **Property**) to be used to serve any other customers be that existing or future development.
- 4.8 In correspondence to us dated 20 May 2014, Thames Water explained that the adjacent properties in [REDACTED] are supplied from the **Existing Main** through a network of private shared supplies which were previously owned and billed through the [REDACTED] until they were transferred into private ownership.
- 4.9 Thames Water stated that a service connection notice relates to a duty to make a connection to a main. For this reason, Thames Water stated it would always endeavour to deliver a single connection to a main on its network. It stated that it is its policy not to respond to a service connection request by extending an existing private shared supply. Thames Water did not explain why it has this policy.
- 4.10 In its correspondence of 20 May 2014, Thames Water also stated that it had no record of any low flow or pressure problems at [REDACTED] and [REDACTED] [REDACTED] the two properties in the private shared supply network that are furthest from the **Existing Main**, the latter of which is located directly opposite the **Property**.

Our determination

- 4.11 Section 46(8) of the **Act** provides that a water company may comply with its duty to lay a service pipe for the purpose of making a domestic connection by laying a water main instead. The **Act** does not require a water company to satisfy specific requirements or to provide reasons to qualify its decision to lay a main instead of a service pipe. We are satisfied that Thames Water had legal provision under section

46(8) of the **Act** to lay the **New Main** to which it lay a service connection, rather than lay just a service connection to the **Existing Main**.

B. Legal provision for charging for a new water supply

Company's view

- 4.12 In its 7 July 2011 correspondence to Ofwat, Thames Water stated that it is required under the **Act** to recover the costs of laying a new water main from new customers.
- 4.13 In its 14 April 2014 correspondence, Thames Water confirmed that the final requisition charge it is seeking to recover is £8,991.04, based on final actual costs for providing the **New Main** of £10,345.21¹.
- 4.14 Additional to the requisition charge for the **New Main**, Thames Water has sought to recover a charge of £422.94 for the connection of the **New Main** with the service pipe to the **Property**.

Ofwat's determination

- 4.15 Sections 42, 43 and 43A the **Act** set out the financial conditions of compliance when a water company complies with its duty to respond to a water mains requisition. Such requisitions are generally (albeit not exclusively) used for providing supplies of water to premises in a particular locality, i.e. for development sites, rather than for individual premises for which the water company's duty to provide a supply is generally complied with under sections 45 and 46 of the **Act**.
- 4.16 Thames Water has explicitly stated to us that in complying with its duty to provide a supply to the **Property** it exercised its power under section 46(8) of the **Act** to lay a main instead of a service pipe. Where a water company chooses to exercise this power, section 46(9) of the **Act** states that "*the expenses recoverable ... shall not exceed such amount as it would have been reasonable for the undertaker to have incurred in laying a service pipe instead of the main*".
- 4.17 As such we determine that the expenses reasonably incurred that Thames Water may recover from the **Complainant** are the notional costs it would have incurred to provide a single service connection to the **Existing Main**. We consider this to be particularly appropriate in this case as the amount sought by Thames Water appears disproportionately high for an individual premises, given the **Property** is just metres away from an existing supply provided by Thames Water (albeit via a private supply

¹ Thames Water's response notes that the £10,345.21 figure was an error and that actual outturn costs for the main were actually £10,419.60. They have not sought to recover a greater charge on the basis of the correct figure.

network) and given the significant additional capacity in the **New Main** beyond that required to serve an individual property.

C. Reasonable costs for a service connection to the Property

Complainant's view

- 4.18 The **Complainant** disputes the reasonableness of the amount (£9,413.98) Thames Water is requesting from him to cover the cost of providing a water supply to the **Property**. This is in addition to the £200 application fee he has paid.
- 4.19 The **Complainant** has highlighted to us the significant difference between the amount sought by Thames Water and the quote (£5,849.00) he received from a local contractor to lay a service pipe between the **Property** and the **Existing Main**.

Company's view

- 4.20 Thames Water is looking to recover from the **Complainant** a total amount of £9,413.98 which is made up of £422.94 for the service connection to the **New Main** and the DAD of £8,991.04 for the **New Main**. In addition it has recovered a £200 application fee from the **Complainant**.
- 4.21 In its 20 May 2014 correspondence to us, Thames Water informed us that it estimates that it would have incurred expense of £6,540.94 had it laid 55 metres of 25/32mm diameter service pipe to the **Property**. The breakdown of their estimated costs is provided in Table 1 below.
- 4.22 Thames Water has confirmed that its estimate is based on standard rates from its term contractor. It states that these rates include a proportion of administration and overhead costs, typically about 15% of the total costs. As such it attributes £973 of its total estimated costs of £6,540.94 to administration and overhead costs. The remaining £5,567.94 can be considered construction costs (i.e. materials, labour and reinstatement of the land in which the pipe is laid).

Table 1: Breakdown of notional costs for laying a 55 metre service pipe

	Cost (including admin & overheads)
Connection in carriageway	£801.00
Additional length 33.2m of pipe in carriageway	£4,672.54
Additional length of 6m of pipe in footway	£546.00
Additional length of 15.8m of pipe in verge	£521.40
TOTAL	£6,540.94

Ofwat's determination

- 4.23 In determining the notional costs that Thames Water would reasonably have incurred in providing a service connection, and can hence recover from the **Complainant** for providing a new supply, we have separated those the notional costs into two categories:
- a) Construction costs - This includes the total cost of providing a single service connection (the physical pipe laying and actual connection of pipe to main) including labour, materials and reinstatement; and
 - b) Administration and overhead costs - This includes the administration fees and overheads for providing a single new connection.
- 4.24 In determining whether Thames Water's estimated costs are reasonable, we have considered the benchmark costs included in the Hyder Report (see paragraph 4.25) and 'the Review of Section 45 costs' report² (see paragraph 4.27) as guidance.

Construction costs

- 4.25 The Hyder Report is an independent report commissioned by us which involved the surveying of a number of water companies to understand the breakdown of charges made by those companies for construction work undertaken in connecting new water supplies, and to:
- a) obtain an understanding and explanation of the variance in charges between water companies;
 - b) compare water company contractor rates for new water connections; and thereby
 - c) obtain an understanding of what are reasonable costs/charges for materials (e.g. pipework, meters, etc.) and for labour.
- 4.26 In line with the Hyder Report's recommendations, we consider that, given the length of the service pipe that would have been laid and the types of ground that would have been excavated, Thames Water's notional cost estimate for construction works (£5,567.94) is reasonable as it falls within the range of appropriate benchmark costs for works of this nature and is very close to the median costs we would expect for these works, as shown in Table 2.

Table 2 – Benchmark costs from Hyder Report

² Review of section 45 costs - Independent review of section 45 administration and overhead costs on behalf of the Water Services Regulation Authority (Ofwat) by [REDACTED] (August 2013)

	Minimum charge (£)	Median charge (£)	Maximum charge (£)
33.2 meters of pipe in carriageway	1,221.69	3,604.04	10,792.58
6 meters of pipe in footway	185.61	510.00	1,324.70
15.8 meters of pipe in verge	340.44	835.78	1,431.36
TOTAL	1,747.74	4,949.83	13,548.64

Administration fees and overhead costs

4.27 The Review of Section 45 Costs Report is separate independent report commissioned by us in 2013. It involved surveying five water only companies and five water and sewerage companies to:

- a) obtain an understanding and explanation of the variance in section 45 contractor charges between companies;
- b) compare contractor rates for new connections using both conventional open cut and moling;
- c) set out the appropriate range of expenses which are reasonably incurred when making connections under section 45, in order to obtain an understanding of what are reasonable costs for pipework, meters etc. and for reinstatement;
- d) arrive at an average figure for overheads and administration fees and establish whether the survey fees should be considered by Ofwat, under section 45, as an expense reasonably incurred in making the connection and to verify that there is no double counting within the overheads charge; and
- e) undertake a review of companies' charges in relation to the provision of new connection.

4.28 In line with the recommendations in the Review of Section 45 Costs report, we consider that, for a standard single service connection such as the one that would have applied to the **Property**, administration and overhead costs³ should not generally exceed £105.30.

4.29 The **Complainant** has paid an application processing fee of £200 and Thames Water's estimated costs include administration and overhead costs of £973. In total

³ This includes fees to process applications and other administrative and technical activities carried out after a water company has accepted a quote.

these costs exceed what we consider to be the reasonable administration and overhead costs for a single service connection by £1,067.70.

- 4.30 As a result of the above, we determine that the expenses it would have been reasonable for Thames Water to have incurred in laying a service connection would have been a total of £5,673.24 (£5,567.94 + £105.30). This is the total amount that Thames Water can recover from the **Complainant** for the provision of the new water supply to the **Property**. This is £3,940.74 less than the total charge Thames Water was seeking to recover from the **Complainant** (totalling the requisition charge of £8,991.04, the service connection of £422.94, and the application fee of £200).
- 4.31 To date the **Complainant** has already paid £5,200 towards this charge (a £5,000 security and a £200 application fee). This leaves an outstanding charge of £473.24.

D. Interest payments

Company's view

- 4.32 On 5 September 2014, Thames Water made representations to us on our draft determination. While it accepted that interest is payable on the £5,000 deposit paid by the **Complainant**, it did not agree that the advance payments they request for connection applications amount to 'security' and therefore should attract interest.

Ofwat's determination

- 4.33 Under section 48 of the **Act** a water company shall pay interest on any sums that it may have reasonably required as security from the person requesting a connection. Security is money that the person who asked for the connection may be required by the water company to pay in advance of the water company discharging its section 45 duty. As set out in section 48, the water company shall pay interest "*on every sum of 50p so deposited for every three months during which it remains in the hands of the company*" at rates approved or determined by Ofwat.
- 4.34 In line with section 48, interest is payable on the total of the payments the **Complainant** paid to Thames Water ahead of the provision of the supply (£5,200, comprising the £200 application fee paid on 9 March 2011 and the £5,000 deposit paid on 24 June 2011).
- 4.35 Section 45(6) of the **Act** entitles Thames Water to recover from the **Complainant** "an amount equal to the expenses reasonably incurred" by Thames Water for providing a water supply to the **Property**. We consider that the administration and overhead costs included in these expenses reasonably incurred include those associated with processing the **Complainant's** application, as well as other administrative and technical activities after a quote has been accepted. As such we consider the

application fee the first payment towards the total expenses reasonably incurred in providing the supply. In line with section 48 it should attract interest in the same manner as the subsequent deposit payment.

- 4.36 Interest on the security of £5,200 is payable from the dates on which each of the two payments were made until the date the supply was provided, 17 November 2011. In calculating any interest due, the parties should apply interest rate(s) in accordance with [Ofwat's Information Notice 11/05](#) on interest rates.
- 4.37 On the basis of our determination of the costs reasonably incurred, Thames Water should calculate the interest due on the payments made by the **Complainant** and re-issue a final invoice to the **Complainant** within 20 working days of our final determination being issued to the parties to the dispute.
- 4.38 If the **Complainant** and Thames Water are unable to agree the amount of interest payable, the matter can be referred to the Courts for a determination.
- 4.39 With a view to helping the parties to agree this amount without involving a Court, Appendix A sets out guidance to be read in conjunction with [Ofwat's Information Notice 11/05](#) on interest rates. This anticipates the approach we think a Court is likely to take in making such a determination for this particular dispute.

5. Conclusion

5.1 In light of the legal framework of the **Act** and the evidence provided to us by the parties to this dispute, we have determined that:

- Thames Water had a legal right to exercise its power under section 46(8) of the **Act** to comply with a duty to lay a service pipe by laying a water main instead.
- Having exercised its power under section 46(8), Thames Water is only legally permitted under section 46(9) to recover the expenses it would have been reasonable for it to have incurred in laying a service pipe instead of a main.
- The total expenses we consider it reasonable for Thames Water to have incurred in providing a service connection to be £5,673.24.
- An outstanding payment of £473.24 is due from the **Complainant** to Thames Water, reflecting the payments of £5,200 he has already made.
- Interest is payable on the payments already made by the **Complainant** since they can be considered security payments in line with section 48 of the **Act**.
- Thames Water must calculate the interest due on the payments made to date, in line with the guidance set out in [Ofwat's Information Notice 11/05](#) on interest rates and reissue a final invoice to the **Complainant** within 20 working day of the final determination being issued to parties.

Appendix A - Guidance regarding section 48 WIA91

The table below sets out Ofwat's view regarding the amounts and time periods on which a Court is likely to award interest in this case.

Amounts on which interest is payable ⁴	Time periods during which interest is payable on this amount
<p>£200 i.e. the application fee deposited by the customer, rounded down to the nearest 50p in accordance with section 48 of the WIA 1991</p>	<p>From: 9 March 2011 (the date on which the company received the customer's application fee)</p> <p>To: 17 November 2011⁵ (the date on which the supply was considered provided and money held by the company became payment rather than security) <u>but</u> in terms of whole 3 month periods in accordance with section 48 of the WIA 1991</p>
<p>£5,000 i.e. the security deposited by the customer, rounded down to the nearest 50p in accordance with section 48 of the WIA 1991</p>	<p>From: 24 June 2011 (the date on which the company received the customer's security deposit)</p> <p>To: 17 November 2011⁵ (the date on which the supply was considered provided and money held by the company became payment rather than security) <u>but</u> in terms of whole 3 month periods in accordance with section 48 of the WIA 1991</p>

⁴ This amount excludes any amount paid in advance in respect of infrastructure charges.

⁵ Should the Complainant or Thames Water consider that pursuant to an agreement between them, this should not be taken as the date on which the Complainant's payment ceased to be held as security and instead became payment, they are asked to set out their position in writing on this issue (and provide any documentation relied on) in response to this draft determination