



Final determination of dispute under section 45(6A) and section 30A of the Water Industry Act 1991: Mr. I Gold v Severn Trent Water

Purpose of this document

This is our final determination of a dispute referred by Mr. Gold to the Water Services Regulation Authority (“**Ofwat**”) for determination under section 45(6A) and section 30A of the Water Industry Act 1991, as amended (“**the Act**”).

The dispute is between Mr. Gold (“**the Complainant**”) and Severn Trent Water (“**Severn Trent**”) and is about the expenses reasonably incurred by Severn Trent in connecting a new water supply at 91 Alcester Road, Moseley, Birmingham, B13 8EB (“**the Property**”).

Before reaching this final determination, we issued a draft determination setting out the facts on which we have based this determination and we provided the parties with the opportunity to make representations to us on the draft determination.

1. Introduction

- 1.1 This is our final determination of a dispute referred by **the Complainant** to Ofwat, on 5 March 2014, under section 45(6A) and section 30A of the Act (“**the Dispute**”).
- 1.2 The Dispute is between the Complainant and Severn Trent and is about the expenses reasonably incurred by Severn Trent in connecting a new water supply (“**the Connection**”) at the Property.
- 1.3 We issued a draft determination to the parties on 28 August 2014, and have considered the responses received in reaching this final determination.

2. Background

- 2.1 The Complainant requested the Connection from Severn Trent to supply five

new flats at the Property. The Complainant submitted an application in accordance with section 45 of the Act to Severn Trent for a connection on 15 December 2011.

- 2.2 On 12 January 2012 Severn Trent wrote to the Complainant with a quote for the Connection. This amounted to £5,552.30 (“**the Quotation**”). In addition, Severn Trent included details of the amount of infrastructure charges (£2,981.50¹) it would be levying (“**the Infrastructure Charges**”). The individual costs are set out in Table 1, below. The Quotation indicated that, where the supply is a single supply to multiple occupied properties, the Complainant was required to install a meter to each unit.

Table 1

Description	Cost
Connection Charge	£4,230.17
Metering	£396.75
Total	£4,626.92
VAT	£925.38
Total Costs	£5,552.30
DEFERRED INFRASTRUCTURE CHARGES	
Sewerage Infrastructure Charge	£1,490.75
Water Infrastructure Charge	£1,490.75
Total	£2,981.50

- 2.3 On 18 April 2012, the Complainant made a payment of £5,552.30 to Severn Trent. In the same correspondence he raised his concerns related to the Connection Charge², which was treated by Severn Trent as a stage 1 complaint.
- 2.4 On 3 May 2012 Severn Trent provided the Complainant with a breakdown of the Connection Charge as set out in the Quotation. This breakdown is set out

¹ £1,490.75 for water and £1,490.75 for sewerage.

² As shown in Table 1 above as costing £4,230.17

in Table 2 below.

Table 2

Description	Cost
Connecting the Water Supply	£2,552.55
Additional Length, footpath (at £120.02 per m)	£360.06
Additional Length, carriageway (at £200.66 per m)	£1,203.96
4 way traffic control	£113.60
Total	£4,230.17

- 2.5 The works associated with the Connection were conducted on 8 July 2012 and 2 September 2012. On 8 July 2012, Severn Trent's contractor attended the site and excavated the footpath and one lane of the carriageway. The contractors laid 6m of service pipe, but could not complete the work as they could not locate the main supply. The contractors reinstated the footway and carriageway, and left the site to renegotiate further lane closure times with the local council.
- 2.6 On 2 September 2012, Severn Trent's contractor attended the site and excavated a lane of the carriageway, located the main supply, laid a further 3m of service pipe, completed the Connection and reinstated the carriageway.
- 2.7 One year later, on 13 September 2013, Severn Trent invoiced the Complainant for the Infrastructure Charges. The Complainant responded on 1 October 2013 by requesting an explanation of the invoice and challenging the Connection Charge and the delays to those works.
- 2.8 On 10 October 2013 Severn Trent responded to the Complainant justifying the works it had carried out and the Connection Charge by indicating that the work was not straightforward and that traffic management was necessary over two Sundays which involved lane closures.
- 2.9 On 15 October 2013, the Complainant repeated his request for a breakdown of the Connection Charge and details of Severn Trent's obligations in respect of compensation for delays.
- 2.10 On 28 October 2013, Severn Trent wrote to the Complainant indicating that it would forward a further breakdown of the Connection Charge. Severn Trent

noted that it had incorrectly charged for 4 way traffic lights, and that this would be deducted from the amount outstanding for the Infrastructure Charges.

2.11 On 29 October 2013 Severn Trent provided the Complainant with a statement of the actual cost of carrying out the work associated with the Connection (“**the Actual Costs**”). Although this was not the charge Severn Trent was requesting the Complainant to make, it was intended to demonstrate to the Complainant what the actual costs incurred by Severn Trent to complete the Connection were. The statement indicated that the cost of connection was greater than the Connection Charge due to a requirement to complete the work associated with the Connection on a Sunday and use lane closures. The Actual Costs, as indicated in the correspondence, was:

• Under pressure connection ³	£2,552.55
• 3m pipe in footpath	£360.06 ⁴
• 6m pipe in carriageway	£1,203.94 ⁵
• Sunday working	£2,170.07
• Lane closure	£575.00
• Total	£6,861.62

2.12 On 11 November 2013 the Complainant responded to Severn Trent, indicating that the cost information was insufficiently detailed to demonstrate that they were justified. He enquired whether a more detailed breakdown was available on aspects of the Actual Connection Costs.

2.13 On 25 November 2013 Severn Trent responded to the Complainant by setting out the elements included within the Actual Connection Costs. These were indicated to be:

³ Referred to as “**the Actual Connection Costs**” in this final determination.

⁴ Together with the costs of providing pipes in the carriageway, referred to as “**the Additional Connection Costs**” in this final determination.

⁵ Together with the costs of providing pipes in the footpath, referred to as “**the Additional Connection Costs**” in this final determination.

- Labour
- Customer liaison and management
- Connecting to Severn Trent water main (under pressure)
- Testing of joints and pipework
- Excavation and backfilling
- Permanent reinstatement of road markings
- Reinstatement of kerbs, gutters, gullies
- Completion of records on system
- Signing and guarding
- Connection to customer's service pipe

The correspondence also indicated that the price for pipework per metre included any excavation, laying and backfill of the service pipe.

- 2.14 On 6 December 2013, the Complainant requested further information related to each element of the Actual Cost. He also requested information regarding the cost of excavation and backfilling, which appeared to be charged twice; once as an element of the Actual Connection Costs, and once as an element of the Additional Connection Costs.
- 2.15 On 20 December 2013, Severn Trent wrote to the Complainant confirming that the work associated with the Connection had been sub-contracted and that it was unable to provide details of these costs as this information was contractual. It also confirmed that excavating and backfilling was regarded as an element of both the Actual Connection Costs and the Additional Connection Costs.
- 2.16 Further correspondence between the Complainant and Severn Trent was exchanged relating to the payment of the Infrastructure Charges and compensation that the Appellant thought he was due for delay.
- 2.17 The Dispute was referred by the Complainant to Ofwat on 5 March 2014 for determination. In addition the Complainant asked for Ofwat to investigate the Infrastructure Charge and compensation for the delay which Ofwat confirmed it did not have jurisdiction to determine.
- 2.18 On 30 June 2014 Ofwat sent a request for further information to the Complainant asking for his understanding of the works associated with the Connection. A request for information was also sent to Severn Trent, asking for details of the work associated with the Connection, a full breakdown of the Actual Costs and details of the cost advice provided to the Complainant.

3. Legal framework

- 3.1 Section 45(1) of the Act imposes a duty on water companies (subject to certain conditions) to make a connection, where the owner or occupier of any premises serves a notice on the company requiring it, for the purposes of supplying water for domestic purposes, to connect a service pipe to those premises with one of the water company's mains.
- 3.2 Section 45(6) of the Act provides that the water company may recover from the person who has required it to make a connection the expenses reasonably incurred by it in making the connection.
- 3.3 Section 45(6A) of the Act provides that any dispute about whether the expenses were incurred reasonably may be referred by either party to Ofwat for determination under section 30A of the Act.
- 3.4 Ofwat's decision is binding on the parties to the dispute. By virtue of section 45(6A) of the Act read in conjunction with section 30A (5) of the Act, this determination is enforceable as if it were a county court judgment.

4. Jurisdiction to determine the complaint

- 4.1 Ofwat is satisfied that the Dispute between the Complainant and Severn Trent is a dispute about whether the expenses incurred by Severn Trent in making a connection under section 45 of the Act were reasonably incurred, and therefore that Ofwat has jurisdiction to determine this dispute under section 45(6A) of the Act. This is because:
 - (i) the Complainant required Severn Trent to connect a new water supply connection to the Property;
 - (ii) Severn Trent treated this as a request for a connection under section 45 of the Act; and
 - (iii) the charge raised by Severn Trent is disputed as being excessive by the Complainant.

5. Views of the parties

- 5.1 Ofwat has considered whether the Connection Charge (£4,230.70) reflects the expenses reasonably incurred by Severn Trent. To do this, Ofwat uses the

Hyder Report⁶ and ‘the Review of Section 45 costs’ report⁷ as guidance.

- 5.2 The Hyder Report is an independent report commissioned by Ofwat which involved the surveying of a number of water companies to understand the breakdown of charges made by those companies for work undertaken in connecting new water supplies, and:
- a. to obtain an understanding and explanation of the variance in charges between water companies;
 - b. to compare water company contractor rates for new water connections; and
 - c. thereby, to obtain an understanding of what are reasonable costs/charges for materials (e.g. pipework, meters, etc.) and for labour.
- 5.3 The Review of Section 45 Costs report is an independent report commissioned by Ofwat in 2013, which involved surveying five water only companies and five water and sewerage companies, to:
- Obtain an understanding and explanation of the variance in Section 45 contractor charges between companies;
 - 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, and for reinstatement;
 - 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
 - Undertake a review of companies’ charges in relation to the provision of new connection.
- 5.4 Having considered whether the Connection Charge reflects the expenses reasonably incurred by Severn Trent, we issued a draft determination to the parties on 28 August 2014 and invited comments. The key findings from our

⁶ [The Hyder Report - A Comparative Study: Cost of new water supply connections work \(24 March 2010\)](#)

⁷ Review of section 45 costs – Independent review on behalf of the Water Services Regulation Authority (Ofwat) by MW Barber Associates

draft can be summarised as follows:

- We considered that the costs charged for the work associated with the Connection was inconsistent with the range of costs that are set out in the Hyder Report as being reasonable for making a connection;
- We considered there to be a lack of transparency regarding the Actual Connection Costs and therefore about whether the costs were justified;
- We considered that any overhead and administration costs should not exceed the standard costs set out in the Review of Section 45 Costs report.
- Our assessment of reasonable costs incurred in this matter was £2,096.64;
- Our assessment was that Severn Trent had overcharged the Complainant by £3,455.66

The views of Severn Trent:

Hyder Report

- 5.5 Severn Trent responded to our draft determination on 18 September 2014, providing detailed comments on the findings in the draft determination. Severn Trent disagreed with our assumption that the Hyder Report was a representative basis for the comparison of costs incurred in this case. This is because the scenario used by the Hyder Report involved the cost of a single new connection from a 100mm main. However, in this case, the connection was from a 150mm cast iron main, and involved five flats. Because this was a large diameter connection, it required additional work undertaken under pressure. It submitted that the work involved was more complex than that set out in the Hyder Report, and therefore attracts a higher charge.
- 5.6 Severn Trent further indicated that the road under which the work associated with the Connection was carried out was a Type 1/2 carriageway, which is a higher specification road material than the Type 3/4 carriageway the Hyder Report refers to. Severn Trent submits that its costs for working in a Type 1/2 carriageway are higher than in a Type 3/4 carriageway, and that the costs will reflect the difference.
- 5.7 Severn Trent also indicated that the Hyder Report was published on 24 March 2010 and that the connection costs need to be reflective of current charges.

Costs of a Connection

5.8 Severn Trent confirmed that although a comprehensive list of tasks was provided to the Complainant, a breakdown on the £2,552.55 Actual Connection Costs were not provided. Severn Trent confirmed that the charge was for: the excavation of the main “**under pressure connection with and under pressure T**”; the first two metres of supply pipe; and the reinstatement, all done in a Type 1/2 carriageway. The charge consisted of a contractor rate charge of £2,121.29, plus Severn Trent’s supervision and administration costs of £431.26. Severn Trent indicated that the sum of £431.26 represents the additional costs incurred over and above that for a standard connection. Severn Trent indicated that this work included, but was not limited to, “**the provision of a customer drawing, modelling the connection to assess the impact on the existing network and additional site visits**”.

Duplication of charges

5.9 Severn Trent stated that there has been no duplication of charges. The basis for this is that the original Quotation was for a total job of 11 metres, comprising 8 metres in the carriageway and 3 metres in the footpath. Severn Trent indicated that the Actual Connection Costs included the first 2 metres of supply pipe (including excavation and reinstatement). The Quotation also included the Additional Connection Costs attributed to the remaining 6 metres in the carriageway and 3 metres in the footpath (including excavation and reinstatement).

Overheads

5.10 Severn Trent submitted that the connection is a large diameter connection to multiple premises and not a standard connection. Therefore, the Review of Section 45 Costs report does not accurately represent the costs incurred in this case. Severn Trent submitted that the actual costs incurred on overheads and administration in this matter was £431.26. The costs allowed by Ofwat in this matter were £105.30, representing the reasonable costs of a standard connection.

Assessment of Reasonable Costs

5.11 Severn Trent challenged Ofwat’s draft determination that there were insufficient complicating factors to justify charging at anything above the

median range of costs set out in the Hyder Report. Severn Trent submitted that although the works associated with the Connection were conducted on a Sunday this was out of necessity and the additional costs of working on a Sunday were not charged to the Complainant. As detailed above, Severn Trent also confirmed that the work associated with the Connection involved a larger diameter connection to multiple premises, excavated and reinstated in a higher specification road surface than that referred to in the Hyder Report.

- 5.12 Severn Trent argued that if Ofwat had used the maximum charge set out in the Hyder Report as the basis of assessment, then the charges claimed by Severn Trent would have been found to be within an acceptable range.

Overcharging

- 5.13 Severn Trent proposed a “**re-worked quote**” to show the “**final as-laid work**”. This is set out in Table 3 below. The value of the work set out in this assessment is £4,962.53. Severn Trent indicated that this sum is lower than the maximum provided by reference to the Hyder Report, and lower than the amount charged to the Complainant. Severn Trent submitted that, according to its revised calculations, it has overcharged the Complainant by £589.77 and it proposed refunding the Complainant that sum.

Table 3

Description	Cost
Connecting the Water Supply “Actual Connection Costs”	£2,552.55
Additional Length, footpath “Additional Connection Costs”	£369.11
Additional Length, carriageway (at £200.66 per m) “Additional Connection Costs”	£817.04
Total Connection Costs inc. Overheads	£3,738.70
Metering	£396.75
VAT	£827.09
Total	£4,962.53

The view of the Complainant

- 5.14 The Complainant commented that, whilst Severn Trent differentiated between a single new connection from a 100mm main and a large diameter connection, it was not explained to him how this operation would justify more

work and/or greater skill or technology, and therefore cost. The Complainant also indicated that a breakdown of the sum of £2,552.55 Actual Connection Costs was not provided, and the reference to this element of the costs including the first two metres of the supply pipe and reinstatement was therefore not revealed.

- 5.15 The Complainant indicated that, if the Actual Connection Costs included the first two metres of excavation in the road, then he had been double-charged, as the first two metres of work in the road was also included within the charge for 6 metres excavation in the road. Although Severn Trent have indicated to the Complainant that the amount charged is reflective of what was included within the Quotation, the Complainant indicates that it is not reflective of the work that was done. The Complainant submitted that the work done in the road did not exceed six metres. He indicated that Severn Trent recognised that it had overcharged in its revised assessment of Additional Connection Costs, which is based on a charge of 4 metres excavation in the road, in addition to the Actual Connection Costs, which now incorporates the first two metres of excavation in the road.
- 5.16 The Complainant submitted that the current admission of overcharging contrasts with previous correspondence received from Severn Trent, in which he had been advised that the costs of making the connection exceeded that for which he had been charged. He also referred to previous correspondence in which he had been charged for traffic management, which had not been used, and the charges for which had been subsequently removed following his correspondence.

6 Final determination

- 6.1 In determining the reasonableness of costs associated with the Connection, Ofwat has considered the representations made by both parties on the draft determination. It is Ofwat's expectation that a customer has an understanding of what they are paying for when accepting a quotation for the connection of a water supply. We have therefore also considered the exchange of correspondence between the parties over the course of the Dispute in order to establish whether Severn Trent provided the Complainant with sufficient information to enable the Complainant to understand that the costs requested were reasonable.
- 6.2 It is Ofwat's assessment that Severn Trent has not provided clarity for the costs charged to make a connection in this matter. In particular, there has

been a lack of clarity regarding the Actual Connection Costs, what work this charge represents, and the extent to which there may have been duplication of the additional and separate charges for excavating in the carriageway and in the footpath. As the breakdown for both sets of costs included charges for excavation and reinstatement, there was a lack of clarity on which charge was being levied under which heading.

- 6.3 The fact that the charge for Actual Connection Costs included the first two metres of excavation in the carriageway was not revealed prior to Severn Trent's letter of response to the draft determination. Following the response, it would appear that the Complainant was either being charged for the first two metres of work in the carriageway twice, or that the Complainant was paying for the work as quoted, even though the length of pipework laid was less than that quoted
- 6.4 In its response to the draft determination, Severn Trent indicated that there was no duplication of charges, as the costs quoted represented 11 metres of excavation, comprising 8 metres in the carriageway and 3 metres in the footpath. However, it is clear that this does not represent the work actually done. In its proposed revised assessment, Severn Trent indicate that the "as-laid" length of the work is 9 metres. Ofwat does not consider it acceptable to charge for work quoted for, but not done. It is Ofwat's assessment that the amount charged to the Complainant contained a duplication of costs, and this was not initially apparent due to the lack of transparency in the communication with the Complainant.
- 6.5 Where a company has used a contractor selected following a competitive tender process, we will generally accept that the amount paid to the contractor for the work represents the expenses reasonably incurred. We will, however, query those costs where they appear to be substantially higher than what might be expected having regard to other information available to us. On the basis of the information now provided, we consider that the Actual Connection Costs incurred by the contractor, the sum of £2,121.29, are reasonable but this charge must include the costs associated with work undertaken in the first two metres of the carriageway.
- 6.6 Ofwat's assessment of the costs not attributable to the Actual Connection Costs undertaken by the contractors will therefore comprise the remaining 4 metres in the carriageway, 3 metres in the footpath and reasonable overheads and administration charges.

- 6.7 Ofwat has considered the views of Severn Trent regarding the applicability of the Hyder Report to the complexities of this case, including its views on both the type of carriageway it had excavated in this matter and the additional charges incurred as a result of working in a higher specification of surface. In addition, Ofwat has considered the comments made by Severn Trent in its response to our request for information, in which it detailed that the Actual Connection Costs were £360.06 (for 3 metres in the footpath at £120.02 per metre) and £1,203.96 (for 6 metres in the carriageway at £200.66 per metre). It has now been stated by Severn Trent that as the additional work in the carriageway was 4 metres (and not 6 metres as initially claimed), the cost of the additional work in the carriageway should not have exceeded £802.64. Ofwat does not consider it reasonable to recover costs in excess of those actually incurred, and we note that these figures fall within the range considered acceptable in the Hyder Report.
- 6.8 Ofwat has also considered the comments made by Severn Trent in response to the draft determination relating to overhead costs. Severn Trent has indicated that the costs assessed by Ofwat are not representative of the costs incurred in this matter, as they do not take into account the additional work conducted by Severn Trent above the requirement for a standard single connection. However, it is Ofwat's expectation that overheads and administration would cover effective communication with the customer, and particularly in relation to the Actual Connection Costs. Ofwat is not satisfied that communication with the Complainant has been sufficiently effective to indicate that an increase in costs above the standard rate is acceptable.

6. Conclusion

- 6.9 Ofwat therefore determines that the reasonable costs incurred by Severn Trent in this matter amount to £4,543,29. The elements of this determination are set out in Table 4 below.

Table 4

Description	Cost
Connecting the Water Supply "Costs of a Connection"	£2,121.29
Additional Length, footpath (3 metres at £120.02 per m)	£360.06
Additional Length, carriageway (4 metres at £200.66 per m)	£802.64
Overheads and Administration	£105.30

Description	Cost
Metering	£396.75
VAT	£757.21
Total	£4,543.29

- 6.10 Ofwat has assessed the reasonable costs of a 9 metre connection (incorporating the complicating factors such as the large diameter connection and the high specification road material) to be £4,543.29. The charge to the Complainant was £5,552.30. **Ofwat therefore determines that Severn Trent is required to refund to the Complainant the sum of £1,009.01 (plus interest).**
- 6.11 Ofwat’s view is that interest is payable on the Complainant’s security deposit, calculated in accordance with section 48 of the Act. In calculating any interest due to the Complainant, the parties should apply interest rate(s) in accordance with Ofwat “Information Notice 11/05”. The amount of any interest payable is for the Courts to determine, if the Complainant and Severn Trent are unable to agree this amount. With a view to helping the parties to agree the amount of any interest payable without involving a Court, **Appendix A** sets out guidance. This anticipates the approach we think a Court is likely to take in determining the amount of interest payable in this case.

Appendix A: Guidance regarding section 48 of the Water Industry Act 1991

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	Time periods during which interest is payable on this amount
<p>£4,543</p> <p>i.e. the reasonable cost of connection works as determined by Ofwat, rounded down to the nearest 50p in accordance with section 48 of the Act</p>	<p>From: 18 April 2012</p> <p>i.e. the date on which the company received the customer's security deposit</p> <p>To: 2 September 2012</p> <p>i.e. the date on which £4,543 ceased to be held as security and instead became payment (i.e. the date on which the company issued its invoice for its works) but in terms of whole 3 month periods in accordance with section 48 of the Act</p>
<p>£1,009</p> <p>i.e. the amount of the security deposit less the reasonable cost of works as determined by Ofwat, rounded down to the nearest 50p in accordance with section 48 of the Act</p>	<p>From: 18 April 2012</p> <p>i.e. the date on which the company received the customer's security deposit</p> <p>To: the date on which £1,009 is returned to the customer, in terms of whole 3 month periods in accordance with section 48 of the Act</p>