

Guidance note where businesses are affected by streetworks undertaken by South West Water and Bournemouth Water



Introduction

South West Water and Bournemouth Water strive to maintain and improve their water supplies (and where appropriate sewerage systems), to make them effective and efficient. Some of our water mains and sewers are very old and with changes to industry and fluctuations in populations, we have to constantly assess the capacity and the effectiveness of our systems.

Our continuing programme to maintain and improve our networks often requires us to work in the highway. If your business is directly affected by our works in the highway, you may be entitled to claim compensation for loss of business profits. Please note that your claim may be affected if any other factors are identified as being reasons for the loss.

This guide sets out the scheme we operate and what you need to do, including the details required in order to process any such claim. It does not detail our approach to any other potential claims which may include loss of water supply or sewage flooding.

Our standards for making a claim

The key points are:

- Compensation is not paid where the only impact of the works is that potential customers had to follow a diversion route to get to your business or if customers were temporarily unable to park on a street that normally has parking restrictions.
- In order to justify any claim, you will need to provide copies of your accounts and details of your weekly or monthly sales figures for the last three years. If you have not operated for that long, provide sales figures for the period that you have been trading.
- Irrespective of the proposed works you have a duty to mitigate your losses which includes remaining open for business.
- We will treat any information you provide in confidence, except where we are required by law to disclose it to third parties.
- We will assess your claim in the same way, whether you decide to use a third party to help you make your claim or whether you wish to make it directly to us.
- We will require written confirmation from you that your representative is authorised to act on your behalf.
- We will send all correspondence to you as well as your representative.
- We will send any compensation directly to you as a cheque or BACS Transfer and you will be responsible for settling your account with your representative.
- Representatives will charge a fee for their services. If your claim is accepted, we will reimburse your representative for any reasonable fees incurred in accordance with our fee scale as specified in and attached to our claims form. If your representative charges a higher fee than the South West Water/Bournemouth Water fees scale, you will be responsible for any payment of the shortfall as their client.

We will consider making an interim payment of compensation prior to the conclusion of the scheme.

Information required from you

Information to be provided by you will be treated as confidential¹. In order to process your claim, we will need:-

- The completed 'Claiming for loss of profits' claim form at the end of this guidance note must be signed by you as the claimant. Additionally, if you wish to use a third party to act for you, the form requires the name of the third party and asks you to confirm that they are acting for you in this claim;
- Trading figures (weekly or monthly) for the claim period plus trading figures for at least three full years (ie figures for each of the 156 weeks or 36 months) immediately preceding the claim period. (see note a);
- The latest two profit and loss accounts (at least one account should cover a period for which full trading figures have been provided). (see note b); and
- VAT returns for at least one full year, which should also cover a period for which full trading figures have been provided

¹The Inland Revenue may ask for details of any compensation payments. Additionally, in certain circumstances, we may employ an external agent to advise on the claim. Disclosure of information for these purposes is permitted under the governing legislation.

Notes

- a. If you have been trading for less than three years, please declare this and provide as much information as possible. This will not prejudice your claim.
- b. Please note that accounts must either be audited or agreed with the Inland Revenue and certified by your accountant. Where accounts are not available, we may require further VAT returns.
- c. If the claim is significant, we may also require copies of the accounts, including balance sheets, for the year in which the works occurred before any final compensation is paid.
- d. If the claim is particularly difficult to assess, we may ask for further information (eg post-works sales figures, VAT returns and, where accounts are not audited, the original figures submitted to the Inland Revenue).
- e. If in doubt, please provide any other information in support of your claim. Please remember that it is up to you to justify your claim. If the full information is not provided, this may affect the amount of any payment offered and/or delay payment of the same.

Professional Agents

You may, if you wish, employ an agent to submit the claim on your behalf, the reasonable costs of whom will be reimbursed by South West Water/Bournemouth Water (in accordance with the fee scale referred to above) providing the claim is successful. Your claim will, however, be assessed in exactly the same way whether submitted directly or not.

South West Water / Bournemouth Water – Professional Agents Fee Scale

| Agreed Compensation | Maximum Fee Payable by South West Water / Bournemouth Water |
|---------------------|--|
| £ | £ |
| £0 - £ 500 | £600 |
| £501 - £1,000 | £700 |
| £1,001 - £3,000 | £800 |
| £3,001 - £5,000 | £900 |
| £5,001 - £10,000 | £925 + 3% of settlement over £7,500 |
| >£10,000 | £1,725 capped |

We are not able to offer advice on the suitability of any particular agent. The information detailed in the section 'Information required from you' should be made available to your agent for forwarding to us.

However we would normally expect your accountants to be the best placed to assist you in this regard as they will be familiar with your business and will either hold or be able to advise on the relevant financial information to support your claim.

South West Water may also instruct a Loss Adjuster, Accountant or other professional to assess your claim if necessary. In assessing your claim South West Water or its Loss Adjuster, Accountant or other professional may contact you directly in order to validate part or your entire claim. By submitting a 'Claiming for loss of profits' form you are authorising this communication between us.

Settlement of the claim

We expect you to mitigate your losses as far as reasonably practicable. This includes continuing to trade during the period of our works. If you think there are specific measures that need to be taken to help maintain trade, you should discuss these with us in advance of incurring any costs. Please note that we cannot consider any extra costs incurred without prior approval.

South West Water and Bournemouth Water will also deal with any matters relating to the actual works, including damage to property etc. In the first instance, please bring such issues to the attention of our Customer Liaison Officer (CLO) or the site agent who will be pleased to deal with these matters, wherever possible while we are in the area. The contact details of the CLO can be found in the Customer Care literature which you should have received.

Alternatively, please contact us by calling the relevant business below.

Notes

It is hoped that the degree of disruption will be such that claims can be assessed once the works are complete. However, in cases of genuine hardship South West Water/Bournemouth Water will consider the payment of interim sums. Please note we require exactly the same information in support of interim claims.

On receipt of your fully supported claim, South West Water/Bournemouth Water will endeavour to make a payment offer as soon as possible (or alternatively we will give our reasons for rejecting the claim). Before releasing any payment, we will need your written acceptance of the amount. If the claim is accepted by us, payment by cheque or BACS will normally follow within 28 working days of receipt of your written acceptance. Payment of compensation will be made directly to you unless a written and signed request is received from you to send the compensation to your agent.

VAT

Please note that we do not pay VAT on any payments made under this scheme. If you are registered for VAT, your agent will ask you to pay the VAT (if any) on their fees, which you may then recover from HM Customs and Excise.

Contacting us

If you require further assistance, help or guidance on deciding whether to make a claim, please contact the appropriate number below and they will arrange for a call back or alternatively speak to the relevant member of the Estates Department.

South West Water

- Services Helpline: 0344 346 2020
- 8am-6pm Monday to Friday, emergencies only outside of these times.

Bournemouth Water

- Customer service: 01202 590059
- 8am-6pm Monday to Friday, emergencies only outside of these times

Next steps

If, after reading this document, you believe that you have a valid claim, please fill in the 'Claiming for loss of profits' form and send it (along with the documents referred to above) to:

Estates Department - Admin
South West Water / Bournemouth Water
Peninsula House,
Rydon Lane,
Exeter,
EX2 7HR

Email – Estatescontacts@southwestwater.co.uk

We aim to process claims as quickly and as fairly as possible. Please contact us if you have had no response within 28 working days of submitting your claim.

Complaints

As a non-household customer, if you have any complaints which are not associated with the amount of settlement offered as part of a Schedule 12 claim it must be dealt with by your retailer in the first instance.

If you remain dissatisfied the matter may be escalated to the Consumer Council for Water (www.ccwater.org.uk).

Dispute resolution - arbitration process

In the vast majority of cases, our customers are satisfied with the compensation offer that we make. However, where this does not happen, you are legally entitled to request that your claim is referred to an arbitrator to resolve the dispute. You will be required to personally confirm this in writing and sign the request.

The appointment of an arbitrator will result in additional costs such as the arbitrator's fees and any associated legal costs, which could be considerable. The arbitrator will decide who should pay these costs.

In considering which arbitrator would be best suited to a case, it is important to consider the arbitrators' CVs together with details of their terms of business, basis of charging, and proposed rules of arbitration.

To do this, we request that you provide us with the names of three arbitrators together with the details mentioned above. If it is difficult for you to provide the details required, please let us know and we will contact your proposed arbitrators to ask for this information, copying you in any correspondence.

Once we receive details of your proposed arbitrators, we will reply within 28 working days to confirm whether all, some or none are agreed. Alternatively, we may provide you with names of three arbitrators and their details for you to choose, if this would be preferable.

If we cannot agree on the choice of an arbitrator, having made a reasonable attempt to do so, either of us may ask Ofwat to appoint one.

For further details or advice on arbitration, you may find the following websites useful:

Centre for Effective Dispute Resolution Chartered Institute of Arbitration (www.cedr.com)

Privacy statement

We will process the personal data you provide in a manner that accords with current UK data protection laws. We will, not keep it for longer than is necessary and will keep it safe, only permitting access to those who need to use it. If you wish to view our full Privacy Notice, please visit our website, <https://www.southwestwater.co.uk/site-utilities/privacy-and-cookies>.

Claiming for Loss of Profits

To be completed in capital letters and signed by you.

Full name and address of the business, including postcode:

Business telephone number:

Description of business (eg hairdresser, public house, etc):

Type of trade (eg counter sales, pre-orders, appointments):

Period(s) of disruption claimed:

VAT registration number (or state "not registered"):

Do the trading figures provided include VAT? No Yes at %

Exact location of your business in relation to the South West Water works. A sketch plan would be useful, e.g. traffic control systems, road closures, one-way systems, diversions:

Please describe the way in which the works have caused the loss (eg road closures):

Please describe any other claims (eg physical damage) which you have made against South West Water or its contractors, arising from the same works

Estimate of loss (i.e. the amount being claimed):

£

Full name and address of your Agent, including postcode

Agents telephone number:

Agents email:

BY SIGNING THIS DOCUMENT YOU ARE AUTHORISING SOUTH WEST WATER OR BOURNEMOUTH WATER AND ITS APPOINTED AGENT (LOSS ADJUSTER, ACCOUNTANT OR PROFESSIONAL) TO MAKE CONTACT WITH YOU IN RELATION TO PART OR YOUR ENTIRE CLAIM.

Signature: _____ Date: _____

Name and position _____

Enclosures, where applicable:

- Calculation of claim
- Weekly / monthly sales data
- VAT returns
- Profit and Loss Accounts
- Accounting system (if any) employed
- Other (please specify)

(Please note the issue of this form is not an acceptance of liability)