

**The Scottish Public Services Ombudsman Act 2002**

# **Investigation Report**

UNDER SECTION 15(1)(a)

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**Case ref: 201407663, Business Stream**

**Sector:** Water

**Subject:** Billing and Charging; charging method; calculation

### **Summary**

Mr C complained on behalf of a business that had had an account with Business Stream since 2006. The average water usage was reasonably consistent but a meter reading taken in April 2010 showed what the meter reader considered to be a disproportionately high reading. The meter reader contacted Business Stream to alert them to this, and confirmed that there was no evidence of a leak at the meter. In May 2010, the business received a bill from Business Stream which they queried as they considered it to be very high. The business believed a leak had been caused by Scottish Water carrying out work in the area, but Scottish Water had no record of work being carried out. Although a Business Stream complaints response to Mr C in 2015 referred to a repair having taken place in May 2010, the only activity recorded on the date in question was the new meter reading.

Mr C said that Business Stream's failure to make his business aware that a leak had been repaired meant that they were unable to apply for a burst allowance (a burst allowance is made in cases where a leak has been caused by Scottish Water's actions or on pipework for which they are responsible or in cases where the customer can show that the leaked water did not drain into Scottish Water's sewers). However, I found that there was sufficient evidence that the business were aware of a leak in May 2010 and Business Stream had given them information about how to apply for a burst allowance in August of that year. Business Stream had also applied to Scottish Water for a burst allowance for the business (which was refused as Scottish Water had no record of a leak). I therefore did not uphold this complaint.

I did, however, find that Business Stream's failure to take two meter readings in the 12 months before the high bill was issued meant that it was a full 12 months until the high usage could be identified. Business Stream's metering policy acknowledges the water industry market code which requires that there are two meter readings taken a year. Business Stream noted in their response to us that they had made repeated attempts to read the meter but were unable to access it. Whilst problems in accessing the business's meter during other time

periods was recorded by Business Stream, I found no evidence that the business were contacted by Business Stream about meter access during the period in question.

Although I did not uphold this aspect of the complaint, I did make some recommendations which reflect the significant injustice that has arisen as a result of the failure by Business Stream to take the required number of meter readings.

The events in question happened in 2010, and the business and Mr C had raised their concerns with Business Stream over a number of years. These appear to have been largely treated as enquiries or billing disputes until October 2014, when a complaint was logged by Business Stream. Business Stream acknowledged the complaint on the day it arrived, but it took until March 2015 to receive a response. Not only did I find that the complaints process could have been started earlier to reduce some of the back and forth correspondence, I also found that once Business Stream treated Mr C's concerns as a formal complaint, they failed to meet the targets that they set for themselves. I was critical of Business Stream's handling of this matter, so I upheld this aspect of Mr C's complaint and made some recommendations.

### **Redress and recommendations**

The Ombudsman recommends that Business Stream:	<i>Completion date</i>
(i) credit the Business with an amount equivalent to six months of the inflated water usage and waste water charges over the period of the spike in usage;	20 April 2016
(ii) take steps, in line with their metering policy to ensure two actual reads are submitted to the CMA each year;	20 April 2016
(iii) apologise to Mr C for their poor handling of his complaint; and	20 April 2016
(iv) remind their complaints handling staff of the importance of keeping complainants updated throughout the course of their investigations.	20 April 2016

### **Who we are**

The Scottish Public Services Ombudsman (SPSO) investigates complaints about organisations providing public services in Scotland. We are the final

stage for handling complaints about the National Health Service, councils, housing associations, prisons, the Scottish Government and its agencies and departments, the Scottish Parliamentary Corporate Body, water and sewerage providers, colleges and universities and most Scottish public authorities. We normally consider complaints only after they have been through the complaints procedure of the organisation concerned. Our service is independent, impartial and free. We aim not only to provide justice for the individual, but also to share the learning from our work in order to improve the delivery of public services in Scotland.

The role of the SPSO is set out in the Scottish Public Services Ombudsman Act 2002, and this report is published in terms of section 15(1) of the Act. The Act says that, generally, reports of investigations should not name or identify individuals, so in the report the complainant is referred to as Mr C. The terms used to describe other people in the report are explained as they arise and in Annex 1.

## **Introduction**

1. The complainant (Mr C) represents a business (the Business) whose water and waste water is managed through Business Stream. He complained to my office that Business Stream unreasonably failed to provide the Business with information about a leak having been repaired in May 2010. He said the delay prevented the Business from applying for a leak allowance. The complaints from Mr C which my complaints reviewer has investigated are that Business Stream:

- (a) unreasonably failed to disclose the leak in the supply pipe was repaired on 24 May 2010 (*not upheld*);
- (b) unreasonably denied Mr C the opportunity to apply for a leak allowance timeously (*not upheld*); and
- (c) failed to handle Mr C's complaint reasonably (*upheld*).

## **Investigation**

2. In order to investigate this complaint my complaints reviewer considered Mr C's correspondence with Business Stream. They also reviewed records relating to the Business's water account and sought additional information from Business Stream. Relevant water industry policies and guidance were also consulted.

3. In this case, we have decided to issue a public report on Mr C's complaint because of the significant injustice which has arisen as a result of a failure by Business Stream to take two meter readings in the year preceding the leak being identified.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and Business Stream were given an opportunity to comment on a draft of this report.

## ***Relevant Legislation/Code***

5. The Scottish water industry rules are set out in the Central Market Agency (CMA)'s Market Code. Section 5.9.4 of the Market Code states:

'(ii) In relation to Bi-annually Read Meters for all Supply Points for which it is Registered, each Licensed Provider shall carry out or procure that its agent shall carry out a Regular Cyclic Read and submit this or an AMR Read, these having an equal weighting, at least once every six (6) months in accordance with CSD 0202 (Meter Read Submission: Process). To avoid doubt, the Licensed Provider shall be entitled to arrange for

Customer Reads to be carried out (instead of the Licensed Provider or its agent carrying out a Regular Cyclic Read), but only on one (1) occasion in any calendar year per Supply Point and in accordance with CSD 0202 (Meter Read Submission: Process).'

6. This requirement is acknowledged in Business Stream's own Metering Policy which states:

'13.0 Meter Reading

The Market designates the read frequency for every meter. For Bi-annual meters we must submit 2 actual reads to the CMA per year, 1 of which may be a customer supplied read.'

#### *Background*

7. In May 2010, the Business received a bill from Business Stream totalling £49,037.86. Mr C challenged this on their behalf, suggesting to Business Stream that there must have been a leak for such a high volume of water usage to be registered by the Business's meter. Mr C noted that the meter readings showed that, following a spike in usage, the readings had quickly returned to normal. He advised Business Stream that he was aware that Scottish Water had been carrying out work in the Business's area and suggested that they must have caused the leak. However, Business Stream told Mr C that there were no reports of work being carried out in the area by Scottish Water which may have caused this spike.

8. Mr C suspected there may be a problem with the Business's meter and continued to pursue the matter with Business Stream. Ultimately, Mr C pursued his concerns through their complaints procedure. Business Stream issued their final response to his complaint on 6 March 2015. In their letter, they commented that there had been a leak which had been repaired on 24 May 2010. Mr C complained to my office about the delay in acknowledging that there had been a leak and the fact that this delay prevented the Business from applying for a leak allowance. Mr C was also dissatisfied with Business Stream's handling of his formal complaint.

#### **(a) Business Stream unreasonably failed to disclose the leak in the supply pipe was repaired on 24 May 2010**

9. The Business's account with Business Stream was opened in May 2006. A summary of the meter readings prior to the account being opened and over

the following years showed that the average daily water usage was reasonably consistent, around 20 to 30 units per day (see table below).

Date	Days	Reading	Consumption	Average	Type
14/07/2005		19397			Actual
19/10/2005	97	22369	2972	30.64	Actual
25/04/2006	188	27307	4938	26.27	Actual
16/10/2006	174	32650	5343	30.71	Actual
21/04/2007	187	37268	4618	24.70	Actual
13/10/2007	175	41877	4609	26.34	Actual
21/10/2008	374	50346	8469	22.64	Actual
21/04/2009	182	54200	3854	21.18	Actual
23/04/2010	367	83421	29221	79.62	Actual
24/05/2010	31	83700	279	9.00	Actual
05/10/2010	134	84261	561	4.19	Actual
20/10/2010	15	84307	46	3.07	Actual
01/02/2011	104	87068	2761	26.54	unknown
30/03/2012	527	88624	4317	8.19	Actual
13/08/2012	136	89310	686	5.04	Actual
03/10/2012	51	89567	257	5.04	Actual

10. Business Stream's records noted that the meter reader contacted them on 23 April 2010 to highlight that the reading taken on that date was disproportionately high compared to previous readings. The meter reader confirmed that there was no evidence of a leak at the meter.

11. Invoice number 18 was subsequently issued to the Business on 7 May 2010, detailing charges of £49,037.86. The Business contacted Business Stream on 18 May 2010 to query the high bill. They commented that there had been a burst water main outside their gate in January of that year but did not think that that was their responsibility. A further meter read was arranged to check the accuracy of the high reading.

12. Business Stream's records noted that they spoke to the Business on 3 August 2010, regarding the outstanding bill. Business Stream were reportedly advised that there had been a leak at the Business's premises. Advice was given to the Business on how to apply for a Burst Allowance (an allowance that may be claimed from Scottish Water to reflect that water was lost through a leak rather than having been used by the business). The Business was told that

they should provide three meter readings, along with evidence from a plumber of the repairs that had been carried out.

13. Records dated 17 August 2010 noted that Business Stream intended to email Scottish Water to ask whether any work had been carried out in the Business's area. A request for a Burst Allowance was submitted to Scottish Water on 31 August 2010 and Scottish Water rejected the claim on 2 September 2010. The reason given for the rejection was that they had no record of any work being carried out in the Business's area during the time of their increased water usage.

14. In further telephone discussions with Business Stream, the Business again explained that they were aware of work having been carried out by Scottish Water in the area. However, Business Stream advised that they had checked all of their records and could find no record of Scottish Water carrying out such work. The Business contended that their water usage had spiked but had subsequently returned to normal without any internal leaks being repaired. A further spike in usage was identified in February 2011 and Business Stream wrote to the Business to make them aware of a potential problem. A note on Business Stream's system dated 18 February 2011 commented that, as no leaks had been identified, either the Business had used the water, or the meter could be faulty. It was suggested that a meter accuracy test may be recommended. An engineer visited the site and it was recorded on 21 February 2011 that water usage had been recorded overnight, when the site was empty. It was noted that this pointed towards a problem with the meter.

15. At a site visit in November 2011, the attending engineer noticed that a urinal was flushing every three minutes, which would use 200 litres of water every hour. Advice was given to fit a valve to reduce this.

16. Subsequent notes recorded attempts to check the meter. The attending meter reader experienced difficulties accessing the meter, noting that the meter chamber lid was too large for a single meter reader to lift and required ladder access. There were also rats living in the meter chamber and oil drums stored outside it. A further note dated 15 February 2012 recorded comments from the Business that the meter was faulty and was due to be replaced.

17. A new meter was installed in a different location in February 2013. Business Stream's records note that it was relocated due to the health and



safety risks. A final demand was issued to the Business for outstanding charges on 31 May 2013.

18. On 11 June 2013, the Business wrote to Business Stream. They disputed the outstanding bill, reiterating their position that the spike in usage coincided with a period during which their premises were served by a faulty meter. They noted that the meter had now been replaced and relocated and suggested that, due to its previous location, it had clearly not been read. The Business asked that their normal average daily usage be calculated based on the new meter and applied retrospectively to the period of the spike in usage. Mr C subsequently took up the complaint on the Business's behalf. Mr C contended that Business Stream had failed to investigate adequately whether the meter was faulty or had a leak. Accordingly, the amounts being charged were not based upon dependable meter readings.

19. In their final response to Mr C's complaint dated 6 March 2015, Business Stream provided a breakdown of the Business's water consumption. They commented that this showed that consumption was high from the date the Business entered the premises in 2006 to 24 May 2010 when a leak was repaired on the supply pipe. A reduction in usage was evident from 24 May 2010, indicating that the leak repair had reduced the spike rather than a meter fault or relocation of the meter. Business Stream noted that, had the meter been faulty, consumption would have remained high until it was replaced on 3 October 2012. There was a slight reduction in consumption following installation of the new meter. As a gesture of goodwill, Business Stream offered to apply the average daily consumption recorded by the new meter to the period the old meter was used between 24 May 2010 and 3 October 2012. This resulted in a credit to the Business's account of £3,717.48, reducing the accumulated bill at that time from £81,653.93 to £77,936.45.

20. In making the complaint to my office, Mr C complained that, after several years of advising the Business that there had been no leaks in their area, Business Stream had now confirmed in their letter of 6 March 2015 that a leak had been repaired in May 2010. While Business Stream commented this referred to a conversation dating back to 3 August 2010 where the Business had advised that there had been a leak at their premises which had been repaired Mr C has pointed out that the notes of this conversation do not indicate that Business Stream were told the leak had been repaired (paragraph 12 refers).

21. During my investigation, I asked Business Stream to confirm who had repaired the leak in May 2010. With reference to their system records, they explained that they had no record of any repair to the Business's supply pipe in 2010. Business Stream's records referred to the Business advising that there had been a leak but it was the Business's contention that the leak was caused by work carried out by Scottish Water in the vicinity. Scottish Water had no record of any works being carried out.

22. Under the Water (Scotland) Act 1980, Scottish Water are responsible for maintenance and repair of pipework up to the boundary of the road in which the main is laid.

**(a) Decision**

23. Mr C complained that Business Stream unreasonably failed to provide the Business with information about a leak having been repaired on 24 May 2010. My investigation has identified that the available evidence was often contradictory and did not provide a definitive picture of events. However, the records suggest that the Business advised Business Stream in May and August 2010 that there had been a leak. In August 2010, advice was given as to what information they should provide to Business Stream in order to claim a Burst Allowance.

24. Following this, all records noted comments from the Business questioning a leak caused by/repaired by Scottish Water or a meter fault. Having reviewed correspondence between Business Stream and Scottish Water, the message from Scottish Water was consistent in that they had not carried out any work in the area during the time of the spike in usage. As such, I have been unable to find objective evidence of Scottish Water carrying out work which may have caused a leak.

25. For a leak to cause a spike in metered water usage, it has to have occurred on the downstream (the Business's) side of the meter. The meter would be situated on the Business's supply pipe, rather than Scottish Water's mains and communication pipes. I acknowledge the lack of clarity as to where the leak was and its repair. However, I consider there to be sufficient evidence available to conclude the most likely scenario is that there was a leak on the Business's pipework, resulting in the increase in water usage. Whilst Business Stream referred to a repair carried out on 24 May 2010, there is no evidence of

this. The only activity recorded on that date was a new meter reading being submitted to Business Stream showing the reduced water usage.

26. With the above in mind, I would not expect Business Stream to have made the Business aware of a leak repair in May 2010. Accordingly, I do not uphold this complaint and I have no recommendations to make.

**(b) Business Stream unreasonably denied Mr C the opportunity to apply for a leak allowance timeously**

27. When making his complaint, Mr C said that Business Stream's failure to make the Business aware that a leak had been repaired in May 2010 meant that they were unable to apply for a Burst Allowance.

28. Burst allowances may be paid in circumstances whereby a leak has caused an increase in water usage. The allowance depends on the location of the leak and is calculated as a proportion of the waste water part of the bill, to reflect the fact that water was lost and not taken away by the sewer network. To secure a burst allowance, Business Stream must apply to Scottish Water. Business Stream has a Burst Allowance Policy which sets out the process and the circumstances under which an allowance may be payable.

29. The Burst Allowance Policy notes that allowances will not be granted automatically and the customer must make a formal application. The application must be sent to Scottish Water along with all relevant supporting information, within six months of a repair being completed. Where a burst allowance is granted, it is calculated as 100 percent of the difference between the average daily consumption of the same calendar period in the previous financial year and the average daily consumption for the duration of the burst. The granting of a burst allowance will only cover the period of the burst and will only be given for a maximum period of six months, which is considered to be sufficient time to identify and repair a burst.

30. The six month period mentioned above reflects the fact that Business Stream are required to obtain two actual meter readings per year. Assuming this is done at roughly six-monthly intervals, any leaks should be identifiable from the next meter read.

**(b) Decision**

31. Under Complaint (a) of this report, I detailed the meter readings which had been taken and many of the communications between the Business and Business Stream, regarding the spike in water usage identified in May 2010. I concluded under that complaint that there is sufficient evidence to suggest that the Business were aware of a leak in May 2010. During a further discussion on 3 August 2010, the Business were given information as to how to apply for a burst allowance. With this in mind, I cannot conclude that Business Stream denied the Business the opportunity to apply for a burst allowance timeously.

32. However, while reviewing this complaint, my investigation has established that Business Stream failed to obtain two actual meter readings in the year preceding the high bill. There was a full 12 months between the reading in April 2009 (which showed normal usage) and April 2010 (showing a large spike in usage). Their failure to take an interim reading means that the Business were denied the opportunity to identify the leak and repair it, potentially causing up to six additional months of increased water usage. When commenting on a draft of this report Business Stream have advised that they made repeated attempts to read the meter but were unable to do so because of difficulties accessing it because of health and safety concerns. They confirmed that in these circumstances they will work with Scottish Water and the customer, where applicable, to allow meter reads to be taken. However there is no evidence that the Business was contacted by Business Stream on this matter over the 12 month period when the meter was not read.

33. I found no evidence of the Business providing the required information for a burst allowance application when requested; however, there is evidence of Business Stream requesting an allowance from Scottish Water in August 2010. This was rejected due to the lack of any recorded activity by Scottish Water in the area during the time of the spike.

34. With all of the above in mind, I do not uphold the complaint that Business Stream unreasonably denied the Business the opportunity to apply for a burst allowance. However, I consider that their failure to take two meter readings contributed towards an increase in the Business's water bills and have, therefore, made a recommendation below to reflect this.

**(b) Recommendations**

- |  |                        |
|--|------------------------|
| 35. I recommend that Business Stream:  | <i>Completion date</i> |
| (i) credit the Business with an amount equivalent to six months of the inflated water usage and waste water charges over the period of the spike in usage; and | 20 April 2016          |
| (ii) take steps, in line with their metering policy to ensure two actual reads are submitted to the CMA each year.   | 20 April 2016          |

**(c) Business Stream failed to handle Mr C's complaint reasonably**

36. Mr C complained that, after querying the high charges being pursued by Business Stream, he latterly raised his concerns as a formal complaint. However, Business Stream failed to follow their complaints procedure.

37. Business Stream's formal complaints procedure states that they will acknowledge complaints within eight working days and confirm who is dealing with the matter. A full response will be issued within 20 working days. However, if this is not possible, they will contact the complainant to explain why and to agree a new completion date. Should the complainant remain unhappy, they are then able to escalate the matter to my office.

38. Having reviewed the correspondence, my complaints reviewer noted that the Business's concerns were raised by them, and latterly by Mr C, over a period of several years. These appear to have been largely treated as enquiries/ billing disputes up until 21 October 2014. An email from Mr C dated 21 October 2014 was the first correspondence to be treated as a formal complaint. Business Stream acknowledged the complaint that day and advised that it would be investigated by one of their complaint handlers. The complaints handler issued their response to the complaint on 6 March 2015. My office was not provided with details of any updates or interim discussions with Mr C in the intervening period.

**(c) Decision**

39. There was a protracted period of correspondence and telephone conversations regarding the charges to the Business's account over a number of years. Largely, this appears to have been an ongoing dialogue about charges and the potential problems which could have caused the high bills. Whilst I acknowledge that no formal request was made for the Business's

concerns to be treated as a complaint, I felt that the complaints procedure could have been initiated earlier, potentially reducing some of the back and forth correspondence.

40. Once the formal complaints process was started, I found that Business Stream failed to meet the standards they set for themselves. There was a long delay between the acknowledgement of Mr C's complaint and their decision, without any obvious update as to why. I found this to be poor and uphold this complaint.

**(c) Recommendations**

	<i>Completion date</i>
41. I recommend that Business Stream:	
(i) apologise to Mr C for their poor handling of his complaint; and	20 April 2016
(ii) remind their complaints handling staff of the importance of keeping complainants updated throughout the course of their investigations.	20 April 2016

42. Business Stream have accepted the recommendations and will act on them accordingly. We will follow-up on these recommendations. Business Stream are asked to inform us of the steps that have been taken to implement these recommendations by the dates specified. We will expect evidence (including supporting documentation) that appropriate action has been taken before we can confirm that the recommendations have been implemented.

**Explanation of abbreviations used**

Mr C	The complainant
The Business	A business that the complainant represents
CMA	Central Market Agency