

Water services

Fact sheet

June 2016

Background

Like many other local authority and housing association landlords, the council has a longstanding agreement with Thames Water whereby we collect water charges along with tenants' rent. For tenants, this means that they do not deal directly with the water company and the council manages billing and collection of payment.

A recent court case challenged this arrangement and the commission that the council receives from Thames Water for collecting water charges on the water company's behalf. The court ruled that the council had acted as a "water reseller" and had overcharged tenants. The council is now making arrangements to pay this money back.

Am I entitled to a refund?

Yes if you were a tenant of Southwark Council between 1 April 2001 and 28 July 2013, and were charged for water and sewerage by the Council.

What if I was in temporary accommodation during any part of this time?

Yes if your accommodation was through Southwark Council, and your annual rent letter and/or rent card included a separate amount for water charges.

What about joint tenancies?

Only one refund will be given because only one water charge is made for each property. In these cases the cheque we issue will be to the person recorded as the lead tenant.

How is the refund worked out?

The calculation runs from the start of your tenancy (or 1 April 2001, if that is later) up to 28 July 2013 (or the end of the tenancy, if that is earlier).

The amount overcharged has been determined by the court as 22.1% of the original charge. The law allows the council to make a charge of 1.5p per day for administration.

I've lived in more than one Council property since April 2001

The first refunds will be made to current tenants in relation to their current property. Refunds in relation to former tenancies will be processed later in 2016 and will require proof of occupancy to be provided.

Why April 2001?

The council thinks that it would be fairer to extend the period back to April 2001, when the first Water Resale Order started.

Why is the council not paying compensation from July 2013 onwards?

In July 2013 we changed the agreement with Thames Water to make clear we are not acting as a reseller.

Do I get interest on this refund?

Yes. Interest has been added up to 30 June 2016.

What happens if I have rent arrears?

The council will pay off any rent arrears you might have from the refund. If the refund is bigger than your arrears, the council will be sending you a cheque for the difference if it is more than £10. If it is less than £10 it will stay as a credit on your rent account. If the refund is the same amount as your arrears you will not get a payment but your arrears will be fully paid off.

Does this affect my benefits?

The refund will be taken into account when assessing your total savings for housing benefit purposes.

What about former tenants?

If the former tenant is now a Southwark Council homeowner, we will be contacting them separately to arrange payment. Where the former tenant is no longer in a Southwark property they will need to claim their refund on giving us proof of their former tenancy.

Why does the council have this agreement with Thames Water?

The agreement has been in place for many years, dating back to when water companies were still public bodies (like the council). For many tenants, the arrangement is more convenient as they only have to deal with one organisation for both their rent and water charges. The arrangement is beneficial for the council because we receive a commission from Thames Water for sending out the bills and collecting payments on their behalf. This commission payment is used to help fund the council's housing service.

This arrangement is not unusual; about 70 other councils and housing providers have similar agreements with Thames Water.

What was the court case about?

We saw ourselves as an '*agent*', working on behalf of Thames Water. Each bill was calculated by Thames Water. We had no say in the amount of the bill. The council simply passed the bill on to tenants and collected payment along with the rent.

However, the court decided we were a '*water reseller*' and not an '*agent*'. A water reseller is basically a middleman – someone who receives a supply of water and sewerage services from the water company and sells it on to the users. Where a landlord is acting as a water reseller, there are laws to prevent landlords from overcharging tenants.

So did the council overcharge tenants?

Not knowingly, because we thought that we were acting as an agent and not a water reseller. Each bill was calculated by Thames Water and we were only responsible for sending it to tenants and collecting payment.

However, as the court has decided that the council was a water reseller, this means the council has mistakenly overcharged tenants by the amount of the commission Thames Water paid us, plus the allowance given for empty homes (which added up to 22.1% of the total charge). That's why we are refunding every affected tenant 22.1% of their water charges, with interest, for the period from April 2001 to July 2013.

The council thinks it would be best to end this agreement and is currently consulting tenants on this. You can tell us your views by going to www.southwark.gov.uk/waterrefunds.

Why does the council think it's best to end the agreement with Thames Water?

We reviewed the agreement as a result of the Court's decision. We think ending the agreement is the best option for both residents and the council and that it is better for tenants to have a direct billing arrangement for their water charges, bringing openness and transparency for each customer about what they need to pay for their individual household. We want to avoid any further legal challenge in the future by bringing the agreement to an end. And it is very likely that, in future, water, just like electricity and gas, will be provided by a range of suppliers, and that will make the current agreement less appropriate as tenants will have a wider choice of options.

You could end up with a better deal

At the moment, Thames Water is the only supplier to domestic customers in London. However the Government wants to open up the water sector to competition, in the same way as other utilities like electricity and gas. This would mean there would be several different providers competing with one another for customers, so that you could shop around to find the best deal.

People on low incomes may not have to pay as much

Water companies, including Thames Water, offer discounts for households on low incomes. They also offer a different price where the occupier wishes to have a water meter but this cannot be installed – this may be lower than their standard price. It has not been practicable for us to manage these issues on tenants' behalf so tenants have not been able to routinely see if there is a better deal available to them, without contacting Thames Water directly.

Your home would not be at risk if charges are unpaid

At the moment, if council tenants do not pay their water charges over a long period this can put them at risk of losing their home, in the same way as non-payment of any other charges due under their tenancy agreement. If tenants were paying Thames Water directly, this risk would be removed. Importantly, Thames Water is not allowed to cut off water supply if its charges are not paid.

We have to protect the council's budget to continue delivering services

Although we knew there was a risk that the court might rule against the council on this matter and had set some money aside as a precaution, it is still a huge amount of money for the council to find. It is possible that the current arrangement may be subject to further legal challenge. Given the unprecedented financial pressure on councils we cannot afford to remain in the agreement.

What does this mean for me?

You would start paying your water bill directly to Thames Water. We would have no further involvement in your water bill or services at all.

What about vulnerable residents?

Water companies, including Thames Water, already offer additional support for people who need it. For example, Thames Water has a dedicated Extra Care Team that supports residents with visual impairments and hearing difficulties.

We have our own records of vulnerable tenants and would work with those residents and Thames Water during the transition period to ensure they receive the support they need to put in place a direct relationship with the water company.

How many people are affected?

All of our current tenants who do not have a water meter are affected, about 39,000 households, as well as people living in temporary accommodation and anyone who has been a tenant (former tenants) during the refund period from 2001 to 2013.

How do I get my refund?

We are calculating the sums due and will contact current tenants directly to make the appropriate refunds. We will also set up a process to enable former tenants to make claims. We will deduct arrears of rent and other tenancy charges from the refunds.

Where can I find out more about water charges?

Ofwat are responsible for regulating the water sector in England and Wales. Their website is www.ofwat.gov.uk.