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| Local Authority required to withdraw notification of excess water charges |
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| Legislation Ombudsmen Act 1975, Rating Powers Act 1988  Agency Local authority  Ombudsman Sir Brian Elwood  Case number(s) C2698  Date 1994 |

*Charging for water by quantity consumed—notification—charges not based on a bylaw—s26 of the Rating Powers Act 1988*

A local authority was installing water meters throughout its territorial area in stages as and when finance was available. Ratepayers were notified that where water meters had been installed, it intended to charge excess water rates should any excess usage occur. A ratepayer complained that the notification was improperly discriminatory because not all properties had water meters. The complainant also said that there was no record in the local authority’s minutes authorising it to levy the charge.

Section 26(1) and (2) of the then *Rating Powers Act 1988* provided for local authorities to make and levy charges according to the quantity of water consumed. In this case, although the local authority had resolved to levy such charges, it had not provided in the resolution to levy only those properties that were metered.

The investigation was directed at establishing whether there was appropriate authority for the excess water charges to be levied and also whether the notification to the complainant that he might have to pay for excess water was based on a bylaw. This point was raised with the local authority because the provisions of section 26 of the *Rating Powers Act* related expressly to ‘the ordinary supply of water within the meaning of any bylaw defining the same’ (section 26(1)), ‘or the extraordinary supply of water within the meaning of any bylaw defining the same’ (section 26(2)).

The local authority advised that it did not have a bylaw defining ‘ordinary’ or ‘extraordinary’ supplies of water and, as a consequence, the notification regarding excess water charges was withdrawn and the local authority resolved not to issue any further such notifications. It undertook to take appropriate steps to promote a bylaw for authority to levy excess water charges. It would then be open to the complainant during the requisite public process to submit his views on the application of the bylaw to all properties when some were not metered.

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