

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X286

Date of Decision: 31/03/2021

Party Details

Customer:

Company:

Complaint

The customer says that the company has wrongfully required the customer to carry out repair works to a pipe for which the company was responsible by concealing the true nature of a document and compelling him to treat it as a private pipe. At the request of the company, the customer has replaced the pipe. The customer is seeking reimbursement for the cost of £6,000.00 that he incurred to replace the pipe and an apology for the treatment he has received for the last 13 months. He also wants the company to take back responsibility for the 250 metres of pipe from X to his house.

Response

The company says that it does not own the pipe in question and is therefore not liable to pay for repairs. It did not request replacement of the pipe but recommended this. The company is not liable for the cost of replacement. The company acknowledges that it has provided poor customer service and apologises. It has made a GSS payment of £440.00 and has paid for the immediate repair costs of £624.00.

Findings

The dispute in this case focusses on the ownership of a pipe. I find, as I find did the company's legal team, that the arguments currently advanced by the parties are evenly balanced. Against that background, I find that the company did not over an extended period, acknowledge the merits of some of the customer's points or take any reasonable steps to try to resolve a situation which was incapable, I find, of conclusive proof save in a far more expensive manner. This fell, I find, below the standard of service that would reasonably be expected by an average customer. I find that it is fair and reasonable to compensate the customer for this failure in service standards by directing contribution of one half of the cost of

replacing the pipe in addition to the payments the customer has already received from the company. No further apology is necessary and it is not fair and reasonable to direct that the company shall take responsibility for the new pipe.



The company shall pay £3,000.00 to the customer.

The customer must reply by 28/04/2021 to accept or reject this decision.

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X286

Date of Decision: 31/03/2021

Case Outline

The customer's complaint is that:

- There is a dispute over the responsibility for a pipe that had now been replaced by the customer. He believes that this pipe is a communication pipe and that his wife unknowingly signed a form in 2019 stating that the pipe belongs to the customer, whereas it does not. • The customer points out that the company has previously stated, during an enforcement action threat, that this form was proof of ownership, yet claimed to have destroyed it during the complaint period. Recently a copy of this document has been found on a computer and may have been what the company referred to as a "permission to dig" form for the repair to the pipe under a Council public footpath / ramblers'path. The customer believes the company to have been dishonest in respect of this documentation and would like to be reimbursed for the costs incurred to replace the pipe. • The customer is seeking reimbursement for the cost of £6,000.00 that he incurred to replace the pipe and a full apology for the treatment he has received for the last 13 months. He also wants the company to take back responsibility for the 250 metres of pipe from X to his house.

The company's response is that:

- The pipe in question is a private supply pipe and not the responsibility of the company. Since 2003, the company has repaired a number of leaks on that private water pipe at no cost to the customer. This would have been done as a gesture of goodwill, either because of its policy at the time or because of the disputed ownership and the need to prevent water wastage through leakage. This does not mean that the company took over ownership or responsibility for the pipe and it remains a private water supply pipe. • Following a further leak identified in August 2019, after two free repairs had been completed in June and July 2019, the company advised the customer of the leak and that he needed to make the necessary arrangements for the leak to be repaired. In accordance with Section 75 of the Water Industry Act the required letters/notices were issued. • The company was in contact with the customer about the leak and was arranging a further site visit. Before this could go ahead, a private contractor employed by the customer attended and repaired the leak. • The customer remained unhappy with regard to the ownership of the pipe in question and sent written complaints to the company in order to try and resolve the complaint. The details were passed to the company's

Community Relationship Advisor. • Because of the dispute about ownership of the pipe, and as a gesture of goodwill, the company made a payment to the customer in April 2020 of £624.00 as reimbursement for the cost of the leak repair. • The company has fully investigated the ownership of the pipe and has consulted with its legal team. It remains of the opinion that the external stop tap and boundary box located at the junction with X marks the end of the company's pipework and responsibility. The single serving pipe from this point up to the customer's property is therefore considered to be a private water supply pipe. • The company acknowledges that a large number of emails were exchanged between August 2019 and September 2019 without a resolution. Many of the emails were not recorded correctly as written complaints and no full response was sent. The company has ensured any Guaranteed Service Standard payments required, in respect of written complaints, have been processed. These have been refunded to the customer at his request. The company has also offered the customer a payment of £460.00 as a gesture of goodwill in recognition of the service failures in the handling of his complaint – this payment has not been accepted.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

- Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
- Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show on a balance of probabilities that the company has failed to provide its services to the standard one would reasonably expect and that as a result of this failure the customer has suffered some loss or detriment. If no such failure or loss is shown, the company will not be liable.

I have carefully considered all of the evidence provided. If I have not referred to a particular document or matter specifically, this does not mean that I have not considered it in reaching my decision.

How was this decision reached?

1. The customer's complaint concerns the company's handling of and conclusions about the ownership of a 250m pipe extending between the company's mains supply in X and "X", which is the name of the customer's house.
2. In reaching conclusions as to this issue, I bear in mind that my jurisdiction under rule 3.3 of the WATRS Scheme rules means that I can reach decisions about "bills,

payments, collections and debt recovery; metering; water supply services; ...and other issues which have been the subject of an internal company complaint procedure and which are not excluded under Rules 3.4 or 3.5". I am mindful that I cannot reach decisions about enforcement matters. Moreover, I find that I should not reach a decision about the ownership of assets even where these have been the subject of internal complaint procedures. This is because I have no power to make a declaratory decision as to the parties' rights and liabilities in the future. An issue of this type is more appropriately dealt with by a court or other body.

3. I am concerned only, as I have explained above, with whether the company has supplied its services to the standard that would reasonably be expected. Accordingly, I find that my powers to consider this dispute are limited to considering the reasoning process applied by, and actions of, the company in relation to the events that have occurred, including the provision by the company of its customer services.

4. Furthermore, although the customer has complained in the submissions made to WATRS about the scope of the disclosure made by the company under his Data Subject Access request, I find that this is a matter that is also more appropriately dealt with by a specialist body such as the Information Commissioner's Office. I make clear, however, that I have considered the customer's allegation that the disclosure initially provided by the company on 2 October 2019, which did not include some documents that have subsequently come to light, is illustrative of bad faith on the part of the company. Having read the documents submitted by the parties including the further comments made by the customer in response to my Preliminary Decision, I find it to be more probable, nonetheless, that without bad faith, the company's processes did not turn up all relevant documents. Some documents that the customer wanted to see (such as those concerning a site investigation on 16 September 2019) did not exist because the company says that the inspection did not take place. I address this issue further below.

5. Against that background, I now turn to the dispute.

6. The customer says that the pipe has always been recognised as a company asset and that the company has unreasonably and unfairly tried to transfer responsibility for the ownership of the pipe to him in August 2019, when he says that the company enforced a pipe repair due to a leak. The customer also complains that the leak was caused by work that the company had conducted previously, but, although the customer says that he was told this by a member of the company's staff or a sub-contractor, the company does not agree with his argument and I find that there is insufficient evidence to enable me to conclude that, as the customer alleges, the company introduced too much pressure into the system too quickly after the repair carried out in July 2019. Although I note the

customer's further comments on this in response to my Preliminary Decision, I reach no findings as to this part of his claim.

7. The customer makes the following points in support of his arguments on ownership:

a. For the preceding 40 years, the company has maintained the long pipe from X to the stop tap near his house. The records of the company obtained by him under a Data Subject Access request show that since 2003, there have been six repairs of the pipe prior to the emergence of the dispute in 2019. It was not suggested in any documentation prior to 2019 that the pipe was a private supply.

b. Consistently with his argument, he says that:

i. Until the early 2000s, there was no stop tap at the X end of the pipe. There was thus no boundary box and stop tap on the pipe except that which is immediately adjacent to his property, where the pipe crosses his garden into his house. This stop tap is a company stop tap, and he has submitted photographs showing the logo that identifies it as a company and not private asset.

ii. In about 2002 or 2003, the customer says that the company decided to install a stop tap at the X end of the pipe. The customer's wife was told at that time that this would not have any impact on the pre-existing responsibilities.

iii. The location of the pipe was under a footpath called X, not in private gardens. Although X is now a footpath, the customer says that this was at the time when the pipe would have been installed a road belonging to Worcester Council and its location indicates the public nature of the pipe.

iv. Information in documentation received from the company shows that in June 2018, internal records referred to this pipe as a "longcommunications pipe" which would make the pipe the responsibility of the company and not a private pipe. The customer says that the fact that it was referred to in this way after the date of the map of the company's assets relied on by the company makes clear that the map is not conclusive as to ownership of the pipe.

v. Although the company has said that the customer's wife has acknowledged ownership of the pipe in 2019, she was asked to sign a document to enable a repair to be carried out and it was not explained to her that the documentation was an acknowledgement that she and her husband were responsible for the upkeep of the pipe. The company previously told the customer that this document had been destroyed but has submitted a photograph of it to WATRS.

vi. The company agreed, following correspondence in 2019 to carry out an inspection of the pipe to ascertain ownership. The company has kept no record of the outcome of that inspection.

c. The customer also challenges the company's suggestion that the company's

legal advice points to the pipe in question being a private pipe. He says that the status of the legal advice is that it was not clear either way and the company has said that this means, by default, that the pipe is privately owned. He argues that this logic is flawed and is equally applicable the other way round.

8. The company, on the other hand, says:

a. Its previous action in repairing the pipe is not a guide to ownership because the company has carried out goodwill repairs.

b. The pipe does not appear on the company's mains map, which shows the mains. As work was done in this area in 1994, a mains pipe that had previously been undiscovered would have been marked on the map.

c. In response to the customer's points, the company says:

i. It is probable that the stop tap outside the customer's boundary was installed by a predecessor of the customer to enable water to be turned off easily.

ii. The company has no record of installing a stop tap in the early 2000s although it believes that it replaced a lid in 2018 close to the customer's property. If a stop tap was installed at X, it would not have followed that the company had adopted the pipe or accepted responsibility: if a stop tap was installed by the company, it would have been for the purpose of facilitating repairs.

iii. A private pipe can run under a highway or footpath, just as it can run through others' gardens. The location of the pipe is not indicative of ownership and, in any event, there is no evidence, the company says, that X was ever a road. Moreover, a number of long pipes from individual properties are joined to stop taps in X. The company would not have installed separate communications pipes to each property and therefore the long pipe under X was a private pipe.

iv. Internal documentation shows that in 2003 a noise on the water supply pipe was noted on 16 April 2003 and 12 May 2003. The comments made following a visit on 23 May 2003 state:

"BOPPS[] partly dug out, highly visible, cus. will show where, proforma with BOPPS". The repair was completed on 1 July 2003 but no further information is available. This reflected the company's scheme whereby leaks on private water supply pipes could be repaired free of charge.

v. The customer's wife signed a pro-forma document giving the company permission to repair the leak on a private supply pipe on 26 July 2019. This was because a leak was observed from the single serving supply pipe under third party land. The leak was then repaired in July 2019.

vi. The company says that the subsequent history was that:

o Following further leakage detection work carried out by the company, a further

leak was found on 7 August 2019. This was at a different location from that repaired in July 2019. On this occasion, due to the number of previous free repairs, the company did not feel able to repair the leak free of charge. A letter was sent to the customer on 8 September 2019 to make him aware of the leak and to advise him that he would need to arrange for it to be repaired.

o The customer sent an email to the company on 15 August 2019 following the letter he had received.

o The customer's wife contacted the company on 22 August 2019 with regard to the repair of the leak. The company spoke to the customer later that day. The company agreed to arrange a site visit. On 27 August 2019, the company was contacted by the customer's wife who requested a 7 day hold on any further action. The company advised it was already on hold as a further visit was being arranged. o On 28 August 2019 the company was advised that a private contractor had attended and repaired the leak. The company responded on 9 September 2019 and information was in due course supplied.

9. Although the customer says that there is no uncertainty about the ownership of the pipe, I find that there is a long history of uncertainty about the ownership of this pipe. In considering this history, however, I take into account that the customer lives at the address supplied by the pipe, has had occasion to think about the pipe more than once and he says that he received information from his vendor about it before he bought "X" in about 2000. I note that the customer was therefore in a position to observe first-hand any events and changes as they occurred. Where the customer has offered explanations from his memory, I have placed weight on these. I also bear in mind that the company also would or should have known that the customer would reasonably have been in a position to given information about the history of the pipe.

10. From the papers submitted by the parties and by CCWater, my findings as to the events and supporting documentation are as follows:

a. The company's Water Mains record does not include as a "watermain" the long pipe that the customer says is owned by the company. The plan does appear to show the location of a stop tap in X although the customer argues that this is the stop tap for X and the X(neighbouring properties). As for the map of the water main, I am mindful that, when dealing with pipes that may have been laid many years ago, such maps are not always accurate as to what is or is not within a water undertaker's remit. There is, moreover, no date on the map to show when it was compiled or whether any additions have been made to it or when. Most importantly, the customer has asked the company to state whether this map of "mains" would include a communication pipe, which is not a water main. the company, although it relies on this record, has

not answered that question in any definitive way. Additionally, as the company accepts that there is more than one stop tap serving long pipes located in X, it cannot be clear whether the stop tap shown is that of the long pipe leading to the customer's property or that of a different property.

b. Although the company has submitted documents showing that in 2003 the pipe was treated as in private ownership, a free repair was carried out and the company has not submitted any documentation that supports that the customer agreed at that time that he owned the pipe. In particular, the customer says that the repair of the pipe in 2003 did not involve the customer because the leak was on third party land. I find that as no issue arose as to the costs of the repair, the ownership of the pipe did not need to be determined by the company and the weight to be attached to the description of the pipe as a private pipe is somewhat limited.

c. The customer reports that the stop tap in X was installed after this repair. The company says, however, that although it repaired a lid in 2018, it has no record of the installation of a stop tap on the long pipe in 2003. In contrast, the customer has explained recollections by the customer and his wife, of a conversation with the workmen who were fitting the stop-tap, in which the customer's wife was told that the installation was of a stop tap and meter but that this would not affect them. While I take into account, given the proximity of the pipes from neighbouring properties, that the work may have concerned a pipe from a different property, this is not the customer's recollection. Bearing in mind that the company's record keeping appears to have been incomplete, and at least one important document (that signed by the customer's wife) has been shredded, I cannot be satisfied that the company's records are complete. On balance, I find that the better evidence about this is submitted by the customer and I find that it is more likely than not that the company did install the stop tap at the X end of the pipe about 2003.

d. Although the company says that the installation of the stop tap and boundary box outside the customer's garden must have been installed by the customer or a predecessor of his, the customer denies this. I find that the customer is able to say that he has not installed a stop tap and he says that his vendor did not. I find in this respect that the company's evidence is speculative and the customer's although not conclusive, is more likely to be an accurate description of the state of the pipe. If, as I find, there was no stop tap or boundary box at X before 2003 but there was one close to the customer's property, this leans in favour, I find, of the pipe being a communication pipe, rather than a private pipe.

e. In 2016, there was a leak associated with the customer's toilet and it was concluded that this was not associated with the long pipe. No conclusions were expressed in the documentation that I have seen as to the ownership of the pipe.

f. In June 2018, a leak occurred. At this point, the internal records refer consistently to a “longcomm pipe”. The plan for the carrying out of the work in July 2018 explains where the repair is to be undertaken by provision of a map. The explanation is in a text box that obscures some writing. What is visible says in red type “...mmissioned asset”. A later copy of that map indicates that this writing may (were it not for the text box) read “Updating... – Decommissioned Asset”. It is not clear whether this has any relevance or what those words mean and neither party has explained them.

g. In September 2018 a further leak occurred. The company has submitted a printout of a webchat. The customer’s interpretation of this web-chat is the company apologised for this further incident and asked if its engineers could take a look. I find that this is a probable interpretation of that document and I do not see why the company should have been making an apology if the asset was that of the customer. The inspection record states:

Phoned customer , arrived on site customer showed me leak and this was repair about 6 weeks ago ,job raised for gang to repair burst in public walkway by the side of prop customer will show gang if req and for gang to fit stop tap cover on chamber by side of prop no dig req

Again, this work is described as “LongComm Pipe Repair .5”. As part of this work, the company fitted a new lid on the stop tap and box outside the customer’s own property. The customer has submitted a photograph of this, which clearly shows the lid to be marked with the details of the company, so suggesting, without more, that the box formed part of the company’s assets.

h. In June 2019 a further problem occurred. The company’s internal records describe this as “leakon comm pipe outlet of boundary box, flooding customers property”. This work was then carried out in June 2019.

i. In July 2019, there was a further leak. The report for this states:” Free of charge repair being carried out under above order number. Leak under third party land - nobody owns this - checked land reg therefore happy to go ahead.” The job notes state that a free repair had been offered and the customer had signed the pro forma. At this stage, the pipe is described as “customer’s metered household single supply pipe”. It is not clear why, as between the two months, the descriptions should have varied, but there is reason to consider that the description applied in July 2019 was inaccurate because the customer says that his water supply is not metered. The company has not challenged that assertion when he made it in correspondence, so I find it probable that the supply is unmetered and the company’s description of the supply in July 2019 is inaccurate.

j. The customer's wife signed a pro-forma document before this was carried out. A photograph of the document (the original having been, seemingly, shredded) has been made available. It is dated 26 July 2019. The document explains on its face that its purpose was for the customer to give permission to the company to carry out a "one-off, free of charge repair" on a private supply pipe. The form states that the customer's wife had read the contents of the document. The available evidence about this document was that it had not previously been given to the customer's wife to consider, but a signature was asked for face to face before the repair commenced. The customer states that his wife was not given time to read it and was told that if she did not sign, the repair would not be carried out. The customer says that it was not explained to his wife that signing this document meant that she was accepting responsibility for the pipe.

k. On 8 August 2019, the company recorded a further problem with the pipe. The internal records states "Customer recently had a FOC repair, leak is visible but at different location to the repair that had taken place on the 29.07.19., The customer was told by a letter of that date that it was his obligation to arrange for a repair. The customer says that he received this on 13 August 2019.

l. On 15 August 2019, the customer wrote back to the company, indicating his view that the asset was a company asset and asking for confirmation that this would be repaired by the company.

m. On 22 August 2019, the customer made clear to the company his view that the pipe is a company asset and not a private pipe. The company arranged for an inspection. The note states:

Raising a visit to investigate if leak on private or asset and how that works and affects them and what this other PST is - its on their boundary.

The customer also explains that his wife kept a message of a telephone call on 22 August 2019 that was written at the time of the call. This note recorded that "E" had telephoned "to inform [the customer] that redacted are serving an enforcement notice".

n. On 27 August 2019, the customer's wife requested a 7-day hold. Although this was agreed by the company pending the investigation, the customer says that it was not believed that the company would wait several weeks to determine the ownership, especially as the company appeared to be placing no weight on the customer's assertions about ownership.

o. On 28 August 2019, the customer informed the company that he would be

carrying out a repair.

p. On 29 August 2019 the customer was found to have carried out an initial repair of the pipe at a cost of £624.00. The customer says that this was because, coupled with the threat of enforcement action on 22 August 2019, the letter of 8 August 2019 stated:

If the leak is ongoing after 14 days we may have to complete the repair ourselves and recover the costs from you...

The customer says that he was also advised to relay the entire pipe, and this was confirmed by the company in its email of 9 September 2019.

q. In the same email of 9 September 2019, the company wrote in response to the customer's letter of 15 August 2019 that:

This leak was confirmed private on our visit on 28 August 2019:

It is not clear to what this refers: there is no record in the papers submitted to me of a visit by the company on 28 August 2019, nor any indication of what had been taken into account on that day in order to confirm that the pipe was private. The letter continued to explain:

We own and maintain the water supply pipe up to the external stop tap which is usually in the street at the boundary of your property. The owner of the property where the water is supplied owns the water supply pipe that runs from the external stop tap to within the boundary of the property (this is also referred to as the service pipe).

I note about this explanation that if the customer is correct that X was once a road rather than a footpath (which would appear to be supported by the plans and drawings that the customer has submitted), the explanation would appear to confirm the customer's version: one of the stop taps was in the footpath at the boundary of his property in land in public ownership. In any event, the letter does not address the specific problem where there were two stop taps, a dispute about which of these was the boundary tap and a long length of pipe between the stop taps. The company does not, in that letter, respond to the customer's point that the material stop tap was just outside his property rather than the one installed subsequently in X. The letter states merely:

Turning to your points about the stop tap, I've arranged for one of our technicians to visit you to discuss this further and to answer any concerns you may have.

I find that this letter does not promise to carry out an investigation, particularly as

the letter states that the customer's complaint had then been addressed at stage 1. I find, on balance that, despite being treated as a response to a complaint, the letter did not in reality address the points raised by the customer. Moreover, although the customer initially thought that someone attended the property on 16 September 2019 and took photographs of the stop taps, the company's records say that the matter was regarded as an ongoing complaint and there was no need to visit. The customer explains that the company was then asked to re-instate the visit and that it did happen, but the company has no record of this and, seemingly, has placed no weight on any findings from that visit.

r. The customer then raised a subject access request and repeated a number of the points that he had made earlier. Documents were sent to the customer on 2 October 2021, although the customer argues that these were incomplete and, in particular, did not disclose the outcome of the investigation that he believed had taken place on 16 September 2019. The customer asked further questions and requested further documentation.

s. On 7 October 2019, the customer replaced the entirety of the length of the pipe in his own land for a cost of £5,000.00 plus VAT.

t. The company responded to the customer's letter of 2 October 2019 on 9 January 2020. In relation to the pipe in X, the company said:

Although the land is owned by the local council, the pipework does not belong to them, it belongs to the owner of the property it feeds. If the owner needed to dig on the council's land they would need permission to do so.

This explanation, I find, again does not explain why the company had reached the conclusion in this particular case that this pipe belonged to the customer rather than to the company. This letter was again expressed to be a review at Stage 1.

u. By April 2020, the company had agreed that it would reimburse the customer with the £624.00 cost of the initial repair of the pipe but not the cost of relaying the pipe. The question about the ownership of the pipe had been passed to the company's legal team and a response was awaited. The company said:

As mentioned above, I still haven't received confirmation from our Legal teams to understand which pipe is our responsibility, but I can assure you that if you've had to pay any money towards replacing what we believe is a redacted asset then we will reimburse you for this. This all depends on what the Legal team find.

v. In May 2020, the company reported to the customer that its legal team had been unable to determine ownership of the pipe and challenged the customer to provide evidence that it was, in fact, owned by the company.

w. By August 2020, no further response had been received from the legal team, but the company wrote:

We're trying to make an assessment on who installed the pipework and when and will need to do that from our point of view too. I know it's causing more delays but I would take it as a positive thing that we are still investigating rather than giving you an outright no without ensuring we check absolutely everything.

x. In September 2020, CCW became involved but no response had at that stage been made by the legal section. In December 2020, the company replied to requests by CCW, providing the record of the mains and stating:

We would be responsible for the water mains, as shown on the water mains record. This record was previously held and maintained by the local authority, before the privatisation of the water industry and the Water Industry Act 1991, when it was then transferred to redacted to be updated and maintained as required.

I've attached a copy of the water mains records for the area which clearly shows the location of our water mains.

...

The water main in X was renewed in 1994 with a new 90mm HPPE pipe. Whilst carrying out the work, if we had found any additional unmapped sections of the water mains network, the records would have been updated.

The company also pointed out that other properties had long pipes to the properties with external stop taps and meters in boundary boxes in X (marked A and B on a photograph):

This indicates that the properties all have single serving private supply pipes up to the point they connect to our water main in X. X would not install separate water mains to individual properties – the property owner would be responsible for any pipe work to connect their supply to our water main.

y. While this is a relevant argument by the company, it is, however, important to note that such information as is available about this pipe would indicate that it was constructed before 1991 and there is no evidence available to me that the pipe was initially laid by the company. Whether or not the company would install separate water mains to separate properties does not mean that its predecessor in ownership of the main would not have done so. Nor is there evidence that if these communication pipes had been laid by a predecessor, the company could have declined to acquire these. I therefore find that no persuasive inferences can reasonably be drawn from this. Secondly, the statement that any additional communications pipe belonging to the company would have been mapped in 1994 is difficult to reconcile with my finding above that the customer is probably correct that the stop tap in X was installed only in 2003.

z. The company also stated in December 2020 that the matter had been “discussed” with the legal team, but no advice by the legal team was shown to the customer.

11. I also note that the company’s guidance to pipe ownership, provided at the end of the company’s bundle of documents, includes the following statement:

Communication pipes carry water between the water mains and the boundary of private property. If a company stop-tap has been fitted, this will normally mark the end of pipework that is the responsibility of the company and pipework that is the responsibility of the property owner. Not all properties will have their own stop-tap in the footpath but where one has been fitted, this is normally the responsibility of the company to maintain.

12. An important factor, therefore, published in the company’s explanatory information, is that the company’s stop tap can be expected to be the end of their area of responsibility. As the stop tap outside the customer’s home bears the company’s details and therefore appears to be a company stop tap, I find that this was a weighty piece of evidence for the company to take into account, but very little emphasis has been placed on this. The correspondence shows, I find, that very little attention was paid to the customer’s explanations about what had happened (especially in relation to his allegation that the X stop tap had been introduced in 2003 and that the only stop tap had been outside his own house) and the company, although promising to carry out an inspection in September 2019, did not do so.

13. I further find that an average customer would not reasonably expect the company to have resolved this finely-balanced question by asking the customer to sign a document put in front of the customer’s wife at the point of carrying out work that was needed. While, the fact that the customer’s wife signed this document is not irrelevant and it may have been within the range of reasonable decisions to place weight on the customer’s wife’s signature on the Pro-Forma document when information about the need for the repair in August 2019 was first known, I find that once it was clear that there was a dispute, this document, taken alone, could not resolve it.

14. Taking all these factors into account, I find that, while it is possible that the pipe was a private pipe, it is equally possible that it was not. Although the customer challenges that the evidence is “equal”, I find in all the circumstances, that this is the correct approach. The arguments that are advanced by the company are not unassailable and I find that neither party has access to all the relevant facts. In these circumstances, I find that an average customer would have expected the company to continue to try to resolve this dispute as to ownership within a

reasonable time and by putting forward a mechanism by which liability could be determined, whether by agreement or otherwise. I find that as this was a problem affecting both parties, an average customer would reasonably have expected the company to have endeavoured to do this in a reasonably collaborative way.

15. I find that this has not occurred. The company has acknowledged that its customer service has not met its expected standards and it has made a payment of £440.00 in Guaranteed Service Standards (GSS) compensation and has offered £460.00 by way of goodwill payments that the customer has not accepted. Additionally, the company has paid, retrospectively, for the initial pipe repairs. I find that this is an acknowledgement (which the company has repeated in its defence) that it has not gone about resolving this matter in a way that would reasonably be expected. As this admission has been made, I do not need to set out the detail of the various failings that can be seen in the papers, but I do record my finding that the company's customer service has been poor and it is not an acceptable standard of service that the parties should have been no further forward in terms of resolution in January 2021 than they had been 14 months earlier, with, at that stage the GSS payments not made and no prospect of an outcome. It follows that I find that the company has fallen short of the service standards that an average customer would reasonably expect.

16. I find that the customer has shown that he is entitled to a remedy under the WATRS process. He asks for reimbursement for the cost of £6,000.00 that he incurred to replace the pipe and a full apology for the treatment he has received for the last 13 months. He also wants the company to take back responsibility for the 250 metres of pipe from X to his house.

17. As to whether the company should be required to pay for or contribute to the costs of the pipe replacement, I take into account the lengthy period without resolution that has caused the matter to come to WATRS within a complaints process. I find that an average customer would consider it to be fair and reasonable to try to reach an outcome to this complaint that would put an end to the dispute, even in circumstances where I cannot make a binding finding as to ownership of the pipe.

18. I take into account that the company agreed that the entire pipe needed to be replaced, that the weight of the arguments on both sides was (as I have found) equal and incapable of resolution on the current state of the evidence, and I also take into account that the customer has now, albeit unwillingly, taken a new supply pipe into private ownership by laying this on his own behalf and in his own land.

19. I find that, given the nature of this dispute and the costs and complexity of trying to resolve this dispute in some other fashion, an average customer would

conclude that it would be fair and reasonable to direct that the company shall pay to the customer the sum of £3,000.00 by way of compensation for the company's sub-standard customer service and its failure to resolve the dispute. Although the customer has put forward certain arguments in response to my Preliminary Decision as to why this sum should be increased, I find that this sum reflects the balanced nature of the dispute without the determination of ownership. I have not, therefore, increased the amount of compensation which remains the same as in my Preliminary Decision. The sum should be paid in addition to the GSS payment that the customer has already received on 4 February 2021 and the cost of £624.00 for the initial repair. For clarification, the company is not also required to make the goodwill payment offered of £460.00.

20. As for an apology, the company says in its defence:

Xhave acknowledged there have been times when the customer service provided hasn't met their usual high standards. Xaccept they have let Mr X down and he should rightly expect better from them. Xare truly sorry for any additional worry or inconvenience this has caused Mr X. In recognition, and as a gesture of goodwill, Xhave offered Mr X £460.00 – this is the amount of the yearly water charges. This has not been accepted.

21. I find that this is an apology for the customer's experiences over the last thirteen months and no further apology is required.

22. In relation to the customer's claim for the company to take the new pipe back into its own ownership, I do not direct this. I find that its ownership of a long communications pipe along X is not consistent with the company's modern policies and the potential for further disputes about the maintenance of the pipe should be brought to an end. I do not find that this direction would be fair or reasonable.

Outcome

1. The company shall pay £3,000.00 to the customer.

What happens next?

This adjudication decision is final and cannot be appealed or amended.

The customer must reply within 20 working days to accept or reject this final decision.

When you tell WATRS that you accept or reject the decision, the company will be notified of this. The case will then be closed.

If you do not tell WATRS that you accept or reject the decision, this will be taken to be

a rejection of the decision.

- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date in which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.

Claire Andrews
Adjudicator