

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X361

Date of Decision: 27/06/2021

#### Party Details

Customer:

Company:

Customer's Representative:

#### Complaint

The customer says that she has been billed incorrectly for repair work undertaken by the company and has experienced poor customer service.

#### Response

The company says that the proper processes were followed regarding the repair work and the customer has been billed correctly, although it acknowledges that there were customer service failings.

The customer received a Guaranteed Standards Scheme payment of £120.00. She was also offered a goodwill gesture of £100.00, but this was declined.

#### Findings

The customer has been billed correctly, but the company failed to provide its services to the customer to the standard to be reasonably expected by the average person in its response to the customer's complaint.

#### Outcome

The company needs to take the following further action: It must pay the customer compensation of £100.00.

The customer must reply by 26/07/2021 to accept or reject this decision.

# ADJUDICATOR'S FINAL DECISION SUMMARY

**Adjudication Reference:** WAT-X361

**Date of Decision:** 27/06/2021

## Case Outline

### **The customer's complaint is that:**

• She received a bill of £636.94 for costs incurred by the company addressing a leak on pipework supplying the Property. • Her representative had contacted the company before the Section 75 notice was served to request information on the leak, but it was not provided. • The leak did not occur on the Property but on a neighbouring property. • Her representative requested a breakdown of the costs of the work done by the company, but it was not provided. • Her representative was not given an opportunity to arrange a single supply for the Property, as an alternative to contributing to the cost of the repair work. • She does not believe that the company is fulfilling its responsibilities under Section 75 of the Water Industry Act 1991 due to the repeated repairs being performed on the supply pipe, which she believes should instead be replaced. • She requests that the £636.94 charge be waived.

### **The company's response is that:**

• On 17 December 2019, the company identified a leak on the shared supply pipe leading to the Property. • The customer was notified of the leak in accordance with the Section 75 process. • An enforced repair was undertaken on 14 February 2020. • A further leak was then identified and a new Section 75 process commenced. • A further enforced repair was undertaken on 8 June 2020. • The customer and other residents downstream of the leak were invoiced for the enforced repairs. • The customer received a Guaranteed Standards Scheme payment of £120.00. • The company acknowledges that there were additional customer service failings and offered the customer a goodwill gesture of £100.00, but this was declined. • The company denies that the customer is entitled to the remedy sought.

## 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. It should first be noted that the customer has objected that the company did not submit its response by the deadline specified under the Water Redress Scheme Rules. However, while the customer was notified on 10 May 2021 that no response had been received from the company, records on the case file show the company's response being received at 15:46 on 10 May 2021, just over 5 hours before this notification was sent to the customer and within the timeline specified in the Water Redress Scheme Rules. The notification received by the customer was, therefore, a technical error and does not affect the timeliness of the company's response.
2. The core of the customer's complaint involves work undertaken by the company pursuant to Section 75 of the Water Industry Act 1991. Under Section 75, where water is being "wasted" the company may serve notice on a customer requiring the customer "to take such steps as may be specified in the notice as necessary" to stop the wastage. If the customer does not take the steps specified in the notice, the company is empowered to "take those steps itself".
3. The company has sufficiently established that it was justified in concluding that there were leaks on the shared supply pipe leading to the Property. It has also established that it properly served two Article 75 notices upon the customer, but no private work was commissioned to address the leaks.
4. The obstacle faced by the customer is that the leaks did not occur on the Property, but rather on a neighbouring property. As a result, the customer will have had no legal right to arrange for work to be performed without the consent of the owner of that property.
5. Nonetheless, while this clearly puts the customer in a difficult position, the language of the Water Industry Act 1991 is clear regarding liability under Section 75 in the context of shared supplies. Under Section 75(2) of the Act, a notice to perform work may be served "on the consumer", and under Section 75(9) where the work specified in the notice is not performed privately by the date specified in the notice, the company may undertake the work itself and then recover "any expenses reasonably incurred" from "the person on whom the notice was served".

6. As there is no dispute that the notices were served on the customer, the only question is whether the customer constituted a “consumer” under Section 75(2). If not, then the notices were not properly served on her.
7. Section 150B of the Act clarifies that a “consumer” with respect to charges issued by a water company is “a person who is for the time being the person on whom liability to pay charges to the undertaker in respect of that supply of water would fall”. While Section 150B does not directly reference Section 75, no alternative definition of “consumer” is provided in the Act, and so this definition is appropriately seen as also applying to the use of that term in Section 75.
8. It is, however, undisputed that the customer was liable to pay charges to the company for water that passed through the shared supply pipe at the point of the leaks and was then used at the Property. She was, therefore, a “consumer” under Section 75(2) with respect to that portion of the pipe in which the leaks occurred.
9. I must, therefore, find that the customer was properly served the notices under Section 75 of the Act and is liable under Section 75(9) for the company’s reasonable incurred expenses when addressing the leaks on the shared supply pipe, as shared with other parties that qualify as “consumers” for the same notices. No argument has been made that the company has not correctly shared liability amongst the properties benefiting from the shared supply pipe.
10. To be clear, this does not mean that the customer had no protections, despite her inability to undertake repair work without the permission of the owner of the property under which the leak occurred. The company might, in some circumstances, be found to fail to provide its services to the customer to the standard to be reasonably expected by the average person if it failed to provide the customer with any means of avoiding liability for leaks that she could not address because they were under another customer’s property.
11. In the present case, however, the evidence makes clear that the customer’s representative was specifically told that he could arrange a single supply for the Property, thereby removing the customer from any ongoing liability for the shared supply pipe. The customer’s representative argues that he was not given sufficient opportunity to arrange to transfer the Property to a single supply before the company undertook the Section 75 work, but I find that the company fulfilled its responsibility to the customer by notifying him of this alternative and also of the dates on which the work would be performed. In his comments on the Proposed Decision in this case the customer’s representative stated that he did contact a company to undertake a survey for a single pipeline, but the company in question was unable to perform the work before the company was scheduled to undertake the repair. The customer has, however, presented no evidence that this information

was provided to the company but the company refused to take it into account. The purpose of the Section 75 process in the context of a leaking pipe is to prevent wastage of water. It would be inconsistent with this goal to require the company to pause planned repair work without clear evidence that alternative repairs were to be undertaken.

12. Therefore, for the reasons given above, I find that the customer is liable for the charge imposed by the company. If the customer has a private agreement that would make her representative liable for that charge, this is a third party matter and cannot be adjudicated through WATRS.

13. Nonetheless, the company has acknowledged that there were customer service failings, and I find that this is supported by the available evidence, specifically with respect to the company's failure to provide a breakdown of the costs of the enforced repair when requested. The company has offered the customer a goodwill gesture of £100.00, and in consultation with the WATRS Guide to Compensation for Inconvenience and Distress, I find that this offer is reasonable, given the limited nature of the failings in question and that the requested information was ultimately provided to the customer during the CCWater process.

14. The company must, therefore, pay the customer compensation of £100.00.

15. The customer has also raised concerns about the approach that the company is taking to ongoing problems with the pipe and whether this approach is consistent with the company's responsibilities under the Water Industry Act 1991. However, the concerns expressed by the customer are regulatory concerns about the way that the company has chosen to fulfill its statutory obligations, rather than concerns about specific actions taken by the company with respect to a specific customer. As a result, they cannot be adjudicated upon at WATRS and must instead be raised to Ofwat, the Water Services Regulation Authority, the designated regulator in this sector.

16. For the reasons given above, the company must pay the customer total compensation of £100.00.

### **Outcome**

1. The company needs to take the following further action: It must pay the customer compensation of £100.00.

### **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.

---

**Tony Cole**  
**Adjudicator**