

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X637

Date of Final Decision: 22 November 2021

Party Details

Customer

Company:

Complaint

The customer is dissatisfied with the options the company has offered him to address the issues of low water pressure and the inadequate flow of water at his property. He requests that the company should: cover the cost of installing a new water connection to his property (including waiving the £300.00 cost for a survey for the new connection, though he disputes that a survey is necessary in any event); and install a meter at his property.

Response

The company disputes that it is liable to settle the customer's claim. It is confident that it is supplying the property with the required minimum pressure of 7 meters head at the external stop tap. The pipework and fittings beyond the external stop tap are privately owned. It is not responsible for the cost of alterations to a private supply. It has offered to install a new water supply at the customer's property at the customer's expense, and to carry out further investigations to ascertain where at the property a meter could be installed. The customer will need to bear the survey and installation costs because Section 45 of the Water Industry Act 1991 requires that it carries out a new installation at the expense of the person serving notice in respect of the new connection, which is the customer in this case.

Findings

I find that the evidence does not prove that the company's service in respect of this matter fell short of the standard to be reasonably expected of the average person, and consequently the claim does not succeed. The evidence provided is not sufficient to prove that the company is not supplying the minimum required water pressure to the external stop tap, neither has it been shown that the company is otherwise responsible for the fluctuation in the flow of water at the property. Further, I consider that the company reached its decision that it is unable to waive the costs of the survey and a new installation in accordance

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with its legal obligations set out in Section 45 of the Water Industry Act 1991. It has also correctly set out the basis upon which it is entitled to charge the customer Assessed Charges in this case where it is unable to install a meter at the customer's property.

Outcome

The company does not need to take any further action.

The customer must reply by 20 December 2021 to accept or reject this decision.

ADJUDICATOR'S FINAL DECISION

Adjudication Reference: **WAT/X637**

Date of Final Decision: **22 November 2021**

Case Outline

The customer's complaint is that:

- The water pressure at the property is low, and the flow of water is so poor that on occasions he is unable to undertake basic tasks like run hot water.
- The company is overcharging him for a service that is poor and, at times, unusable. He is not receiving the service he is paying for.
- The company has not provided him with satisfactory options to address the issues of low water pressure and the inadequate flow of water at his property.
- The company has refused to bear the costs of installing a new connection to his property, and it should bear the costs. It has refused to waive the £300.00 cost for a survey for the connection, though in any event, he does not consider that a survey is required because he considers that a visit from a technician has already confirmed what the survey will confirm.
- A third-party utility provider is carrying out major works in his area, and he considers that the company could work with the third-party provider to minimise traffic management costs which would consequently reduce the overall costs of a new connection to his property.
- The customer requests that the company should:
 - Install a new and separate water supply pipe to his property at its own cost, including the £300.00 cost for a survey for the new connection; and
 - Install a meter at his property.

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The company's response is that:

- It is confident that it is supplying the property with the required minimum pressure of seven meters head at the external stop tap.
- As a water provider, it is responsible for all the pipes and fittings up to and including the external stop tap. Beyond the external stop tap, the supply pipe at the property is private. It did not install the pipe and it does not own the pipe.
- The supply of water to the property is shared with a neighbouring property and the flow of water to both properties will be reduced when one party is using water. It did not install the shared water supply and it is not responsible for replacing or maintaining the privately owned pipe at the property. It is not responsible for the cost of alterations to a private supply, the cost of which would be passed on to other customers on their bills.
- It cannot install a water meter on the external stop tap as the meter will record the water used by both properties. It has explored the possibility of installing a meter in the customer's property, but it has not been able to identify a position where a meter can be fitted in the property. It is prepared to revisit the option of metering once a private plumber has altered the pipework at the property.
- The customer has been billed Assessed Charges because it is unable to install a meter until the customer changes the way water is supplied to his property.
- It has advised the customer that he can improve the flow of water to his property by installing a separate water pipe to his property. However, the water pipe is privately owned and the customer will need to bear the cost of the installation. It is required to install a new connection in accordance with Section 45 of the Water Industry Act 1991 where notice is served on it to do so. Section 45(2) of the Act states that the installation shall be carried out at the expense of the person serving notice.
- A company technician provided the customer with an idea of the likely costs of a full survey, but did not carry out a full survey which is chargeable and would also include a review of permits and traffic management needed to carry out the works.

The customer's reply is that:

- His property is situated in a terrace of seven properties. Other properties in the terrace have had their water supplies upgraded with no known costs to the residents.
- All the properties in the terrace do not share the same water supply. The seven properties were built in the year 1900 by the same builder, but for some reason only the two properties in the

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centre of the terrace share one water supply. He finds it hard to believe that, as the company has suggested, the builders installed separate water supplies in five of the seven properties, but then decided to share one water supply between two properties in the centre of the block (that is, his property and his neighbour's property).

- He reiterates that the company is overcharging him for a service which at times means he cannot carry out basic activities like run hot water and he considers that the service is out of date by over a hundred years. He also reiterates that he cannot afford to pay for the survey and a survey is unnecessary.

How is a WATRS decision reached?

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

1. Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
2. 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 2 main issues, namely the issue of the shared water supply to his property, and overcharging for his water usage. I consider these issues in turn.

Shared water supply

2. The company maintains that it is confident that it is supplying the required minimum water pressure to the external stop tap serving the customer's property. Although the customer has

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stated that there is a low water pressure at the property, I have not been presented with evidence that shows that the company is not supplying water to the property at the required level. I find that there is no evidence to dispute the company's position that it is supplying the external stop tap with the required minimum water pressure and, I do not consider that the company fell below the standard to be reasonably expected in this regard.

3. The parties appear to agree that the shared water supply to the property is the cause of the poor flow of water, and that the poor flow of water tends to occur when the neighbouring property is using water. The company has explained that the shared water supply impacting on the customer's flow of water is a private issue. It has stated that it did not install the shared water supply, and it does not own the pipework and fittings beyond the external stop tap. Having reviewed the evidence, including the property records showing the layout/plan of the water supply to the property, I find that the company has correctly identified its responsibilities in respect of the pipework. The evidence provided does not show that the company either installed the shared water supply or is responsible for maintaining or modifying the connection. On this basis, I find that it has not been established that the company is responsible for the shared water supply.
4. This leads on to the customer's claim for the company to install a new connection at the property at its own cost. I find that the company has carried out reasonable steps to assist the customer with the reduced flow of water arising from the shared water supply. In particular, the company has arranged visits to the customer's property during which it investigated the water connection, it has advised the customer that he can request for a new and separate water connection to his property, and it has advised the customer of the cost implications of a new connection.
5. I am satisfied that the company is a relevant undertaker for the purposes of the Water Industry Act 1991, and as such it is required to carry out its functions in respect of the supply of water in accordance with the requirements of the Act. The company has identified Section 45, which I consider to be the Section most relevant to the customer's claim for the new connection to be installed free of charge. I note that there is no dispute that the customer's property qualifies as "domestic premises" within the scope of Section 45. Under Section 45(1), the company has a duty to connect a service pipe to the customer's property with its water mains, if the customer (as owner of the property) serves a notice requiring such a connection. Section 45(6) states that: "Where a water undertaker carries out any works which it is its duty under this section to carry

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out, the person serving the notice is liable to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules.”

6. Section 45(6) is clear in its wording. It states that the person who serves the connection notice (the customer in this case) is liable to pay the costs of any works the company carries out in fulfilling its duty to install a new connection. I find that the company is bound by the legislation to charge for the new connection. The Act does not make provision for the company to waive the charges and the company reached its decision that it is unable to waive the costs of the new installation in accordance with its legal obligations set out in Section 45.
7. In relation to the survey for the connection, I should firstly clarify that the customer has complained that the survey is not necessary, but the specific question of whether the survey is necessary is a matter for the company to consider. Section 45 does not specify the works the company is authorised to carry out in order to install a new connection. On the facts of this case, I consider that the specific question of whether a survey is required is a matter for the company’s judgment and is not an issue that I can adjudicate upon, however I can consider how the company reached its decision regarding the necessity of the survey.
8. The company has explained that its technician would not have been able to prepare a full survey from a visual inspection of the customer’s connection. In its email of 27 July 2021, the company explained to the customer that:

“The cost of the work we’d need to do to connect your supply to our mains network includes excavating, which may be a trench, traffic management, permits from the highways department and returning the dig area to it’s (sic) previous condition. Our water main appears to be on the other side of Reach Road so traffic management may mean road closures or parking suspensions. We won’t know the exact cost until the survey’s been done. All work is done to highways specifications and adhering to strict water quality control and testing.”

9. I find that the company has clearly set out the reasons as to why it considers that a survey is necessary and in doing so, it has reached its decision regarding the necessity of a survey in a proper manner. In relation to the cost of the survey, in view of the company’s submissions on the necessity of a survey, I consider that Section 45(6) also applies to the cost of the survey for the installation given the company’s submissions on the necessity of the survey in respect of the new connection. For the same reasons set out in paragraph 6 of this decision, I find that the company has properly reached its decision that it is unable to waive the cost of the survey.

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Overcharging

10. The customer states that the company is overcharging him for his water usage, because the water pressure is low and the flow of water is inadequate. He requests that the company should install a meter to ensure that he is paying the correct charges for his water consumption.
11. I find that the company is not overcharging the customer, because it has determined that it is not able to install a meter at the property and it has decided to charge the customer on an Assessed Charges basis in accordance with its charging scheme.
12. I consider the legislation as a starting point. The company is required to charge customers for water services in accordance with the Water Industry Act 1991 and OFWAT's Charges Scheme Rules. Under Section 142(2A) of the Water Industry Act 1991, the company must charge the customer by reference to a charges scheme. In this case, I note that there is no allegation that the company's charges scheme does not comply with the legislation.
13. Rule 18 of OFWAT's Charging Schemes Rules provides that the company can charge the customer on an Assessed Charges basis, only in cases where the customer has requested a meter and it is not reasonably practicable for it to install a meter. The charging method the company can use in cases where a meter cannot be installed has been set out in the Charging Scheme Rules. My role as Adjudicator in this case is therefore limited to considering whether the company acted in compliance with the Rules regarding charges and whether it reached its decision to charge the customer Assessed Charges in a proper manner.
14. Whilst the customer has a right to have a meter installed at his property, the company is not obliged to install a meter at the property where it has determined that a meter cannot be installed at the property. The company has explained that it cannot install a meter at the property because the customer has two feeds coming into his property as opposed to one feed. The company has explained that it is prepared to revisit the option of metering if the customer could reconfigure his pipework to just one feed.
15. Having determined that the property is unmeterable, the company has charged the customer Assessed Charges. The company has provided an excerpt from its charges scheme in which it states that if for any reason it is unable to install a meter it may charge the customer on an

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Assessed Charges basis. It explains that Assessed Charges is a fixed annual charge determined by the number of people living in the premises, and it has confirmed that since the customer moved into the property, it has charged him Assessed Charges for a single occupancy.

16. I appreciate the customer's dissatisfaction with his water bills. However, I find that the company is not overcharging the customer. The company is unable to install a meter at the customer's property because of the configuration of his pipework, and it has chosen an alternative charging method which is intended to best reflect the water consumption in the absence of a meter. The company reached its decision to charge the customer on an Assessed Charges basis in a proper manner, because it investigated the options for metering at the customer's property, it informed the customer of the reasons why it cannot install a meter at the property, it informed the customer of the circumstances under which it could revisit the question of metering, and it has charged the customer by reference to its charging scheme which sets out the details of the Assessed Charges. In doing so, I find that the company has acted in accordance with the Water Industry Act 1991 and OFWAT's Charging Schemes Rules which authorise it to charge the customer Assessed Charges where it is unable to install a meter at the customer's property.

Outcome

The company does not need to take any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 20 December 2021 to accept or reject this 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.

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Ile Ezeogu LLB (Hons), Solicitor

Adjudicator

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