

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X863

Date of Decision: 19 April 2022

#### Party Details

**Customer:** The Customer

**Company:** The Company

#### Complaint

The customer has a dispute with the company regarding its refusal to replace two private supply pipes contaminated by water from its mains network. The customer asserts that the contaminated water came from the company network and that the company was unduly slow to test and clean out the pipes. The customer claims that despite ongoing discussions with the company and the involvement of CCWater the dispute is unresolved and therefore he has brought the claim to the WATRS Scheme and asks that the company be directed to replace the two supply pipes free of charge.

#### Response

The company refutes the customer's allegations, and says it responded quickly to the complaint and undertook extensive testing that confirmed the contaminated water did not originate from its assets. The company says it has recommended to the customer and his neighbours that the plastic supply pipes be replaced with metal pipes, but refuses to undertake the works free of charge. The company has not made an offer of settlement to the customer.

#### Findings

I find that the evidence does not support, on a balance of probabilities, that the contaminated water originated in the company's network. I further find that the evidence supports that the company reacted speedily to the customer's complaint and carried out testing to a reasonable level. Overall, I find that the company has not failed to provide its services to a reasonable level and has not failed to manage the account to the level to be reasonably expected by the average person.

#### Outcome

The company does not need to take further action.

The customer must reply by 17 May 2022 to accept or reject this decision.

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**Case Outline**

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

- He has experienced an ongoing dispute with the company concerning issues with water supply services. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- On 22 September 2021 he contacted the company to complain of a diesel/petrol type taste and smell in the potable water supply at his property.
- Several of the neighbouring properties also experienced the same issues.
- He believes the company was slow to react to his complaint, but after confirming the water was contaminated it then stated that the source of the contamination was the two separate private supply pipes serving the customer and his neighbours.
- He does not accept the company's findings and believes the contamination entered the supply pipes from the company's main network.
- The company has not provided evidence to show that the supply pipes were the source of the contamination and is basing its position on boundary water samples taken more than 48 hours after his initial complaint.
- He acknowledges that the company provided an alternative temporary overland water supply while it undertook its investigations.
- The company has recommended that the two private plastic supply pipes be replaced to prevent further contamination, but has stated that it will not undertake this work free of charge as the supply pipes are not its assets.
- He does not believe the supply pipes should be replaced until it is proven that they are the source of the contamination.

- Believing the company had not properly addressed his concerns he, on 29 October 2021, escalated his complaint to CCWater who took up the dispute with the company on his behalf.
- The records show that CCWater contacted the company on 29 November 2021 and requested more detailed information from it and to review the customer service provided.
- The records show that the company continued to liaise with the customer and with CCWater.
- Subsequently, on 19 January 2022, CCWater advised him that it had received a formal response from the company answering in reasonable detail the questions posed to it. The company had confirmed that it had not changed its position and would not replace the existing supply pipes free of charge. CCWater also informed him that it could not take any further action to have the company change its position and was therefore closing his complaint.
- The customer remains dissatisfied with the response of the company and has, on 07 March 2022, referred the matter to the WATRS Scheme where he requests that the company be directed to install new supply pipes at its expense.

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

- It provided its response to the claim in its submission dated 19 January 2022.
- It acknowledges that the customer first contacted it on 22 September 2021 to complain of a petrol taste and smell in respect of his potable water.
- It immediately despatched a technician to the customer's property to test the water.
- Additionally, experts from its Scientific Services team attended the property and took additional samples. The company confirms that the investigation and testing established the presence of hydrocarbons.
- It issued "Do Not Use" notices to the customer and neighbouring properties.

- It installed a boundary contamination box and an overland supply to the affected properties, and further testing confirmed that the overland supply was providing uncontaminated water.
- It liaised with the local environmental health authority to carry out testing and following further complaints from the customer it undertook resampling of the water during the months of October and December 2021. The testing included temporarily reconnecting the customer's property to the supply pipe and checking his water quality. The company says this testing showed that there was no longer contaminated water passing through the supply pipe.
- It notes the customer escalated his complaint to the Drinking Water Inspectorate and that it formally provided it with a comprehensive report. The company notes that the Inspectorate found that it had complied with the appropriate water quality regulations.
- The company acknowledges that it has not been able to definitively identify the source of the contamination but refutes the customer's allegation that it originated from the company's main water network.
- It confirms that the supply pipes are made of plastic and that it has advised the property owners to replace this pipework as it is the likely source of the original contamination.
- It refuses to replace the supply pipes without charging.

**The customer's comments on the company's response are that:**

- On 14 March 2022, the customer submitted comments on the company's Response paper. I shall not repeat word for word the customer's comments and in accordance with Rule 5.4.3 of the Rules of the WATRS Scheme I shall disregard any new matters or evidence introduced.
- The customer reiterates his belief that the company has not undertaken extensive sampling and that it delayed starting the testing. The customer contends that it also delayed flushing the two supply pipes thus leaving the contamination in the pipes and allowing it to deteriorate the structure of the pipes. The customer states that the company has not substantiated that the contamination did not originate from its network.

## 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 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 dispute relates to the customer's dissatisfaction that the company has refused to accept that the two private supply pipes were damaged by contamination originating from its network and allowed to lie in the pipes for an unduly long period of time. The customer requests the company replace the supply pipes at its expense.
2. I note that the WATRS adjudication scheme is an evidence-based process, and that for the customer's claim to be successful, the evidence should show that the company has not provided its services to the standard that would reasonably be expected of it.
3. I can see that the parties agree that the customer first contacted the company on 22 September 2021 to express concern about the smell and taste of his drinking water.
4. I am mindful that the customer has submitted a considerable number of documents in support of his claim. However, my study of the documents shows that the overwhelming number of them are copies of e-mail exchanges between the parties.

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5. I take particular note of the communication from the Drinking Water Inspectorate (DWI) dated 23 February 2022 that summarises the findings of its investigation into the customer's complaint regarding the company's actions.
6. The customer has stated that he believes the company did not respond to his claim in reasonable time. I can see that the DWI confirms that a company technician arrived at the property only 77 minutes after the customer made his complaint.
7. The customer has also stated he disputes the company's position that it undertook extensive sampling.
8. The DWI has identified that the company has to comply with the applicable sections of the Water Supply (Water Quality) Regulations 2016, and Regulation 18 requires the company to immediately investigate any reported issue of possible contamination.
9. I quote hereunder from the DWI communication of 23 February 2022 :-

*To satisfy this regulation, the company have taken several samples from multiple properties, to try to establish the cause of the failure. Samples were taken from upstream and downstream properties, as well as all properties on the shared supply pipes. Samples were also taken from upstream company assets. These samples established that the failure was not present in the upstream and downstream properties and that the failure was confined to nine properties (eight on a shared supply and one on a single supply). The investigational sample results evidenced that the contamination was limited to the private plumbing (supply pipes) associated with the properties and not the wider distribution network owned by the company. Whilst I acknowledge that this does not establish a specific cause for the failure, the company have investigated potential sources for the contamination, liaised with the local authority and applied widespread resource into this matter, to comply with regulation 18.*

*I can therefore only conclude that the requirements of regulation 18 have been met by the company, on this occasion.*

10. The customer further contends that the company has failed to understand that there are two separate private supply pipes affected by contamination. Again, I refer to the DWI

extract I have included above, and this clearly states the company took samples from the “*shared supply pipes*”.

11. Additionally, “pipes” are referred to at various parts of the company’s submission and I particularly take note that a schematic of the water supply to the customer and his neighbours shows two separate supply pipes.
12. I am satisfied that the evidence shows that the company was aware of there being two separate supply pipes serving the customer and neighbouring properties.
13. It seems to me that the customer has accepted that the two supply pipes are private and are not assets belonging to the company.
14. I can see that the company has recommended to the property owners that the plastic supply pipes should be replaced by metal pipes to assist in preventing any repeat contamination.
15. The customer asserts that he does not believe the supply pipes should be replaced until it is proven that they are the source of the contamination. I find this to be contradictory to his contention that the company delayed in flushing the two pipes and thus allowed the contamination to rest in the pipes causing them to deteriorate. However, I do not find the evidence supports the customer’s position.
16. I find that the evidence shows that the company has recommended that the supply pipes be replaced, and has provided individual quotations to each affected property owner should they decide to action the recommendation. However, I am satisfied that the parties agree the pipes are private and thus it is for the owners to make a decision knowing the costs will be for them to fund.
17. Overall, I do not find that the evidence supports the customer’s request to have the company directed to replace the two private supply pipes free of charge.
18. It thus follows that I shall not direct the company to replace the pipes at its own expense.
19. My conclusion on the main issues is that the company has not failed to provide its services to the standard to be reasonably expected by the average person in respect of its dealing with the customer’s complaints and the issue of water contamination.

## The Preliminary Decision

- The Preliminary Decision was issued to the parties on 05 April 2022.
- The customer has, on 09 April 2022, submitted detailed comments on the Preliminary Decision.
- The customer reiterates his position that he believes the contamination originated in the company's network because the only commonality between the two separate supply pipes was the fact that they were both connected to the network.
- The customer also states that only one supply pipe was plastic, the other being metal.
- The customer reiterates his position that the replacement of the two supply pipes should be at the company's expense.
- The customer has not submitted any additional evidence in support of his claim, and I am thus satisfied that the facts upon which the Preliminary Decision was based remain unchanged.
- Having read the response of the customer I am satisfied that no amendments are required to the Preliminary Decision.

### **Outcome**

The company does not need to take further action.

## What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 17 May 2022 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.





Peter R Sansom

MSc (Law); FCI Arb; FA Arb; FRICS;

Member, London Court of International Arbitration.

Member, CI Arb Business Arbitration Panel.

Member, CI Arb Pandemic Business Dispute Resolution Arbitration Panel.

Member, CEDR Arbitration Panel.

Member, CEDR Adjudication Panel.

## Adjudicator

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