

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X063

Date of Decision: 09 August 2022

Party Details

Customer:

Company:

Complaint

The customer has a dispute with the company regarding the payment of compensation for the repair of a leaking sewage pipe. The customer asserts that the company did not repair a leaking pipe within a reasonable time period causing him loss of enjoyment of his garden and additional distress and inconvenience. The customer says that the compensation paid to date is insufficient. 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 pay him compensation in the amount of £2,500.00.

Response

The company acknowledges a delay in undertaking repair works but believes the compensation paid to the customer is fair and reasonable. The company has not made any formal offer of settlement to the customer and denies that additional compensation is due.

Findings

The claim succeeds in part. I find that the evidence does support that the company did not undertake repair works within a reasonable period of time and that the level of compensation paid to date is not proportionate to the harm experienced by the customer. I find that the evidence shows that the company has not provided its services to a reasonable level and has not managed the customer's account to the level to be reasonably expected by the average person.

Outcome

The company shall pay the customer the sum of £250.00 in compensation.

The customer must reply by 06 September 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 wastewater and sewerage services. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- On 12 April 2022 he identified water pooling in his garden and giving off an unpleasant smell.
- He contacted the company who sent two engineers to his property to investigate. The customer says that the engineers believed the water was escaping from land drainage on adjacent fields.
- On 14 April 2022 the company advised him that tests on water samples taken from his garden showed high levels of ammonia and it would send engineers to check the status of a nearby pumphouse.
- Because of Easter holidays the company engineers did not attend until 20 April 2022.
- The engineers could not locate a pipe despite spending two days digging in his garden, and it was not until 23 April 2022 that a broken pipe was discovered and repaired.
- On 24 April 2022 workers returned to his property to make good his garden, backfill excavations, etc. However, insufficient backfill material was brought plus new paving slabs needed to be ordered.
- He is unhappy that the company took eight days to respond to his initial complaint, and the delay in completing reinstatement works has resulted in the loss and enjoyment of his garden for a period of more than two weeks.
- He acknowledges the company made a compensatory offer of £500.00 but he rejected it as insufficient because it only comprises GSS payments and includes nothing for the stress, inconvenience, and loss of enjoyment of the garden.
- Believing the company had not properly addressed his concerns he, on 04 May 2022, 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 27 May 2022 and requested an explanation of the company's position. The company responded with its communication dated 16 June 2022 and reiterated its previously explained position that it had offered the customer

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£250.00 for missed calls and a missed appointment plus a further £250.00 in recognition of the inconvenience experienced.

- Also on 16 June 2022, CCWater had concluded that the company's response was its final position, and it could not take any further measures to have the company change its position and was thus closing his case.
- Continuing to be dissatisfied with the response of the company he has, on 04 July 2022, referred the matter to the WATRS Scheme where he requests that the company be directed to pay him compensation in the amount of £2,500.00.

The company's response is that:

- It provided its response to the claim in its submission entered on 12 July 2022.
- It confirms that it was first made aware of a flooding incident in the customer's garden on 12 April 2022.
- It completed repair works on 23 April 2022 and acknowledges that the flooding incident could have been handled more efficiently.
- It accepts that four number telephone calls were not returned, and one appointment was not kept, and thus the customer was due GSS payments at the rate of £30.00 per failure. The company says as a goodwill gesture it increased the rate to £50.00 and thus paid the customer the amount of £250.00.
- Additionally, it made a further payment of £250.00 to compensate for general inconvenience.
- It has no liability for sewer flooding but its normal custom and practice is to refund affected customers with 50% of the annual sewerage charge for an external leak. Thus, the customer was also refunded the amount of £120.92.
- It made a further payment to the customer of £50.00 because of the late payment of the compensation.
- In summary, it believes the total amount of compensation paid to the customer is fair and reasonable and that he has been adequately financially compensated. The company declines to pay additional compensation.

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

- On 12 July 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 position that the company unreasonably delayed responding to his complaint and in identifying the leak as being on a sewer pipe. The customer also contends that he made eight telephone calls that were not responded to, and not just four as stated by the company. The customer repeats that he believes the compensation paid to date is insufficient.

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 increase the amount of compensation paid to him for a delay in repairing a leaking sewer pipe that contaminated his garden.
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.

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3. It seems to me that the crux of the dispute revolves around whether the company have paid a level of compensation commensurate with the harm experienced by the customer.
4. I can see that the parties agree that the company has made a payment of £250.00 under the Guaranteed Standard Scheme [GSS] for four number missed call-backs and one missed appointment.
5. The company also refunded the customer an amount equal to 50% of his annual sewerage charge as per its custom and practice for external sewage leaks/floods. In the case of the customer, this payment amounted to £120.92.
6. The company has stated that it is not responsible for sewage pipe repair and maintenance within the curtilage of the customer's property. The applicable OFWAT page states:-

Property owner's responsibilities

The drains which carry household waste are normally the property owner's (or the landlord's) responsibility up until the boundary of the property where they connect to public sewers. There will often be a company maintained manhole at that point.

7. On top of these two payments the company paid an additional amount of £250.00 for what it described as "general inconvenience".
8. The customer, in his application to the WATRS Scheme, has requested the company be directed to pay the amount of £2,500.00 for distress and inconvenience.
9. I can see that the company responded to the customer's initial contact on 12 April 2022 and sent engineers to the property on the same day and I note that samples of the floodwater were taken for testing.
10. . The company's website states, in respect of sewer flooding:-

If the flooding is inside your property our aim is to attend within two hours. If it's outside the property our aim is to attend within four hours.

11. I am satisfied on balance that the company complied with its own procedures
12. I can see that the parties agree that on 14 April 2022 the company stated that the samples tested exhibited a high level of ammonia being present and that it would need to inspect a nearby pumphouse as it suspected too high pressure had fractured a pipe.

13. However, the records show that it was not until Wednesday 20 April 2022 (some six days later) that the company returned to the property.
14. Notwithstanding that the Easter holiday break was ongoing over the weekend of 15 – 18 April 2022 I am satisfied that this was an unreasonably long delay on the part of company, especially as it was aware that the leak was continuing.
15. The company subsequently took from 20 April 2022 until 23 April 2022 to locate and repair the leak, but I do not find this unreasonable.
16. The customer contends that because of the tardy response of the company he was deprived of the use and enjoyment of his garden for several weeks, and believes the compensation paid to date by the company for this is insufficient.
17. I find that the evidence establishes that the company's response time was not reasonable, and the six-day delay did contribute to distress, inconvenience and loss of enjoyment experienced by the customer. Thus, I find compensation is applicable.
18. However, I find that the amount claimed is not proportionate to the harm done, but equally I am not satisfied that the amount of £250.00 is sufficient.
19. I am content to refer to the *WATRS Guide to Compensation for Inconvenience and Distress* and grade the award at Tier 2 level and direct that the customer shall receive the sum of £500.00 for distress and inconvenience. However, as the customer has already received £250.00 for general inconvenience, I direct that the company shall pay the additional amount of £250.00.
20. For the avoidance of doubt, I confirm that the payment of £250.00 I have directed herein is in addition to the payments already made by the company.
21. My conclusion on the main issues is that the company has failed to provide its services to the standard to be reasonably expected by the average person.

The Preliminary Decision

- The Preliminary Decision was issued to the parties on 26 July 2022.
- The customer has, also on 26 July 2022, submitted comments on the Preliminary Decision.
- The customer states that he does not agree with the findings in the Preliminary Decision, but reluctantly accepts them.
- The company has, on 02 August 2022, submitted comments on the Preliminary Decision.
- The company accepts the Preliminary Decision and confirms it will pay compensation as directed.

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- Having read the responses of the parties I am satisfied that no amendments are required to the Preliminary Decision.

Outcome

The company shall pay the customer the additional amount of £250.00 in compensation.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 06 September 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
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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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