

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X380

Date of Final Decision: 22 March 2023

Party Details

Customer: XX

Company: XX

Complaint

The customer says that he and his neighbours have experienced repeated low water pressure, and that he has experienced poor customer service.

He requests unspecified compensation.

Response

The company says that it has no record of the customer raising a complaint about low water pressure until his recent contact. It acknowledges that there have been customer service failings, but says that the customer has already received the appropriate Guaranteed Standards Scheme (GSS) payment.

The customer has received GSS payments totalling £50.00.

Findings

With respect to those matters that can be addressed in a WATRS adjudication, the company provided its services to the customer to the standard to be reasonably expected by the average person.

Outcome

The company does not need to take any further action.

The customer must reply by 19 April 2023 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- The customer complained to the company on 22 March 2021, as there have been 43 instances of low or no water pressure in his village since he moved there 6 years ago.
- He stopped paying his water bill because he was not receiving the service for which he was paying.
- An engineer from the company attended the Property and confirmed that the issue was not with the Property.
- The company has paid a goodwill gesture of £30.00 and has explained that it has put forward a request for a mains replacement scheme.
- The customer requests unspecified compensation for disruption and inconvenience, and for the time spent reporting problems to the company.

The company's response is that:

- The customer opened his account on or around 26 October 2016.
- The company denies that the pressure at the Property is below its statutory obligations, and denies that it has provided poor customer service.
- The company has no record of the customer reporting to it that he was experiencing low water pressure on 43 occasions, and notes that the customer has produced no evidence of making such reports.
- The first mention by the customer of low water pressure was on 15 July 2022, when the company contacted the customer about the outstanding balance on his account.
- The company agreed to send an engineer to the Property, but the first appointment was cancelled due to competing obligations.
- A second appointment was made, but the engineer did not attend. The customer received a £20.00 Guaranteed Standards Scheme (GSS) payment.
- A third appointment was made and the engineer attended the Property, performing a pressure test. Pressure at the Property was found to meet the company's statutory obligation.

- The customer contacted the company for an update and it was explained to the customer that a request has been placed for mains replacement, but that no timescale for such work could be given.
- The company also apologised to the customer for a failed follow-up call, and an additional GSS payment was made.
- The company denies that it has failed to provide its services to the customer to the standard to be reasonably expected by the average person.

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

- He confirms the dates on which low water pressure has been experienced.
- The company has sent texts warning of low water pressure, so is aware it has been occurring.
- He believes he is entitled to compensation for his experiences.

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 claim centres on his contention that he has experienced repeated low water pressure over an extended period of time. However, while the company does have a statutory obligation to provide water pressure of a specified level, it has not failed to provide its services to



the customer to the standard to be reasonably expected by the average person unless it was aware of or should reasonably have been aware of a problem, but failed to respond appropriately.

2. In the present case, while the customer has provided a list of dates on which he states that he experienced low water pressure, he has provided no evidence of these problems being reported to the company, either by himself or by one of his neighbours that he states have also experienced the problem. This does not mean, of course, that the customer has not experienced the low water pressure that he describes, and the company has presented no evidence directly conflicting with the customer's statements in this respect. However, as explained, without evidence that the company knew or should reasonably have known that the customer was experiencing low water pressure on those occasions, the company has not failed in its obligations to the customer by not responding to them.
3. The customer does note that he has received texts from the company noting low pressure in the area of the Property and that the company has acknowledged that it is intending mains replacement work, which he argues indicates that the company is aware that low water pressure is being experienced. However, in its communications with the customer through the Consumer Council for Water the company acknowledged that instances of low water pressure had occurred, but ascribed these occasions to temporary technical failings that were addressed at the time. No evidence has been produced that is inconsistent with this statement.
4. Regular occurrence of technical failings of this nature might, of course, indicate aged and failing pipework, which would also be consistent with the company's decision to undertake mains replacement work. However, under the decision of the House of Lords in Marcic v Thames Water plc [2003] UKHL 66, and the Court of Appeal in Dobson v Thames Water Utilities [2009] EWCA Civ 28, individuals such as the customer do not have the right to bring claims against a water company based on the company's performance of its statutory obligations, except where the claim relates to certain responsibilities and relies on a contention that the company performed its statutory obligations negligently.
5. Moreover, any negligence displayed by the company must not raise regulatory issues, but must instead reflect what might be called standard negligence. To illustrate, if the argument was that the company was negligent in not undertaking more extensive or more rapid work on its network, this raises regulatory considerations and so in accordance with the Marcic principle such claims must be addressed to Ofwat and cannot be resolved through WATRS. On the other hand, if the claim was that the company responded negligently on a specific occasion(s) on



which it knew or should have known that water pressure was low, this raises a question of standard negligence, and so can be resolved through WATRS.

6. In the present case, this means that a WATRS adjudicator addressing a claim from a private individual may only examine whether the company has responded appropriately to specific instances of technical failures causing low water pressure, but may not examine whether the company has acted appropriately in the larger-scale actions it has taken or could have taken to maintain or improve its network, as responsibility for issues of that nature has been allocated to Ofwat.
7. As I find that there is no evidence justifying a conclusion that the company failed to respond appropriately on occasions on which it knew or should have known that the customer was experiencing low water pressure, this element of the customer's claim does not succeed.
8. Alongside his comments on the Preliminary Decision in this case, the customer provided evidence supporting his contention that there have been a substantial number of problems with water pressure in the area of the Property. He also provided evidence that individuals in the village in which the Property is located are unhappy with the service they are receiving from the company.
9. However, as explained above, WATRS is limited by the decisions of the courts with respect to what issues it may and may not address, and while the customer has provided evidence of ongoing water pressure issues, he has not provided evidence of occasions on which a problem was reported to the company but was not resolved by the company in a timely manner. Given the past problems the village has experienced, it would certainly be reasonable of the company to expect further problems, but as explained above where the cause of these problems is delays in the company upgrading its network, that is simply not an issue that WATRS is legally permitted to address, as it is an issue that has been delegated to Ofwat. No evidence has been provided that would support a conclusion that the cause of the ongoing problems experienced by the customer and his neighbours arises from a non-regulatory issue.
10. As the company has now identified the potential need for mains replacement, the customer may be able to later bring a claim to WATRS if the company does not act upon this conclusion in a timely and appropriate manner, or revise its judgement on a reasonable basis. However, any such claim would need to be raised and adjudicated upon at that time.

11. The customer also argues that he has experienced poor customer service. However, I find that the evidence shows the company responding appropriately to the customer's contacts, and voluntarily making GSS payments when a customer service failing occurred. I do not, therefore, find that additional compensation is owed in this respect.

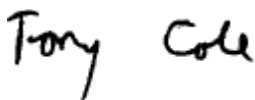
12. For the reasons given above, the customer's claim does not succeed.

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 19 April 2023 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.



Tony Cole FCI Arb

Adjudicator