

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WATX385

Date of Final Decision: 28 February 2023

#### Party Details

Customer: XX

Company:

#### Complaint

The customer says the company has not provide adequate compensation for losses arising due to it laying a new water main on his land and it has provided poor customer service. He seeks that the company agrees to arbitration, provides an apology and pays compensation in the sum of £27,072.00.

#### Response

It has provided appropriate compensation in respect of pipe laying works. It has also provided a good service save where it has already given appropriate apologies for issues prior to the WATRS application.

#### Findings

The courts are the more appropriate forum to resolve the dispute over compensation. The evidence shows the company provided its customer service to the standard to be reasonably expected.

#### Outcome

The company does not need to take any further action.

The customer must reply by 28 March 2023 to accept or reject this decision.

# ADJUDICATOR'S FINAL DECISION

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## Case Outline

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

- The company laid a new water pipe which prevented him from developing land as planned. However, the company has not provided adequate compensation.
- The process was rushed with little notice. The company did not consult adequately before, during or after the works.
- The company delayed giving a drawing showing the route of the pipe by two years.
- The company intentionally gave inaccurate information about the location of the pipe in order to avoid paying more compensation.
- The route to lay the pipe was changed yet the company did not issue a new statutory notice.
- The Water Industry Act 1991 says any dispute about compensation should be resolved by an arbitrator agreed between the parties or by OFWAT. He seeks that the company adhere to this.
- He also seeks an apology from the company's Head of Legal and recorded in the company's board meeting minutes. And he seeks that the company pay £27,072.00 in compensation.
- In comments on the company's response, the customer says the company has not acknowledged his evidence of customer service failings. He repeats his position that he can no longer develop the land and so has suffered a loss.
- The customer did not comment on a preliminary decision.

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

- The customer seeks arbitration and so the claim is outside the scope of WATRS. Although the customer is not entitled to arbitration; rather Schedule 12 (2) and (3) of the Water Industry Act 1991 says any dispute over compensation for work laying pipework on private land shall be determined by the Upper Tribunal.
- The customer has instructed solicitors and suggested they will pursue a court claim, therefore it is an abuse of process for the customer to seek an outcome through WATRS.

- It told the customer it would give at least 21 days' notice of the works. It gave notice on 21 April 2017 and started works on 1 June 2017.
- It needed to review the route for laying the pipe, but it considered the change was not material and therefore it did not have to issue a new notice. However, it was required to consult on the change and it met with the customer to do so. The customer did not then challenge the notice or the route.
- It valued the land and paid compensation on the basis that the land was not able to be developed. However, even if the customer was able to develop the land he could mitigate his loss by changing the site layout. It offered to appoint an independent RICS surveyor to assess the loss of value, but the customer has not agreed to this.
- It previously apologised to the customer for issuing incorrect plans of the route and explained how this occurred. It otherwise considers it has acted correctly and proportionately exercised its powers, following best practice in pipe laying in private land, including valuing the compensation.

### 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. I consider the courts are the more appropriate forum to consider the dispute over compensation in respect of the pipe laying works. This is because the Water Industry Act 1991 Schedule 12 (3) says such disputes must be decided by the Upper Tribunal. Further, the courts will determine

the sum payable in accordance with the Land Compensation Act 1961. This is a complicated area of law and so the dispute is not appropriate for adjudication by WATRS. I will however consider the remaining customer service complaints.

2. I consider the company acted properly by giving more than 30 days' notice of the works. I recognise the customer would have liked more time, however I have not seen any law or policy that requires the company to have given more time. The evidence shows the company provided its services to the standard to be reasonably expected.
3. The company was to issue a new notice if there was a material change to the route. The parties disagree as to whether the change was material. However, I consider it was for the company to decide if the change was material in the first instance. The customer did not challenge the company's view at the time and therefore it had no opportunity to revisit this decision. I consider the company acted in good faith. The evidence does not show it failed to provide its services to the standard to be reasonably expected.
4. The company accepts it gave incorrect information about the location of the pipe. It previously apologised to the customer and explained how this error occurred. I consider it acted reasonably in doing so. It is not possible for me to say the company provided incorrect information to intentionally deceive the customer; I cannot say what was in anyone's mind at the time. As the company provided an adequate resolution prior to WATRS, I consider this to be evidence that the company provided its services to the standard to be reasonably expected, by properly responding to a complaint.
5. I acknowledge the customer would have liked more consultation with the company before, during and after the works but I have not seen any law or policy that requires this. I consider the company acted properly by giving notice of the works and by consulting on changes. This consultation did not have to be a face to face meeting though the company agreed to this. The evidence shows the company provided its services to the standard to be reasonably expected.
6. By the customer's own admission, his first request for a CAD drawing of the pipe route was refused for confidentiality reasons. The company is entitled to refuse to provide information on this ground. That the company later provided a drawing, after two years, does not evidence a delay. Rather the company simply refused in the first instance. The evidence does not show the company failed to provide its services to the standard to be reasonably expected.

7. As I have not found any failings by the company I have not considered the remedies claimed.  
The customer's claim is unable to succeed.

#### **Outcome**

The company does not need to take any action.

#### **What happens next?**

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 28 March 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.



J Mensa-Bonsu LLB (Hons) PgDL (BVC)  
**Adjudicator**