

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0772

Date of Decision: 19 July 2018

Complaint

The customer submits that she has received high bills. She states that the company has undertaken investigations and made some repairs to pipework and this has resulted in some decrease in consumption. The company has also provided a leakage allowance but has miscalculated the allowance due and the time period to which it should be applied. In addition, the company rescinded on an offer made on 1 August 2017 to recalculate the bills with no acknowledgement, explanation or apology. The customer requests that the company recalculate the leakage allowance based on the correct ADU; give a leakage allowance for the leak outside the bedroom that ran from 1 August 2015 to 18 November 2016; and pay compensation in the sum of £2,500.00 for distress and inconvenience.

Defence

The company submits that it is not responsible for issues on private pipework. It repaired a leak on its apparatus on 13 September 2016 and subsequent investigations show no further problems with its equipment. However, it has continued to help the customer with investigations into the possible causes of her consumption being higher than she believed it should be. Two leakage allowances were applied to the customer's account, which it believes are correct. However, in an effort to bring a swift and amicable conclusion to the customer's complaint, it has now applied a third allowance to the customer's account. It acknowledges that it provided incorrect information to the customer on 1 August 2017. However, it denies that this issue has not been addressed, and states that it has offered the customer its apologies and applied a credit to the customer's account for the failing. No offer of settlement was made.

Findings

The company is not responsible for any high consumption noted on the customer's bills after the company repaired its equipment on 13 September 2016. The company failed to act within a reasonable timeframe during its investigations between 4 August 2016 and 13 September 2016; used the incorrect start date for the Leak Period in its first leak allowance calculation; and provided incorrect information to the customer on 1 August 2017. However, other than the above, the company provided its services to the customer to the standard to be reasonably expected by the average person.

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Outcome

The company needs to take the following further action:

The company should pay the customer £120.00 compensation.

The customer must reply by 16 August 2018 to accept or reject this decision.

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- She has been caused stress and inconvenience in dealing with this protracted matter – over nearly three years. She has had to take time off work and lose holiday pay etc due to needing to be at home for technician visits as well as time spent on the phone and on emails.
- The customer requests that the company recalculate the leakage allowance based on the correct ADU; give a leakage allowance for the leak outside the bedroom that ran from 1 August 2015 to 18 November 2016; and pay compensation in the sum of £2,500.00 for distress and inconvenience.

The company's response is that:

- It is only responsible for the water main that runs along all roads, the communication pipe that leads from the water main to a property boundary and the Outside Stop Valve (OSV) at the end of the communication pipe. Property owners or occupiers are responsible for the supply pipe that is connected to the OSV and runs from the property boundary to the Inside Stop Valve (ISV), the ISV, and all the fixtures and fittings past the ISV and inside the property.
- The customer's first call about the bill she disputed was on 17 June 2016.
- It attended the property and on 13 September 2016 repaired a leak on a joint at the water meter. However, subsequent check reads, required to confirm there was no further leakage and to aid with a leak allowance calculation, show that the leak repaired at the meter joint was not affecting the consumption being recorded on the meter and indicated a further leak continuing.
- On 2 December 2016, it attended and fixed a leak on a stop valve on the private supply pipe. This is the leak the customer refers to as 'outside a bedroom' in her WATRS application. Following the repair, the customer requested that the two check reads be done in the new year as her occupancy rate over the Christmas period would be likely to affect her water consumption in a negative way. These check reads subsequently showed that, despite the repairs done, the consumption being recorded at property was still higher than would usually be expected for a household of two occupiers.
- It continued to help the customer with investigations into the possible causes of her consumption being higher than she believed it should be. On 9 March 2017, it attended and confirmed there was now no external leak at the property. This was because when the ISV was isolated the meter was at rest, but when the ISV was open the meter continued to spin whilst no water was being used inside the property. This proved there was an issue inside the property. It advised the customer of a slow drip in the toilet pan and advised she should employ a plumber to have it repaired. As the customer had recently had her bathroom tiled and, because the toilet cistern was tiled in, she did not want to break the tiles to have her toilet repaired. So, against its normal

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process and policy, it exchanged the meter at the customer's home. It did this to rule out a fault with the original meter.

- The reads taken on the new meter since 9 March 2017 initially showed a decrease in consumption, but then a rise again to between 0.56m³ and 0.62m³ daily. It believes that there is an intermittent problem with the toilet. It is common for modern dual flush toilets to have intermittent faults when the flush buttons stick.
- Between March 2017 and December 2017, it attended the customer's home again on numerous occasions, on each of these occasions, whilst monitoring the meter, it was found to be at rest whilst there was no water being used inside the property. It states this confirms its suspicion that if there is any issue with possible leakage, it is an intermittent problem, most likely on the toilet.
- Over these months, it has also ruled out possible shared supply with each of the customer's neighbours and, fitted a data logger to the supply on two separate occasions.
- After two leak repairs, the customer's usage was still thought to be higher than would normally be expected for a household of two. Due to this, as a last resort, on 5 January 2018, against normal process and policy, it fitted an internal meter at its own cost inside the property. It did this to evaluate any difference in consumption between the external and internal meter. Fitting the internal meter has further confirmed there are no external leaks.
- This matter concerns the customer's private water supply, which it bears no responsibility for. All water pipes and appliances past the point of the OSV are a customer's responsibility. Despite this, it has engaged with and assisted the customer throughout the course of this matter to try and help her understand her water consumption. It is also important to mention, the investigations it has made into the customer's water consumption have been as a gesture of goodwill. It appreciates that the customer has had to take time away from work for many of its visits but, ultimately, this is her responsibility as it is her belief her water consumption is not what it should be. We all use water differently. Data of the ADU for "average" households can only be used as a guide.
- Leakage allowances have been applied to the customer's account. A leak allowance is applied to a customer's account as a gesture of goodwill, this is because it is customers' responsibility to ensure they maintain the fixtures and fittings externally and around their home to prevent leakage. Leak allowances are calculated by taking two check reads after a leak has been repaired. The ADU recorded between these check reads are the 'Non-Leak Period'. The 'Non-Leak Period' ADU is then applied over the leak period. The 'Leak Period' is identified by looking at ADUs for billed periods on an account.

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- It acknowledges that it misinformed the customer about the leakage allowance to be applied to her account during the call on 1 August 2017. However, it denies that this issue has not been addressed. It addressed the issue in an email to the Consumer Council for Water (CCW) dated 12 October 2017, it confirmed that a credit had been applied to the customer's account for the misinformation as a goodwill gesture and asked CCW to pass on its apologies.
- The first leak allowance was applied to the customer's account on 21 September 2017. This allowance was then recalculated and another allowance applied on 28 March 2018. It is satisfied the leak allowances applied are correct as it believes that the consumption recorded between January 2017 and December 2017 is a true reflection of how the customer's household uses water. It believes the consumption recorded at the customer's home since the beginning of 2018 (since the internal meter was fitted) is a reflection of the customer making a conscious effort to use less water between January and March 2018, as a later reading taken of the external meter and the internal meter (wirelessly) on 22 June 2018 show the ADU has increased.
- However, in an effort to bring a swift and amicable conclusion to the customer's complaint over the calculation of her leak allowance, it has now used the usage recorded on the internal meter to apply a third allowance and a further credit has been applied to the customer's account.
- By applying this third allowance, it believes it has gone above and beyond for the customer for the reasons explained. In addition, under Section 143 of the Water Industry Act 1991, it has the power to make a Charges Scheme and its Charges Scheme states that its decisions about leakage allowance calculations are final.
- This matter concerns the customer's private water supply for which it bears no responsibility. The customer has received a total of £80 credited to her account, a bunch of flowers, a free repair of private pipework, and leak allowances to adjust higher than normal bills due to leakage. It is unable to meet the customer's claim for £2,500.00 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.

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If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

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 must remind the parties that under s.5.4.3 of the WATRS Rules, the customer cannot introduce new matters or evidence in their comments on the company's response. Any such material must be disregarded by the adjudicator. The customer has raised new complaints about the level of service provided by the company in her comments. I am unable to deal with the new complaints raised by the customer.
2. I must also remind the parties that adjudication is an evidence-based process where the burden of proof rests on the claimant, in this case the customer, to prove his/her case on the balance of probability.
3. Submissions made without supporting evidence are unlikely to be accepted as proven.
4. It is almost inevitable in such adjudications that conflicts of evidence arise, and the mere fact that the adjudicator finds in favour of one party on a particular issue does not mean that the other is telling an untruth. The adjudicator's role is to balance the evidence that is presented.
5. The customer has made a number of submissions about the parties' contact both in her Application and her Comments. However, the customer has not provided full and substantive evidence of these communications such as the dates and times of all calls/visits, the name of the persons with whom she spoke and contemporaneous notes of contact. The company has provided contemporaneous account notes in evidence. While I accept that the customer is less likely to make contemporaneous notes or retain evidence from the start of the issues I note that these matters have been going on some time and it is reasonable to expect the customer to have retained correspondence and made notes. I am inclined to attach more weight to the company's account notes, on a balance of probabilities.

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Responsibility for high consumption

6. The customer submits that she has received high bills. The evidence indicates that this high consumption could be explained by leaks. I also accept the company's submissions that different customers use water differently and that data of the ADU for average households of two occupants can only be used as a guide.
7. I also accept the company's submission that it is legally only responsible for the water main, the communication pipe and the OSV. It is correct to say that property owners or occupiers are responsible for the supply pipe, the ISV, and all the fixtures and fittings inside the property. Further, once an issue has been identified on private pipework, any repairs are the responsibility of the customer.
8. The evidence shows that the customer first contacted the company about high consumption on 17 June 2016.
9. The company states that after investigations a fault was identified and repaired on its apparatus on 13 September 2016. However, subsequent checks showed that high consumption was still being recorded on the meter and indicated a further leak continuing. This further leak was subsequently identified on private pipework and repaired on 2 December 2016.
10. It is not in dispute that, despite this second repair, the customer still continues to experience higher consumption than would be expected for a two occupant household. However, in light of the evidence provided, I accept the company's submission that although the customer continues to experience high consumption, following subsequent investigations, no further fault has been found with any of the pipework or apparatus under its responsibility since 13 September 2016.
11. Consequently, in the absence of any substantive evidence showing otherwise, I find the customer has not shown that the company is legally responsible for any high consumption noted on her bills after the company repaired its equipment on 13 September 2016.

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Time taken to investigate the high consumption

12. As above, the evidence shows that the customer first contacted the company about high consumption on 17 June 2016, and a higher than average consumption is still being recorded to date.
13. The company's obligation is to make reasonable attempts to investigate any reported issues and if the matter falls within its responsibilities, repair any issues within a reasonable period of time.
14. Having carefully considered the account notes, I can see that there is a delay of nearly six weeks between 4 August 2016, when the company received consent from the customer's landlord to repair the leak to its apparatus, and 13 September 2016, when the company attended the property to repair the leak. There is no evidence to show why this took a period of six weeks. It is not clear when the customer was contacted following the company's receipt of her landlord's consent. In the absence of any evidence showing otherwise, I am not satisfied that the company has shown that it acted within a reasonable period in this regard.
15. However, other than the above, I am satisfied that the company has acted within reasonable time periods. I am content that the evidence shows the company was in frequent contact with the customer, and then CCW, during the period; investigations were postponed by the customer on a least two occasions – 8 July 2016 and the Christmas period of 2016; and, that the company had to liaise with and/or consent was required from third parties including the customer's landlord and neighbours to enable investigations to be undertaken. Again, I am also mindful that once it has been determined that there is no fault with the company's apparatus or pipework, responsibility for investigating and resolving any issues lay with the customer.
16. In view of the above, with the exception of the period between 4 August 2016 and 13 September 2016, I find the customer has not shown that the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person.

Leakage allowance

17. The customer submits that the company has miscalculated the leakage allowance due.

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18. The customer submits that the ADU used to calculate the leakage allowance should be based on readings she took from an internal meter from 8 January 2018 to 19 March 2018, and not the ADU of 0.56m³ calculated by the company for the period 9 March 2017 to 16 June 2017. The customer states that by her calculations the ADU should be 0.4m³.
19. The customer also submits that the company should provide a leakage allowance for the leak found outside a bedroom of the property, which was ongoing from 1 August 2015 until 18 November 2016.
20. In respect of the ADU to be applied to the account, as above, the two leaks identified on the customer's supply were repaired by 2 December 2016. I find that there is no evidence to show that there have been any further leaks on the customer's supply. I note that the customer refutes the company's claim that there is a fault with a toilet in the property. In light of which, I am inclined to find that the check reads/Non-Leak Period required to calculate the ADU should have been taken directly after this period. I accept the company's submissions that it was correct to base the ADU on the consumption recorded in 2017. There is no evidence to show that the company is obliged to base the ADU on readings taken from January 2018. I therefore find that the customer has not shown that the company has failed to provide its services to the customer to the standard to be reasonably expected in this regard.
21. Notwithstanding the above, the company states that in an effort to bring the matter to an amicable conclusion, it has now based its ADU on readings taken on the internal meter between 5 January 2018 and 22 June 2018, 0m³ and 79m³ respectively and a period of 168 days. The company has calculated an ADU of 0.47m³. There is no evidence to show that the company's calculations are incorrect. I therefore find no failing on the company's part in this regard.
22. In respect of the customer's submissions that the company should provide a leakage allowance for the leak found outside a bedroom of the property, which was ongoing from 1 August 2015, when she moved into the property, until 18 November 2016, to when the leak was repaired; the customer does not refute the company's submission that the leak referred to is the leak repaired on private pipework.
23. No substantive evidence has been submitted to support the customer's submission that that there was a leak on the pipework before or from the date she moved into the property, and that the company is obliged to provide a leakage allowance from 1 August 2015. The evidence

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shows high consumption from 4 February 2016. I also accept the company's submission that the first bill was based on an estimated reading and raised using an ADU of 0.20m³, an ADU lower than any ever recorded on the customer's account and lower than the average two occupier household. I am mindful that this is to the customer's advantage as a leakage allowance of 0.47m³ is more than double the ADU used by the company between 1 August 2015 and 4 February 2016. I also accept the company's submissions that the leak was repaired by 2 December 2016 and not 18 November 2016 as stated by the customer. In addition, despite this the company extended the date of its Leak Period to 9 March 2017 for both its first and second Leak Allowances, when the correct billing period should have been 9 December 2016. This again was to the customer's advantage. I therefore find no failing on the company's part in this regard.

24. However, notwithstanding the above, I am mindful that although high consumption is evidenced from 4 February 2016, with its first leak allowance calculation the company does not begin the Leak Period until 10 June 2016. No reason has been given why. Although this was subsequently corrected following further complaints, as the start for the Leak Period in the second and third calculation correctly begins on 4 February 2016, I am not satisfied that the company provided its services to the customer to the standard to be reasonably expected with its first leak allowance calculation.

Incorrect information given about the ADU

25. The company acknowledges that it gave the customer incorrect information about the ADU to be applied to the Leak Period during a call on 1 August 2017. I accept the company's submission that it acknowledged this failing, offered the customer its apologies and applied £30.00 to the customer account. I am satisfied that the apology was appropriate. However, I am mindful that given the subsequent finding on 21 September 2017 that the ADU would in fact be nearly double at 0.58m³, the misinformation that the ADU would be 0.29m³ clearly caused the customer stress and inconvenience. Having carefully considered the matter, I am not satisfied that the £30.00 given is sufficiently proportionate to the failing shown. I will deal with this in my findings for redress below.

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Redress

26. The customer requests that the company; give a leakage allowance for the leak outside the bedroom that ran from 1 August 2015 to 18 November 2016; and pay compensation in the sum of £2,500.00 for distress and inconvenience.
27. In respect of the customer's request that the company "recalculate the leakage allowance based on the correct ADU", as discussed above, I am satisfied that the company's second leak allowance calculation as set out in its Defence was fair and reasonable. The company has now calculated and applied a third leak allowance to the customer's account. I am satisfied that this calculation is also fair and reasonable in the circumstances. I therefore find that this aspect of the customer's claim does not succeed.
28. In respect of the customer's request that the company "give a leakage allowance for the leak outside the bedroom that ran from 1 August 2015 to 18 November 2016", as discussed above, the customer has not shown that the company is obliged to give a leak allowance that begins prior to 4 February 2016. The evidence shows that the company has also provided a leak allowance until 9 December 2016, to the customer's advantage. Therefore, this aspect of the customer's claim does not succeed.
29. In respect of the customer's claim for compensation, in light of my findings that the company failed to act within a reasonable timeframe between 4 August 2016 and 13 September 2016; used the incorrect start date for the Leak Period in its first leak allowance calculation; and provided incorrect information to the customer on 1 August 2017, I am satisfied that the customer is entitled to a measure of compensation for the stress and inconvenience caused. However, I find that the sum claimed is disproportionate to the failings shown. In addition, as discussed above, I find that once it has been determined that there is no fault with the company's apparatus or pipework, responsibility for investigating and resolving any issues lay with the customer. Having carefully considered the evidence, I direct that the company pay the customer £50.00 each for the delay between 4 August 2016 and 13 September 2016 and its failings in relation to the first leak allowance calculation. The company should also pay the customer a further £20.00 for the misinformation on 1 August 2017. I am satisfied that these sums are fair and reasonable in the circumstances. No evidence has been submitted to support a higher sum of compensation for these failings. The company should therefore pay the customer a total of £120.00.

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Outcome

The company needs to take the following further action:

The company should pay the customer £120.00 compensation.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 16 August 2018 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.



Uju Obi LLB (Hons) MCI Arb
Adjudicator

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