WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0725

Date of Decision: 23 May 2018

Complaint

The customer called the company in September 2017. She wanted to arrange some sampling/testing due to an on-going issue that she was having with the taste and odour of her water. Following an inspection of her property, the company served her with an Improvement Notice, accusing her of various breaches of Water Regulations. She had been expecting the Notice to be served on her builder. Relations with her builder were further strained because of this. Subsequently, the company mishandled her complaint and there were customer service failings. The conduct of two of the company's employees was unprofessional and misleading. £5.00 and £20.00 credits promised by the company have not been paid. There are unresolved issues with her water meter and meter covers. The customer requests a clear letter of explanation and apology from the company, admitting responsibility for its errors. She also requires the company to clarify in writing that she is absolved of blame and not in breach of any Water Regulations at her property. She seeks compensation of £2,500.00 for distress and inconvenience plus £55.00 reimbursement of expenses.

Defence

The company concedes that the Improvement Notice contained one item in error and that it did not make clear on its face that no enforcement action would be taken. It has apologised for these errors. The allegations about poor customer service (and about the conduct of its two employees) are contested. The company generally acted in accordance with its statutory responsibilities and to the standard expected of a reasonable water undertaker.

The company made an offer of settlement on 23 April 2018 to pay £200.00 in compensation, £55.00 reimbursement of expenses and to provide the customer with a replacement kettle and maPGhing toaster. This offer was rejected by the customer.

Findings

That - in respect of its admitted errors - there was a failure by the company to provide its services to the standard to be reasonably expected; that the company has no liability in respect of the outstanding water meter or water quality-related issues; that the £5.00 and £20.00 credits have been applied to the customer's bill; that there is insufficient evidence to conclude that the company's employees acted unprofessionally or in a misleading way; that, in

terms of the amount of compensation due in respect of its failings, the company's 23 April 2018 offer of settlement was a reasonable proposal to have made in all the circumstances.

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The company needs to take the following further action:

I direct the company:

- to provide a letter, which (i) explains that it was the company that raised the Improvement Notice (not the customer); and (ii) what the company's current position is in relation to the Property's water fittings; and (iii) contains an apology to the customer for the fact that the content / wording of the Improvement Notice did not make clear what points were advisory only and/or were points which the company would not look to enforce against; and
- to pay compensation of £200.00 to the customer for distress and inconvenience; and
- to reimburse to the customer:
    - £45.00 for printing/stationery expenses incurred; and
    - £10.00 in respect of postage costs; and
- to pay £100.00 to the customer in lieu of the offer previously made to supply the customer with a replacement kettle and maPGhing toaster.

The customer must reply by 21 June 2018 to accept or reject this decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0725

Date of Decision: 23 May 2018

Party Details

Customer: [ ]

Company: [ ]

Case Outline

The customer's complaint is that:

- Around November 2016, the customer moved into a new build property at [ ] ("the Property"). The Property had been built by [ ] Homes ("the Builder").
- Via the NHBC, she had been engaged in bringing a separate complaint against the Builder. That dispute is still ongoing.
- She spoke to the company over the telephone on 13 September 2017. The reason for this call was to arrange for sampling/testing due to an on-going issue that she was having with the taste and odour of her water. She also wanted guidance from the company in understanding some water analysis results, which had been sent to her by the Builder.
- An inspection visit was arranged for 27 September 2017 ("the Inspection").
- The company's inspector, [ ] ("ST"), identified the plumbing beneath the sink as being:
    - the possible cause of the water taste and odour issues; and
    - in breach of the water regulations.
- ST identified five separate issues (not just beneath the sink), which – ST informed her – were all breaches of the water regulations.
- These breaches were outlined in an improvement notice issued on 28 September 2017 ("the Improvement Notice").

- In this and in the events that followed, she states there were numerous failings on the part of the company. Her main allegations in these respects are:
    - that the Improvement Notice was issued to her personally when ST had told her that it would be issued by the company directly to the Builder;
    - that the company's actions have caused her to "… *feel sure that [the Builder] will be taking every opportunity he can to bring evidence against [her] … [and she feels that the Builder] may try and cite this situation against [her], where they have been wrongly accused of water regulation breaches [by her] … by issuing [her] with an improvement notice, [the company has put her] in a situation where [she] has needed to confront [the Builder] or face £5000 fines [herself], since contrary to their initial advice, [the company] were holding [her] personally liable for the non-compliances , and not [the Builder]* …";
    - that, in order to protect her from the Builder, the customer has not received the correspondence, which she requested of the company, to make clear that she is not at fault for the Improvement Notice;
    - that the company has since denied the findings on the Improvement Notice and attempted to back-track and cover up mistakes that were reported during the Inspection;
    - that the company failed to provide all documents to WATRS and or CADater upon request and that a letter to her from [ ] of the company was misdated;
    - that the conduct of the company's employees, [ ] ("AD") and [ ]("PG"), was unprofessional and that those individuals attempted to cover up and mislead others as to what occurred in the history of the complaint;
    - that a timeline produced by AD is inaccurate;
    - that the company's Customer Relations Team handled the complaint poorly as responses have continued to be written by the Water Fittings / Regulation Team;
    - that the Customer Relations Team has been trying to avoid (and has side-stepped) putting anything transparently in writing about the company's failures despite requests to them to do so;
    - that there is an on-going issue with her water meter, which has not been resolved. She is still unsure as to who has responsibility to resolve this;
    - that credits agreed by the company of £5.00 and £20.00 have not appeared on her bill;
    - that it was inappropriate, anyway, to seek to apply the £20.00 directly to her account. Instead, this should have been sent by way of a cheque to the customer; and
    - that she has not received the kettle and toaster combo, which was offered to her and the company, should not deduct the cost of these items from any further compensatory offer.

- In view of all these issues, the customer would like the company:
    - to provide a clear letter of explanation as to what has occurred, detailing the company's responsibility for the various errors;
    - to clearly and transparently answer all questions previously raised with the company's Water Fittings / Regulation Team;
    - to pay the £20.00 compensatory sum previously promised; and
    - to provide a comprehensive letter of apology making clear that she, personally, is free of any blame and not in breach of the Water Fittings Regulations at the Property. (This letter is required to protect the customer from the Builder and in her future dealings with the company.)
- The company's failings and its mishandling of her complaint have had an adverse effect on her health and she has had to endure stress, worry, inconvenience and other problems as a result. To reflect this, she seeks financial compensation of £2,500.00 from the company.
- The customer also requests reimbursement by the company for:
    - £45.00 printing and stationery costs incurred; and
    - £10.00 postage charges (recorded delivery).

The company's response is that:

- It is a statutory appointed water and sewerage undertaker and is governed by the Water Industry Act 1991 ("the Act"). It is the water and sewerage undertaker for the Property and has a duty to provide a wholesome water supply to the Property in accordance with the Water Supply (Water Quality) Regulations 2016 (the Water Quality Regulations).
- As a water undertaker, it is statutorily bound to enforce the Water Supply (Water Fittings) Regulations 1999 ("the Water Fittings Regulations") across its area of operation.
- The Builder constructed and prepared the Property for residential occupation alongside other third party contractors.
- There have been a number of attempts to settle the dispute with the customer prior to the matter reaching WATRS. In addition to this, the company made a wholly reasonable offer to settle the customer's WATRS application by emailing the customer on 23 April 2018 ("23 April Offer"). By this 23 April Offer, in full and final settlement of her claim and all issues raised, it offered:
    - to pay £200.00 to the customer for distress and inconvenience;
    - to reimburse £45.00 for printing/stationary expenses incurred;
    - to reimburse £10.00 in respect of recorded delivery costs; and

- to provide the customer with a replacement kettle and matching toaster, as previously proposed.

- The customer responded to the 23 April Offer with a rejection.
- The customer's account of her initial call on 13 September 2017 ("the Initial Call") is disputed. It points to its 'Job Notes' of the Initial Call in this respect. These Notes show that it raised a Water Fittings Inspection at the request of the customer and provided advice on water hardness when requested. As the Inspection visit was raised correctly, it is submitted that – in this respect - it acted to the standard expected of a reasonable water undertaker.
- It can find no record of ever positively having affirmed - to the customer - that it would serve the Builder with the Improvement Notice (as opposed to serving it on the customer.) An improvement notice would always be served on the owner/occupier in the first instance (in this case the customer). As it acted in accordance with the statutory framework under the Water Fittings Regulations, it submits that its conduct in this respect was to the standard expected of a reasonable water undertaker.
- Notwithstanding the above, it accepts that the tone of the Improvement Notice was not what was intended. The actual intention was to represent a report of its findings at the Inspection and not to be a precursor to any enforcement action. In the event, the customer was quickly informed (anyway) that no enforcement action would be taken. It is submitted that the amount of compensation offered to the customer as part of the 23 April Offer was more than reasonable for the distress that this (i.e. the unintended tone of the Improvement Notice) may have caused the customer.
- It is accepted that one of the five items had been included on the Improvement Notice as a result of a mistake by its Water Fittings Inspector, ST, on the occasion of the Inspection. ST had incorrectly stated that the overflow pipe connected straight into the waste pipe on the combi-boiler ("Mistake"). It offers an apology to the customer for this Mistake. After information was received from the Builder (via the customer), the item in question was removed from the Improvement Notice. It is submitted that the compensation offered to the customer as part of the 23 April Offer is more than reasonable for the distress that the Mistake may have caused.
- The remaining four items on the Improvement Notice were perfectly valid and applicable at the time that they were raised. As a gesture of goodwill, it fitted a non-return valve ("NRV") to the customer's washing machine, which removed one item of concern from the Improvement Notice. The remaining three items on the Improvement Notice remain outstanding but have been left to the customer's discretion as to whether to resolve these. There is no risk of enforcement action and the customer has been aware of that fact since 2 October 2017.

- It denies that there have been any attempts on its part to back-track or cover-up 'mistakes' or anomalies. There was only the single Mistake made by its Water Fittings Inspector, ST, during the Inspection, as conceded.
- It accepts that it appears to have missed a small amount of correspondence when providing its bundle of documents during the complaints process. The customer has helpfully attached a series of emails between the customer and PG. These emails provide useful contextual information in establishing the reason and timings for PG's visit to the Property. Notwithstanding this point, the company state these emails do not suggest that the company acted other than in a manner that would be expected of a reasonable water undertaker.
- As to the misdated letter from [ ] to the customer, the only item seen is dated 8 December 2017. (The manual amendment of the date – which the system requires – appears, unfortunately, not to have been made on this occasion).
- It cannot see that any written correspondence from AD or PG to the customer has been unprofessional. It is noted and submitted that those individuals have responded to correspondence in a timely manner and - when appropriate - taken the measure of referring the customer to the company's complaints procedure. It refers to AD's written record of the visit to the Property (which both AD and PG were in attendance for). It refers also to the letter sent to AD and PG by the customer after the visit and notes that the customer did not raise any issues with AD's and/or PG's conduct at that particular time (but only later). The customer's points on this have, however, been taken on board. The relevant line manager has been informed in order to remind those involved of their obligations to customers. It cannot see how either AD or PG has attempted to cover up or mislead others regarding the customer's complaint. Without evidence of misconduct by the relevant employees, it cannot be accepted that their conduct fell below the standard expected.
- The Customer Relations Team require those with technical expertise to provide answers to complaints where they are otherwise unqualified; this explains why responses have either been directly from Water Fittings / Regulation or contain content produced by that team. The Customer Relations Team still offer a review of the complaint and will challenge employees where they feel that the individual or department being complained about has genuinely failed in its responsibilities or otherwise fallen short in terms of customer service. It is noted in this case that the Customer Relations Team have apologised where there have been failings and, regrettably, even where there was no failing (for example, in relation to the lack of backflow prevention on the washing machine). The Customer Relations Team proposed a reasonable compensatory offer to the customer. This was latterly expanded upon by the putting forward of

the 23 April Offer. It is submitted, therefore, that the customer's complaint in this instance has been handled to the standard expected from a reasonable water undertaker.

- The issue relating to the location of the meter is out of its hands. The meter was correctly fitted to the pipework requested by the Builder. The Builder has unfortunately constructed a crossed supply during the construction of the Property. The crossed supply is not the company's responsibility as it relates to private pipework. This is an issue between the customer and the Builder. Once the pipework is 'uncrossed', the customer / Builder can request that the company attend on site to swap the meters between the Property and the neighbouring premises. Notwithstanding the above, the company has been content to attempt to assist the customer by liaising with the Builder on her behalf. This is regarded as a level of service beyond that which could strictly speaking be required of a reasonable water undertaker. To date, the Builder has stalled on rectifying the pipework seemingly because they are unable to gain access to carry out the works. It is submitted that there can be no liability on the part of the company in relation to this.
- The £5.00 credit was correctly applied on 7 December 2017 to cover the cost of the water used for the sampling/testing by it. In its letter dated 25 October 2017, the customer was informed of the £20.00 credit and advised that she could have this refunded to her directly if she so wished. It also arranged for a bunch of flowers to be sent to the customer as a goodwill gesture. In terms of compensation paid already, only the £20.00 and the bunch of flowers should be considered as compensatory. The £5.00 credit is standard practice after conducting sampling/testing. It is unclear why the customer considers that these sums have not been paid. The credits are clearly visible on the invoice sent to the customer on 26 December 2017.
- The company does not believe that the customer has agreed and accepted the offer of a kettle and toaster combo at the company's expense. This is presumably because it was included in a full and final settlement offer made by the Customer Relations Team when the customer felt it should be separate to a claim for compensation. There is no obligation on the company to provide the customer with either of these items. Rather, they are being offered by way of a goodwill gesture only. Although the material in the kettle is, in all likelihood, reacting with the water supplied to the Property, the water supply is of a satisfactory standard and compliant with the Water Quality Regulations.
- It has come to the view that the kettle and toaster should be offered in addition to (as opposed to as part of) the compensation.
- The timeline provided by AD is produced from notes copied and pasted from its work order system (SAP) and from AD's own notes. Telephone calls made to any part of the business apart

from its call centre/debt recovery team are not recorded; there is no legal requirement for calls to be recorded in this manner. Therefore, the evidence submitted by AD's timeline is the best available information it has.

- The company has already written to the customer in some detail regarding all the points on the Improvement Notice and the other error relating to the misidentification of a water softener. It has also now completed its detailed defence for this adjudication process, which should provide the customer with all the information required for her own endeavours.
- It has apologised where there have been any errors on its part and acknowledges these individual errors in the list below:
    - the Improvement Notice contained one item by way of Mistake; namely, the misidentification by ST in stating that the overflow pipe connected straight into the waste pipe on the combi-boiler;
    - it did not make it clear on the face of the Improvement Notice that no enforcement action would be taken as a result of that notice;
    - it wrongly assumed the Property had a water softener based on a photograph of the Property; and
    - it mistakenly admitted fault for not knowing whether or not the washing machine had backflow prevention at the time of the Inspection.
- These errors and were taken into consideration when determining what it believed to be a reasonable settlement offer, i.e. the 23 April Offer.
- It believes that all questions have been answered in previous correspondence. Should there be any questions which the customer feels remain outstanding, however, these will hopefully have been answered by the customer having sight of the detailed defence document submitted for this adjudication.
- As to the requested 'comprehensive letter', it has provided responses to the customer throughout this complaint that show exactly why the Improvement Notice was raised. The Property still has some matters which it would consider being minor contraventions of the Water Fittings Regulations and the company cannot write to the alternative. It has resolved one of the matters by fitting an NRV to the washing machine. Another has been removed due to the Mistake. The remaining three are unresolved and are at the customer's discretion for resolution.
- It will gladly draft a letter which explains that it was the company that raised the Improvement Notice (not the customer) and explain what its current position is in relation to the Property's water fittings. It will also apologise for the content / wording of the Improvement Notice which

did not make clear what points were advisory only and/or were ones which it would not look to enforce against.

- It contests that the customer should be entitled to distress and inconvenience compensation at a level as high as the £2,500 requested. In this regard, it is submitted that:
    - the customer has not suffered financial detriment as a result of its actions;
    - the customer has not suffered a loss in water/sewerage/billing service as a result of its actions;
    - her complaint has only remained outstanding for the length of time that it has due to non-acceptance of reasonable settlement offers put forward; and
    - the customer has received timely and professional responses from it at all times.
- In addition to this, it has undertaken several goodwill gestures (accepted or not) as follows:
    - it fitted a NRV to the customer's washing machine at no expense to her (despite the company having no obligation to do so); and
    - it wrote to the Builder to advise them that it was their (i.e. the Builder's) responsibility to resolve the crossed supply (despite the company having no obligation to write in this regard); and
    - it compensated the customer £20.00 for its failings in relation to the Improvement Notice,
    - it offered to provide the customer with a new kettle and toaster combo to combat the bad taste in her drinks (and to match the toaster to the kettle). This is despite the fact that the water supplied by it to the Property is of a satisfactory standard in accordance with the Water Quality Regulations; and
    - it has put forward the 23 April Offer.
- Basing any compensation award on the length of time it has taken to resolve the complaint would be inappropriate, it is argued, as the customer has consistently rejected reasonable settlement offers when put forward.

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.

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 should 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 their case on the balance of probability.

2. I should also acknowledge that I have had the benefit of reading the customer's 19 pages of comments filed – on 8 May 2018 - in response to the company's defence ("Comments").

3. As a starting point, I have reviewed the various duties and obligations to which the company is subject under the Water Industry Act 1991 and under the relevant Regulations. I consider that it is important to assess the company's acts, omissions or conduct against that statutory and regulatory backdrop. I have read the company's detailed submissions set out:

    a. in paragraphs 14 to 19 of its defence, as to who is responsible for what pipework;

    b. in paragraphs 20 to 33 of its defence, as to responsibilities (and potential liabilities) for the location of the meter, the meter covers and/or for the fact that the supply happens be crossed with that of a neighbouring property;

    c. in paragraphs 34 to 37 of its defence, as to the legal obligations around enforcement of the Water Fittings Regulations and dealing with contraventions, etc; and

    d. in paragraphs 77 to 79 of its defence, as to its legal duties under the Water Quality Regulations.

4. In terms of defining the matters for which the company could (and could not) be held responsible - in principle - I accept the company's submissions in these above-mentioned paragraphs of the defence. The explanations given about the limitations of company's statutory and regulatory duties are, I find, correctly explained.

5. There is evidently a very significant disagreement between the parties about the content of the Initial Call (and as to the conversations that took place on the phone on 13 September 2017). I see that - in this respect - the company relies on its Job Notes produced at defence attachment [15] ("the Job Notes"). As to the Job Notes, in her Comments, I note that the customer points out that "… *this page has been put together with the same creative design and font as the timeline page, and is also written wholly in word with every opportunity for someone to make amendments to text and reword text to suit their own convenience* …" and she adds that this seems to her "… *more than suspicious …* ".

6. Whilst taking account of the customer's concerns, on balance, I am satisfied that the Job Notes serve as a reasonably accurate record of the Initial Call and of the conversations between the customer and the company on 13 September 2017. I do not consider that there is any real evidence that leads me to conclude in this case that the Job Notes have been "*tampered with*" or "*re-worded*" at all.

7. Turning to the Inspection and the Improvement Notice that was issued very soon afterwards, I note the company's Mistake and other associated or subsequent failings as expressly acknowledged in the defence, for example, in:

    a. paragraph 52;

    b. paragraph 55 (the tone of the Improvement Notice, it is conceded, was "*less than appropriate*");

    c. paragraph 73 ("… *the company apologises for the erroneous inclusion of this item on the Improvement Notice …* ");

    d. paragraph 112(c) and (e); and

    e. paragraphs 114(a)(i) – (iv).

8. In these respects, therefore, the company concedes (and I correspondingly find) that it failed to provide its services to the customer to the standard to be reasonably expected by the average person.

9. There are two key areas where the company disputes that it fell below the standard expected of a reasonable water undertaker. These concern those parts of the customer's complaint in relation to:

a. the company having served the Improvement Notice on the customer personally (when she contends that she was given the impression that the Builder would be served). I note the company's comprehensive submissions on this at paragraphs 36, paragraphs 64 to 76 and paragraph 112(b) of its defence. I accept these submissions. I am satisfied that – by reference to the statutory framework under the Water Fittings Regulations – any improvement notice would always be served on the owner/occupier in the first instance. Given that context, therefore, I am satisfied that the company's actions with regard to the Improvement Notice generally (save, of course, for the failings that are already conceded) were in line with the requisite standard; and

b. the company having attempted to back-track or cover-up anomalies or mistakes. I note the company's response to this allegation – as set out at the foot of page 28 of the defence. I am persuaded by the company's submissions on this. I do not consider that there is sufficient evidence for me to conclude that the company was to trying to 'back-track' or 'cover-up' its mistakes, as is alleged.

10. Therefore, these two strands to the customer's complaint are unable to succeed.

11. As to the customer service issues alleged by the customer (and the conduct by the company's employees, AD and PG), I have carefully reviewed the relevant documents. I have also worked through the submissions that the company makes at paragraphs 94 to 103, paragraph 106 and paragraphs 112(f), (g), (m) and (n) of its defence. Broadly, I accept these submissions and on my reading of the underlying documents, I find the company's overview and responses to be reasonably made. I do not consider that there is sufficient evidence enabling me to find that PG and/or AD acted:

    a. 'unprofessionally' to any material degree; and/or

    b. in such a way calculated to 'cover up' or mislead others regarding the customer's complaint.

12. Therefore, these aspects of the customer's complaint are unable to succeed.

13. As to the customer's allegation that the company has failed to provide documents to CCWater and WATRS on request, I note the company's responses at paragraphs 107 to 109 of its defence. At defence paragraph 112(e), I see that the company concedes " … *that it appears to have missed a small amount of correspondence when providing its bundle of documents during the complaints process* …" This particular element of the customer's complaint is admitted,

therefore, and I find that it amounts to a failing in customer service (albeit, it seems to me, a relatively minor one).

14. I turn to the customer's allegation that the credits from the company of £5.00 and £20.00 have not appeared on her bill (and that the £20.00 element ought, in any event, to have been paid by cheque). I have also looked at the part of her complaint relating to her not receiving the offered kettle and toaster combo. On these aspects, I have had regard to the company's responses:

    a. in paragraphs 104 and 105 of the defence; and

    b. in paragraphs 112(i) and (j) of the defence; and

    c. by reference to the invoice exhibited as defence attachment [33].

15. I find the company's submissions in these respects to be persuasive and therefore, these aspects of the customer's complaint are unable to succeed.

16. As to the customer's complaint about the unresolved and ongoing issue regarding the water meter, the company contends – I note – that this is 'out of their hands'. I have read the submissions that the company makes:

    a. at paragraphs 20 to 33 and at paragraph 112(h) of its defence (concerning the water meter issue); and

    b. at paragraphs 80 to 93 of its defence (as to the customer's water quality).

17. I accept these submissions. In light of the detailed explanation given in the 'Summary' section of its defence (setting out its responsibilities against the relevant statutory and regulatory backdrop), I am satisfied that the company has no liability on any outstanding issues related to the water meter and the customer's water quality. Accordingly, these parts of the customer's complaints are unable to succeed.

18. Given the company's admitted failings as acknowledged in its defence (and other respects in which I have found there to be failings on the company's part), I must now decide what award to make in this case.

19. I note that the customer asks for a clear letter of explanation (and apology) from the company. She would like this letter to answer "*clearly and transparently*" all the questions that she has previously raised with the company's compliance department. It seems to me, however, that the defence that the company has put in for the purpose of this adjudication can properly stand as

'the letter' that the customer was asking for. I do not consider that the company could be obliged to provide any more comprehensive or substantiated an explanation in this case. The defence runs to nearly 40 pages and includes some 35 supporting exhibits. In connection with the failings on its part that it admits, I also note that – within the body of its defence – the company records and conveys its apologies the customer. As I see it, therefore, there is no need to require the company to write any supplemental or separate letter to meet the customer's request.

20. In addition, the customer requests "… *a comprehensive letter of apology from [the company] (and explanation) that demonstrates that she is personally void of any blame, and neither is she in breach of the Water Regulations at her property* …" This letter is said to be required in order to 'protect' the customer in her ongoing dispute with the Builder (and also to protect her in her future dealings with the company). On this, I note the proposal put forward by the company in paragraph 116 of its defence, whereby it says that it will:

> "… *gladly draft a letter which explains that it was the Company that raised the Improvement Notice (not the Customer) and explain what the Company's current position is in relation to the Property's water fittings … the Company will also apologise for the content / wording of the Improvement Notice which did not make clear what points were advisory / points which the Company would not look to enforce against* …"

21. This seems to me to be an appropriate and potentially helpful step for the company to take in all the circumstances. As I see it, this will likely give the customer the comfort and 'protection' that she is seeking. I shall direct the company, therefore, to provide the letter in the terms that they propose in paragraph 116 of its defence.

22. As to the financial compensation in this case, the company argues that the amount claimed of £2,500 is far too high. For its part, the company contends that the 23 April Offer was a much more reasonable and proportionate sum to have proposed.

23. I have weighed up the parties respective positions on this as carefully as I can. I have taken particular notice of the letter that the customer has produced from her doctor, which advises that "… *the problems [with the Property] are causing her severe anxiety* …" On my reading of the history – at the point that the company became involved in this matter – the customer's dispute with the Builder was probably already taking its toll. At the core of her complaint, the customer alleges that the company's errors and failings exacerbated an already difficult and stressful situation (i.e. with the Builder) to very significant degree.

24. I fully follow the submissions that the customer makes along these lines. Nonetheless, I do not consider that it would be entirely fair or reasonable to require the company to pay compensation linked to these specific consequences. It seems to me that –when the Improvement Notice was issued, for example – the company could not be taken (necessarily) to appreciate or realise:

    a. that the customer was involved in such a difficult and strained dispute with the Builder at that time; and/or

    b. that any failure or error on its part in the services it was providing would potentially have an adverse impact on the customer's relations with the Builder (and/or on the dynamics of that separate, 'third party' dispute).

25. I note all the submissions that the company makes on this aspect in paragraphs 112(d) and 118 of its defence. The particular or key considerations that I have additionally taken into account are:

    a. the submission that the Builder's actual response to the Improvement Notice appeared to be "*cordial and professional*"; and

    b. the submission at paragraph 56 of the defence, that the customer *"… was assured that the company would not be enforcing against her for the items on the Improvement Notice…*" (and that such 'assurance' was given only a few short days after the issue of the Improvement Notice).

26. For the reasons given above and in all the circumstances, I conclude that the 23 April Offer did (and does) represent an appropriate compensatory response to the company's failings in this case. Therefore, in addition to providing the letter in the terms proposed in paragraph 116 of its defence, I shall direct the company:

    a. to pay compensation of £200.00 to the customer for distress and inconvenience;

    b. to reimburse to her:

        i. £45.00 for printing/stationary expenses incurred;

        ii. £10.00 in respect of recorded delivery costs; and

    c. to pay £100.00 to the customer in lieu of the offer previously made to supply the customer with a replacement kettle and matching toaster. (It seems to me that re-

casting this gesture by directing payment of a sum of money is a rather more straightforward way of 'closing off' this element of the complaint.)

Outcome

The company needs to take the following further action:

I direct the company:

a. to provide a letter, which (i) explains that it was the company that raised the Improvement Notice (not the customer); and (ii) what the company's current position is in relation to the Property's water fittings; and (iii) contains an apology to the customer for the fact that the content / wording of the Improvement Notice did not make clear what points were advisory only and/or were points which the company would not look to enforce against;

b. to pay compensation of £200.00 to the customer for distress and inconvenience;

c. to reimburse to the customer:

   i. £45.00 for printing/stationery expenses incurred;

   ii. £10.00 in respect of postage costs; and

d. to pay £100.00 to the customer in lieu of the offer previously made to supply the customer with a replacement kettle and matching toaster.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 21 June 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.

Nik Carle, LLB (Hons), Solicitor, DipArb, FCIArb

Adjudicator