

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1219

Date of Decision: 12 March 2019

#### Complaint

The customer complains that the company failed to locate and repair the external stop cock at his home for more than two years, provided poor customer service and is responsible for the consequences of a leak in the flat above his property that caused damage in his flat. The customer seeks compensation of £1,229.06.

#### Defence

The company says that the stop tap was concealed by bushes. The company had no power to cut back the bushes and therefore it could not find the stop tap. It did not provide poor customer service and was not responsible for the leak.

#### Findings

The company, when informed that the stop tap did not work in June 2017, failed to remedy the problem, incorrectly told the customer that it had and did not reconsider the problem again for nearly one year when an issue arose in relation to the customer's toilet. Thereafter, although the stop tap may have been concealed by bushes, the company took insufficient measures to make its requirements clear in a timely way so that repair or replacement of the stop tap has not occurred approximately twenty-one months later. This fell short of the standards that an average customer would reasonably expect. As the company was aware that the internal stop taps needed replacement, it was foreseeable that a leak would not readily be brought to an end. This occurred and the customer incurred greater loss than might otherwise have been the case.

#### Outcome

The company needs to take the following further action: pay compensation to the customer in the sum of £516.00.

**The customer must reply by 9 April 2019 to accept or reject this decision.**

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1219

Date of Decision: 12 March 2019

## Party Details

Customer: [ ]

Company: [ ].

## Case Outline

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

- The customer is a landlord of a property in a block of flats in Coventry.
- He says that it has experienced constant high pressure problems with the pressure mounting up to 5 bar, with the consequence that the block of flats has had a number of problems including loss of toilet facilities on 11 May 2018 and a catastrophic flood on 30 August 2018.
- He explains that the issues have been ongoing since June 2017 when he reported high water pressure and difficulty isolating the water supply inside the property. Subsequently he has been chasing the company to locate and repair the outside stop valve on the external mains feed to the block. This, he says, will allow tenants to isolate the supply in an emergency. It will also enable renewal of internal stop taps in each of the flats.
- The customer, who is a qualified plumber, has incurred wasted journeys and associated costs from [ ], where he lives, to [ ], to complete works to renew the internal stop taps having been notified repeatedly by the company that the work on the external stop valve has been completed. He has discovered on arrival that the work has not been completed. He has supplied the company with several contact details to resolve this issue and the contact number for the property management team in [ ] as well as the tenant's and caretaker's number.
- The customer says that on 30 August 2018, he was notified of a flood and had to take action and call a plumber to sort this issue out for his vulnerable neighbour. He explains that, whereas the company delayed, his private plumber attended in less than an hour and resolved the situation even though it was the company's responsibility. The customer says that he has incurred costs estimated in the sum of £1,229.06 and was forced to pay £500.00 excess on his

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insurance policy due to the flood, notwithstanding that the damage caused was the result of the company's delays.

- He says that has made arrangements through the managing agent to apply a freezer pack to the main riser on the ground floor so as to be able to install a new internal stop tap in his flat.
- The customer seeks compensation in the application form in the sum of £1,229.06 although the papers show that this claim was reduced to £834.06 by sharing the insurance excess and a lower cost for carpet replacement than originally estimated.

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

- The company denies that 5 bar represents excessive water pressure and states that domestic plumbing appliances are designed to withstand pressure of 10 bar.
- The company states that it recognises that the customer has been unable to locate the external company stop tap to his property at [                    ], which is part of a block of flats, but says that it is not responsible for ensuring that the stop tap is accessible and is not responsible if the stop tap cannot be located.
- The company says that it has attended several times to try to locate the stop tap applicable to the flat. The company has found two stop taps that turn off the water supply to other parts of the building, but do not isolate the supply to the customer's property. The company believes that there are other stop taps that are buried under some bushes and it has made several requests to the management company of the property for these bushes to be cut back so that the external stop taps can be located and checked. Until the bushes are cut back, the company is unable to proceed further.
- As for the customer's complaint that he has visited on a number of occasions and had wasted journeys, the company explains that it has dealt directly with the customer's tenant and has made a number of efforts to attend the property. There have been some occasions when the company has had to prioritise other matters and the stop tap has not been found for the reason set out above. The company denies poor customer service. The company states that it has made a guaranteed service payment to the customer's tenant in relation to a cancelled visit.
- In relation to the leak on 30 August 2018, the company says that it was notified and attended shortly after midday of the day in question. It contacted the customer on arrival, but was told that the customer had already resolved the problem.

**How is a WATRS decision reached?**

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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. The complaints raised by the customer fall into three areas. These are:
  - a. Failure to find the external stop tap
  - b. Customer service and cancelled visits
  - c. The leak/flood on 30 August 2018.

I deal with each of these in turn.

#### Failure to find the stop tap

2. The customer says that although he does not expect the company to have a tap maintenance programme, he does expect it to be able to assist a customer once a faulty stop tap has been brought to its attention. He submits that the fault in this case was first brought to the company's attention on 20 June 2017. He says that the application was made on 17 February 2019 and the work still is not done. He argues that the company has had all the contact details for himself, the tenant of his flat, the on-site caretaker (who manages the groundsman who cuts the bushes) and the managing agents. He says that the company also knows that the upstairs neighbour is frail and vulnerable because he told them on the day of the flood. He argues that this did not reflect the reasonable standards that a customer would expect of a water company.
3. The company says that although external stop tap is company apparatus and is installed for its own use, customers are allowed to utilise this if needed. The company cannot guarantee that the stop tap will be accessible or operable. In view of the number of stop taps it is responsible

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for, it does not operate a stop tap maintenance programme. Stop taps are repaired or replaced when the company is notified of a defect or as routine during water main rehabilitation work. It also has no responsibility for any private stop tap. The company says that even where a private and external stop tap are both inoperable a reputable plumber can use a number of methods in order to carry out work without the need for turning off the supply at the boundary. The customer's plumber demonstrated this on 30 August 2018. The company says that it has advised the customer that the bushes need to be cut back in order to obtain access to the stop tap and, as this has not occurred, the company can proceed no further.

4. The history is somewhat convoluted and can be pieced together from the documents submitted by the parties and by the Consumer Council for Water (CCWater). I find that the customer, who is a qualified plumber, first raised with the company his request for it to find the external stop tap serving the block of flats of which his was one on 20 June 2017. He stated that the external stop tap did not work. On 27 June 2017, he asked the company to liaise with the tenant/account holder and arrange an appointment when he was at home to ensure that the water could be stopped inside the flat. Contact details were given. He referred to his assertion that there was high water pressure in the supply to the flats and that the internal stop taps needed to be replaced. That email also stated:

*The flat and the one below would be seriously damaged should there be an uncontrolled leak.*

On 1 July 2017 the company responded to the customer stating that a visit had been arranged. A visit appears to have been made in July 2017 because, according to the customer, an engineer called the customer directly to say that he could not isolate the water from either of the stop taps directly outside the block. The customer says that this happened on 14 July 2017. He gave a job reference that I find indicated that further steps would be likely to be taken. An email dated 11 July 2017, also suggested that a visit had occurred on 19 June 2017. The company's records show that a further visit was arranged for 22 July 2017 that had to be cancelled and rearranged for the following day. The customer then heard nothing further until 3 September 2017 when he asked for an update. On 6 September 2017, the customer received an email that stated:

*I can confirm that our team have now attended and resolve the issue. The external stop tap has been replaced and you are now able to use this.*

5. I find that the company must have assumed at that stage that the work done had been completed because no further steps were taken until the customer contacted the company again

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in May 2018. At that point, the customer complained that he had visited the property on 11 May 2018 but the stop tap still did not work. He said that he had attended the property because the toilet had broken and there was no means of isolating the water supply by using the stop tap. He again expressed the view that the water pressure in the block was very high and that he would estimate it to be between 5 to 6 bar. He said that any pipework failure in the block would be catastrophic. The customer was given an appointment in relation to the toilet of 22 May 2018, which the customer says was not good enough. The customer says that he was told by his tenant that a surveyor did attend on 22 May 2018 but the company had still not found the pipe, although there is no reference to this in the company's documentation. The customer was told that further work would be carried out on 7 June 2018 but this was cancelled. The company's records indicate that the cancellation was due to lack of resources. A guaranteed service payment was made to the customer for this and he was told that an appointment would be made for 19 June 2018.

6. On 28 June 2018, the customer made a further request for an update. The company responded on 11 July 2018, stating that they had attended the site on 19 June 2018 and had noticed that bushes had been cut back as they had requested. They had found two stop taps, one on the side of the flats and the other in the bin cupboard on the ground floor but that the customer's flat still had water. The company said that it would try to find plans of the private water supply to locate the external stop tap. On 18 August 2018 the customer wrote again as he had still received no update. As a temporary measure he invited the company to freeze the riser serving the internal stop taps in each of the three flats affected so that the water could be turned off. The company declined to do this. The customer then reported a leak on 30 August 2018. The company informed the customer that it had attended on 28 August 2018 but had been unable to carry out any work as the stop tap for the properties were among the bushes and that the tenant had been informed. On 3 September 2018 the customer gave the details to the company to liaise with the caretaker in order that he could cut down the bushes.
7. The following details appear from the company's records and submissions. On 19 September 2018 the company contacted the maintenance manager and left a message explaining that the bushes needed to be removed, and asking him to call back to discuss. The company states that it left a further message for the maintenance manager on 25 September 2018, again asking him to call back. On 25 September 2018 the company says it told the customer that they were waiting for contact from the maintenance manager, and could not do anything further until they heard back from him. On 7 October 2018 the maintenance manager requested a visit to the site

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so he knew which bushes to cut back. On 8 October 2018 the company received correspondence from the CCWater on behalf of the customer. The company contacted the maintenance manager on 9 October 2018 advising him to liaise with the customer and the tenant about which bushes needed to be removed. In this time, the customer emailed stating that the maintenance manager had said that he had been trying to speak to the company but had been repeatedly told that the company was too busy to attend.

8. On 24 October 2018, CCWater requested that the company should arrange to meet the maintenance manager on site and an appointment to meet the maintenance manager on 1 November 2018 was arranged. The company explains that it did not attend due to an operational emergency. The maintenance manager was informed – the customer says that he was asked about the next day. On 6 November 2018 the company contacted the maintenance manager and arranged another appointment for 14 November 2018 to discuss the bushes. On 14 November 2018 the company attended the site. The company says that the engineer was late arriving, and that the maintenance manager was not on site but the documents indicate that the company's engineers spoke to someone called "John". The company says that the engineer tried the contact numbers he had, but was unable to speak to anyone. The company says that on 19 November 2018 the customer confirmed that an appointment needed to be made with the maintenance manager.
9. The company called the maintenance manager and arranged another appointment for 21 November 2018. The company attended the site on 21 November 2018 and confirmed again that the stop taps that are accessible do work, but neither stop tap controls the water supply to the customer's property. The maintenance manager was advised about cutting back further bushes to locate the company stop tap. He advised he would speak to his manager to check if this would be acceptable before any work went ahead. There is no evidence that anything further has happened.
10. As the company acknowledges that the external stop tap is both the asset of the company and is also for the customer to utilise where necessary, I find that it would be reasonable to expect that the company would respond to a request for repair within a reasonable time, particularly as the customer raised from time to time associated concerns that the internal stop taps of his three storey block of flats were not functional and that, in his view, the water pressure was too high. I find that the company did not do this. Although when the matter was first raised in June 2017 the company began to take steps to enable the customer to isolate his supply, it did not replace the

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stop tap that served his property, notwithstanding that, I find, it told the customer that this had been replaced. The company says that it advised the customer that this stop tap had been replaced but did not, at any time, confirm that the stop tap controlled the water supply to his property. I find that this email would reasonably have been understood to communicate exactly that. The customer would have had no interest in receiving an email stating that another person's stop tap had been repaired or replaced and it is improbable that the company would have sent such an email. I find that the company therefore gave incorrect information to the customer. Moreover, as the customer's tenant appears to have cooperated generally with the actions of the water company, the company would reasonably have been able to have obtained information and confirmation from the customer's tenant that the repaired stop tap affected the property that the tenant occupied before informing the customer that the problem had been resolved. It follows that I find that at this stage, the company had failed to remedy the problem, had incorrectly told the customer that it had and thereafter the issue was not considered again for nearly one year. I find that the company did not supply its services to the customer to the standard that would reasonably be expected in this regard.

11. When the concerns arose again in late May 2018, the company returned to the issue. I find again, however, that the company did not supply its services to the standard that would reasonably be expected of it. The company's records show that the customer had arranged for the maintenance engineer at the property to meet the company on-site to discuss the bushes. Its engineer attended at least on 19 June and 28 August 2018. While I find that the company cannot reasonably be compelled to liaise with the management staff of the customer's property in order to obtain access to the stop tap, it agreed to do so and during this period it is notable that the company did not set out for the customer or the management agency in any clear way, and particularly not in writing, what it required. Nor did the company explain why, when the work undertaken to cut back the bushes before 19 June 2018 had been carried out, this was insufficient. On 28 August 2018, the company says that the maintenance man said that all the stop taps are in the bushes, but I am satisfied that no plan was made as to how or whether this was to be resolved nor a timetable set. The company says that it has left a voicemail message for the maintenance man to state that they would not attend again unless the issue was sorted out privately. Taking this evidence in the round, I find that the company, during this period, took insufficient measures to make its requirements clear in a timely way. It follows that I again find that the company, in its efforts to locate and repair or replace the external stop tap, did not supply its services to the standard that would reasonably be expected of it.

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12. I do accept, however, that following the leak on 30 August 2018, the company was more industrious at trying to resolve the problem. It endeavoured to deal directly with the maintenance manager at the site and it attended on a number of occasions in order to discuss the removal of bushes. The company did not, however, describe in writing or draw what they required in order to be able to locate their stop tap and, again, I find that this led to lack of effective communication and delay. I find that the company, as the owner of the lost asset, did not supply its services to the customer in a way that the average customer would reasonably expect.

#### Customer Service and Cancelled visits

13. The customer says that he was told on a number of occasions that the stop tap was fixed when it was not. He seeks compensation for this aspect of his claim, broken down as follows:

- £100.00 for fuel for two visits from [ ] to [ ] to replace the internal stop tap based on assurances given the outside one now works;
- £43.06 for freezer kits for toilet repair.

The customer says that he would expect the company to have enough staff and resources to fulfil their commitments to appointments and visits. He says that he was astounded to see during the course of this complaint that the company broke two appointments that had been made by CCWater.

14. The company, on the other hand, says in relation to the claim for fuel costs that the company replaced a company stop tap located outside the property on 23 July 2017 but did not state that it was that serving the customer's flat. The company is unaware of any other occasion when it has informed the customer that the external company stop tap that supplied his property was operable. In relation to the toilet repair costs, the company says that it is the property owner's duty to ensure that any private stop taps are accessible and are in working order. If the toilet was affected because this stop tap was not working, the company is not responsible for this.

15. I find that the documentation reflects only one occasion when the customer was told, for the reasons set out above, that the stop tap had been repaired. I find that in telling the customer that the stop tap was repaired when it was not, the company gave misleading information and so failed to meet the standards that would reasonably be expected of it. As for the missed appointments, the company offered a guaranteed service standards payment in respect of that cancelled in June 2017. In respect of the visits arranged with the assistance of CCWater, the papers reveal that a visit was arranged on 1 November 2018 but cancelled. The company

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acknowledges that the team was late in arriving on 14 November 2018 but I accept that the documents submitted show that the company did not cancel that visit on that day. I take into account that the company might have been expected to have paid particular care to the customer's interests in the light of the lengthy history of the matter but I have no evidence that shows that the late arrival was other than for unavoidable operational reasons. On balance, I find that mere late arrival does not equate to a failure to achieve the service standards that would reasonably be expected.

16. I do find, however, that the impasse that has been arrived at on 21 November 2018 could have been avoided by earlier and more effective communication by the company as to what would have been required. As indicated above, I find that in relation to the company's failure to make clear what was needed, I find that the company failed to provide its services to the requisite standard.

#### The leak/flood

17. The customer says that on the day of the flood he telephoned the company for help, clearly explaining the long history and the risk of an extensive flood in a block of flats. He was offered a four hour response. He says that he remotely (from [ ]) managed to resolve the leak from the neighbouring property by phoning around friends in [ ] to find a plumber who called within an hour to attend the full bore leak at 5 bar pressure that was gushing up to the ceiling. He stopped this by cutting off the basin pipe and capping it off live because the elderly neighbour could not turn his stop tap off. He claims:

- £96.00 for the emergency plumber;
- £50.00 for one visit from [ ] to [ ] on the day of the flood to inspect property and help relocate tenants;
- £250.00 cost of insurance excess; and
- £245.00 cost of hall carpet replacement.

18. The company says that in relation to the emergency plumber cost, the flood affecting the property was from a neighbouring flat located above his own. There is no evidence to suggest that the flood was caused by the company. The owner of the property in question has not contacted the company in relation to the flood or to pursue a claim and the company does not consider itself liable for this costs claimed.

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19. Although the customer argues that the water pressure was high, the company points out that there is no evidence that it was excessively high. I do not find that the lack of repair or replacement of the stop tap caused the leak or that high water pressure caused the consequences of the leak to have been greater than would have been the case had the water pressure been lower. I also find that, as the company offered the customer a call-out within four hours, it had provided a good standard of care. I do find, however, that the customer has proved that, had the work to the stop tap been undertaken earlier it is likely to have been possible for the flooding to have been brought to an end earlier, such that the damage might have been less. It follows that I do not find that the company took or omitted to take any action that was a further service failure, but it may be that the damage cause by the leak was magnified by the company's failure to meet the requisite standard in locating the stop tap.

20. It follows from the matters set out above that the customer has proved that the company has fallen short of the standards reasonably to be expected of it in a number of ways and over a substantial period of time. I find that he is entitled to some redress. His claims and my findings are set out in the following table:

Item	Amount	Finding	Total
Cost of driving back and forth to [ ] on two occasions to replace the internal stop tap.	£100.00	I find that as the customer had indicated to the company that there was a need to replace the internal stop taps once the external stop tap had been located and repaired/replaced, it is likely that the customer tried to do this. As there is evidence only that the company told the customer that the stop tap had been replaced on one occasion, I assess the customer's loss at £50.00 which I find fairly reflects the cost of one wasted return journey.	£50.00
Cost of a freeze pack to repair the toilet	£43.06	The disrepair to the toilet occurred in May 2018. If, as I accept above, the customer had tried to replace the internal stop tap, he would have been aware that the external stop tap had not been working. There is no evidence that he reported this to the company prior to the incident	-

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		with the toilet. I find that the loss caused on this occasion arose because the customer had not done so and therefore he had to take additional measures to repair the toilet. The customer does not succeed in relation to this claim.	
Cost of paying the plumber/electrician to attend to the flood in the flat above and isolate the electricity supply	£96.00	I find that as the company had been put on notice that the internal stop taps required replacing and the company's actions and omissions had contributed to delay in replacing these, there was increased consequential damage from the flood. It was therefore foreseeable that in the event of a leak it would be necessary to appoint a private plumber to take action more speedily than the time scale in which the company could attend. It was also necessary to isolate the electricity supply.	£96.00
Fuel for tenant visit on the day of the flood	£50.00	I find that it was foreseeable that the customer would need to attend the flat as a matter of urgency. As I have found that this was a loss that could have been avoided or minimised by speedier action on the part of the company, I find that it is fair and reasonable that the customer should recover this loss.	£50.00
Fuel for tenant on the date of reoccupation	£50.00	Correspondingly to the above, I find that as the tenant was unable to occupy the flat while repairs were undertaken, this also was foreseeable loss.	£50.00
Excess on the customer's building's insurance policy	£250.00	As I find that the company did not cause the leak but is likely to have contributed to its effect, I find that it is fair and reasonable that the customer should recover a proportion of this excess. I find that it is fair and reasonable that the company should pay the customer £150.00 towards this sum.	£150.00

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Estimate for replacing the hall carpet and underlay	£245.00	As above, I find that some damage would have been caused by reason of the leak above but this would not have been as extensive. I find that it is fair and reasonable to direct that the company shall pay £120.00 towards this loss.	£120.00
			<b>£516.00</b>

21. It follows that I direct that the company shall pay compensation to the customer in the sum of £516.00.

#### Outcome

The company needs to take the following further action: pay compensation to the customer in the sum of £516.00.

#### What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 9 April 2019 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.

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Claire Andrews, Barrister, FCI Arb

**Adjudicator**

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