

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1418

Date of Decision: 19 November 2019

Complaint

The company failed to follow health and safety requirements when carrying out work to the water supply and following damage to a sewer. The customer submits that the water supply was contaminated as a result, causing his son to contract E. coli. There were health and safety issues with a temporary water pipe and the replacement pipe is only 150mm deep.

Defence

The company denies any health and safety failures in respect of the work conducted on the water supply. It has identified customer service issues in how it handled this complaint.

The company made an offer of £250.00 in compensation to the customer.

Findings

The Water Redress Scheme is not able to review complaints that should be referred to a more appropriate forum. The Drinking Water Inspectorate is responsible for assessing incidents potentially affecting drinking water and investigating consumer complaints about drinking water quality. The bulk of the customer's complaint was out of scope.

The company had accepted that a road plate should have been made secure. The replacement water pipe had to be linked to existing infrastructure and could not be buried deeper than this for practical reasons. The company had acknowledged the issue with the road plate in writing. The issues falling within scope were not so serious as to warrant compensation.

Outcome

The company does not need to take any further action.

The customer must reply by 17 December 2019 to accept or reject this decision.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

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Date of Decision: 19 December 2019

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The company attended a report of low water pressure that the customer had reported. During excavations, the company struck and damaged the sewer. A brass tap was also fitted to the freshwater pipe. The customer submits that proper health and safety procedures were not followed, resulting in his son contracting E. coli. The company pressure washed the area into road gullies, and this may have included sewerage. The overland water pipe posed a significant hazard as the road plate was not bolted down, nor temporarily tarred over.
- The customer requests the company acknowledge that there may have been occasions where strict safety procedures were not fully complied with, and an unspecified sum of compensation though the customer states that the £10,000.00 limit is too low in this instance.

The company's response is that:

- The company states that it attended in response to a report of low water pressure and carried out work to rectify this. During this work, the sewer was accidentally damaged. The company submits that all fresh-water work was halted until after the sewer was repaired. The company identifies customer service issues in respect of the customer's complaint. It denies any breach of normal working practices, or that it is responsible for the customer's son's illness. The company has offered £250.00 as a gesture of goodwill.

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How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

1. Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
2. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show on a balance of probabilities that the company has failed to provide its services to the standard one would reasonably expect and that as a result of this failure the customer has suffered some loss or detriment. If no such failure or loss is shown, the company will not be liable.

I have carefully considered all of the evidence provided. If I have not referred to a particular document or matter specifically, this does not mean that I have not considered it in reaching my decision.

How was this decision reached?

1. The Water Redress Scheme exists to resolve complaints between customers and their water and sewerage provider. However, the type of complaints that the Scheme is able to deal with are limited in accordance with the Scheme Rules.
2. The Water Redress Scheme Rules, at Section 3.4.1, states that the Scheme can reject all or part of a case where the customer should be referred to a more appropriate forum. Section 3.5 expressly states that the Scheme cannot be used to resolve complaints that are or have been investigated by the Drinking Water Inspectorate.
3. I find that the Drinking Water Inspectorate is responsible for matters including the assessment of incidents potentially affecting drinking water quality, and the investigation of consumer complaints about drinking water quality.
4. I find that all parts of the customer's complaint that relate to drinking water and the potential contamination of this with sewerage fall within the remit of the Drinking Water Inspectorate. I find that this includes matters of customer service in how the company handled those aspects of the

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customer's complaint as it is not possible to assess the level of customer service provided without first having determined whether the advice provided is accurate to the facts of the case.

5. I therefore find that all parts of the customer's complaint relating to drinking water, the potential contamination of this with sewerage, the customer's son's contraction of E.coli, questions of health and safety procedures whilst the sewer was damaged, and the level of customer service relating to this complaint, all should be referred to the Drinking Water Inspectorate as the body appropriately empowered to deal with such complaints.
6. The Water Redress Scheme is able to review the remainder of the customer's complaint, namely that the company did not follow appropriate health and safety procedures in respect of a temporary overland water pipe as a road plate was not properly secured, and that the replacement water main is only 150mm below the surface.
7. In respect of these issues, I note the company's email of 12 March 2019. Within this email, the company confirms that it accepts "that the road plate should have been made secure". I therefore find that the company did fail to follow all relevant processes as it did not make a road plate secure during the works.
8. In respect of the depth of the pipe, I am mindful that this was moled to replace an existing section of leaking water main. The company states that the pipe was laid to the water pipe's original depth, and that it is not practical to lay a new section of pipe to a different depth to the rest of it. I am satisfied by this explanation as the company was replacing existing infrastructure and will need to connect the new pipework to existing pipes. Had the company been laying entirely new pipework, it may have been required to place this at a greater depth, however I am satisfied that replacement stretches of pipe can only be laid at the same depth for practical reasons.
9. Turning to the remedies requested by the customer, I am mindful that these are largely linked to the issue of water contamination, found to be outside the scope of the Water Redress Scheme. I will nevertheless deal with each remedy in turn.
10. The customer has requested that the company acknowledge that there may have been occasions where strict safety procedures were not fully complied with. I find that the company has done this in its 21 March 2019 email where it states, "we do accept that the road plate

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should have been made secure”. I find no other instance that falls within the scope of the Water Redress Scheme that the company should acknowledge. I therefore make no direction in respect of this.

11. Finally, the customer has requested compensation. I am satisfied that the company did fail to secure the road plate. However, I don't consider that this oversight resulted in the customer being caused distress and inconvenience. The customer's complaint is focused on the issue of water quality and potential contamination and health and safety failures in respect of this. I am not persuaded that there has been any failure by the company, that falls within the scope of the Water Redress Scheme, for which compensation is warranted. The customer's claim is therefore unable to succeed.

Outcome

The company does not need to take any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 17 December 2019 to accept or reject this decision.
- When you tell WATRS that you accept or reject the decision, the company will be notified of this. The case will then be closed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision.



Alison Dablin (LLM, MSc, MCI Arb)

Adjudicator

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