

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1502

Date of Decision: 14 August 2019

#### Complaint

The customer submits that the company installed a new supply pipe serving his property. He is concerned as the pipe is beneath the public footpath and the company has laid the pipe at a shallow depth of only 350mm below the surface. The company has not laid the supply to a sufficient depth and as the section of the pipe is beneath the public footpath, it is the company's responsibility to remedy this. The customer requests that the company re-attend and relay its pipework at a depth that is in line with the guidance (750mm).

#### Defence

The company submits that it did not install a new supply pipe, the customer's contractor did. The customer initially called on 13 August 2018 to advise that he had no water, when it inspected, it found that his builder had been laying a new supply just in case the customer wanted a new connection at a later date. As the customer had no water, and in an effort to assist him on an emergency basis to reinstate his water supply, at his request, it repaired its OSV and agreed in goodwill to connect up to his new supply. This was done because the implication was that this would only be temporary as the builder advised that he was remaining on site to repair the existing water supply for the customer. The depth of the customer's supply pipe at the customer's boundary is 300mm. The customer's contractor did not dig a trench to the required standard of 750mm and as such, the supply which has been laid does not comply with regulations. The customer omitted to inform it that he was laying a new water supply and to apply to its Developer Services (DS) department for a new water connection. He also did not contact it before laying the new supply, to ascertain what the statutory requirements are and how much the charge would be for the connection to its water main. Now that the customer has decided to use his new supply permanently, he must make an application for a re-connection to its DS department urgently.

#### Findings

The company is legally only responsible for the water main and the communication pipe from the water main to the boundary of a property. Property owners or occupiers are responsible for the supply pipe, which runs from the boundary of the property to the property and all the pipework, fixtures and fittings inside the property. It is not in dispute that the customer's newly laid supply pipe has been laid at too shallow a depth, and not to the required

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750mm. The evidence shows that the supply, as at the boundary of the customer's property, does not comply with regulations. There is no evidence to show that the company laid the new supply pipe. The evidence submitted to this adjudication supports the company's submissions that the new supply pipe had already been laid by the customer's contractor when it attended the property. The customer did not take the necessary steps to apply and gain approval for the new supply. The customer has not shown that it is the company's responsibility to relay the pipework.

**Outcome**

The company does not need to take any further action.

The customer must reply by 11 September 2019 to accept or reject this decision.

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because the builder advised that he was remaining on site to repair the existing water supply for the customer.

- The depth the customer's supply pipe in the footpath is 650mm, but at the customer's boundary, it is 300mm. The customer's contractor has not dug a trench to the required standard of 750mm and as such, the supply which has been laid does not comply with regulations.
- The customer, having laid this new supply which he said he might use in the future, appears to have decided to use this as his permanent supply now, but because neither he nor his contractor applied to its DS department nor took any advice about the requirements regarding this, the depth of some of his new pipework laid, is not at the required 750mm depth. The customer wants it to excavate and put this right, at its cost, despite it not being its responsibility to do so.
- It did not change the depth of the pipes, and it only connected to the existing service pipe that was already laid out.
- It directed the customer to gain further advice from a plumber of his choice or, to contact its DS department for further assistance, as it was not responsible for the matter.
- Now that the customer has decided to use his new supply permanently, he must make an application for a re-connection to its DS department urgently. He will be required to pay for the inspections, and permanent reconnection and rectify any breaches of regulation if there are any. Where there are issues with other services being in close proximity of the new supply, or any other issues preventing the depth being 750mm or more, DS will need to advise the customer and his contractor how and if this can be resolved.
- The customer omitted to inform it he was laying a new water supply and to apply to its Developer Services (DS) department for a new water connection. He also did not contact it before laying the new supply, to ascertain what the statutory requirements are and how much its charge would be for the connection to take place to its water main. It will not carry out any work on this new supply which is not currently within the required legal standards.
- Before the customer decided he would like to use this new supply, he needed to make an application to its DS department. With the application he would also need to send it the plans, notify it whether he was using his own contractor to carry out the works, and to ask for a quotation for it to carry out bylaw inspections on the work once it was carried out and for it to connect the new pipework to its water main in the vicinity. He would also need to leave the trench open and visible where the new supply is laid. Once this was paid for, the customer would be required to let DS know what stage he was at with the new supply and make appointments for it to visit to carry out the necessary inspections to pass or fail the work. To

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enable the customer to quickly contact DS for the services he needs, contact details have been provided in the Defence.

### How is a WATRS decision reached?

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

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

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

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

### How was this decision reached?

1. I must remind the parties that adjudication is an evidence-based process.
2. 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.
3. It is almost inevitable in such adjudications that conflicts of evidence arise; the adjudicator's role is to balance the evidence that is presented.
4. Submissions made without supporting evidence are unlikely to be accepted as proven. More weight is likely to be given to contemporaneous evidence.

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5. The company is legally only responsible for the water main and the communication pipe from the water main to the boundary of a property. Property owners or occupiers are responsible for the supply pipe, which runs from the boundary of the property to the property and all the pipework, fixtures and fittings inside the property.
6. Any issues on private pipework and any costs to investigate and remedy these are the responsibility of the property owners/occupiers.
7. It is not in dispute that the customer's newly laid supply pipe has been laid at too shallow a depth, and not to the required depth of 750mm.
8. The company states that the depth of the customer's supply pipe in the footpath is 650mm, but at the customer's boundary, it is 300mm. A photograph submitted by the company in evidence company shows that the company's OSV and pipework in the footpath are fitted at a greater depth than the pipework at the boundary of the customer's property. I therefore accept the company's submissions on a balance of probability.
9. The supply pipe at the customer's boundary is the customer's responsibility.
10. Further, there is no evidence to show that the company laid the new supply pipe. The evidence submitted to this adjudication supports the company's submissions that the new supply pipe had already been laid by the customer's contractor when it attended the property on 13 August 2018.
11. For the avoidance of doubt, I note that the supply pipe in the footpath is only 650mm deep. The footpath falls under the company's responsibility. However, I also note the company's submissions that although under the Water Supply (Water Fittings) Regulations 1999 any new pipework, which includes both supply and communication pipework, should be at a depth of 750mm; in some instances, which the company states was the situation in this case, when there is other utility pipework in the ground such as gas, electric it cannot always get its pipework any lower. In the absence of any evidence showing otherwise, I will accept the company's submissions in this regard. No clear reason has been given by the customer as to why the supply pipe at his boundary is at a depth of 300mm, and importantly, that this has been approved by the company's DS department.

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12. I also accept the company's submissions that the customer's own correspondence to CCW dated 11 April 2019 supports the company's submissions that it was initially informed that the existing water supply was being repaired and therefore the new supply pipe would only be temporary. I note that the company connected the new supply pipe as a gesture of goodwill as the property is residential and water was required.
13. It is not in dispute that the customer now intends to use the new supply as his permanent supply.
14. The company has set out the steps that needed to be taken for the application and approval of a new supply from its DS department. There is no evidence to show that the customer followed these. I accept the company's submissions that irrespective of whether the supply pipe had only been laid temporarily and/or in case the customer needed it for the future, it should have been laid to the required depth by his contractor.
15. Having carefully considered the evidence provided, the customer has not shown that it is the company's responsibility to relay the pipework. The supply was laid by the customer. The customer did not take the necessary steps to apply and gain approval for the new supply. The evidence shows that the supply as at the boundary of the customer's property does not comply with regulations. This is the customer's responsibility to resolve. The customer's request that the company relay the pipework is 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 11 September 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.

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- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision.
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**U Obi LLB (Hons) MCI Arb  
Adjudicator**

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