

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1540

Date of Decision: 29 August 2019

#### Complaint

The customer received a high bill after a period of more than a year without being billed, indicating a leak after the meter. The customer disputes liability for this as the pipe serves two domestic properties and Anglian Water carried out a repair to the pipe. The customer contacted the company to address leaks on the supply and the property was fully disconnected in June 2018. The customer seeks a leakage allowance for the full balance, limiting the claim to the maximum available under WATRS of £25,000.00.

#### Defence

The company became the customer's water retailer in April 2017. The customer received high bills dating to 2015. It was established that there was a leak that was the customer's responsibility to find and repair. The customer declined to take responsibility for this based on there being two domestic properties on the supply. The wholesaler repaired one leak as a goodwill gesture due to its location in the verge of the public highway. The customer fixed a leak and found three further leaks, but the meter continued to spin indicating there were further leaks. The customer's supply was disconnected on 21 June 2018, however by this time the outstanding balance had risen to £52,030.63. The customer has not made any payments to the company since the water market opened. The company offered £550.00 in recognition of the time the complaint was ongoing but the customer declined this.

#### Findings

There were leaks to the customer's private supply pipe, after the meter. Responsibility for the supply pipe rests with the customer, and is potentially shared with the domestic properties under a private agreement that is outside the scope of WATRS. The leakage policy does not provide a credit for lost water unless the leak is to the water meter itself; the customer is a water-only customer. The wholesaler advised it would consider a credit if the customer repaired the leaks but this was not done promptly. There were customer service failures by the company, but these were insufficient to find the company part-responsible for the water loss as it had been consistent in correctly advising the customer of their responsibilities. Compensation was warranted for the customer service failures only.

#### Outcome

The company needs to take the following further action:  
Pay the customer the sum of £500.00 in compensation.

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The customer must reply by XXXX to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1540

Date of Decision: 28 August 2019

## Party Details

Customer: [ ]

Customer's Representative: [ ]

Company: [ ].

## Case Outline

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

- The customer received an invoice in November 2016, backdated to 2015. The large amount of the invoice revealed that there was a leak on the supply serving the customer's farm. This had gone unattended due to the failure of the company to issue invoices between July 2015 and November 2016, masking the presence of the leak. Between December 2016 and August 2017, there were numerous visits and contacts made regarding the leak. The customer was given conflicting and confusing information and the company also stated it was looking into the invoice error. The supply also serves two domestic properties; the customer submits that this provides the company with further credibility to challenge the wholesaler to assist with leak repair and provide an allowance. The wholesaler attended and carried out a repair on the pipe but this was not the leak in question. In August 2017, the customer repaired the leak and found and repaired others, but the meter was still spinning. The customer's supply was fully disconnected in June 2018. The company provided a credit note of £667.00 in recognition of the water consumption of the other two properties that the customer had paid for. The company refused to award any leak allowance and confirmed that the wholesaler would not provide this. The customer engaged solicitors but the company refused to change its stance. The customer submits that the company's communication has been poor throughout the complaint, leading to the high bill being produced. The customer contends that it was not responsible for leaks on the supply pipe because other domestic properties were also served by it.

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- The customer requests a full leak allowance, capped at the Water Redress Scheme limit of £25,000.00.

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

- The company states that the customer contacted it in February 2017 as they believed there may be a leak on their property based on the amounts invoiced. The invoices date back to 2015, before the water market was opened. The customer was on a shared supply with two domestic properties and declined to take responsibility for the repair as they did not want to be responsible for water pressure to the domestic properties. The wholesaler, RST Water (RST ), repaired one leak as a goodwill gesture due to its location in the verge of a public highway as the customer would not have the correct permits and authorisations to do so. It was made clear by both RST and the company that any other internal leaks would be the customer's responsibility to repair. The customer later fixed a leak, only to find three further leaks. The premises are used as agricultural land and there is significant internal supply pipework across a wide area within the boundary of the premises. The customer requested to have the supply disconnected and this was disconnected on 21 June 2018. However, due to the duration of the leaks, the outstanding balance had reached £52,030.63. The customer has not made any payments to the company since the water market opened on 1 April 2017. The customer is not eligible for a return-to-sewer allowance as the wholesaler's policy only applies an allowance to the sewerage element of the customer's bill. The customer had a water-only supply. The company will champion the customer where leaks have been repaired in a timely manner, even where this is outside the wholesaler's policy, however in this case the leaks continued for an extended period and the balance owing more than doubled. The wholesaler was not minded to offer a discretionary allowance. The company offered the customer £550.00 in recognition of the time the complaint had been ongoing; the customer declined this offer.

**How is a WATRS decision reached?**

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

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

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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 customer's complaint dates back to a suspension of billing in July 2015. It is therefore first helpful to set out the parties involved and the scope of my jurisdiction under the Water Redress Scheme.
2. The company is a water retailer, billing the customer for the water services provided by the water wholesaler, RST Water. In order to make a decision in this dispute, I must clearly distinguish between actions taken by the wholesaler, and the duty owed by the retailer, the company, to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers and accounts have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, the adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, a party to the case, has responsibility, but not those things for which the wholesaler has responsibility.
3. For the avoidance of doubt, this means that I am only able to review the actions of the company since it became responsible for the customer's account in April 2017. I am not able to find the wholesaler responsible or liable in relation to the customer's dispute, even for periods where the customer had a direct relationship with RST, as RST are not the defendant company in this dispute.
4. The customer did not receive bills between July 2015 and November 2016 as the account was flagged and placed on hold by RST. The account was incorrectly registered as a household account and it took more than a year for RST to correct this and move the customer's account to a non-household one.

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5. The customer received three bills in November 2016, provided within the Consumer Council for Water (CCWater) documents. The first, dated 24 November 2016, is for a total of £11,659.08 and covers the period 24 July 2015 until 25 January 2016. It relies on two actual meter readings. The first reading of 0 is undated; the second reading of 6641 is dated 25 January 2016. I note that this provides an average daily use of 35.90 cubic metres of water.
6. The second bill is dated 29 November 2016 covers the periods 26 January 2016 to 4 February 2016, and 5 February 2016 to 31 March 2016 and totals £17,649.71 (including the balance of the previous invoice). This invoice is based on two estimated meter readings.
7. The third bill is also dated 29 November 2016 and relates to the period 29 April 2016 to 1 August 2016. It totals £23,048.49. The bill also provides a meter reading taken on 1 August 2016 of 12984. I note that this provides an average daily use of 33.36 cubic metres between 25 January 2016 and 1 August 2016.
8. It was clear to the customer, after receiving these bills, that there was a significant leak on the supply, located after the customer's water meter, which had not been identified due to the extended period in which RST did not issue water bills. I note that, within correspondence, RST did recognise this and state that, provided the customer had the leak repaired, it would consider a goodwill gesture in recognition that the leak had not been identified due to the period without bills.
9. Later bills and meter readings show that the customer had the water meter replaced on or around 1 February 2017. The customer has attempted to repair leaks to the line, however the average daily use, shown by the meter readings, had only dropped to 23.89 cubic metres by 15 August 2017. The customer's supply was disconnected on 21 June 2018.
10. In respect of the repair of the customer's supply, the customer has denied responsibility on the basis that the supply is shared with two domestic properties and on the basis that the customer does not want to be held responsible for ensuring minimum water pressure to those properties. RST also completed a repair of one leak to the supply pipe, located in the verge that caused the customer to further dispute responsibility to repair the remainder of the supply pipe.

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11. It is helpful at this point to explain ownership and responsibility for freshwater supply pipes. The company is responsible for its water main and the connections that spur from it, known as communication pipes. Communication pipes will generally be short, with a water meter or property boundary also representing the transition of the pipe into a private supply pipe. A water meter will usually be fitted as close as possible to the point at which responsibility for the pipe changes, unless it is not physically possible to do so. I am therefore satisfied that the water meter can be used, in this case, to determine the point at which the communication pipe becomes a private supply pipe.
12. A private supply pipe is the responsibility of the property owner, of the property the pipe serves, to repair and maintain. Where a supply pipe serves more than one property, responsibility will usually be shared between those properties. However, this is a private arrangement and any question as to whether the cost of repair may be apportioned with the domestic properties falls outside the scope of the Water Redress Scheme under Rule 3.5.
13. I therefore find that, the legal position in respect of responsibility for the pipework after the customer's water meter, is that it is the customer, potentially with the assistance and contribution of other properties on the supply pipe, that is responsible for the repair and maintenance of the pipework, including ensuring that any leaks are repaired promptly.
14. In respect of the repair conducted by RST , the correspondence indicates that the location of this leak was in the verge by the road, [            ]. RST opted to repair this leak, although it was on a private supply pipe, as it was affecting the water pressure to the two domestic properties and was located so close to the road that permits and licences would be required to complete the repair. I am not persuaded that the act of repairing the pipework in this place constitutes RST accepting responsibility for the pipework or the repair of any other leak on the private supply pipe.
15. I am therefore satisfied that, at all times, it was the responsibility of the customer to repair any and all leaks to the supply pipe, located after the water meter.
16. I am mindful that RST and the company supply water to the customer under legislation, as opposed to under a contract. The legislation provides a right to RST (and now the company as retailer) to charge the occupier for water that is recorded as having passed through the water meter. The water meter is taken to be a legal record of water consumption, even if water is lost

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to a leak, unless it can be demonstrated that the meter itself was recording incorrectly. I note that no leak has been found to the water meter itself.

17. The legislation requires each wholesaler to agree a Scheme of Charges with the regulator, Ofwat. Once agreed, this becomes the binding document that sets out the charges, including the policies under which leak allowances will be granted. I have no jurisdiction to alter a Scheme of Charges; I am only able to review whether it has been properly applied in the customer's case, and direct that individual payments are made where there are reasonable grounds to do so.
18. I note that the RST Scheme of Charges does include a leak allowance for non-household customers. Leakage allowances are usually linked to the time it takes a customer to repair a leak as an incentive to stop water loss as soon as possible. I note that the RST leakage allowance provides a refund of the water portion of a customer's bill only where a leak was located at the water meter. In all other circumstances, the leakage allowance covers the sewerage portion of the customer's bill only.
19. I note that the customer is a water-only customer and that they do not have a sewerage connection to RST.
20. I therefore find that the customer does not qualify for a leakage allowance under the RST Scheme of Charges. I note that RST had advised that it would consider making an allowance due to the period in which it did not bill the customer, during which time the customer was unaware of the leak and therefore could not repair it. Such a credit would be made outside of the RST Scheme of Charges and would be made based on the customer's individual circumstances.
21. I am mindful that, whilst the customer was not aware of the leak prior to November 2016, the leak was not promptly repaired once they became aware of it. I am therefore mindful that, whilst the customer's bill totalling £23,048.49 would likely have warranted a substantial reduction to account for RST's part in the customer being unaware of the leak, the remainder of the outstanding balance must be wholly the customer's responsibility. I am further mindful that, whilst the customer was unaware of the leak, the Scheme of Charges does not provide a refund of water charges for leaks to a customer's private supply pipe and that any such credit would be made as a policy decision. It is clear that RST has declined to award any credit and this appears to be linked to the customer not having taken steps to promptly repair the leak.

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22. As above, my jurisdiction is limited to [ ] and the actions taken by it as the customer's water retailer. I am satisfied that the company has contacted RST to consider a credit for the leak, on the basis that the customer was unaware of it due to the period without bills, but that RST has refused this. I find no basis for the company itself to provide a credit in relation to the billing errors as it was not the party billing the customer at this time.
23. I also find no basis for the company to credit the water use recorded on the customer's water meter from November 2017 onwards. As above, the water meter represents the amount of water supplied to a customer and the company is entitled to charge for this, even where it is lost. I find no basis for this recorded water use to be credited.
24. Notwithstanding this, the customer may be entitled to compensation for any failures by the company in how it handled the complaint. For the avoidance of doubt, this is a review of the company's actions only; any poor customer service from RST, before or after April 2017, falls outside the scope of the Water Redress Scheme.
25. In reviewing the correspondence, I am mindful that RST and the company consistently maintained that it was the customer's responsibility to repair the leaks after the meter, on pipework between the customer's water meter and the first domestic property. I find that this advice was correct, albeit that the domestic properties may share responsibility for the repairs under a private agreement. I find no failure of the company to meet the standard expected of a reasonable water retailer in that it consistently advised the customer of this and that it did not request RST to repair any part of the supply pipe.
26. I note that, as a result of the leak, the company did identify that the customer was being charged for the water use of the domestic properties, despite these being served individually by RST water meters. This has since been resolved with the customer being credited with £667.69, however I find that this duplicate billing does constitute a failure of the company to meet the standard expected of a reasonable water retailer.
27. In respect of the leak that RST did repair, I find that the company responded to the customer's queries about this promptly, advising that the repair had been conducted due to low pressure to the domestic properties and was in the public highway. The company confirmed that RST would not look into amending the customer's bill until the leak to the customer's supply pipe had been

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fixed. I find that this represents a high standard of care as the company provided prompt clarification to the customer's questions and expressly confirmed the steps that the customer would need to take in order for the wholesaler to consider any allowance.

28. The company did offer to have the "Leakage, Find & Fix" team visit and quote for the leak repair and the customer requested this quote on 19 April 2017. [ ] advised that it was hopeful that an investigation would find that the leak was located into the road and that RST would opt to repair this, as it had with the leak affecting pressure at the domestic properties. It took until 28 July 2017 for the repair proposal to be sent to the customer. I am mindful that the company did require various information in order to accurately quote for this, however I find that the delay of over three months to be excessive to arrange a quote. I find this to be below the standard expected of a reasonable water retailer.
29. The company advised the customer on 24 July 2017 that the complaint had reached a point of deadlock and that the customer's next step would be to refer the complaint to CCWater. I find this to have been correct based on the responses received from RST .
30. The customer responded by stating that they wanted "clarity as to what works had been undertaken on the same line on 16 March". I find that the company and RST had clarified this promptly in April 2017, confirming that a leak that was located extremely close to the road had been repaired. As a leak remained on the supply pipe, the customer remained under an obligation to repair this, irrespective of whether a separate leak to the same line had been repaired by RST due to it being located under the highway. I am not persuaded that there was any failure by the company to respond to the customer's request for clarity on the work carried out by RST or the reasons for this.
31. I find that the customer first suggested that the supply be disconnected on 21 August 2017. The company responded by advising that any remaining leaks would need to be repaired by the customer. I find that the company did not address the question of disconnecting the customer; this falls below the standard expected of a reasonable water retailer.
32. The customer wrote to the CEO of RST on 6 September 2017 and a full response was sent to the customer on 10 November 2017. This response advised that RST had a responsibility to repair pipework under the highway due to the permissions required, but that it was not responsible for the water loss or the pipe itself as this was a private supply pipe. RST offered

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one further leak repair to the customer and advised that it would not move the meter. The duplicate billing of the domestic properties was identified at this time and provided with a separate case reference number.

33. The customer contacted the company next on 6 February 2018, stating that the issue of the bill and the leak had not yet been resolved. I find that the 10 November 2017 response had not included any follow-up unless the customer had any questions; I therefore find no failure on the part of the company in that there was no correspondence or action taken between these dates. The customer also confirmed that the separate case regarding duplicate billing had been processed, resulting in two credit notes.
34. I note that it took until 21 February 2018 for the company to acknowledge the customer's 6 February 2018 email, and that the customer chased a reply on 5 March 2018. I find that the company was slow to respond fully to the customer's complaint. Whilst this was due to difficulties confirming with RST that the domestic cottages were paying RST directly for water consumption, I find that the company was poor in keeping the customer informed that it was waiting a further response from RST. It also took until 6 June 2018 for the company to confirm that RST was happy to refund the dual consumption. I find that this delay indicates that the company was not properly chasing RST for a full response to its queries. The credit amount for duplicate billing was finalised on 25 June 2018.
35. RST conducted a survey on 21 June 2018 to confirm that the water meter could be removed. I am mindful that the application was made "over two months ago", indicating the application was submitted in late March or early April 2018. I find this to be poor in light of the customer having first queried disconnecting the supply in August 2017. I find that the company did not properly pursue this query, causing delays in RST booking in the disconnection survey.
36. I note that the customer instructed solicitors on or around 5 July 2018. Whilst the company had correctly advised the customer that they were responsible for the private supply pipe, I find that a full explanation of pipe ownership was not provided until the company responded to the customer's solicitor. In view of the nature of the customer's complaint, I find that it would have been helpful for an explanation of this level of detail to have been provided earlier. I find that this oversight constitutes a failure of the company to meet the standard of a reasonable water supplier.

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37. I am not persuaded that these failures are sufficient to cause the company to be responsible for the water charges that accrued prior to the supply being disconnected. This is due to the customer consistently advising that the customer was responsible for both the pipe and the water lost. It was therefore known to the customer that they should repair the leaks in order to mitigate the water loss and the cost of this. I find that, whilst the level of detail in the explanations was insufficient, the advice provided was correct and that the customer was fully aware that they were responsible for repair of the pipework. This includes that the company clarified the reason RST had repaired one leak and that this was strictly due to its location in the verge of the public road.

38. Whilst the decision has found that the company is not obliged to provide any leakage allowance, I find that a credit is warranted for the failures, identified above, to meet the standard expected of a reasonable water supplier. These largely consist of delays that, whilst they appear to have been caused by RST, do not appear to have been actively followed up by the company. I consider that the number of failures, albeit over the extended period of the complaint, warrant compensation in the sum of £500.00 for the stress caused to the customer. I am not persuaded that any greater sum of compensation is warranted as the company did provide accurate advice throughout in respect of the main dispute, and the award is for customer service failings only.

#### **Outcome**

The company needs to take the following further action(s):

Pay the customer the sum of £500.00 in compensation.

#### **What happens next?**

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

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- 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.
- 

A handwritten signature in black ink, appearing to be 'Alison Dablin', with a long horizontal stroke extending to the right.

**Alison Dablin**, LLM, MSc, MCI Arb

**Adjudicator**

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