

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1717

Date of Decision: 8 January 2020

#### Complaint

As part of various renovation works to the customer's property, the customer sought approval for connection of the property to the company's sewer network. Approval was granted by the company.

The customer proceeded with the sewer connection based on the location information provided by the company. The information was later found to be inaccurate. The customer's complaint is that, as a result of the information provided by the company being inaccurate, he has been forced to incur additional costs and delays.

The customer seeks compensation from the company in the amount of £8,050.00 plus the cost of the second connection attempt estimated at £2,500.00. The customer seeks a written apology for the stress caused and for his treatment by the company in the matter.

#### Defence

The company provided information concerning the location of the sewer but states that its maps only serve as a guide to the location of sewers and that it is the customer's responsibility to locate the services. The company denies liability for losses incurred by the customer.

The company has confirmed it will be laying approximately 35 metres of new sewer that the customer will be able to connect to.

The company has offered goodwill payments to the customer of £280.00 in respect of time taken to offer a visit which took from 8 August 2019 to 5 September 2019 and £150.00 in acknowledgement that it took longer than hoped to provide meaningful updates to the customer.

The company agrees it is appropriate to refund the customer the initial connection fee of £150.97.

#### Findings

The information provided by the company included a map showing a combined sewer in the highway passing the customer's property. From this it was reasonable for the customer to conclude that the sewer existed in the highway close to his property, although its precise location was not defined.

Excavation revealed that there was no combined sewer in the highway adjacent to the customer's property and the information provided by the company was

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inaccurate. The customer has suffered loss as a result of the information provided by the company being incorrect.

The company failed to meet the expected standards in relation to timescales required to respond to complaints.

#### Outcome

The company shall pay the customer a total of £3,064.17 in respect of abortive costs by the customer's contractor, inconvenience and distress caused, refund of initial connection fee and failure to meet expected standards. In the event that the company has already made payments to the customer in respect of these awards, the total amount to be paid shall be reduced by the amount already paid.

The customer must reply by 5 February 2020 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1717

Date of Decision: 8 January 2020

## Party Details

Customer: [ ]

Company: [ ].

## Case Outline

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

- The customer had applied for and received approval to connect his house to the company's sewer network. When the customer's contractor attempted to locate the sewer in the vicinity indicated by the company, they were unable to locate a sewer suitable for connection.
- The company took from 22 July 2019 to 11 September 2019 to visit the site. From the company's inspection it was established that the nearest suitable sewer was approximately 35 metres from the customer's property. It was also established that the sewer was in a poor state of repair.
- The customer submits that the information provided by the company in relation to the location of the sewer was incorrect and caused delays and additional work in order to complete the sewer connection.
- The customer has incurred further costs as a result of delays caused and for additional work his contractor had to undertake to make the connection to a suitable sewer. The customer seeks reimbursement of the cost of the original connection together with his living costs resulting from the delay.
- The customer claims the sum of £8,050.00 in respect of his contractor's initial attempt to make the connection to the sewer, fuel costs between his property and rented accommodation, rent for accommodation and storage of personal possessions. The customer also claims the further sum of approximately £2,500.00 for his contractor's second attempt to connect to the sewer.
- The customer seeks a written apology from the company.

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

- The company has explained that its maps only serve as a guide to the location of its sewers. The company states that the customer is responsible for determining the precise location of the company's sewer in order to make a connection.
- The company denies liability for out of pocket expenses claimed by the customer.
- The company has agreed to lay 35 metres of new sewer that the customer will be able to connect to. This will be carried out at no cost to the customer.
- The company considers it appropriate to refund the customer's original connection fee of £150.97. The company has offered to make a payment of £280.00 as a gesture of goodwill to the customer for the time taken to visit the site. The company also acknowledges that at times it took longer than expected to give the customer a meaningful update and offers a further payment of £150.00 as a gesture of goodwill.

### **How is a WATRS decision reached?**

In arriving at my decision, I have considered the following key issues:

- a. Whether the company failed to provide services to the customer according to legislation and to standards reasonably expected by an average person.
- b. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing of the company.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show on the balance of probabilities that the company has failed to provide its services to the standard which would be reasonably expected and 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 I have not considered it in reaching my decision.

### **How was this decision reached?**

1. On or around 9 August 2018, the company was contacted by the customer requesting the connection of his property to the public sewer. The property at that time was served by a septic

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tank. The request for a connection to the public sewer was part of various refurbishment works the customer was undertaking to the property.

2. The company notes that the application for connection to the sewer was initially rejected due to lack of information. However, following receipt of further information from the customer, the company approved the connection to the sewer on 14 September 2018.
3. The company states that the next contact in relation to the matter was on 22 July 2019 when the customer's contractor contacted the company to check if he was connecting to the correct pipe. Various communications between the customer's contractor and the company followed and it was established that there was no sewer in the vicinity of the contractors excavations suitable for the connection. It was also established that the nearest sewer suitable for connection was approximately 35 metres away from the customer's property.
4. The customer submitted a complaint to the company by email that the company states it received on 8 August 2019. In the email, the customer states that following approval to connect to the sewer network, renovation works were carried out to the property. As part of the renovation, a drainage system was designed and installed to connect to the sewer. This included removal of the existing septic tank. The customer notes that his intention had been to move into the property on 1 August 2019. The customer's email summarised the issues in locating the sewer pipe and included a timeline of events relating to those issues.
5. The timeline of events included in the customer's email received 8 August 2019 indicates that approval to connect to the sewer was received by the customer on 14 September 2018. It is noted that a map was provided by the company that showed the route of a public sewer. I have noted that the map showed a combined sewer running in the highway passing the customer's property. I also note that the timeline indicates that the sewer connection had originally been planned to start on or around 25 March 2019 but was postponed due to a delay removing construction scaffolding. The sewer connection work is reported as actually starting on 22 July 2019.
6. The key element in this dispute relates to the information provided to the customer by the company concerning the location of a sewer for the customer to make his connection. The customer's position is that he used the information provided to prepare the drainage system layout at the property and for his contractor to undertake the work. However, the information was

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subsequently found to be inaccurate resulting in delays and additional work. The company's position is that the information provided was given as a guide only and it was for the customer to verify the location of the sewer prior to making the connection.

7. In the company's letter to the customer dated 27 September 2019, the company refers to notes within the approval document. A copy of the approval document has not been provided. The company refers to those notes and states that sewer records should be used as a guide only and that no warranty is given about correctness no matter what the difference is between assumed details and actual details. The company refers to point 2.5 of its terms and conditions and notes that those terms state, "The report provides information as to the location and connection of existing services and other information in relation to drainage and water enquiries and should not be relied on for any other purpose". The company also states that it is the customer's responsibility to establish the location and method of connection.
8. It is acknowledged that the route of the existing sewer as shown on the map provided shows no dimensions. A precise location cannot therefore be determined from the map. However, the map shows a combined sewer in the highway adjacent to the customer's property. There is no indication that this sewer is unsuitable for a foul connection from the customer's property. The company has referred to its own terms in which it states that the report provides information as to the location of services. From the information provided to the customer, it was reasonable for the customer to conclude that a suitable sewer could be found in the highway adjacent to his property. Whilst I note the company's comments in relation to it being the customer's responsibility to establish the location of the connection, the map clearly showed the sewer passing the customer's property. It was therefore reasonable for the customer to assume that the sewer was in the highway in the vicinity of his property and that investigations to confirm the location of the sewer would be limited to an area adjacent to the property. It would not be reasonable for the customer to assume he would need to investigate extensive areas of the highway to find the sewer.
9. I find it was reasonable for the customer to conclude that a sewer connection could be made in the highway adjacent to his property and for the customer to arrange for that connection to be made. I also find it was reasonable for the customer's contractor to excavate in the area adjacent to the customer's property to find the precise location of the sewer.

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10. The sewer shown on the company's drawings as being a combined sewer was found, on investigation, not to be a combined sewer and not to be suitable for a foul water connection. The company's map was therefore incorrect. This resulted in abortive work by the customer's contractor which was charged to the customer. I find that the customer has suffered loss as a result of inaccurate information provided by the company.
11. The customer has claimed losses under a number of headings. I will now examine each of the losses claimed.
12. The customer claims the sum of £2,743.20 in respect of the initial attempt by the customer's contractor to make the connection to the sewer. The customer's contractor undertook an excavation in the highway adjacent to the customer's property in the vicinity where the company had indicated the sewer was located. The customer states his contractor excavated within the licenced radius up to a reasonable distance from where the sewer was expected to be located. The customer has also stated that, having found no suitable sewer in the excavated area, the contractor had to reinstate the excavation due to the license expiring.
13. I find that the initial excavation work carried out by the customer's contractor was abortive due to the information provided by the company being inaccurate. On balance, I find the customer's claim for recovery of costs associated with this work to be justifiable and his claim in this respect succeeds. The customer has provided a copy of the invoice from the contractor and payment confirmation as evidence in support of the amount claimed. I direct the company to pay the customer the sum of £2,743.20 in relation to the initial connection attempt by the customer's contractor.
14. The customer claims the estimated sum of £2,500.00, to be confirmed, in respect of a second attempt to make the connection to the sewer. It is noted that the customer has supplied a copy of an estimate from his contractor dated 25 November 2019 in the amount of £5,930.00 for connection to the sewer.
15. The customer has engaged a contractor to carry out the connection from his property to the sewer. Costs for this connection are a matter for the customer. Whilst it is noted that the connection could not be made as originally planned, the connection is still required and the costs for that connection remain a matter for the customer. I find the customer's claim for costs

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associated with his contractor's second connection attempt to the sewer fails and I make no direction in relation to those costs.

16. The customer claims the costs of short-term rental of property during August, September, October and November 2019 in the amount of £4,400.00. The customer claims this on the basis that he had intended to move into his property on 1 August 2019 and had to seek alternative accommodation as a result of delays in connecting his property to the sewer. The company argues that it was the customer's decision to remove the existing septic tank prior to establishing that a sewer connection was possible and that the septic tank could have remained until the connection point had been confirmed. The customer states that no works relating to the removal of the septic tank were carried out until the application for the sewer connection had been approved. It is noted that the company had approved the connection and I have already found that it was reasonable for the customer to conclude that a connection could be made adjacent to his property. I find it reasonable for the customer to plan the removal of the existing septic tank once approval to connect to the sewer had been given by the company.
17. I have also noted previously from the timeline of events provided by the customer that it had originally been planned to start the sewer connection on 25 March 2019. However, this was postponed due to a delay in removing scaffolding from the property. It is also noted that the timeline shows a new license start date was set as 27 May 2019. On 24 May 2019 the customer's contractor asked for this to be put on hold. No reason has been given for this second postponement. The actual start date for the work was 22 July 2019, approximately four months later than originally planned. Had the work started as originally planned, or at the time of the later date for the license, the connection problem would have been identified earlier. It may therefore have been possible to take action to resolve the matter sooner.
18. The customer also refers in his email dated 22 October 2019 to working on the property six days a week whilst in the UK and travelling from his rented property to do this. This suggests that it was not only the sewer connection that was outstanding after 1 August 2019 and that other work may have been carried out during that time.
19. I find the customer has not demonstrated that the costs incurred in relation to temporary accommodation were directly or solely as a result of inaccurate information supplied by the company. I find the customer's claim in respect of costs for temporary accommodation from August 2019 to November 2019 fails and I make no direction in relation to those costs.

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20. The customer claims the sum of £500.00 in relation to fuel costs for travel from his rented accommodation to his property between 5 November 2019 and 18 November 2019. I refer to my earlier findings and find the customer has not demonstrated that the costs incurred in relation to travelling from temporary accommodation to his property were directly or solely as a result of inaccurate information supplied by the company. I find the customer's claim for fuel costs fails and I make no direction in relation to those costs.
21. The customer claims the sum of £400.00 for container storage for personal items from August 2019 to November 2019. I refer to my earlier findings and find the customer has not demonstrated that the costs incurred in relation to storage of personal items during that period were directly or solely as a result of inaccurate information supplied by the company. I find the customer's claim for storage costs fails and I make no direction in relation to those costs.
22. The customer claims loss of earnings in the sum of £600.00 for his partner to meet contractors on site to find a solution while the customer was working abroad. Whilst I acknowledge that the customer has had to spend additional time in resolving this matter, he has not demonstrated his partner's loss of earnings or that any loss of earnings was directly or solely a result of inaccurate information supplied by the company. I find the customer's claim for loss of earnings for his partner fails and I make no direction in relation to those costs.
23. The customer claims loss of earnings as a result of having to turn down offshore work at a rate of £4,825.00 per week. The company has submitted that it was not necessary for the customer to be present for the sewer to be installed or to make the new connection. The customer considers that had he not been available to follow up with the company, the work may have been delayed further. Whilst I acknowledge that the customer has had to spend additional time in resolving this matter, he has not demonstrated his own loss of earnings or that such loss was directly or solely a result of inaccurate information supplied by the company. I find the customer's claim for loss of earnings fails and I make no direction in relation to those costs.
24. Whilst I make no award in relation to loss of earnings, I conclude that the customer has suffered inconvenience and distress as a result of the inaccurate information provided by the company. The customer has had to spend time in reaching a resolution to the matter. I note that the company has acknowledged that there had been occasions where it had taken longer than hoped

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to provide the customer with a meaningful update and has offered to make a payment of 150.00 as a gesture of goodwill.

25. Under the WATRS Scheme Rules (2019 Edition), Rule 4.3.3. notes that, subject to the overall financial limits under the scheme, an adjudicator is not bound to simply award only the remedies claimed by the customer.
26. I find that the customer has been adversely affected following inaccurate information provided by the company and I award the customer the sum of £150.00 in respect of inconvenience and distress. I therefore direct the company to pay the customer the sum of £150.00 in respect of inconvenience and distress.
27. I note that the company has acknowledged that it is appropriate to refund the initial connection fee of £150.97 as the customer was not able to make the connection to the sewer as intended. This was a result of inaccurate information by the company and I direct that the company shall ensure this connection fee of £150.97 is refunded.
28. I have also considered the company's performance in relation to the Guaranteed Standards Scheme (GSS). The GSS sets out the minimum standards of service customers are entitled to expect from water or sewerage undertakers. Under the GSS, a company is required to respond to written complaints from customers within ten working days. Where a company fails to provide a substantive reply to a customer's written complaint within the required period, the company must make an automatic payment to the customer.
29. The customer submitted a written complaint that the company states it received on 8 August 2019. Under the GSS, the customer should have received a substantive reply by 22 August 2019. I can see from the customer's email sent 14 August 2019 that after a number of follow up telephone calls from the customer, the company called the customer on 13 August 2019 with a response to the complaint.
30. A further complaint was sent to the company on 21 August 2019. The company replied on 2 September 2019 advising a full response would be issued no later than 10 September 2019. Although I can see various telephone calls were made by the company to the customer, the full response was not sent until 27 September 2019. This is 27 working days after the complaint was received and therefore outside the time allowed by the company to respond. Under the GSS, the

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company should have made an automatic payment to the customer of 20.00. I see no evidence that the company has made this payment. I direct the company to pay the customer the sum of £20.00 for failing to meet the required standards.

31. The customer has also requested a written apology from the company for the difficulties and stress caused. The company has acknowledged that the circumstances of this case were unique and that its processes had to be adapted to deal with them. The company also acknowledges that it did not provide updates as quickly as it would have liked and has offered its apologies to the customer. I make no further direction on this matter.

32. I summarise the total payments to be made by the company to the customer as follows:

- a. £2,743.20 in respect of the customer's contractor's charges for the initial abortive connection attempt.
- b. £150.00 in respect of inconvenience and distress caused to the customer.
- c. £150.97 in respect of the initial connection fee (as previously offered).
- d. £20.00 in respect of GSS failures.

The total amount to be paid by the company to the customer is therefore £3,064.17. In the event that the company has already made payments to the customer in respect of any of the above awards, the total amount to be paid by the company shall be reduced by the amount already paid.

#### **Outcome**

The company shall pay the customer a total of £3,064.17 in respect of abortive costs by the customer's contractor, inconvenience and distress caused, refund of initial connection fee and failure to meet expected standards. In the event that the company has already made payments to the customer in respect of these awards, the total amount to be paid shall be reduced by the amount already paid.

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

- This adjudication is final and cannot be appealed or amended.
- The Customer must reply by 5 February 2020 to accept or reject this decision.

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- When the Customer notifies WATRS of acceptance or rejection of the decision, the Company will be notified of this. The case will then be closed.
  - If the Customer does not inform WATRS of his acceptance or rejection of the decision by the date required, this will be taken as a rejection of the decision.
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**Signed**

A handwritten signature in black ink, appearing to read 'Ian Raine', with a long horizontal flourish extending to the right.

**Name**

Ian Raine (BSc CEng MIMechE FCI Arb MCIBSE)

**Adjudicator**

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