

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1768

Date of Decision: 20 January 2020

#### Complaint

The customer submits the company's sewers have repeatedly flooded his garden. He claims for company to provide an efficient sewer system that can cope with heavy rain; provide GSS payments automatically and; pay an unspecified sum of compensation for the costs incurred and time he has spent in restoring his lawn.

#### Defence

The company submits the flooding is due to a hydraulic overload, not negligence. Therefore it is not liable to pay damages. It already makes GSS payments automatically. It has no plans to carry out improvement works.

#### Findings

The customer has not proven any failing by the company.

#### Outcome

The company does not need to take any further action.

The customer must reply by 17 February 2020 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.*

## ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1768

Date of Decision: 20 January 2020

### Party Details

Customer: [ ]

Company: [ ].

### Case Outline

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

- After heavy rain the sewers back up and flood his and neighbouring gardens.
- He claims for company to provide an efficient sewer system that can cope with such weather events; provide GSS payments automatically, without his having to request such and; pay an unspecified sum of compensation for the costs incurred and time spent in restoring his lawn.
- He has no comments on the company's defence.

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

- It accepts the customer has experienced sewer flooding which has affected his garden.
- In 2014 it installed a non-return valve ("NRV") to protect the customer's property against flooding. In July 2019 the customer's garden was flooded for the first time since the NRV was installed. This was due to a fault with the valve which has since been repaired.
- Currently, there are no plans to carry out improvements to the sewer network in the customer's area, as there are other areas which are at greater risk and therefore are higher priority. It notes the costs of improvement works would exceed the WATRS limit of £10,000.00.
- It usually makes a GSS payment automatically. However, if flooding is the result of extreme rainfall there may be a delay while it analyses rainfall data.

*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.*

- It is not responsible for any damage caused by flooding from the public sewerage system unless it has been negligent. The flooding affecting the customer's property has been due to hydraulic overload, not negligence.

### 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. It is not in dispute that the company's sewer system has flooded the customer's garden following heavy rain. However, there is no evidence that the flooding has occurred due to a failure by the company.
2. Rather, the company's records support its submission that the flooding has occurred due to too much rainwater entering its system and causing a hydraulic overload.
3. I acknowledge the customer has also been impacted by flooding due to a damaged NRV. However, there is nothing to suggest the customer reported this damage or, that the company should have known that it was damaged and carried out repairs earlier.
4. The company's records show it repaired the NRV once it identified it was damaged.

*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.*

5. The company has evidenced it provided the customer with GSS payments following flooding events. Where there was a delay in payment, it provided a further GSS payment in recognition of the delay. I consider the company acted reasonably in his regard.
6. I recognise the customer would like the company to improve its sewer system, but it is under no obligation to do so. The company has taken action to protect the customer's property by installing an NRV. I consider it has acted reasonably in doing so.
7. Having considered the submissions and evidence of both parties, I find the customer has not proven the company has failed to provide its services to the standard to be reasonably expected. As no failing has been proven, the customer's claim 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 17 February 2020 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.



Justine Mensa-Bonsu (LLB (Hons), PGDL (BVC))

#### **Adjudicator**

*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.*