

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1903 - Sewerage - Flooding

Date of Decision: 7 May 2020

#### Complaint

The customer states that he has been experiencing flooding at his residence and that this is caused by the failure of the company to address the issues arising around excess water in the system during heavy rainfall. He states that this has caused him and his wife distress and that it has meant the loss of basic facilities such as the toilet during flooding.

The customer seeks a direction that the company should clear all the drains in the area, install a Non Return Valve ("NRV") and have a site meeting with all parties involved. Also, he further requests that the company make an apology, check the metering to make sure it was correct on the days when there was flooding and pay £500 in compensation.

#### Response

The company states that it has abided by its duties as a water provider and investigated the complaint appropriately. It states that it has discovered the cause of the flooding and that the responsibility lies with other third parties and not with itself. It states that it has assisted the customer and has passed on all details of its investigations.

It states that it has made a goodwill gesture of £100 and written a letter of apology but that it denies liability and disputes the claim.

#### Findings

I do not find that the company is at fault in the manner in which it has acted regarding this complaint. I find that it has carried out adequate investigation and located the cause of the problem. It has assisted the customer and passed on relevant information including the details of its findings. It has complied with its legislative duties.

#### Outcome

The company does not need to take any further action.

The customer must reply by xx June 2020 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1903

Date of Decision: 7 May 2020

## Party Details

**Customer:** The Customer

**Company:** XWater

## Case Outline

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

- He has suffered from external flooding at his home , “the Property”.
- He states that this has been ongoing for a year and that whenever it rains the drains flood and overflow into his garden.
- When this happens the customer states that he is unable to discharge wastewater from his property as it overflows.
- He states that this has caused him and his disabled wife much stress and inconvenience.
- He claims that during the flooding he cannot use the toilet facilities in the Property.
- He states that he has had to take his wife to his daughter's house during the flooding events.
- He claims that the company is not taking responsibility for the issue.
- He states that he is paying for wastewater services that he cannot use.
- He claims that his is the only Property affected by the problem,
- He believes that the drains cannot cope with the amount of water entering the system.
- He states that the pumping station at [personal information removed] works well ordinarily but needs to be improved to cope with flooding.
- As a remedy the customer seeks a direction that the company should clear all the drains in the area, install a Non Return Valve (“NRV”) and have a site meeting with all parties involved. Make an apology, check the metering to make sure it was correct on the days when there was flooding and pay £500 in compensation.

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

- It has carried out checks on the drains and all its assets.
- The issue arises from Highway Drainage which is the responsibility of [personal information removed].
- Landowners have failed to maintain ditches which has also added to the problem.
- The issue arises during very heavy rainfall and the water comes from the fields and overwhelms the pumping station.
- Issues of highway drainage cannot be resolved by the company.
- It has made a goodwill payment of £100 but does not accept liability.
- The complaint arose in October 2019 and the company's representatives attended.
- No blockages were found and the issues were due to excess water in the assets.
- It has tried to contact responsible third parties to ask for assistance for the customer.
- It has attended promptly to the complaints of the customer and carried out extensive checks.
- It has reported issues to the relevant third parties and has provided the customer with the contact details of those parties.
- It states that it has fulfilled all its obligations.
- It disputes the claim.

### **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.

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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. This direction is based solely on the evidence before me presented by the parties and the actions of the company in respect of its legal obligations.
2. The customer states that since moving into the Property in 2019 he has experienced flooding in the vicinity of the property that has caused problems with his toilet facility.
3. The company accepts that the customer has experienced flooding and the connected issues with his toilet facility but it states that the cause is not its responsibility, rather it is the fault of third parties.
4. For clarity, I cannot make any findings in relation to third parties as they are not named in this action. Although the applicant and the company have referred to some of the other third parties by name, I shall refer to them generally as third parties ("TP").
5. The customer states that the company has not carried out a proper investigation as to the cause of his flooding and that it is blaming TP as a way of passing responsibility.
6. The company denies this and states that it has carried out CCTV investigations and replaced manhole covers in an attempt to assist the customer. I refer to the evidence of the letter send by the company in response to the query from CCW (Consumer Council for Water) dated 23<sup>rd</sup> March 2020.
7. The company has also reiterated its action in its defence to this application. As this information has not been challenged by the customer in reply I shall accept that these actions were undertaken by the company and that it is a matter for me to decide whether or not this was sufficient.

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8. I note that the company did investigate the pipework and connections at the customer's Property. I further note that it did undertake some maintenance work. Given that the company has made an explanation of the source of the excess water and the evidence does not show that this explanation is wrong or made without due deliberation, I do accept that the excess water arises from highway drainage and ditch issues. In this regard, I find that the company has acted appropriately and has attempted to assist the customer in a reasonable manner since the complaint was raised. It has identified the cause of the flooding to the customer and has facilitated him with that information and the contact details of the TP.
9. The customer has requested that a Non-Return Valve ("NRV") be fitted at his Property to resolve the waste issues during flooding.
10. The company has stated that this is not an option it can pursue in this case. It explains in its answer to the CCW that as the problem does not lie with its assets it would not be the correct solution to install an NRV as this could, potentially, make the problem worse.
11. Based on the evidence I have around the installation of an NRV and considering that I have accepted that the problem for the flooding is not caused by any asset belonging to the company, I do not find that it is unreasonable of the company to reject this option as a solution to the complaint.
12. The customer is aggrieved that he did not receive a written reply from the company. I understand that this may have been seen as a discourtesy by the customer. However, I note that the company did reply to the complaint by telephone and by sending representatives to the Property. It has also carried out investigations, provided information and carried out some maintenance. I do not consider that in the circumstances the case to suggest that the company has failed in its provision customer service is made out in this application.
13. The customer has submitted with his evidence a letter 28<sup>th</sup> October 2020, I accept from the content of this letter and other communications from the customer that he and his wife have suffered distress and inconvenience due to this ongoing problem of flooding. I appreciate that it is understandable that he wishes to find a remedy without delay and resolve a very upsetting problem. Nonetheless, I must assess the matter before me based on the legal responsibilities of the company named in the action. If the company has fulfilled its duties and provided a

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reasonable service I cannot make a finding against it and, following from this, no remedy can be achieved against the company in such circumstances.

14. The company has stated that it has made a goodwill gesture of £100 to the customer during the process of the complaint. I note here that this alone does not imply any fault on the part of the company.
15. The customer feels that he has been paying for a service that he has not received in terms of the waste disposal when there is flooding. This would only be recoverable if I had found fault on the part of the company in its actions. I have not and I do not make any finding of fault in relation to the charges made at the Property.
16. On balance and based on the available evidence, I do not find that the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person,
17. It follows that this application fails.

#### **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 xx June 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.

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A handwritten signature in cursive script, reading "J J Higgins", is displayed on a light green rectangular background.

J J Higgins Barrister, ACI Arb.

**Adjudicator**

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