

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1371

Date of Decision: 8 August 2019

Complaint

The customer has suffered frequent sewer blockages at the external sewer manhole outside his property. The company attended a number of times last year but the problem persisted. The company was finally able to provide a solution to the problem but it took them a decade to address the issue. The customer remains unhappy with the service that he received from the company's staff on the telephone: (1) they did not listen to what he was telling them; (2) they did not correctly record what he told them was the cause of the issue; and (3) they tried to deflect their own shortcomings. The customer seeks financial compensation of £5,000.00 in respect of these matters.

Defence

The customer's complaints were dealt with in accordance with the company's complaints procedure and Code of Practice. The customer has not provided any evidence suggesting that the company has failed to provide its services to a reasonable standard. The company fully investigated the customer's complaints and took ^[1]_[SEP]reasonable steps to resolve the issues with the sewer within a ^[1]_[SEP]reasonable amount of time. The company denies having taken decades to deal with the ^[1]_[SEP]customer's complaint since his first complaint was made on 29 September 2018. It is denied that the customer has suffered loss or other disadvantage as a result of the company's alleged failing.

No offer of settlement has been made.

Findings

There is no basis for finding any technical or diagnostic failure by the company (i.e. in how it tackled the cause of the blockages to the sewer). However, the relevant standard of service ("the Standard") required that the company be receptive and engaging about information and input that the customer was giving it - even if that input was coming from an 'inexpert' standpoint. In its interactions with the customer, the company fell below the Standard.

Outcome

The company needs to take the following further action:

I direct the company to pay the customer £150.00 in compensation.

The customer must reply by 5 September 2019 to accept or reject this decision.

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address the issue. The customer has nothing but praise for the front-line staff who attended. However, he remains deeply unhappy with the customer service that he received from the company's staff on the telephone.

- The customer seeks financial compensation of £5,000.00 in respect of these matters.

The company's response is that:

- As a result of a private transfer, the company assumed responsibility for the shared sewer outside of the boundary of the customer's property ("the Property") from 1 October 2011. Prior to 1 October 2011, the sewer was the responsibility of [] Borough Council.
- On 29 September 2018, the customer wrote to the company to report a blockage and accumulation of sewage within the inspection chamber serving the Property. No issues with flooding outside of the inspection chamber or into the Property were reported by the customer.
- On 8 October 2018, a Network Technician attended the Property and found the sewer to be blocked. The blockage was cleared and CCTV footage showed that the sewer was fit for purpose and no defects were identified.
- On 10 October 2018, a formal response to the customer's complaint was sent explaining that the blockage had been removed and that no defects had been found with the sewer and the manhole cover was going to be replaced to prevent any further odours.
- The manhole cover was replaced on or around 15 October 2018.
- The customer states that he wrote to the company on 16 October 2018 however, the company has no record of having received this letter.
- On 3 January 2019, the customer called the company to inform it that the sewer was blocked again but the manhole was not overflowing. Again, no reports of flooding were made by the customer.
- On the same day, the company cleared the blockage using rods and a further job was raised for the sewer to be jetted.
- On 5 January 2019, the company attended and found that, on this occasion, it was the interceptor that was blocked. The sewer was jetted to remove any debris and CCTV footage found the sewer to be fit for purpose. It was noted that, if the interceptor was to become blocked again, the company would consider removing this.
- On 11 January 2019, the customer reported loss of toilet facilities.
- On 12 January 2019, the company cleared the blockage, which had occurred as a result of a blockage in the main sewer, and it was noted that the manhole cover was jammed in and broken. A job was raised for the sewer to be jetted, the manhole cover to be replaced and the

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interceptor to be removed.

- The company was notified on 16 January 2019 that the manhole cover had been replaced.
- On 24 February 2019, the customer submitted a stage 2 complaint to the Consumer Council for Water (CCW). The company received the complaint on 1 March 2019.
- On 15 March 2019, the company responded to the complaint to outline the efforts that had been undertaken to resolve the customer's issue and that the interceptor was being removed on 18 March 2019
- On 18 March 2019, the interceptor was removed and the sewer was reported to be functioning correctly. No further reports of blockages have been received from the customer since.
- The company states that:
 - it has dealt with the customer's complaints regarding the sewer (of which there were three) in accordance with its policies and statutory duties;
 - there is no evidence to confirm that the company has not provided its services to a reasonable standard.
- The customer accepts that the company has resolved the issue with the sewer, which was reported to the company on 29 September 2018.
- The company asserts that there is no evidence that the customer has suffered flooding as a result of the blockages (and these allegations are therefore denied).
- The company received a first complaint from the customer regarding sewer blockages on 3 October 2018 (dated 29 September 2018). No complaints were received from the customer between 1 October 2011 (when the company assumed responsibility for the sewer) and 3 October 2018. The company therefore denies having taken a decade to resolve the issue as alleged.
- Any complaints that may have been made prior to 1 October 2011 would have been referred to [] Borough Council. Accordingly, the company would not have been under a duty to investigate and resolve any such complaints.
- The company dealt with the customer's complaints in accordance with its complaints procedure. The company responded to the customer's complaints in a timely manner and in any event within the 10 working day time frame as provided for within the company's complaints procedure and the guaranteed standards of service contained within the Code of Practice.
- The company investigated the customer's complaints fully and took all necessary and reasonable steps to resolve the issues with the sewer. It was only on 11 January 2019 that the sewer became blocked due to the interceptor which was subsequently removed on 18 March 2019. The company therefore avers that it identified an issue and resolved the same within a

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reasonable time scale.

- As to the customer's allegation that the company failed to correctly record what the customer told them about the cause of the blockages, the company avers that the customer is not suitably qualified to determine the cause of blockages in the sewer and the company accurately recorded the causes of each blockage based upon the information available at the time, such as CCTV and technical expertise.
- The company refers to the WATRS rules, in particular Rule 6.4, which sets out the maximum limits for awards. The maximum award for a household customer is £10,000.00, which includes any amounts awarded for non-financial loss which is limited to £2,500.00 per award. The company therefore avers that the customer's claim for compensation amounting to £5,000.00 is in excess of the maximum award.
- To summarise, the company maintains that the customer is not entitled to compensation in this case because:
 - the customer's complaints were dealt with in accordance with the company's complaints procedure and Code of Practice;
 - the customer has not provided any evidence to confirm that the company has failed to provide its services to a reasonable standard;
 - the company fully investigated the customer's complaints and took ^[L]_[SEP]reasonable steps to resolve the issues with the sewer within a reasonable about of time;
 - the company denies having taken decades to deal with the customer's complaint since his first complaint was made on 29 September 2018; and
 - the company denies that the customer has suffered loss or other ^[L]_[SEP]disadvantage as a result of the company's alleged failing.

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

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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 documents that I have reviewed include in particular:
 - a. the batch of evidence submitted alongside the customer's WATRS application form; and
 - b. the timeline and all the materials (attachments 4 to 13) appended to the company's defence.
2. I have also had the benefit of reading the customer's comments ("Comments"), which were filed by way of reply to the company's defence.
3. As a preliminary point, I note that - at paragraphs 11, 12 and 13 of its defence - the company argues:
 - a. that section 94 of the Water Industry Act applies to this dispute; and
 - b. that Ofwat is the relevant authority for enforcing section 94; and
 - c. that, therefore, under the Scheme Rules, this is not a dispute on which WATRS can legitimately adjudicate.
4. The company's objection in this respect was rejected by the WATRS In-House Adjudicator Team. My view of the true basis of the customer's claim in this case is the same as that taken by the In-House Adjudicator, namely that:

"... the customer's claim appears to be in respect of the company's conduct in relation to this issue – i.e. he states that a solution has been found but that he is unhappy the matter took as long as it did to reach this point. Accordingly, it appears that his claim is in respect of his personal experience with the company and in relation to the duties it owes him/he alleges it owes him rather than to any required enforcement ..."

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5. Although the customer does mention his dissatisfaction that *“it has taken the company a decade to address the issue”*, the real focus of this dispute seems to me to be on much more recent and specific interactions. I note that the customer refers to his speaking with the company *“a number of times in the last 6 months about this problem”*.
6. The customer makes a point of emphasising that he has *“nothing but praise”* for the job done by the company’s front-line staff. His positive experience in that respect, however, is in sharp contrast (he says) with the customer service that he received from the company’s staff over the telephone. The customer explains that, as far as he was concerned, the company’s staff on the phone:
 - a. *“... didn’t listen to what he was telling them ...”*
 - b. *“... didn’t correctly record what he told them was the cause of the issue ...”*
 - c. *“... [were] trying to deflect their own shortcomings, by blaming him and his neighbours for misuse of the sewer - when this was not the case ...”*
7. I note that the customer gives a fuller explanation about *“the cause of the issue”* in his Comments:

“... I did inform Anglian Water originally that the problem was within the inspection chamber next to the footpath in as much as this was the point at which blockages occurred and then backed up into the pipe leading to this chamber and that soil was unable to pass from this chamber into the main sewer under the road but they persisted in clearing this chamber with rod and jet and stating that everything was fit for purpose. This practice had been carried out over many years by both myself and outside contractors but the problem always quickly reoccurred and I informed them of this fact. I informed the men who attended that when the chamber was full a plug of sewage formed in the pipework serving this chamber which then backed up and this is what caused flooding from what I believe is called the limit tray outside my back door. I installed, at my own expense, an 100mm diameter upstand pipe of approx. 60cm high cemented into the tray so that any heavy rain falling when the sewer was blocked would not cause another overflow like I had experienced on previous occasions ...”

8. For its part, the company’s primary position is that it:

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“... investigated the customer’s complaints fully and took all necessary and reasonable steps to resolve the issues with the sewer. It was only on 11 January 2019 that the sewer became blocked due to the interceptor which was subsequently removed on 18 March 2019. The company therefore avers that it identified an issue and resolved the same within a reasonable time scale ...”

9. As to the customer’s allegation that it failed correctly to record what the customer told them about the cause of the blockages, the company makes the argument in response that:

“... the customer is not suitably qualified to determine the cause of blockages in the sewer and the company accurately recorded the causes of each blockage based upon the information available at the time, such as CCTV and technical expertise ...”

10. There is simply insufficient evidence available in this case to enable me to decide, one way or the other, whether the company:

- a. persisted for too long with the rodding and jetting of the sewer (when, potentially, those measures were proving ineffectual); or
- b. could reasonably have determined - sooner than in fact it did - that removal of the interceptor might finally ‘resolve the issue’ with the sewer.

11. Ultimately, therefore, I am not persuaded that there was any technical or diagnostic failure by the company in how it tackled the cause of the blockages to the sewer.

12. It is undoubtedly right that - as the company points out - the customer had no expertise in determining what might be causing the blockage of the sewer. However, in its defence, the company appears to me to treat the customer’s concerns on this aspect quite dismissively. I consider that the expected standard of service in this scenario (“the Standard”) would reasonably require that the company:

- a. engage appropriately with the customer as to the relevant problem and background;
- b. be receptive - and certainly not ignoring - of the information and input that the customer was giving (albeit recognising that such input was coming from an ‘inexpert’ standpoint);
- c. communicate and feed back constructively to the customer as to what any initial investigations had revealed (and as to what next steps were proposed).

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13. My finding is that - in its dealings with the customer since the end of September 2018 - the company fell below the Standard and failed to provide its services to the level expected.
14. To reflect this failure by the company, I have concluded that it is appropriate to make a modest award of compensation in the customer's favour. There are two factors that I have borne in mind when assessing the amount of the award:
- a. we are concerned here with a relatively short span of time. On the company's case, it was only on 11 January 2019 that the sewer became blocked due to the interceptor (and then the interceptor was removed by 18 March 2019); and
 - b. even if the company had been more engaging, receptive or communicative in its interactions with the customer (such that it met the Standard expected), it is quite possible that the same amount of time would still have been taken to 'resolve the issue' with the sewer satisfactorily.
15. Accounting for these factors, I consider that £150.00 would be a fair and reasonable award to make in this case and that is the amount that I shall direct the company to pay.

Outcome

The company needs to take the following further action:

I direct the company to pay the customer £150.00 in compensation.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 5 September 2019 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.



Nik Carle, LLB (Hons), Solicitor, DipArb, FCI Arb

Adjudicator

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