

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/1971

Date of Decision: 16 July 2020

#### Complaint

The customer is requesting the company to investigate and stop the flooding caused by rainwater in her garden and to pay her £1,000.00 in compensation for damages to the garden shed and plants, and £500.00 for distress and inconvenience. She contacted the council, which advised her to contact the water company to fix the drainage in order to avoid future flooding.

#### Response

The company stated that it has sent technicians to the customer's property on several occasions. The company stated that the flooding experienced by the customer is within the borders of her property and thus it is her responsibility to fix it. The company also stated that there were no customer service failings. The company has advised the customer to contact her home insurance and the Environmental Agency.

#### Findings

The flooding in the garden started in the year 2010/11 but became progressively worse, especially from the end of 2019. The customer contacted the company several occasions and the company sent technicians to examine if its pipes had contributed to the flooding. A company's technician used a camera to confirm that the pipes were operating correctly. The company found that the flooding is caused the customer's own drainage system and by the neighbours' soakaway that may not be operating correctly. The company has proven that the flooding is not caused by its own equipment and thus it is not its responsibility to fix it.

#### Outcome

The company does not need to take any further action.

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

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# ADJUDICATOR'S DECISION

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## Party Details

**Customer:** The Customer

**Company:** X Water

## Case Outline

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

- She is experiencing flooding in her garden when it rains, which has been occurring since 2016.
- Despite various visits from the company's engineers, the flooding persists when there is rain.
- The council advised her to contact the company to fix it.
- She requests the company to fix the drainage to avoid future flooding.
- She also requests the company to compensate her with £1,000.00 for damages to her garden shed and plants, and £500.00 for distress and inconvenience caused by the flooding.

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

- The company visited the customer's property on several occasions to carry out investigations over the flooding.
- Despite the use of CCTV no defects were found on the company's assets.
- The company advised the customer that the issue lies with her private foul and surface water system. In addition, her neighbours' soakaway does not appear to be functioning correctly.
- As the cause of the flooding is outside the company's remit, it has advised the customer to contact a private plumber, the Environment Agency or her own home insurance.
- In relation to this matter the company has denied any failure in its customer services.

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## 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.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

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 contacted the company on 4 February 2016 to complain about the flooding of her garden. The company's customer services recorded that the flooding has been an issue for the last 5 to 6 years, so it ought to have commenced in 2010 or 2011. The company sent a technician on 9 February 2016 who found that the issue of flooding was private as it was originated in the customer's mains foul and surface system, which appeared that they were not working well. It was also recorded that a neighbouring soakaway system may not be functioning correctly. This information was corroborated by the records held by the company over that visit.
2. I am mindful that the customer stated in the claim that the flood was particularly bad in 2017 and again from the end of 2019. The flooding is a re-occurring issue that appears when there is heavy rain. The customer has submitted pictures of her garden covered in water, in particular towards the back of the garden where there is a shed. The pictures show that the flooding is severe, with most part of the garden being under water.
3. The company sent an engineer when requested by the customer due to the flooding. On 6 October 2016 the company sent an engineer who found that the flooding at the time was caused by defective private pipework at a neighbouring property. The next contact with the company

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was on 14 February 2020 where another engineer went to the property to inspect the cause of the flooding and concluded that the flooding was also a private issue. The company sent again an engineer on the 16 and 19 of February 2020 who found again that the company's equipment was working adequately and thus it was not causing the flooding.

4. In an email to CCW dated on 9 March 2020, the customer stated that the company sent an engineer to look into the pipes with a camera, who confirmed that the pipes are not causing the flooding. The company advised the customer to contact a plumber, her home insurance, and the Environmental Office. The customer contacted the Environmental Office and the (removed) County Council, both of which referred her back to the water company, (removed X Water).
5. Further, in a previous email from 29 February 2020 the customer stated that the council's Environmental Office advised her to contact the water company and to request an engineer to come into her property and put a camera into the drains to inspect them. The customer believes that the company had come and put the camera in the pipes, but it was done somewhere in the local area but outside her property. However, the customer recognised that the company has inspected the customer's drains outside the property and found no blockages.
6. I am mindful that the customer stated that (removed) Council and (removed) stated that the flooding issue needs to be resolved by (removed X Water). Yet, the company has come and inspected the customer's property on several occasions and found that the cause of the flood is not due to the company's drainage system, but that the issue lied with the customer's private foul and surface water system. Moreover, the water company stated that the neighbour's soakaway is probably not functioning correctly, and that in any event, neither the neighbour's soakaway, nor the customer's own drainage system, are not its responsibility.
7. In view that the above, I find that the flooding is a reoccurring problem which appeared to have existed before 2016, that the company has sent engineers on several occasions to investigate the flooding and found that it was not caused by the company's drainage system, and that there is no evidence of failure in the company's customer service system.
8. Pursuant to section 94 of the Water Industry Act, the water company is only responsible to repair and maintain its own assets to ensure they are working effectively. As the flood is not caused by the company's pipes, it is not responsible for fixing it. Accordingly, I find that the company has fulfilled its duty of care by ensuring that its equipment is not causing the

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customer's garden to flood. Hence, I find that the company is not responsible for the flooding occurring to the customer's garden.

9. Therefore, the claim for compensation for the damage occurred to the shed and the plants cannot succeed because the flooding was not the company's responsibility. I also find that the company has attended promptly the customer's requests, and therefore there was not a failure in its customer service. Hence, the customer is not entitled to obtain compensation from the company.

10. In view of the above, whilst I sympathise with the situation, I find that the customer's claim does not succeed.

#### **Outcome**

The customer's claim does not succeed.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by xx August 2020 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 from 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.
- 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.



**Pablo Cortés** (Ldo, LL.M, PhD)

**Adjudicator**

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