

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0706

Date of Decision: 3 May 2018

#### Complaint

The customers state that rats are entering their property from the company's sewer. They seek that the company take responsibility to repair the sewer and prevent further rodent infestation of their garden.

#### Defence

The company states that it has repeatedly examined the sewer, but has found no evidence of rats. It denies that further action is required.

No offer of settlement has been made.

#### Findings

The company has taken reasonable measures to establish whether rats are present in the sewer, and no evidence has been found that would justify a conclusion that rats are entering the customers' property from the company's sewer.

#### Outcome

The company does not need to take any further action.

The customer must reply by 4 June 2018 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0706

Date of Decision: 3 May 2018

## Party Details

Customer: [ ]

Company: [ ]

## Case Outline

### **The customers' complaint is that:**

- In 2014, they contacted [ ] District Council.
- On visiting the customers' premises, the Council's pest controller noted a very strong draught in the rat hole in the garden.
- He expressed the view that responsibility for rats entering the property lay with the company, due to the sewer.
- Two unsuccessful attempts were made to resolve the problem by filling the rat hole with cement.
- In 2017, they contacted the pest controller at [ ] Council, which now had responsibility.
- The pest controller laid bait, which was taken.
- He expressed the view that rats were able to enter the garden because of a misplaced joint in the sewer.
- The company has acknowledged that there is a problem with the joint between the sewer and the drain.
- The company does not consider repair of the joint to be a priority.
- Work undertaken with smoke by a private plumber also indicates that there is a draught in the sewer, and thus access from the sewer to the garden.
- The pest controller from [ ] Council has expressed the view that rats are entering the customers' property from the sewer.
- The customers request that the company take responsibility to repair the sewer and prevent further rodent infestation of their garden.

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

- On 3 June 2014, it visited the customers' property, after reports that a missing interceptor cap was allowing rats to break through.
- It was determined that the interceptor chamber was private, and therefore the cap needed to be replaced privately.
- On 11 June 2014, it carried out a CCTV inspection, but while a slightly misplaced joint was identified, there was no evidence of rats in the manhole chamber or sewer line.
- On 2 March 2015, it met with a representative of [ ] District Council, who advised that he had been baiting in the private interceptor on the customers' property.
- An inspection was undertaken of the manhole and surrounding area, but no evidence was found of rats in the sewer.
- On 9 June 2017, it received a call from the Environment Agency, advising it had found rodent activity in the drains.
- On 10 June 2017, it undertook a CCTV survey, which showed rubble. Bait was laid in the tunnel, and a line clean requested.
- On 18 June 2017, the bait was checked, and had not been taken, so was removed.
- On 22 June 2017, a line clean of the sewer was completed. CCTV confirmed the line was clear, and there were no major defects.
- On 29 August 2017, it was contacted by the customers, who stated that issues with rats were ongoing, and that the Council believed the rats were coming from the sewer.
- On 12 September 2017, CCTV was used on the main and lateral sewer, but no evidence of rats was found.
- The displaced joint was examined, but it was decided that it would not be big enough for rats to move in and out of.
- The company argues that it has fulfilled its legal responsibilities, and that the displacement of the joint is not large enough to allow access by rats, and does not require immediate repair.

### **The customers comment on the company's response that:**

- The bait that was laid by the company on 10 June 2017 was likely not taken because bait had been laid the previous day by [ ] Council's pest controller, and this bait had been taken.
- Rats not taking bait is not a litmus test showing the absence of rats.
- The company has acknowledged that there is a problem with the sewer.

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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 customers to the standard to be reasonably expected by the average person.
2. Whether or not the customers have 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. As emphasised to the customers by the Consumer Council for Water, under the Prevention of Damage by Pests Act 1949, primary responsibility for addressing problems with rats rests with the local authority, including with respect to sewers.
2. This does not mean that the company has no responsibility with respect to rats, but under the Prevention of Damage by Pests Act 1949, the local authority is endowed with the power to compel individuals and entities to take “reasonable steps” “for keeping the land free from rats and mice”.
3. In the present case, while the customers state that individuals at the local authority have expressed a view that rats are reaching their property from the sewers, the local authority has nonetheless not issued any order compelling the company to take actions other than those it has already taken. This indicates that while individuals at the local authority may speculate that the rats reaching the customers’ property are arriving from the sewer, there is insufficient evidence to support such a conclusion reliably.

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4. This is consistent with the fact that the company has undertaken repeated examinations of the sewer, including examinations at which a representative of the local authority was present, but has been unable to identify reliable evidence of rats.
5. Rubble was identified on 10 June 2017, and bait was then laid. However, this bait was not taken.
6. The customers have offered a potential explanation for why the bait was not taken, but the question in the present proceeding is not whether it is at all possible that rats have been entering the customers' property from the sewers, but whether the company has fulfilled its responsibilities to examine for the presence of rats, and to address problems if found.
7. On the balance of the evidence available to me in this proceeding, I find that the company has provided its services to the customer to the standard to be reasonably expected by the average person. It has repeatedly visited the customers' property, has undertaken repeated examinations of the sewer, and on the single instance on which possible evidence of the presence of rats was found, it took further reasonable measures to identify if rats were present.
8. The company's examinations were, of course, not foolproof, and do not establish with absolute certainty that rats are not present in the sewer, and that they are not then reaching the customers' property, but that is not the standard the company is required to meet.
9. Consequently, I find that the company has fulfilled its responsibilities to the customer, and no further actions are required, until new evidence is produced supporting a conclusion that rats are reaching the customers' property from the company's sewer.

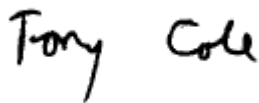
#### **Outcome**

The company does not need to take any further action.

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### What happens next?

- This adjudication decision is final and cannot be appealed or amended.
  - The customer must reply by 4 June 2018 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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Tony Cole, FCI Arb

Adjudicator

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