

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /2077

Date of Decision: 27 October 2020

Complaint

The customer has a dispute with the company as it will not relocate a pump, situated next to his property, that he says causes excessive noise disturbance. The customer also says that the company has no long-term strategic flood prevention scheme in operation and the use of temporary pumping measures is not acceptable. The customer asks for the company to stop temporary pumping and invest in a long-term flood defence strategy.

Response

The company says that there is currently no alternative to temporary pumping and without it flooding is much likelier to occur. The company also notes that it is part of a multi-agency group implementing flood prevention and a single body cannot implement a full flood prevention system. The company has not made any offer of settlement to the customer, and says it is not able to agree to the customer's requests.

Findings

I am satisfied the company is acting reasonably in its current flood prevention actions. I accept that temporary pumping is vital to prevention and mitigation and should continue. Similarly, I am satisfied that the company cannot effectively act alone and so I shall not direct that it enacts its own stand-alone long term flood prevention scheme. Overall, I find that the company has not failed to provide its services to a reasonable level nor has failed to manage the customer's account to the level to be reasonably expected by the average person.

Outcome

The company does not need to take further action.

The customer must reply by 24 November 2020 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /2077

Date of Decision: 27 October 2020

Party Details

Customer: The Customer

Company: XWater

Case Outline

The customer's complaint is that:

- The customer says he has experienced an ongoing dispute with the company regarding problems with noise nuisance caused by its pumping activities. Despite the customer's regular communications with the company, and the involvement of CCWater, the dispute has not been settled.
- The customer says that he has resided for some thirty years in an area prone to flooding.
- The customer says that the company has installed temporary water pumps close to his property, and the noise of the pumps is a disturbance.
- The customer says that the use of the pumps now happens on an annual basis, and he believes the frequency of using the pumps has recently increased due to the company using new data logging equipment to trigger operation of the pumps.
- The customer believes the pumps could easily be relocated away from his property and has requested, without success, that the company do so.
- The customer says that the company has no long-term plan in respect of flooding despite a multi-agency report issued in 2000 recommending the construction of a flood defence scheme, which included a permanent pump further away from the customer's property.
- On 01 March 2020, the customer escalated his complaint to CCWater, who took up the issue with the company on his behalf. The customer records that the company reacted to the

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CCWater involvement and issued a response to him dated 31 March 2020 in which it explained that it was acting as part of a multi-agency grouping and used temporary pumps to reduce the risk of flooding in the area close the customer's property. The company also made a goodwill gesture in the sum of £25.00.

- The customer notes that he was not satisfied with the company response but in consultation with CCWater decided to suspend his complaint due to the Covid19 pandemic.
- However, the customer returned to CCWater on 16 June 2020 stating that he now understood that the company were intending to make the temporary pumps a permanent fixture at the same location.
- The customer acknowledges that on 14 August 2020 the company confirmed it had no plans to install new pumps in the area but it would continue to use temporary pumps as and when necessary and it confirmed that one of the locations for a temporary pump would continue to be on a plot close to the customer's property.
- The customer further acknowledges that the company accepted that a planning application had been made to place hanging brackets on a nearby bridge, but the company denies having made the application.
- The customer remains dissatisfied with the response of the company and consequently, on 23 August 2020, has referred the matter to the WATRS Scheme. He asks to have the company directed to cease all temporary pumping activities, to implement the floor prevention recommendations from 2000, and install permanent pumps in a location further away from his property.

The company's response is that:

- The company confirms that the customer is supplied with water and sewerage services and is on an unmetered supply.
- The company further confirms that a temporary pump is located close to the customer's property.
- The company says that it contributes to a multi-agency programme of flood prevention and relief, and that the use of temporary pumps is necessary to achieve the aims of the programme.
- The company further says that the pumps are only used at times of excessive pressure on the waste water network but are needed to prevent and reduce flooding.

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- The company accepts that the pumps make noise when in operation, but it believes the benefits of the pumps outweigh the inconvenience of noise during operation. It says that removal of the pumps would increase the likelihood of flooding and increase the duration and severity of any flooding.
- The company says that it has investigated relocating the pump away from the customer's property but it cannot find a suitable alternative location and so says that it has no plans to move the pump. It further confirms that it has no current plans to install a permanent pump close to the customer's property.
- The company acknowledges that a planning application has been submitted to attach permanent brackets to a local bridge to hold temporary pumps if and when necessary at times of flooding. The company confirms that it was not responsible for the submission of the application, and believes it was made by one of the other agencies involved in the flood relief process.
- The company accepts that the long-term flood prevention strategy identified in 2000 would be a positive step, but it points out that flood prevention is a multi-agency process because no single agency can solve the problem alone. As a result, currently, the use of temporary pumps is the only effective strategy available to control the problem of flooding.
- The company records that it has in February 2016 made a £100.00 gesture of goodwill payment to the customer towards the cost of increasing the sound insulation at his home. It also states that it would be willing to reimburse the customer for additional sound proofing measures up to a limit of £500.00.
- In summary, the company believes it has acted to take all reasonable measures to balance its obligations towards flood prevention with causing the least inconvenience to the customer. The company does not agree to the requests of the customer in his WATRS application to relocate the temporary pump or install a permanent pump in a different location.

The customer's comments on the company's response are that:

- On 06 October 2020, the customer has submitted comments on the company's Response paper. I shall not repeat word for word the customer's comments and in accordance with Article 5.4.3 of the Rules of the WATRS Scheme I shall disregard any new matters or evidence introduced.

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- The customer disagrees that the company cannot find a viable alternative location for the temporary pump. The customer says that originally the pump was located close to the nearby bridge and that he could not hear the pump at that location. The customer also questions the company's statement that the temporary pumps only operate at times of heightened flood possibility and he has identified that the pumps continue to operate long after the river levels have returned to normal.

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 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 dispute relates to the customer's dissatisfaction that the company has located a pump close to his property and that the operation of the pump causes severe noise disturbance.
2. I note that the WATRS adjudication scheme is an evidence-based process and it is for the customer to show that the company has not provided its services to the standard that would reasonably be expected of it.
3. The customer says that he has lived in his current location for approximately thirty years. He accepts that the area is subject to flooding due to geographical and environmental factors.

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4. The parties agree that pumps are necessary to prevent and reduce the impact of flooding. The parties also agree that a temporary pump is located close the customer's property, in fact I understand this pump is directly across the road opposite the customer's house.
5. The company accepts that the pump makes noise when operating.
6. From the evidence laid before me I am satisfied that the company is part of a multi-agency grouping responsible for flood prevention and mitigation in the geographical area around the customer's residence.
7. The customer is unhappy that one of the pumps is located close to his property and he believes that the company could move it further away from his house. The company says that the pump is needed in the location where it currently sits because it eases the pressure from the public sewer network in times of exceptional water flow. The company also notes that it has undertaken investigations to identify if the pump can be moved and still be effective but has been unable to find a viable alternative location.
8. The customer has not supplied me with any evidence to support his contention that the pump can be relocated and remain effective. Further, I am conscious that the company has the necessary expertise in this respect, particularly as it is part of a multi-agency group charged with flood mitigation procedures. Therefore, I find, on balance, (and in the absence of any evidence to show otherwise) that the company has acted reasonably and has justified the reasons for locating the temporary pump close to the customer's property and the reasons why it cannot, at this time, relocate it.
9. The customer also says that he believes that the company is planning to make the temporary pump a permanent fixture. The customer says that he was given this information by an unnamed third-party. I note that the company has said that it has no current plans to install a permanent pump at the location of the temporary pump close to the customer's house.
10. However, I note that the customer does ask for the installation of permanent pumps but he wants these away from his property. It seems to me that the customer desires such permanent pumps as part of an overall area wide flood defence scheme, and he believes such scheme should follow the guidelines of a multi-agency study undertaken in 2000 and the report subsequently issued by the study. The customer has raised this issue in his WATRS application and his main claim is for the company to invest in providing a full flood defence scheme.
11. It is outside my jurisdiction under the Scheme Rules to direct the company to undertake such a project as it relates to wider commercial decisions within the company, which may require

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extensive capital funding. Additionally, while the company has a responsibility to protect properties at risk of flooding from the public sewer network, I accept that it works as one arm of a multi-agency group with overall responsibility for all types of flooding in the customer's geographical area.

12. The company has set out that the flooding problems of the area require such multi-agency collaboration and that one agency acting alone and independently cannot solve the general flooding problem. In the absence of any evidence to the contrary, I am satisfied, on balance, that the company is acting reasonably and within the confines of its flood prevention responsibilities. As such, I shall not direct that it undertakes the major flood prevention remedies asked for by the customer.
13. The customer has also asked that the company be directed to cease all temporary pumping activity. The customer has not provided me with any technical justification for this request, and I believe he is motivated only by the noise discomfort he experiences when the pump is activated. Whilst I appreciate the customer's stance on this, I am conscious that the company has stated that the pump in question is necessary and vital to the flood prevention measures it participates in around the customer's geographical area.
14. The company says that without the use of temporary pumps flooding would occur more frequently and incidents would be more severe in effect. The company further declares that the temporary pumps are only used in times of high flow in the sewage network.
15. I note that the customer complains that the pumps are being used more frequently in recent times and he suggests that this is due to the company using newly installed data logging equipment, which more easily triggers the use of the pump. Unfortunately, the customer does not provide me with any evidence of his understanding and merely states that he has been told this by unnamed third-parties.
16. Consequently, overall, and on a balance of probability, I am satisfied that the company's use of the temporary pumps is reasonable, and I shall not direct that it ceases such operations.
17. I also note that I find the company has acted reasonably in awarding the customer a goodwill payment of £100.00 to upgrade sound insulation at his property, and has offered up to £500.00 additionally should the customer wish to further insulate his property.
18. My conclusion on the main issues is that the company has not failed to provide its services to a standard to be reasonably expected by the average person.

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Outcome

The company does not need to take further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 24 November 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.

Adjudicator

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