

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /2085

Date of Decision: 4th October 2020

Complaint

The customer states that the sewerage flooding that he has been experiencing over a 10 year period is due to the fault of the company failing to maintain the sewers and update the system to a standard in keeping with the current usage. He states that he is supported by many other residents in the vicinity and that he has suffered two floods of sewage over his lawn in the last two years and that he has had to undertake his own work to ameliorate the danger of sewerage flooding.

He seeks a direction for the company to provide a new or upgraded system that removes sewage separately from surface water.

Defence

The company states that it has carried out all its duties and that proper investigations have been carried out. It states that it has implemented a management system to frequently check the local sewers and that it does not find that there is an immediate danger. It has submitted an application for investment in the pumping station and while it awaits a reply it cannot make any further undertaking with regard to further work.

It states that it has abided by its statutory duties.

Findings

I do not find that there is any fault on the part of the company in relation to its actions. It has abided by its statutory duties and has provided an adequate service based on the information before me. Therefore, the customer's claim does not succeed.

Outcome

The company does not need to take any further action.

The customer must reply by 3rd November 2020 to accept or reject this decision.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT/STW/2085

Date of Decision: 4th October 2020

Party Details

Customer: John Samuel Grimley

Company: Severn Trent Water, a water and sewerage company.

Case Outline

The customer's complaint is that:

- He has been experiencing problems with the sewerage at his private residence.
- He has had raw sewage on his Property on two occasions.
- He has had to carry out his own work on manholes to prevent a repeat of the sewerage flooding.
- He has experienced the inconvenience of not been able to flush the toilet for numerous days at the Property.
- A local footpath has been made unusable by a flood of sewage.
- He states that a number of local people have backed his complaint and have also suffered from the sewerage issue.
- He states that the current system was installed in 1961 to deal with 86 homes and now deals with 650 homes.
- He states that the situation has been ongoing for 10 years during which he has received numerous apologies but no resolution.
- As a remedy he seeks a new or upgraded system that removes sewage separately from surface water.

The company's response is that:

- The customer was first in contact regarding the sewerage service in 2012.
- This resulted in work being carried out in August 2013 following which there was no further contact from the customer until 2018.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

- It states that since then investigations have shown that the sewerage pumping station (“SPS”) in the area may be at risk of flooding.
- Work is ongoing to monitor and identify the faults in the SPS.
- The company states that it has clearly informed the customer that no work is planned as it is subject to investment being released and prioritisation with other necessary work.
- It states it has acted promptly to assist the customer when he has made complaints.
- It states that during visits to the Property it has discovered blockages caused by fat deposits and sanitary items.
- The sewers in the area were subjected to cleansing on the 6th December 2019.
- It has ongoing work in the area but cannot guarantee that work on the SPS will be carried out.
- It has abided by its statutory duties and defends this action.

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 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?

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

1. This decision is based solely on the information presented by the parties and consideration of the legal obligations of the company.
2. The customer states that for ten years he and his neighbours have suffered from repeated sewerage flooding. He claims that the company has failed to adequately address or resolve this issue. He states that there are numerous people in the village who also support this application.
3. The company states that the first complaint was in 2012 and was resolved in 2013. It maintains that it had no further complaints from the customer until 2018. It states that it has carried out investigations and complied with all its duties.
4. The customer has produced a number of supporting statements with his application from other people in the village who are also customers of the company. I accept these statements as support for the customer's case, but I cannot take into account any issues other than those raised directly in relation to the Property in this application.
5. The customer has asserted that he has experienced the sewerage flooding for 10 years. The company has produced details of the contacts that the customer has made with the company since 2012. I accept that these are accurate dates as they have not been directly challenged by the customer. I acknowledge that in this application the customer is referring to two more recent instances of sewer flooding at the Property.
6. I take into account that there was a period of 5 years before the present complaint was made in 2018.
7. I have to emphasise that this adjudication process is evidence based and I can only rely on the customer and the company to provide me with the detail and evidence of all the matters relating to the case. I also have all the information collected by CCW to assist me.
8. The company's defence lists the number of times between September 2018 and June 2020 that communications have been exchanged between the customer and the company. I note that there was repeated flooding at the Property during the end of 2018 and commencing again at the end of 2019. This is clearly of great and understandable concern for the customer. I do not find, based on the evidence before me, that the company has been lax in its communications or actions in relation to these individual complaints. I understand, however that the customer's

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

case is that the matter needs to be resolved by the company undertaking to replace the existing system which he considers to be unfit for the amount of residents now relying on the assets.

9. I note that the customer states he has undertaken his own work on the Property to reduce the incidents of sewer flooding. He states that he is concerned that eventually this will not be sufficient. I accept that this is an indication of the good will of the customer in that he has attempted to mitigate his circumstances.
10. The company has not denied that there has been flooding of sewerage at the customer's Property and at other locations in the vicinity. It states that these are not all caused by the same issue and that in some cases, as in occurrences at the Property over the last two years, they have been due to blockages caused by fat and other material disposed of into the sewerage system. The company states that in relation to this claim it has not found that there is any high risk situation emanating from the sewers leading to the SPS at []. It states that a maintenance checking system is now in operation and that the system is checked every three months.
11. I note here that it is possible that flooding may be caused by a number of different factors. Not all flooding is necessarily due to a failure in the assets of a sewerage system and even where this can be evidenced there can also be flooding happening as a result of other causes.
12. The company has accepted in its letter to the customer of 17th June 2020 (sent via CCW) that there were issues at the SPS in February 2020. It maintains that these have now been dealt with and the issues resolved. It does accept however that there is an ongoing issue with flooding during heavy rainfall. In relation to this, it has submitted this site for its investment review programme, which it states could take some time and is not guaranteed.
13. I must take into account here that the company is not legally obliged to renew its assets and put in place a new system where it finds that there are failings in the system. Rather, it is obliged to act in an appropriate way to address the issues arising. In order to be successful, the evidence would have to show that not only was there a fault in the company's system but also that the company had not acted to resolve that fault. I consider that in this case it has been accepted by the company that there is flooding at the SPS and that it has found this due to acting on the complaints of the customer and its own investigation of those complaints and the complaints of others. However, I have not been persuaded, based on the information here, that the company has not provided an adequate service in its responses to the complaints. Its own timeline

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

indicates that it acted to try and resolve the flooding on each occasion at the Property. The onus is on the company to carry out appropriate and reasonable actions. Failing to resolve the issue is not, per se, a fault on the part of the company if it has acted in an appropriate manner.

14. I understand that that customer seeks a new or substantially upgraded system that removes the sewerage separately from the surface water. The company has not undertaken to provide this and this is not a satisfactory situation for the customer. Based on its assessments it has, however, submitted the site for investment review. It has not guaranteed that this will necessarily result in the work required by the customer. I take into account that there may be other considerations that the company has to account for and that there may also be other routes which it can take to remedy any faults it finds which do not involve a complete replacement of the system. Further I note that the company has explained that there may be more urgent works that must be prioritised. CCW has stated in its letter to the customer of the 17th June 2020 that *“After considering this response and that recommendations I made Whilst XWater have not given a definitive answer as to whether investment will be given, I cannot find grounds to challenge them further on the matter at this time.”* I concur with this conclusion in light of the information and evidence with which I have been provided.
15. The application does not refer me to any specific legislative or guidance breach alleged against the company and after consideration I do not find that any such breach has taken place in this regard.
16. I find that the company has not 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 does not succeed.

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.

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.

- The customer must reply by 3rd 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.
-

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

J J Higgins Barrister, ACI Arb.

Adjudicator

This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.