

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-XX27

Date of Decision: 15/12/2020

Complaint

The customers complain that the company has stopped trying to locate the source of a noise that they are finding troublesome, particularly at night and which the customers believe is coming from the company's assets. They ask that the company should carry out a further investigation into potential causes for the noise disturbance, including turning off the pumping station, and should apologise for having stopped trying.

Response

The company says that it has offered a goodwill payment of £300.00 for failure to communicate properly with the customers. It has carried out extensive investigations into the noise disturbance complained of but has not found a fault with its assets. The company does not believe that it is responsible for the problem.

Findings

The customers have established that the company failed to reach the standard to be reasonably expected in its communications with the customers and the goodwill payment, which is still offered, should be made. An average customer would not expect the company to carry on investigating, however, when it had taken all reasonable steps (including turning off the pumping station in the past) but had found nothing. The customers have not proved this aspect of their claim.

Outcome

The company must pay £300.00 to the customers.

The customer must reply by 14/01/2021 to accept or reject this decision.

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Party Details

Company: XWater

Case Outline

The customer's complaint is that:

1. The customers' complaint is that: • In about 2017, the customers, who are MBC tenants, began experiencing problems of noise disturbance at their bungalow. Initially they were unsure where this was coming from. They reported their concern to the company as they believed it was do with drainage / sewage in and around their bungalow. • The customers also spoke to the Council. A Council employee visited and provided the following notes: "I carried out a site visit at this address in relation to the noise of running water. When I entered the property I could hear a fluctuating sound in the background that sounded a little like the compressor on the back of a fridge freezer. Myself and the resident shut down all the possible noise emitting items within the property so that they could be eliminated. I carried out a visual and sound survey to the incoming mains and the foul assigned to this property and all seemed OK." • The Environment Agency has also carried out checks. It confirmed that the noise is not related to any of the equipment at the flood alleviation control gate. • Gleeds have also undertaken noise monitoring at the address (at the cost of the Council). They found that there is a low-level technical noise that is from an unknown source. This information has been provided to the Council to rule out anything that can be resolved from their side. • The customers say that this all links to noise coming from the company's pipework. • The customers have been in regular contact with the company over the last three years and several visits have taken place without resolution. • When the Consumer Council for Water (CCWater) became involved, the company said that it had not been contacted by the customer since 2018 and that no complaint had been raised. • CCWater therefore raised a stage 1 complaint on 19 February 2020 asking for a further site visit to take place. • The company said that visits had taken place by both their clean and waste water teams, but no fault could be found. The company did, however, attend on 2 March 2020 to carry out some tests. The company said that it had found a blockage on pipework at the back of the property.

The company agreed to complete a CCTV survey. Additionally, the company said that it had found another pipe running through the customers' garden with two breaks in the pipework. The company denied, however, that there is any issue for which the company is responsible. • This was not accepted by the customers and CCWater raised a Stage 2 complaint. • The company issued its response on 9 April 2020 saying that it had carried out a CCTV survey on its assets and could not find any fault. • CCWater suggested to the company that there should be a site meeting to be held with itself, the customers, the company's clean and waste teams and a Council (LCC) representative to consider all potential causes for the disturbance to the customers. This took place on 15 June 2020. • The Council found an ingress of tree roots in their pipework that enters a brook at the back of the property. They installed an inspection chamber whilst on site and ruled out the possibility of this causing the disturbance. The company again could not find any faults with their assets. It was determined that there was pipework running under the property and CCWater requested that the local pumping station be turned off whilst the company's technician used listening equipment within the property to see if there was any change. The company refused to do this, stating that it had already been done and nothing had been found. CCWater recorded that during this meeting only the customers could hear the noise and none of the other people in attendance were able to hear it. • The company offered £300.00 as a goodwill gesture for its handling of the complaint. CCWater then closed its case and suggested that the customers could consider approaching WATRS should they remain unhappy with the resolution offered. • The customers ask for:

- o The company to carry out a further investigation into potential causes for the noise disturbance. It was identified whilst on site that there is a stretch of pipework running underneath the property which was deemed to be pressurised by the company's Waste Water Manager. The customers would like this to be shut off again to see if this is the source of the noise.
- o An apology for stopping investigations before the source of the noise was found.

The company's response is that:

1. • The customers are experiencing a noise within their property which they believe is coming from a company asset. The company has carried out several investigations to identify if any of their assets are the cause of the noise. The company has now exhausted all possible avenues of investigation and has not found any problems with any of the equipment or assets that could be causing the problem inside the property. • The company has advised the customers to contact other authorities who may be able to help carry out further investigations. • The company has offered Mr & Mrs Head a gesture of goodwill of £300 in recognition of the service they have received, which has not been accepted. • The complaint has been reviewed at stages one and two of the company's complaints procedure but nothing more can be done.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

- Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
- 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.

Customer: The Customers

How was this decision reached?

1. I bear in mind that adjudication is an evidence-based process and that it is for the customer to show that the company has not provided its services to the expected standard. In reaching this decision, I have taken into account the submissions made by the customers in response to my Preliminary Decision, but I have reached the same conclusions as in my Preliminary Decision.
2. The customers complain of a noise that they began to hear within their property in 2017. They had lived in their home since 2012 and had not previously heard this. They are dissatisfied with the steps taken by the company to try to resolve the problem.
3. The documents submitted show that both customers can hear the noise and they have included in their submissions a list of other people who have also heard it. Some have reportedly described this as "pressuredwater". Although at the most recent site visit, only the customers were able to hear the noise complained of and it did not show up on any sound sensors used by the company, the company does not suggest that the noise in question cannot be heard by the customers.
4. The documentation submitted by the parties shows that, among other matters:

- a. The first report by the customers concerned a culvert that runs behind the customer's property towards the river. In July 2017, the customers reported to the company that it had stopped flowing a couple of years earlier and the customer suspected that the drain-off from the hills now goes via other sewers, because there was a constant sound of running water at his property.
- b. In September 2017, the customers reported a broken pipe in a brook.
- c. In December 2017, the customers reported that the noise they had first mentioned in July 2017 was "reallybad" under their floorboards and that it was from a culvert which runs from under their property to a brook. One of the customers was noted to be a priority customer.
- d. On 26 July 2018, the customer said that there was a leak that could be heard but not seen. The customer said that there had been many previous investigations, but nothing had been found. An appointment was made for 8 August 2018. A manual note entered in the company's records on 8 August 2018 reports that the customers said that the running water noise was getting worse and a lot more water could be heard at night. They said it sounds as though "wateris leaking out" and it is "likethunder". The customers reported that they were unable to sleep due to the noise. Greater urgency was said to have been given to the visit.
- e. The company, however, failed to attend an appointment and made a £25.00 payment under the Guaranteed Services Scheme.
- f. On 19 February 2020, the customers having complained to CCWater, the company received a letter from CCWater complaining that although the company had been to visit the property, no further action had been taken. The letter of 19 February 2020 from CCWater recommended a site visit.
- g. The customers' MP, with the assistance of the Council, wrote a letter to the company.
- h. The company replied to the MP on 28 February 2020 and sent a reply to CCWater dated 4 March 2020 in which they agreed that the customers had contacted the company on a number of occasions since 2017. The company said that it had looked into the clean water and waste water networks around the home and had been in contact with the local environmental health officer and provided feedback. The company also said that technicians had visited to understand the customers' concerns about the noise and had completed full drainage investigations in the local area, including lifting covers and carrying out an inspection, walking along the length of the pipe to check the air valve, checking the sewage pumping station as well as carrying out leakage and noise detection on

water mains and services. No operational issues had been found. The company said that it had re-visited again that week and found no indication of any leakage.

i. On 6 March 2020, a further letter was sent to the company by CCWater. CCWater said that the customers had confirmed that a blockage had been found in a pipe at the back of the property and that the technician had confirmed that the company would do a CCTV survey. Attention was drawn to another pipe running through the garden with two breaks in the pipework but the company had said that this was not of relevance. CCWater requested confirmation of the diagnosis. The letter also drew attention to a visit from one Mr David Holmes who advised of a water leak and loss of water in the area of approximately 85,000 litres. It was said that he had attended a meeting on 10 September 2019 and 13 days later on 23 September 2019 with a Council member in attendance also. CCWater asked for commentary on this leak and whether it was relevant to the customer.

j. A reply was sent on 19 March 2020. The company confirmed that when it visited on Monday, 2 March 2020, it had discussed a 150 to 225 mm pipe with no water emerging in the brook at the rear of the property and confirmed that this was the responsibility of the Council. This pipe normally fed the brook and was running until about three years ago when work was carried out at a neighbouring property. The company said that the Council had been made aware. The company confirmed that it has a 600 mm surface water sewer which outfalls at the rear of the customers' property. This had been checked but no issues were found. The company agreed to carry out a CCTV survey of the surface sewer. The company also referred to the visit in September 2019 by Mr Holmes and said that it would certainly have been aware of a leak as large as 85,000 litres. It also said that Mr Holmes had not attended on the part of the company because there were no details of these visits and they have no one of that name working for it. The company pointed out that it has loggers permanently installed on the water mains network so as to monitor for leaks and no leaks had been picked up in the area.

k. On 19 April 2020 the company wrote again to the customers saying that the camera survey had been carried out. The sewers were found to be in good condition with no defects or collapses. The clean water team had also carried out investigations and had found no issues.

l. On 15 June 2020 the company attended again and tried to detect the noise. Whilst they were inside the property they recorded the sound that the customers said that they could hear. Neither the waste team manager nor the water technician, however, were able to hear the noise when they entered the property. As the customer said that they could hear the noise an attempt was made to record it. When those present listened back to the recording with the volume turned up the only noise that could be heard was the sound of white noise. At that meeting it was

suggested that the pumping station might be switched off to see whether that altered the noise. A reply was sent on 6 July 2020 saying that this had already been completed. The company says that rubber matting had been put down when this was tested previously in order to stop any other vibrations but the noise could still be heard by the customers. The customers challenge whether this happened, but there is no evidence that it did not. The pumping station manager could not hear a noise before or after the pumps were turned on and off. The company does not feel that it is necessary to carry out this investigation again. The company said it could do nothing more because the noise is not coming from their asset their asset.

m. On 22 July 2020, the customers wrote to CCWater summarising their current concerns and complaining that they have been told that there is a pressurised main under their property that is not on the map:

According to STW they came and put the camera into the network but only got so far into my property. I was advised that the camera got stuck so they pulled it out and went to the property at the bottom of our garden and did some work there that was the last time I saw them. I feel as though I was left in the dark and have no conclusion to the outcome of this investigation.

Mr Paul Clarke, myself and my wife went into our garden and Mr. Clarke said that the camera work had only got so far into our garden I said to him on 3 occasions that the problem is in the next garden on and the village green just a bit further along. This appears to have been dismissed and ignored. He just did not want to hear it and just carried on as if I had not spoken to him.

Mr Elliot Toone stressed to STW that the pumping station should be shut off whilst listening for any change within our property. STW declined to take any further action.

5. The company has accepted that its handling of this complaint has been unsatisfactory. The company has offered a goodwill payment of £300.00 in recognition of a lack of communication between customers and the company during this time. The company makes clear that the gesture of goodwill for £300.00 still stands. Although I have not detailed above all the instances where there have been communication difficulties between the parties, in all the circumstances, I find that the customer has frequently not been informed of actions taken and there have been some periods where for a long time no action has been taken. I find that this fell short of the standard that an average customer would reasonably expect and £300.00 is a fair and reasonable level of compensation.

6. The customers' real concern, however, focusses on whether the company can reasonably be required to do more than it has done. On balance, although the source of the customers' unpleasant experience has not been found and I

recognise that this is a source of distress to them, I find that the company has investigated the issues extensively and has not found the source of the problem. In particular, I note that:

a. Extensive tests have been made of the company's assets including turning off the pumping station. While I note the customers' complaint in their letter of 22 July 2020 that not all of one of the pipes was accessible to the camera, the company says that it has found the other end of the pipe to be clear and there is no evidence that this pipe is the source of the customer's poor experience. The company has found no fault in their assets despite, now, many attempts.

b. The customers' explanations of their experiences have differed. The source of the noise has been said to be, over time, in a culvert, under a neighbour's garden and towards the village green and under their home. The culvert, which was the first suspected source, I find is the responsibility of the Council, not the company.

c. While I accept that the customers can hear the noise, those attending the site at the site visit in June 2020 could not hear this noise at a time when the customers could. The noise has been differently described as "runningwater", "waterunder pressure", "like thunder". The Council's employee described it like the compressor at the back of a fridge. For reasons that are difficult to identify, this noise is said to be worse at night and is at a level that causes the customers to wake at night. It is, however, due to its changing description, difficult to pin down precisely what this noise is like.

d. No noise was measurable on the sensors that were laid on the customer's floor and nothing could be heard when the recording taken was played back other than white noise. The customers have confirmed that they are hearing sounds that are not like white noise.

e. The above considerations mean that the customers are asking the company to find the source of a noise that those looking for it cannot hear, locate or identify. This makes the task requested by the customers potentially uncertain and open-ended.

7. The issue that the customers say they would now wish for is for the pumping station to be turned off again. The company, however, is not willing to do this because they say that it has been done already, with efforts made to reduce vibration so that any pressurised water noises could be heard. The customers confirmed that the noise continued even when the pumping station was turned off. There is no evidence to the contrary, which suggests that the pumping station is not relevant to the noise.

8. While I find that an average customer would reasonably expect the company to take steps to discover the source of a noise nuisance, I also find that such a customer would not expect the use of the company's resources to continue after the point when all likely causes have been investigated without success. At that

stage, I find that an average customer would expect the company to stop expenditure unless and until the customers were to provide new evidence in the form of an independent report that indicated that the probable location of the source of the noise is a matter under the company's control. At the moment, I find, after investigation, the customers have shown no more than that the source of the noise has not been found, but not that it probably lies within the company's infrastructure or remit.

9. Although, therefore, I find that the company has provided its standards of service at a level below that which would be expected in relation to the slow progress of its investigation and poor communications, with the consequence that I find the company should make the goodwill payment of £300.00, I do not find that the company has fallen below the requisite standard in refusing to carry out further investigative work. The customers' claim does not succeed in this respect, therefore and I do not direct further redress.

Outcome

1. The company must pay £300.00 to the customers.

What happens next?

This adjudication decision is final and cannot be appealed or amended.

The customer must reply within 20 working days to accept or reject this final 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 in 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.

Claire Andrews
Adjudicator