

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT 4111

Date of Decision:

Complaint

The customer began to experience odours, believed to be styrene, in his property on October 2019. This was almost immediately after the company had relined sewers next to his property with a glass fibre liner. He believes the work carried out was the source of the problem and that the company is therefore responsible.

He says the company has not dealt effectively with his complaint due to the time taken to investigate matters. He also believes the company has not been transparent as it failed to provide reports on its investigations.

The customer claims loss of earnings as he was unable to work during investigations. He also claims accommodation costs as he says the accommodation provided by the company was unsuitable.

Defence

The company has conducted extensive investigations into the source of the odour. It has worked closely with the local authority environmental health department. It has been unable to identify the source of the odour and therefore does not accept liability for the issue.

It has provided copies of reports it commissioned and says it has communicated regularly with the customer during the investigations.

The company says the customer had access at all times to his property and was not prevented from working. It provided the customer with temporary accommodation during investigations. It does not accept liability for additional accommodation costs as it says the customer moved to an alternative property.

It offered the customer £200.00 as a goodwill gesture to cover additional electricity costs in relation to ventilation equipment utilised at the property.

Findings

The company has taken reasonable steps to identify the source of the odour. It involved the local authority at an early stage. Investigations carried out by the company and by specialists employed by the company have been unable to conclusively determine the cause of the odour. It cannot be concluded that the company was responsible for the problem.

The customer has not established that the company was liable for the odour or that it has failed to meet the standards to be reasonably expected.

The company has offered the customer a payment of £200.00 as a contribution

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towards additional electricity costs. This has not been accepted by the customer.

Outcome

The company does not need to take any further action.

The customer must reply by 21 December 2020 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT 4111

Date of Decision: 23 November 2010

Party Details

Customer: The Customer

Company: The Company

Case Outline

The customer's complaint is that:

- Since October 2019, the customer and a neighbour have been experiencing significant odours, thought to be styrene, within their homes. He believes the odours are from materials used to carry out a recent relining of the sewers. The odour was noticed after the sewers were relined. The customer does not believe this is a coincidence.
- He reported the incident and the company investigated. During the investigations, the customer was temporarily rehoused.
- He considers the company is responsible for the odour which has caused a significant amount of distress to the customer and his family.
- He believes the company has failed to deal with his complaint effectively due to the length of time investigations have taken. He also believes there has been a lack of transparency by the company for failing to provide reports from the investigations carried out.
- The customer is not satisfied with the £200.00 goodwill gesture that has been offered. He seeks recovery of full loss of earnings and payment towards his accommodation costs as the company failed to rehouse his family in suitable accommodation.
- He has made a number of comments on the company's response, disputing several of the company's statements. These have been considered, where appropriate, in this decision.

The company's response is that:

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- The company says that it has completed its investigations as to whether the odour came from their network. It also says it has been working closely with the environmental health officer (EHO). It says that it has been unable to identify the cause of the odour and therefore cannot accept responsibility for the issue. As it could not identify the cause, the company says it was unable to put things right.
- It says that it has not observed any further incidents of styrene odours at the customer's property during site visits made during normal working hours.
- It says that the nature of the issue and ensuing investigation required time to resolve. It maintained regular contact with the customer throughout the period of its investigations.
- The company says that it has demonstrated consistent communication with the customer. It says that it has provided the customer with copies of all reports it obtained and has provided updates as requested.
- It says that it provided alternative accommodation for the customer. The company has declined to pay further accommodation costs as it says that the customer chose to move to different premises that were smaller.
- The company says the customer had access to his property at all times to obtain any items needed for work. It does not accept liability for loss of earnings by the customer.
- The company has offered the customer a payment of £200.00 towards additional electricity costs. It says it has also covered all expenses during relocation.

How is a WATRS decision reached?

In arriving at my decision, I have considered two key issues:

1. Whether the company failed to provide services to the customer according to legislation and to standards reasonably expected by an average person.
2. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing of the company.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show on the balance of probabilities that the company has failed to provide its services to the standard one would reasonably expect and 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.

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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 I have not considered it in reaching my decision.

How was this decision reached?

1. The company has explained that in March 2019 it commenced sewer relining work in the customer's town. The work was undertaken by a contractor engaged by the company. It has explained the method it used to line the sewers with a glass fibre liner. The company says this method had been used in previous sewer relining projects in its area.
2. Work in the road where the customer's property is located commenced on 24 October 2019. This involved the installation of 160m of liner in the main sewer running along the centre of the road. The company says it received a call from the customer's partner on 31 October 2019 reporting an odour.
3. The customer has complained that a smell of resin occurred in his property after the sewer had been re-lined. He considers the company were responsible for the odour. The customer says the issue affected his work and claims the full cost of loss of earnings. He also claims money towards accommodation costs as the company failed to rehouse his family in suitable accommodation. The customer has not specified any amounts in relation to these claims.
4. The company says that on 1 November 2019 it attended the customer's property with the contractor employed to carry out the lining together with another contractor. It described a chemical-like smell in the property. It says information was provided to the customer at his request concerning the sewer relining works.
5. The company has provided a timeline of events up to the end of February 2020. These record the various actions taken and communications between the customer and the company. The customer says he disagrees with a number of the statements contained within the timeline of events.
6. The company refers to a previous relining programme carried out between 2014 and 2016. It says over 10km of liner was installed using the same method without any problems. The

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company also says that it notified the local authority of the incident in October 2019. It says that the local authority confirmed to the company it had no record of odours occurring during the previous phase. The customer disputes this and says he had provided evidence to the company and the local authority of other occurrences when such work was carried out in the UK and US. No evidence has been provided with this application. It cannot therefore be determined whether such instances occurred or, if they had, that they followed the same methods of relining.

7. The company has provided details of the investigations it has carried out. It has also provided copies of various specialist reports it commissioned during the course of its investigations.
8. The timeline shows that in the week following the complaint the company attended the property with contractors and representatives from the local authority. The company says the odour was evident within the property. CCTV surveys were arranged and the sewers flushed out on 5 November 2019. Ventilation and extraction equipment was provided at the property and proposals prepared to monitor the odour during ventilation. Odour specialists were engaged and instructed to investigate the smell, the root cause and to take steps to rectify the issue once the cause had been established.
9. The company says that following its investigations the cause of the odour could not be identified. It also refers to finding similar products used by others in the vicinity but has been unable to find any evidence that they were the cause. The company has also engaged an expert toxicologist to produce a risk assessment on the installation to examine whether or not the process could cause harm. The final report is not available at the time of this decision.
10. The company says that temporary accommodation was provided for the customer. There is some disagreement about how this was sourced. However, it is apparent that the company paid for temporary accommodation for the customer and his family during the course of the initial investigations.
11. The customer has said that he considers the company to be responsible for the odour and that this has caused a significant amount of distress to his family.
12. In relation to responsibility for the odour, I have considered, among other things, the independent specialist report commissioned by the company. This report explains the steps

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taken by the specialist to carry out air sampling and determine whether the odour could have originated in the newly lined sewers. I have also noted that the customer says the odour only occurred after the sewer relining works had been carried out.

13. The report summary says that styrene was present within the sewer and within the property. It also says that the odours within the property could not be confirmed as relating to the sewer lining works. It says that smoke tests carried out did not reveal any potential routes for transfer of odours from the sewer to the property. The report concludes by saying that the odours in the property cannot categorically be related to the sewer relining work.
14. I note from an internal email dated 16 March 2020 included in the Consumer Council for Water (CCW) pack there is reference to communication with the local authority. The email notes that the local authority has said the smell does not appear to be from the company's network
15. Investigations by the company and the independent specialist are inconclusive. They have not ruled out that the sewer lining work could be the cause but have shown no evidence that it was the cause. An alternative possible source had been identified but there was also no conclusive evidence that this was the cause. It would therefore not be reasonable for me to say whether or not the company was responsible for the odour and I draw no conclusion on this matter.
16. The customer says that the company has not managed his complaint effectively. I am able to determine whether or not the company's actions to resolve the matter have been in accordance with legislation and to standards reasonably expected by an average person.
17. The company says that it has taken reports of odours very seriously and has undertaken extensive investigations since first attending the property. It says that it has carried out CCTV investigations, smoke testing, jetting and other investigations over several weeks. It accepts that investigations took some time but says this was due to the extensive nature and the involvement of other parties. It also says that its enforcement team has examined the sewer system and surrounding area to identify potential alternative sources of the odour. The company says it provided alternative accommodation to the customer while its investigations were ongoing.
18. The customer says that the statements by the company do not reflect the delay in getting an initial response or in finding alternative accommodation.

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19. The company says it was notified of the problem by the customer's partner on 31 October 2019. The customer has referred to earlier reports from neighbours. However, I am only concerned with the customer's complaints in this decision. The company attended on 1 November 2019 with representatives of contractors to commence investigations. The customer says that he had made a number of calls to the company in 1 November 2019 before anyone attended. He also says that on 1 November 2019 one of the contractors suggested the customer moved out of the property. The customer indicates that he moved to alternative accommodation late in the day on 7 November 2019.
20. I can see from the timeline of events that the company has approached the investigations in a systematic manner. Whilst the customer says he made a number of calls before the company attended, they did nevertheless attend on 1 November 2019 with two contractors. This was the day after the matter was first reported by the customer. Investigations commenced on 4 November 2019 and the local authority attended with the company on 5 November 2019. It is not clear why investigations did not commence immediately following the visit on 1 November 2019 rather than 4 November 2019. I note that 1 November 2019 was a Friday. However, the company did commence surveys and other investigations from 4 November 2019.
21. On 6 December 2019, the company sent an email to the customer summarising steps it had taken and the results of its investigations. The email refers to the inclusion of a report from the odour specialist. The company says in the email that it had done everything that was reasonably practical to determine the cause of the odour and concluded that it could not be attributed to the liner installation. It also confirmed that it would not be extending the temporary accommodation arrangements as of 12 December 2019.
22. The company involved the local authority environmental health department at an early stage. It also engaged an independent odour specialist to investigate the matter after carrying out initial surveys and flushing. This led to more detailed investigations by the specialists into the cause of the odour. The company had also engaged an expert toxicologist and is awaiting the final report. Copies of the reports by the odour specialist and toxicologist have been made available. I appreciate that the customer has expressed concern over the time taken. I also understand the company's position that investigations can take time, particularly if there is no obvious source of the problem.

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23. On the balance of evidence, I conclude that the company has taken reasonable steps to properly investigate the cause of the odour. I therefore find that, in relation to investigating the matter, the company has carried out its services to standards to be reasonably expected.
24. The customer has claimed loss of earnings as a result of the odour problem. No substantiation for this claim has been provided with the application. The company says that the customer had access to his property at all times to obtain any items needed for his work. The company does not accept that its investigations impacted the customer's ability to take items from home for work purposes. In his comments on the response, the customer says that the claim was for the time the odour was so strong he could not work at his property and no alternative accommodation had been offered.
25. As I have referred to above, the cause of the odour has not been conclusively established. I acknowledge that the conditions were such that the customer may not have been able to continue to work at his property. However, as it has not been established that the cause was the responsibility of the company, the company cannot be held liable for any effect on the customer's work. I therefore find that the customer's claim for loss of earnings fails and make no award on this matter.
26. The customer claims costs toward accommodation as the company failed to rehouse his family in a suitable property. No substantiation for this claim has been provided with the application. I note the customer did move to different accommodation whilst he was unable to stay at his property. The customer's comments refer to his guests having to stay in a hotel as the accommodation provided did not allow guests. I have seen reference to a claim being submitted by the customer on 18 December 2020 that included hotel booking for family members. I have found nothing within the documents provided that indicates this requirement was discussed between the customer and the company when alternative accommodation was being sourced. The company also reports that the customer chose to move to smaller premises.
27. I conclude that the company did provide reasonable alternative accommodation for the customer while it was conducting its investigations. In the absence of any substantiation for additional accommodation costs, the customer's claim fails.

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28. I have also considered the company's performance in relation to the Guaranteed Standards Scheme (GSS). The GSS sets out the minimum standards of service customers are entitled to receive in relation to water and wastewater services. Where a company fails to meet those standards, companies are required to make specified payments to customers.
29. The GSS contains no standards in relation to odours. The standard to be considered relates to complaints. The GSS requires companies to provide a substantive response to written complaints within 10 working days. I have found no instances where the company has failed to provide a response to a complaint within the required timescales.
30. I find no failures on the part of the company under the GSS.
31. The company has offered the customer a payment of £200.00. The company says that this payment took account of additional electricity used for the equipment used to ventilate the property. Since the liability for the odour has not been established, I find this to be a reasonable offer. I note that the customer has not accepted this offer.

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.
- The customer must reply by 21 December 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.

Signed

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Name

Ian Raine (BSc CEng MIMechE FCI Arb MCIBSE)

Adjudicator

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