

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X338

Date of Decision: 26 April 2021

#### Complaint

The water from the customer's roof goes directly into the stream at the end of his garden; it does not go into a sewer and it is not cleaned by the company. Therefore, the customer wants a refund of the surface water drainage charges he has paid to date, plus interest, and his bills reduced by £100.00 per year. The customer also requests £2,500.00 in compensation for distress and inconvenience.

#### Response

Following receipt of the customer's application for an abatement of surface water drainage charges, it carried out two surveys which both confirmed that surface water from the customer's property flows into a company-owned sewer before it reaches the stream. Therefore, in line with statute and policy, the charges are correct and payable. Also, the customer service provided to the customer has met the expected standard. In view of this, the company denies responsibility to reduce the customer's future charges, refund the customer the charges he has paid to date with interest, or provide compensation for distress and inconvenience.

The company has not made an offer of settlement.

#### Findings

Having considered the evidence, I accept that surface water from the customer's property drains through a company-owned asset before it drains into the river and the company is entitled to charge the customer for surface water drainage. The evidence does not demonstrate any service failings by the company and, therefore, the customer's claims for a reduction and refund of charges, and compensation for distress and inconvenience, cannot succeed.

#### Outcome

The company does not need to take any further action.

# ADJUDICATOR'S DECISION

Adjudication Reference: WAT XX-38

Date of Decision: 26 April 2021

## Party Details

**Customer:**

**Company:**

## Case Outline

### **The customer's complaint is that:**

- The water from his roof goes directly into the stream at the end of his garden; it does not go into a sewer and it is not cleaned by the company.
- The drainpipe the company claim to own is entirely on his land and serves only his property, and there is only one drain connected to it which is serviced by the Council. The pipe is his responsibility and the Council advised him to take out insurance in case it collapses, although the Council assured him that if it got blocked they would clear it.
- When the survey was conducted by the company, the company's surveyor telephoned within his hearing distance and was told that the waste pipe was privately owned; this would be in the report but it has not been provided.
- In view of this, he wants his bill reduced by £100.00 per year, a refund of the charges he has paid for surface water drainage to date plus interest, and £2,500.00 in compensation for distress and inconvenience.

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

- On 19 June 2020, the customer made contact to say that he had soakaways and would like to see if he was entitled to a reduction in his surface water charges. It advised the customer that it would send him a claim form and arrange a visit to his home to carry out a survey. It explained that due to Covid-19 restrictions it could not give a timescale for the visit as all non-urgent work had been stopped.
- It sent a claim form which clearly explained that a reduction would not be granted if any proportion of the property's surface water drains into the public sewer, or drains into a watercourse, brook or stream through a public sewer.

- On 29 June 2020, it received the customer's completed claim form which stated that all surface water from the customer's property drained into the river.
- On 15 October 2020, it emailed the customer to say that it had completed the survey on 7 October 2020 and had carried out a dye test of the surface water gullies around the property, and this confirmed that the surface water discharged into the river at the rear of the property via an outlet marked on its sewer map. Therefore, it explained that, as the surface water is connected to one of its assets, it was unable to remove the surface water charge.
- On 20 October 2020, the customer emailed to say that the surveyor had advised him that his surface water runs directly into the stream at the back of his property, so he was surprised by the email advising him that he was connected to the sewer for surface water drainage. The customer stated that a dye test had not been carried out and it was obvious to anyone that the water went into the stream/river.
- On 26 October 2020, it replied and explained that it had checked the survey results which confirmed that there was a surface water sewer running directly down the side of the property. It quoted the surveyor's findings and advised that it was unable to offer a reduction in charges.
- On 12 December 2020, following contact from CCW and to reassure the customer, it arranged for a further survey to be carried out on 22 December 2020.
- On 22 December 2020, the second survey confirmed that the surface water went to an outfall, however, there was a question over the ownership of the sewer, so its adoptions team were asked to investigate.
- On 24 December 2020, it spoke to the customer and confirmed that the surface water sewer serving the property was mapped as a public sewer in 1997. It was a section 104 sewer and had been adopted accordingly. Therefore, it explained that it was unable to remove the surface water charges from the customer's account.
- The customer said that the information about wastewater on his June 2020 bill confirmed he should not be charged as the surface water from his property is not cleaned at a treatment plant before it entered the river. However, it believes that the customer may have misunderstood the information on the bill as it explains that the charge applies where surface water flows through a company sewer before it reaches a watercourse, regardless of whether it is cleaned or not.
- On 20 January 2021, it wrote to the customer to explain its findings again and confirmed it could not remove his charges.
- In view of the above, it has provided its service in accordance with its policies and the relevant legal requirements, and has met the expected customer service standards.

- The charges are correct and payable, so it is unable to reduce the customer's bill going forward, refund any charges or pay any interest, and there are no grounds for the claim for compensation for stress and inconvenience.

### **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. Please note that 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. Having reviewed the evidence provided by the parties, including the Surface Water Investigation Report dated 7 October 2020 and the Sewer Maintenance Work Record dated 22 December 2020, I accept that surface water from the customer's property drains through a company-owned asset before it drains into the stream.
2. Having considered the company's obligations under the Water Industry Act 1991 and its Charges Scheme, I accept that the company is entitled to charge customers for surface water drainage where some or all of the surface water from their property flows through a company owned asset before it reaches a river or a stream.
3. It therefore follows that the company is entitled to charge the customer for surface water drainage and the company has not failed to deliver its service to the expected standard by doing so. In view of this, while I understand that my decision will disappoint the customer, the customer's claim for a reduction and refund of charges cannot succeed.

4. The evidence provided by the parties does not demonstrate any service failings by the company; therefore, I find that that the company has provided its customer service to the standard reasonably expected by the average customer.
5. In light of the above, whilst I appreciate that my decision is not what the customer hoped for, there are no grounds on which to direct the company to pay the customer compensation for distress and inconvenience.
6. Following the preliminary decision, the customer submitted some comments and a photograph. It seems that the customer thought that I would visit his property before I made my decision, or instruct an independent surveyor to visit on my behalf, however, this is not a service that WATRS offer; as an adjudicator operating under the WATRS, my role is to assess the evidence provided by the parties and make a decision based on it, but I cannot investigate the issue myself or gather further evidence. Furthermore, I am unable to consider any new evidence provided by the customer with the comments on the preliminary decision.

#### **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 within 20 working days to accept or reject this final 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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*KS Wilks*

Katharine Wilks

**Adjudicator**