

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X391

Date of Decision: 9 June 2021

#### Complaint

In December 2020, the customer's garden was flooded with sewage that escaped from the public sewer through a manhole. The company found and cleared a partial blockage on a nearby sewer but, after the mess had been cleared up, the customer noticed that his garden was damaged. The company said that the flooding was caused by the failure of a private land drainage system which overwhelmed the public sewer, and that the partial blockage on the public sewer had made the situation worse. However, it refused to make a GSS payment. The customer believes that his property would not have flooded if the main sewer had not been partially blocked, and he would like the company to reinstate his garden to its original condition and make a GSS payment for the external flooding.

#### Response

On 19 December 2020, following significant rainfall, the customer reported sewerage flooding in his garden. Investigations found that the public sewer was working as it should, but had been overwhelmed by the volume of water flowing from a private woodland nearby. As the flooding was not caused by a failure of the company's assets, the customer does not qualify for a GSS payment. Therefore, the company denies liability to compensate the customer or repair the damage to his garden.

The company has not made an offer of settlement.

#### Findings

The evidence demonstrates that, on the balance of probabilities, the company was not responsible for the flooding experienced by the customer. In view of this, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer. Therefore, the customer's claim for compensation and the reinstatement of his garden cannot succeed.

*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.*

Outcome

The company does not need to take any further action.

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# ADJUDICATOR'S DECISION

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Date of Decision: 9 June 2021

## Party Details

**Customer:** The Customer

**Company:** X Company

## Case Outline

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

- Around ten months ago, the company attended due to a blockage within the manhole. The company then carried out a repair on the connection from the property to the public sewer.
- However, in December 2020, his garden was flooded with sewage from the manhole. The company found and cleared a blockage in the main sewer up the road, and helped to tidy up and sanitise the garden.
- During the tidying up process, he noticed that the granite slabs on his patio had loosened and were beginning to sink, and his AstroTurf was also sinking. The technician who was present at the time took some photographs of the damage and the company later said that he needed to contact his insurance company. He contacted his insurance company but they denied his claim on the basis that the flood was the company's responsibility.
- The company investigated and said that the flooding was caused by the failure of a private land drainage system which overwhelmed the public sewer and although there was a partial blockage on a public sewer which made the situation worse, it was not the root cause of the flooding.
- The company will not consider a GSS payment as the surface water flooding came from woodland and not one of its assets. The customer believes that if the main sewer had not been partially blocked, his property would not have flooded and, therefore, GSS should be applicable.
- The customer would like the company to reinstate his garden back to its original condition and pay a GSS payment for the external flooding.

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

- Flooding from sewers can be caused by a sewer blockage, equipment failure, hydraulic overload or a sewer collapse. Where a sewer pipe has collapsed, blocking the flow of sewage, the company is responsible for investigating the cause of flooding. Flooding can also be caused by surface water from the highway, which is the responsibility of the Highway Authority to investigate. Flooding caused by streams, rivers, land or the sea, is the responsibility of Natural Resources Wales or, in some cases, private landowners. It investigates all reports of flooding to understand what has happened and determine whether it is responsible.
- On 30 July 2020, the customer reported a blockage at the side of his house so it attended to investigate. During the visit, it located a blockage on the customer's private sewer line and a defect in the public sewer that runs in front of the property. It cleared the blockage on the customer's behalf and, on 20 August 2020, it repaired the defect in the public sewer.
- On 19 December 2020, following significant rainfall, it received a report of further flooding and visited the same day to investigate the cause. During investigations, it found water running through the garden. The source of the water was traced upstream to the woodland X Location, which is owned by a third-party. Excess surface water was pouring over a bank and making its way into storm water gullies, onto the roads and into the drainage system. In turn, the public sewer became overwhelmed and unable to cope with the volume of water.
- The Coincidental Flooding Report provided in evidence shows that there were no major defects in the public sewer which would have resulted in flooding at the property. It returned to the property on 25 and 27 January 2021 to carry out CCTV surveys of the sewer, and this confirmed that there were no major defects to the pipework.
- Even though the flooding was not caused by its assets failing, as a gesture of goodwill, it assisted the customer with cleaning up and disinfecting his garden.
- Where a property has experienced flooding, customers may be eligible for a payment under the terms of its GSS. However, when flooding incidents are coincidental and beyond its control, they do not qualify for a GSS payment, and if any damage is caused by the flooding, customers are advised to contact their insurers.
- As it carried out appropriate investigations and concluded that the sewerage system is working properly, it denies liability to compensate the customer or repair the damage to his garden.

## **How is a WATRS decision reached?**

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

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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?

1. Before I adjudicate on this matter, I must state that I appreciate that the flooding would have been most distressing for the customer, especially as it caused damage to his garden, and the experience must have been made worse by his insurance company's refusal of his claim. However, in order for the customer's claim to succeed, the evidence must show that the failure of the company's assets caused the flooding on the balance of probabilities.
2. The CCTV Report and Coincidental Flooding Report provided by the company in evidence demonstrate that there were no major defects on the public sewer local to the customer's property capable of causing the flooding experienced by the customer. I accept that there was some debris within the sewer, however, this is described as minor in the reports and I find it likely that, even without the minor debris, the excessive rainfall and the failure of the private drainage system upstream from the customer's property would have overwhelmed the sewer and caused the flooding.
3. In view of this, while I appreciate that my decision will disappoint the customer, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer. Therefore, the customer's claim for compensation and the reinstatement of his garden cannot succeed.

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### 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**

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