

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X515

Date of Decision: 15/10/2021

#### Party Details

Customer:

Company:

#### Complaint

The customer stated that the incorrect replacement of a manhole in January 2015 resulted in the loss of two conifers and in serious rat infestation in his garden, which damaged his two sheds and sleepers. He contacted the company on various occasions, but the issue was unresolved. He seeks compensation for the time spent with this issue, which was ongoing for six years, and for the cost of replacing his two sheds and sleepers.

#### Response

The company refused to accept liability and stated that the damages stemming from the works in January 2015 have exceeded the limitation period. The company said that the rats can chew through brick and cement, and that is how they entered the customer's garden. The company has rejected that it was negligent as it attended the customer's property and made repairs to ensure the rats will not return. The company gave to the customer £50.00 and offered an additional £100.00 as a goodwill payment for the damage to the conifers, but the latter amount was rejected by the customer.

#### Findings

Any negligence for the remedial works carried out by the company in January 2015 have already expired, but not the subsequent work and the inspections carried out after the customer reported the rats in 2016 and during the last two years. The company's final repair in June 2021 adding the missing caps and reinforcing the manhole with more concrete ought to ensure that the rats will not come back, but I find that it was negligent in the inspection carried out in 2016 after the existence of rats were reported by the customer and he requested the manhole's repair. However, as the customer has not provided evidence about the cost of the damage to his

sheds and sleepers, the company is not required to compensate for these losses. But in view of the distress caused to the customer because of the company's negligence, I direct the company to apologise to the customer and to compensate him with £500.00 for the inconvenience caused.

**Outcome**

I direct the company to apologise to the customer and to compensate him with £500.00 for the inconvenience caused.

The customer must reply by 12/11/2021 to accept or reject this decision.

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## Case Outline

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

• The company replaced the manhole in January 2015 and removed two conifers to do so, which died when they were later replanted. • The drain was installed without caps in the cross-junction pipe, which allowed an entry for rats into his garden. • The rats chewed through two sheds and sleepers. • He seeks an apology, compensation for the time it took to resolve this complaint and for the cost of replacing his two sheds and sleepers.

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

• Any liability coming from the work carried out in January 2015 is statute barred as the six-year time period for bringing a cause of action has already expired. • It denies negligence in the installation of the manhole and in the subsequent visits to the property. • It states that as a result of the last repairs, the customer should not get rats through the sewerage. • It has paid the customer £50.00 when the first conifer died and offered a further £100.00 at a later stage as a goodwill payment, but that was refused by the customer.

## 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.

## How was this decision reached?

1. The customer notified the company that his manhole was full, and the company had to remove two conifers to repair the sewer which was completed on 12 January 2015. The customer replanted the conifers on 10 February 2015 and notified the company on 10 June 2015 that one of the conifers had died. The company gave him a £50.00 goodwill payment. The second conifer died at a later stage and the company offered the customer £100.00 as a goodwill payment, but the customer refused it because at the time he had rats in his garden, so at that time he sought more substantial compensation.
2. The company states that any claims against the work carried out in January 2015 are statute barred from legal action seeking compensation because the six-year limitation period under the Limitation Act 1980 has already passed. In view of that, I find that the company is not required to compensate the customer for the loss of his second conifer. Although the limitation period applies to the work carried out in January 2015, it does not extend to the work carried out from 2016, when the customer contacted the company to report the existence of rats. Thus, if the company is found to have been negligent in the inspections carried out during the last six years, then it may be liable to compensate the customer.
3. The customer reported to the company on 1 August 2016 that there were rats that appeared to have come from the manhole which is located behind a garden shed. The company inspected the manhole using CCTV and even though it found no defects in the sewer it replaced the manhole cover on 12 August 2016. I have inspected the notes submitted by the company from the visit that took place in August 2016 and it was recorded on 9 August 2016 that the customer complained that the brick work carried out around the manhole was not good as he believed that the rats were getting through the side of the manhole. The pictures submitted by the company from this visit show a significant number of cracks around the manhole. The customer requested to get the work redone with a new manhole, but the company refused and stated that the issue was resolved.
4. The customer again reported issues with rats on 15 May 2019. The company stated that after further CCTV investigations it found no crack or breaks in the sewer, so it concluded that the rats were not coming from the sewer. On 3 October 2019 the customer reported a damaged pipe and further issues with the rats entering into his garden. I am mindful that the notes from the company's agent state that after inspecting the manhole and raising the drain he said that "it doesn't look like it was done correctly" referring to the work carried out in 2015. On 13 November 2019 the company undertook another CCTV inspection with the customer present, but the company stated that no defects were identified in the sewer.

5. On 20 June 2020 the customer again reported an issue with rats, and on 29 June 2020 the company recorded the following text: “Rodentissues, missing blanking cap from 1 m deep MH, possibly nested. Requires new blanking plate”. Thus, it was at this point that the company admitted that there was a missing blanking cap and that the rats were entering and possibly nesting in the sewerage. On 8 July 2020 the company cleared out the chamber which was full of mud and found a rat's nest under the customer's shed.

6. The customer again reported problems with rats on 25 January 2021. After some delay due to the difficulty of finding a suitable time, the company reported on 19 March 2021 that there were “noblanking caps in 2x connections and previous cement works not resolving issue as rats still able to exit chamber and enter garden”. On 22 March the company recorded that work was approved to “blankoff chamber laterals to stop rodents escaping”. In view of this, I find that the company was negligent when not fixing the chamber around the manhole when requested by the customer in August 2016 as at the time there were visible holes around the concrete from which the rats could enter.

7. The company washed out the chamber and filled all the holes that were identified with concrete. After many communications, further work was done on 24 June 2021 to fill in any potential rat ingress holes. The company's report of this job states that it put additional concrete because “ratsare coming into mh where previous concreting was not sufficient to stop them”.

8. With regards to the losses claimed by the customer of the two sheds and the sleepers, I note that the customer has not provided evidence to the extent of the damage and the cost of repair or replacement. The pictures submitted by the customer of his sheds do not appear to show visible damage. In view of that, I find that the company is not required to compensate the customer to replace the sheds and the sleepers. However, it is clear that the company's service failings brought the customer a significant amount of stress and inconvenience during a long period of time.

9. According to the non-binding guidelines used in the WATRS scheme, there are four tiers that reflect the different levels of inconvenience and distress. The guidelines, which are available online on the WATRS website, note that although an award for inconvenience is capped at £2,500.00, most awards are modest, between £100.00 and £200.00. The scale recommends for cases falling within Tier 1 compensation up to the value of £100.00; for Tier 2 between £100.00 and £500.00; for Tier 3 between £500.00 and £1,500.00; and for Tier 4 between £1,500.00 and £2,500.00. I am mindful that the company has tried to resolve this complaint, however, in view of the finding of negligence in 2016 and the time that it

took to identify and resolve the problem (from 2016 to June 2021) I find that the customer ought to be compensated in accordance with the top-range of Tier 2, which is £500.00. Thus, I direct the company to compensate the customer with £500.00.

10. Finally, the customer requests an apology for the company's poor services. I am mindful that the company apologised to the customer in the defence, but in view of the above findings, I direct the company to issue a written apology to the customer.

### Outcome

1. I direct the company to apologise to the customer and to compensate him with £500.00 for the inconvenience caused.

### 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.

- 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.

**Pablo Cortes**  
**Adjudicator**