WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X538

Date of Decision: 07/10/2021

Party Details

Customer: **The Customer**
Company: **The Company**

Complaint

The customer's claim is that the company has negligently failed to maintain the sewers in accordance with s94 of the Water Industry Act 1991. He says that because he alleges negligence, he is entitled to bring a claim to WATRS for decision on whether the company's failure has caused collapse of a private road for which the management company of his estate (which he represents in this adjudication) will have to pay the repair costs. He claims compensation in the sum of the repair costs, limited to £10,000.00 so as to fall within the Scheme, and an apology.

Response

The company says that the application is outside the scope of the Scheme and, in any event, it has not been negligent.

Findings

I bear in mind that the WATRS Scheme does not permit consideration of matters that are to be determined by Ofwat and that it is not for an adjudicator to determine a question of negligence, which is a matter for a court of law. I find that an adjudicator can, however, review the company's assessment of whether it has provided its services to the standard that would reasonably be expected. I find that the customer has not proved that the company should conclude that it had failed either in a duty of care or to meet reasonably expected service standards. The customer is not able to succeed in his claim for a remedy.

Outcom

The company does not need to take further action.

The customer must reply by 04/11/2021 to accept or reject this decision.

ADJUDICATOR'S FINAL DECISION SUMMARY

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Case Outline

The customer's complaint is that:

• The company by neglect failed to comply with the Water Industry Act 1991 in failing to keep the sewer in **XX** maintained in good order and causing the customer's private road to subside to the extent of being dangerous and needing urgent repair. The customer, who represents the estate management company has submitted a bill for the cost to the company in the sum of £3,100.00. The company has refused to pay this, leaving the residents of the **XX** to meet the bill. The company has also refused to pay for future repairs. • The customer says that the company refused to recognise the problem from the first reported incidents in 2008-2010 and then again when further blockages were reported between 2012 and 2014. The company was aware of tree roots causing blockages but did nothing to rectify this apart from rodding the sewer and polluting the ground water for a long period. • The customer contacted the water company again to complain in May 2019. (Initially the complaint was made to **XX** Water as that is who bills the customer for clean water. A technician explained there was no issue with the clean water asset and directed the customer to the company.) • The company attended and did not detect an issue with the sewer. The customer remained dissatisfied, however, and employed his own plumber who detected defects on the sewer at the point where the road was damaged. • No other part of the road has been damaged - the only area appears to be where the defects in the sewer were found. • The customer is now faced with the cost of resurfacing the road - a further £18,870.00 and would like the company to accept that the damage was caused by the defects in the sewer that went undetected by its engineers on several occasions dating back several years, and therefore he asks the company to pay for the cost of resurfacing the road. • The customer appreciates that WATRS will look at a maximum compensatory award of £10,000.00 and would be happy to accept this towards the cost of the repair. The customer therefore asks for an apology and compensation of £10,000.00.

The company's response is that:

• Where there is a breach of statutory duty under section 94 of the Water Industry Act 1991, the remedy is prescribed by Section 18 of the Act. This is exclusively enforceable by the Secretary of State and, in practice, by the Water Industry regulator (Ofwat). Under the Water Industry Act 1991, sewerage companies are not generally liable for the escape of the contents of public sewers. This exemption exists as sewer

flooding can occur as a result of actions beyond the control of the water companies. Without this exemption from legal liability, sewerage companies could face significant liabilities for sewer flooding which could lead to undesirable increases in water and wastewater bills payable by customers. • While sewerage companies are generally not liable for sewer flooding, they could still be held liable, if the flooding was caused by its negligence. The company has not been negligent. It explains the history of the pipework in question as follows: o There is no record of any event prior to 2010, although this is because of a lack of records rather than because the company denies that an incident may have occurred. o Between 2012 and 2014, the company received one call regarding a blockage. This report was received on 1 July 2013 and confirmed to be a highway drainage issue which was resolved on 2 July 2013 by the Highways Department. o A further blockage complaint was received on 17 February 2015. Attendance on 17 February 2015 identified unflushables such as wet wipes, fat, oil and grease and other items ("RAG")that should not be flushed into the sewer system. o The first involvement of the customer began when the customer called the company on 13 May 2019 to report that concrete around a manhole near his property in **XX** had cracked and the road had started to sink. o On 24 May 2019, the company's service partner PJ Keary attended the site and found foul water manhole 3806 to be stable, intact and level with the undamaged carriageway surrounding the manhole frame. It was found that the concrete around this manhole and extending up to 6/7 metres away from the manhole was in very poor condition. The carriageway was found to be extensively cracked, broken, uneven and sunken by up to 100mm. Some areas appeared to have had temporary repairs carried out. The inspector also noted other areas along this road where the surface of the concrete carriageway was similarly damaged. **XX** visual inspection of the carriageway determined the issue related to the poor condition and a lack of maintenance of the carriageway rather than defective sewerage apparatus and suggested that the issue could be resolved with routine highway maintenance. o On 30 May 2019, the customer asked for an update of the inspection of the road and was told that no defects had been found. The customer asked the company to undertake a CCTV survey along the sewer line to look for defects. The company explained that it would not be possible to check the sewers and look for defects however investigations would be made if there was an obvious issue with a company asset or a history of issues, for example blockages, sewage flooding or a collapse in the road. If this were to happen the company would attend, investigate and if necessary complete any repairs to the sewer. o On 24 June 2019, the customer called the company to report a sewer/drain blockage at **XX**. The following day, the company's service partners, **XX**, attended the site and found no blockage. On attendance, the crew were advised that a private contractor had surveyed between manholes 4802 and 4901 and identified multiple defects and it was the customers' belief that these defects were the cause of the road breaking up. Cappagh Browne then arranged for a CCTV survey to investigate further. o MTS Drainage Contractors attended the site on 26 June 2019 where a CCTV survey from

manhole 4802 to 4901 was undertaken. Approximately 55 metres of a 225mm line was recorded to review for defects. The CCTV survey report received on 5 July 2019 identified the sewer was heavily fractured throughout and broken at 17.8 metres upstream from manhole 4802. A structural liner was required to stabilise the sewer and prior to work commencing, a heavy jet pre-cleaning of the sewer would also be required. The company engaged MTS Drainage Ltd to undertake the repairs. The customer was informed of this on 8 July 2019. o MTS Drainage Ltd attended the site on 26 July 2019 and confirmed to the customer that the relining work had been completed. o On 29 July 2019, the customer told the company his view that the ground had sunk over the years and he believed this was caused by the damaged sewer which had just been repaired. The customer was told that he would need to resolve the matter privately and then send a claim for reimbursement along with proof that the damage to the road was caused as a result of the sewer defects to the company's Claims and Liability Team. o On 9 September 2019, the company received an invoice for £210.00 payable to **XX**, Treasurer of the **XX** Residents Association for reimbursement of the initial private contractors' costs. The company paid this on 17 September 2019. o On 5 December 2019 the **XX** Residents Association asked the company to pay costs of £3,100.00 for partial repairs of the road plus £18,870 for further repairs that have not yet been completed. The company told the customer that it was not liable for this, unless there was evidence of negligence. In this case, there was no evidence to suggest the defects were caused by any negligence and therefore the company would not reimburse the repair costs for the road. o In 4 February 2020 the **XX** Residents' Association wrote again claiming contribution to the cost. o A letter was sent to the Residents' Association dated 6 February 2020 explaining the company's position. The letter also explained that the company is responsible for over 39,600km of sewers and will proactively inspect sewers where there are known issues. However, there is no system of inspection for all its sewers as the cost of any such scheme of inspection would be prohibitive and impractical. Sewer defects are identified through physical manifestation, for example an odour or the sewer backing up or leaking. The company said that it accepted the defects in the sewer could have caused foul water to be released however there is no evidence that the defects were caused by negligence either by the company or on its behalf. The company reiterated that the company would not pay the costs of repairing the road. o On 10 March 2021, the company received an email from the Consumer Council for Water ("CCWater")in which the customer alleged that the company had by neglect failed to comply with the Water Industry Act 1991 by failing to maintain the sewer line which had caused the road to subside. o The company called the customer on 23 March 2021 to discuss his complaint and informed him of the known past history.. o On 26 March 2021, the company received a further email from CCWater again advising that the customer was unhappy with how his complaint had been handled. CCWater asked when the company first became aware of the damage to the

sewer. The company was then asked if the company would consider repairing the road as a gesture of goodwill. o The company prepared an email to CCWater dated 9 April 2021 which explained the initial CCTV survey was undertaken so that the condition of the network could be reviewed. Areas of the network were then relined where defects had been found. A CCTV survey was undertaken on 23 March 2021 to investigate the possibility that the sewer defects could have caused the damage to the road surface. The review of this survey was expected to be received by 30 April 2021. o The CCTV survey showed multiple cracks and fractures, deformed pipe and roots however the company's engineers did not believe the subsidence of the road to have been caused by the sewer. o In response to CCWater's request that the company should consider repairing the road as a goodwill gesture, it was confirmed that the company denied liability for the damage to the road and therefore would not consider making any payments in respect of the repair costs. o On 19 April 2021, CCWater reported that the company was aware there was a problem with the sewer as there had been callouts to blockages in 2008 and 2012 – 2014. The customer was alleging that the company knew tree root ingress was the cause of the damage to the sewer line and had done nothing to rectify this other than use rods to clear the blockages. The customer further stated it was his belief that constant water movement from the sewer collapse undermined the road over a period of several years. o On 20 April 2021, the company confirmed that the company's contractors had attended previously to complete general maintenance in the area which had included tree root cutting. o Further correspondence passed between the company and CCWater in which, among other matters, the company has explained that the company has no records on any systems prior to 2013 and therefore it was not possible to provide a full contact timeline for the period as requested by the customer. • The company reiterates that paragraph 3.5 of the Water Redress Scheme Rules (2020 edition) states that WATRS cannot be used to adjudicate disputes which fall into one or more categories, including "anymatters over which OFWAT has powers to determinate an outcome". Accordingly, in accordance with the WATRS Scheme Rules, any claims by the company that there has been a breach of the company's statutory duty cannot be adjudicated under the WATRS Scheme, on the basis that these are matters over which OFWAT has powers to determine an outcome pursuant to Section 94 and Section 18 of the Water Industry Act 1991.

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. 1. I make clear that in reaching this Final Decision, I have taken into account the very many submissions made by the customer in response to the Preliminary Decision in which he takes exception to the arguments raised by the company and challenges my findings, including alleging that where I have accepted the arguments of the company, the decision "readsas if it was written by [the company]". I make clear that the company has not written this decision, but I have in a number of places found the company's submissions to be more persuasive than those of the customer for the reasons set out below.

   2. By way of background, I note that the company raised an objection under the Scheme Rules that the application was made on behalf of the residents served by the pipe at **XX** Close who had not given their signed consent. This objection was initially upheld and on 8 August 2021, the customer was appointed as representative of **XX** Residents Company, a registered company responsible for the maintenance of the **XX** estate, which includes maintenance of the private road. Maintenance work is carried out for the Residents Company by the **XX** Residents' Association and the application has been renewed on the basis of evidence put forward by the customer and by the Residents Company/Residents Association.

   3. The customer complains of breaches of sections 94 and 209 of the Water Industry Act 1991.

   4. In this context, I accept the submissions of the company that under the Water Industry Act 1991, sewerage companies are not generally liable in court proceedings for the escape of the contents of public sewers in the absence of negligence. This is because section 18 of the Water Industry Act 1991 has been interpreted by the courts to mean that sewerage companies' duties under section 94 relating to the provision and maintenance of a sewerage network are matters that are to be overseen by Ofwat not the courts. I accept the customer's submission that section 18 does not use these words. I am, however, explaining

the effect of the decision, particularly as interpreted in the case of Marcic v Thames Water, ([2003] UKHL 66 in which the UK's most senior court ruled that the courts have no power to review the strategic decisions of companies in relation to improving or maintaining their network. Although the customer also challenges my interpretation of the decision in Marcic, I find that the impact of this decision is well known to have the effect set out in this decision and I have not changed my findings on this from those which I set out in the Preliminary Decision.

5. Although WATRS is a specialist adjudication scheme, its position is similar to that of a court. This is because its function is to resolve individual disputes between customers and companies, not to undertake a strategic review, such as would be necessary when considering competing interests for investment or the relative merits of taking actions to repair. I am mindful that in making changes to the company's assets, the company is required to weigh up the relative needs of all its customers. This is a matter that Ofwat may be well placed to undertake, but an adjudicator is not.

6. Additionally, I draw attention to rule 3.5 of the Water Redress Scheme Rules (2020 edition) which states that WATRS cannot be used to adjudicate disputes which fall into one or more categories, including "any matters over which OFWAT has powers to determinate an outcome". Accordingly, in accordance with the WATRS Scheme Rules, any claims that flooding was caused due to a breach of' statutory duty cannot be adjudicated under the WATRS Scheme unless the allegation is one of negligence, on the basis that these are matters over which OFWAT has powers to determine an outcome pursuant to Section 94 and Section 18 of the Water Industry Act 1991.

7. It follows that I find that in the absence of negligence, I would not be able as a matter of law to reach a decision where a complaint is made about defective sewerage. The customer argues, however, that I ought to reach findings in his case because the company has been negligent. However, for the reasons set out below, this Scheme does not permit adjudicators to consider findings of negligence, only to consider whether the company has achieved the service level that would reasonably be expected.

8. I note that Ofwat has in January 2021 specifically referred the customer to CCWater and WATRS for assistance in dealing with this dispute because Ofwat did not consider this dispute to fall within its remit. Despite the customer's allegation of "negligence", therefore, in order to bring the customer's claim within the scope of the Scheme, I have addressed below the company has supplied its services to the expected standard. By way of clarification:

a. Under the WATRS Scheme, the question whether there has been negligence is

a matter for a court to decide, not an adjudicator. It follows that I find that I should not make a finding under this Scheme that there has, or has not, been negligence. A customer who wishes to argue that a company has been negligent would need to take that argument to a court of law.

b. The test that I have to apply under the WATRS Scheme, namely whether the company has supplied its services to the standard that an average customer would reasonably expect, is not the same test as whether the company has been negligent. In some instances, it may be a test that would require additional services by a company than under a mere test of negligence, but this will not always be the case.

c. If the company has taken steps or failed to take steps that would cause a company to think that it had probably been negligent and/or that it had failed in the level of service provision to a customer such that loss or damage has resulted, an average customer would reasonably expect the company to provide remedies to the customer without requiring a customer to take court action.

9. I approach the customer's application on the above basis.

10. I turn first to the question whether, based on the current evidence, I should find that the company should have concluded that it had been negligent and/or failed in the level of its service provision. In asking this question I repeat that no finding of mine is in any way binding or indicative of what a court might ultimately decide if a claim in negligence were to be brought before a court. That would be a matter for the court. My role is limited to looking at the evidence submitted by both parties to determine whether it is so obvious that the company had fallen short of expected standards that the company should cease to resist the alleged liability for repair of the road in **XX** Close.

11. For the reasons given below, I find that the customer has not shown that the company should have concluded that it has obviously been deficient in providing its services to the customer:

a. First, I accept the company's submission generally that it cannot reasonably be expected to carry out proactive testing of all its sewers to ensure that these are good and satisfactory condition. Although the customer challenges this, I find that this approach is consistent with the findings of the court in the Marcic case referred to above. I accept the submission that proactive testing of all sewers would be a hugely onerous burden on a sewerage company which the company says would lead to disproportionate expense to customers. Although the customer challenges this, I note that this reflects a long-standing legal principle that those constructing sewers do not become liable if in due course they cease to perform adequately,

which is now encapsulated by the interationf of sections 18 and 94 of the Water Industry Act 1991.

b. The question therefore, is whether the company was on notice that there was a problem in **XX** Close which the company had ignored, addressed insufficiently or marginalised without giving thought to the consequences for its customers.

c. The customer says that there are a number of factors that are significant. These are that:

i. The company was called out to clear blockages in the sewer between the years 2008-2010 and 2012-2015, knowing tree roots were causing the problem but doing nothing to rectify this apart from rodding the sewer.

ii. In 2019, when called to inspect, the company refused to undertake a CCTV survey and failed to observe that there were numerous defects in the sewer.

iii. It was plain to see that there were defects in the sewer because the road had already been damaged and the defects were of a type (leakage) that would be likely to damage the road; and

iv. Damage did in fact result. The customer says that the only area of damage to the road has happened in the locality of the sewer.

Blockages

12. In respect of the blockages 2008 – 2010. The company says that it has no records of these. In respect of the blockages 2012 – 2015, the company says that the blockages found in 2013 and 2015 were in the first place due to a highway drainage issue and the second blockage in 2015 was due to RAG. The customer says that the company failed to investigate or repair in 2008-2010 and 2012-2014 and says that at this time tree roots extended into the sewer and caused a dam, which in due course caused seepage into the soil. He has submitted evidence in which a number of residents give different versions of their understanding, including a statement that a resident was not at the time told anything about rag in the sewer – seemingly not realising that RAG is an acronym that may only refer to fat and grease. Although the customer has repeated his reliance on these statements in his response to my Preliminary Decision, I make clear my finding that the statements are of little assistance in establishing whether or not the company has supplied its services to the correct standard. It may be the case that the company attended and cleared blockages in the years in question of which the company has no records because of the antiquity of the events (and it may also be the case that one resident cleared a blockage on his own property), but these statements do not prove that the company ignored the presence of tree roots in the

sewer. I find that there is no evidence that tree roots were in the sewer at that time.

13. I am mindful that the infiltration of the sewers by tree roots is a commonly experienced problem, and it is common, where these are reasonably accessible, for undertakers to cut these back. The customer and the Residents Association (who are viewing this situation with hindsight) give a detailed explanation of what they say the company should have done at that time or why, but I find that the mere fact that there has been a blockage does not mean that the company should have carried out CCTV camera work to find out whether tree roots were present in the sewer.

14. Overall, I find that there is no clear evidence that the sewers were in a damaged state in 2008 to 2015 and I do not draw that inference from the fact that defects were found in 2019. I am reinforced in this view because the number of calls out over this period is relatively few, and therefore inconsistent, I find, with the long-term presence of tree roots that formed a dam.

15. The only evidence that is potentially consistent with prior undiscovered damage to the sewer at that time is the evidence that the road was already damaged. For the reasons given below, however, I find that this evidence is, at best, equivocal; it has not been supported by any expert evidence from a surveyor or civil engineer and does not assist me to determine that the company should have known that something was obviously needed, namely to investigate the sewer further and carry out repairs, but that it did not do so. I do not make that finding.

16. I am mindful also that in terms of the proportionality and extent of the actions that were undertaken, this was a matter in which the company has the better experience and was best placed to make judgments as to the action needed. Review of this cannot, for the reasons given above, be for me, but for Ofwat. As is explained in Marcic, the Water Industry Act 1991:

"makes it even clear[er] than the earlier legislation that Parliament did not intend the fairness of priorities to be decided by a judge. It intended the decision to rest with the Director, subject only to judicial review. It would subvert the scheme of the [WIA] if the courts were to impose upon the sewage undertakers, on a case-by-case basis, a system of priorities which is different from that which the Director considers appropriate."

17. Overall, in the light of the above, I find that there is insufficient first-hand information about the circumstances inside the sewer before 2015 to enable me to conclude that the company failed in its duty of care or fell short of expectations and it is not for me to say that further and better actions should have been taken in an individual case.

Inspection

18. The customer argues that the first contractor who attended to look at the condition of the road in May 2019 took only a cursory look and, had he identified where the defects were, he could have seen that there was a correlation between the location of the defect and the damage to the road. I note that the report of "Happy Drains" states that the area of defect in the sewer also is the same area where there are defects in the road, but I note that he does not say that the defects in the sewer caused the defects in the road. The customer has put forward argument in which he states:

Sinkholes can also form as a result of both dissolution and subsequent collapse. Where a thin covering of loose, superficial material (such as sand, clay or soil) covers the soluble rocks beneath, the soil can be washed into solutionally widened fissures or cavities below. If the cover material is sandy, it will tend to gradually slump into the fissures, slowly creating a sinkhole over time (suffosion sinkhole). However, if the material is more cohesive, like clay, then the cavity can grow quite large before suddenly collapsing; a process termed a 'drop out' sinkhole. under mining the road collapse. There is further damage, approximately £15,000 to £20,000 worth, to 18metres of our road between the sewer collapse and the section we have had to repair. There is a drop of 20m from the collapsed sewer to the Swalecliffe Brook which is 120m away. We could have taken their inspection as gospel and the repair we took would have continued to been undermined.

19. These observations, however, are general in their nature and are an expression of opinion by the customer. Even if, as the customer says, the only part of the road that is affected is that surrounding the broken part of the sewer, these observations are not evidence. They do prove that the road has been damaged by sinkholes caused by the sewer. I find that the question of causation is a matter which it would be for an engineer or geologist to determine. Neither the customer nor the company that he represents has put forward evidence of this type although the company has looked at CCTV images in 2021 and concluded that the defects in the sewer are unlikely to have caused the damage to the road.

20. The company says, in contrast, that the company was called by the customer about cracking round the manhole and not defects in the sewer. As such, no detailed inspection of the sewer with a CCTV camera was carried out at that stage other than at the manhole which was found to be fully functional. The company has submitted evidence that the report it received was that:

"MH3806 - 600mm diameter foul water manhole is stable, intact and level with the undamaged carriageway surrounding manhole frame….A visual inspection of this carriageway appears to suggest that the issue relates to the poor condition and maintenance of the carriageway rather than with defective **XX** Water

apparatus. Issue can be resolved with routine highways maintenance.”.

In the circumstances, I find that the customer has not proved that the company was on notice either that the complaint was about underground defects other than at the location of the manhole or that the concern was about defects of the sewer more generally. I note the customer’s observations about the condition of the road, but I find in the light of the information the company received at the time that the company’s services were not substandard in not because no more intrusive investigations were carried out then. Subsequent faults were discovered between MH 4802 and 4901.

21. It follows that I find that the company did not fail in its duty at this point and did not fall short of reasonable expectations. In any event, a failure to discover the defects at this point did not cause the damage to the road, which is the basis of the customer’s claim and which the customer says had already happened.

Damage

22. The customer points out that the roadway is robust, being made of steel reinforced thick concrete and suggests that the evidence that he has submitted shows that the sewer was collapsed and broken for many years having found a natural drainage point outside number **XX** next to manhole 4802. I am unable to agree with that, however. I find that the customer has shown that there were many defects in the sewer in 2019 between MH 4802 and 4901, but as indicated above, there is no evidence as to how long these defects might have been present.

23. Overall, I find that, despite the customer’s assertion that leaking sewers could cause damage, there is no clear evidence that the sewer has caused damage in this case or that the company ought to have known about it if the sewer did cause damage. If the company could not have known that the sewer was damaged, there is no basis upon which it could, I find, be said to have supplied substandard services.

24. Moreover, I am mindful that correlation between the fractures in the road and the fractures in the sewer does not necessarily mean that the sewer was responsible for damaging the road. The circumstances are equally consistent, for example, with damage to the road resulting in damage to the sewer or damage to both being caused by heave in clay soil, damage by trees or some other environmental factor.

Section 209 of the Water Industry Act 1991

25. The customer in response to my Preliminary Decision repeats his argument that the company is liable for the escape from the sewer under section 209 of the

Water Industry Act 1991. This states:

(1) Where an escape of water, however caused, from a pipe vested in a water undertaker causes loss or damage, the undertaker shall be liable, except as otherwise provided in this section, for the loss or damage.

26. This section relates to the liability of a water undertaker not a sewerage undertaker. Section 209 was not referred to in the intensive scrutiny of this legal area in the decision of Marcic, and although there have been cases in which liability has been imposed on water companies following escapes of clean water, I am not aware of any case where liability for an escape of foul water from a sewer has been based on this section. I am satisfied that this section of the Act does not apply to the customer's case.

27. Taking all these considerations into account, I find that the customer has not proved that the company should have considered that it had been negligent or that it had provided sub-standard services, such that it should have agreed to discharge the financial burden on the Management Company.

28. While I recognise that this is an unwelcome cost for the residents of **XX** Close, I nonetheless find that in refusing to pay compensation for repair of the roadway (so making those funds unavailable for other customers) the company has acted in accordance with standards that an average customer would reasonably expect, rather than contrary to expectations.

29. It follows that I find that the customer has not proved that the company failed to supply its services to the expected standard. I find that the customer is not, therefore, able to succeed in its claim for the remedies he asks for.

Outcome

1. The company does not need to take 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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Claire Andrews

Adjudicator