

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/YW/X563

Date of Decision: 30 September 2021

Complaint

The customer stated that there is a slight "sunk in" area between two manholes in his driveway, which makes rainwater settle in the recess. The company has examined the manholes and found them empty. The company said that as there is no sewage escape and the manholes are private, the repair of the driveway is the customer's responsibility. The customer disputes the company's decision and requests the company to repair his driveway.

Defence

The company stated that it is not responsible for the subsidence around the manholes on the customer's property because it is a private issue, which the customer needs to maintain and repair. The company visited the property on two occasions and confirmed that the ownership of the manholes is private, and that the drains operating underneath the manholes are free flowing, so they could not have caused the subsidence.

Findings

The company attended the customer's property on 18 February and on 28 July 2020. The company confirmed the signs of subsidence, checked the manholes, which were empty, and confirmed that they belong to the customer. Since the manholes in the customer's depressed driveway are private, and the company confirmed that the sewer is free flowing, I find that the repair of the driveway is the customer's responsibility. Therefore, I find that the customer's claim cannot succeed.

Outcome

The company does not need to take any further action.

The customer must reply by xx October 2021 to accept or reject this decision.

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Party Details

Customers: The Customer

Company: The Company

Case Outline

The customer's complaint is that:

- His driveway is sunk-in between two manholes, which retain water when it rains.
- The company has checked the driveway but refused to repair it because it said that it is private property.
- The customer would like the company to repair his driveway.

The company's response is that:

- It attended the customer's property on two occasions and confirmed that the manholes located under the depressed driveway belong to the customer.
- It checked the customer's manholes and found that they were empty. It also checked that the sewers were working properly.
- The customer will need to arrange for a private contractor to repair his driveway.

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.

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If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

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 contacted the company on 12 February 2020 advising that the covers on his driveway needed assessing because water was holding in the area. The company visited the customer's driveway on 18 February 2020 and confirmed that the two manholes located under the depressed driveway were private as they only served the customer's property.
2. The customer, who moved into the property in 2019, has also sought redress from the developers who originally built the property, but they could not assist him because the property was built 25 years ago and the 10 years building guarantee had already expired. The customer then sought advice from the **XX** City Council, which also stated that they could not assist him because this was a private matter. Similarly, CCW informed the customer that OFWAT states that the drains that carry household waste water are his responsibility up to the boundary of the property where they connect to public sewers.
3. The company stated that it carried out a complete investigation into the manholes to make sure that there were no issues with the sewer underneath the manholes. The company stated that no issues were identified during the visit on 18 February 2020. Following further correspondence with the customer and CCW, the company agreed to visit the customer's property again to explain the situation to the customer more clearly. On 28 July 2020 the company completed a new investigation on the manholes and the sewer, to make sure there were no issues that were causing the subsidence in the driveway. A company's technician spoke to the customer on site and found that the manholes were empty and confirmed that there was no sewage escape that could have contributed to the subsidence.
4. In light of the above, I find that the depressed driveway is below two private empty manholes. I note that the company has checked that the sewers were operating correctly. I also note that the

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company, XX City Council and CCW confirmed that the manholes and the sewer below the customer's driveway are private, and therefore it is the customer's responsibility to cover the expenses for their repairs if he wishes to do so.

5. In view of the above, I find that the company has not failed in its duty of care to the customer as the company has inspected the customer's driveway and confirmed that the two manholes underneath his driveway are private. Moreover, there is no evidence to suggest that the company's assets caused the depression in the customer's driveway. Therefore, I find that the company has reached the standards to be reasonably expected by the average person. Thus, the customer's claim cannot succeed.

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 xx September 2021 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days from the date on 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 Cortés, Ldo, LL.M, PhD

Adjudicator

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