

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X569

Date of Final Decision: 22 October 2021

#### Party Details

Customer:

Company:

#### Complaint

The customer's complaint concerns noise and vibrations coming from the company's pumping station. The company undertook a noise survey at the customer's home; however, the investigations were not adequate. CCW asked the company to investigate further but the company refused; therefore, the customer would like the adjudicator to recommend further noise surveys. The customer would also like the adjudicator to review the customer service and decide if a gesture of goodwill is required for the detrimental impact the noise and vibrations are having on his family's quality of life and well-being.

#### Response

The company has thoroughly investigated the customer's complaint of noise and vibrations inside his home and has already spent £21,960.00 in order to establish that its assets are not contributing to the problem. The company has found nothing to suggest its assets are causing the noise or vibrations and it has exhausted all avenues of investigation. The company has found no reason to offer a gesture of goodwill as no service failings have been identified, and the noise and vibrations the customer complains of are not coming from the company's assets.

The company has not made an offer of settlement.

#### Findings

The evidence does not show a connection between the noise and vibration inside the customer's property and the company's assets. Therefore, I do not find that the company's refusal to conduct further testing amounts to a failure to provide its service to the standard reasonably expected by the average

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customer. In view of this, I make no direction to the company with regard to further testing. However, the evidence shows some minor customer service failings on the company's behalf and I direct the company to pay the customer £175.00 in compensation for these failings.

Outcome

I direct the company to pay the customer £175.00 in compensation.

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## Case Outline

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

- His complaint concerns noise and vibrations coming from the company's pumping station in REDACTED, that can be heard and felt in his home.
- The company undertook a noise survey at his home, but this did not show that noise was being emitted from its assets. However, the company has not followed through on its commitment to adequately investigate the problem.
- CCW asked the company to complete the investigation, however, the company refused on the basis that it has already spent a large amount of money investigating the noise and has found no evidence to prove that it comes from its assets.
- In response to the company's defence, he would like the adjudicator to be aware of the following matters.
- Local residents raised concerns about the geological suitability of the pumping station site before construction, because sink hole repairs had recently been undertaken by REDACTED in REDACTED. However, the need for a geological survey was ignored by REDACTED.
- Local residents raised concerns that the utility map used in the REDACTED planning application was incorrect and should be investigated before construction was considered. However, the need for a utility survey was dismissed by REDACTED. A subsequent survey carried out by REDACTED showed that the sewer and drainage map used by REDACTED during the construction was incorrect.
- Local residents complained in writing to REDACTED about the unacceptable increase in pumping noise experienced in four properties in REDACTED, starting with the first insertion of pipework and valves for the new pumping station under the X Road, even before planning permission had been granted. These complaints were ignored by REDACTED in the planning application. The fact that four local residents wrote to complain about increased pumping noise disproves the company's claim that only one property was affected by pumping noise.

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- Further increases in pumping noise were reported to REDACTED at each stage of the construction of the pumping station. REDACTED engineers told local residents that it was the company's problem following the take-over. However, complaints to the company resulted in local residents being told to redirect complaints to REDACTED and nothing was done in the construction of the pumping station to address this.
- During the pumping station construction, excessive disruption was caused to local residents as the site was poorly managed and the local authority had to remove hazardous construction equipment and materials. Compensation for this period of disruption has yet to be properly addressed despite the company acknowledging unacceptable site management.
- The Ground Penetration Radar Study was only carried out on the north-bound carriageway of X Road despite local residents informing the company about the sink holes opening up along the south-bound carriageway of the A483 adjacent to the newly constructed pumping station, rupturing the local gas main. The company was also informed that standing traffic and very large vehicles on both carriageways temporarily suppressed the noise/vibration level.
- The Accoustical Survey only looked at noise in the 25 REDACTED sewer and had to be repeated because of problems with equipment. The report from Accoustical was scientifically flawed and of a poor standard and could easily be dismissed as irrelevant.
- Contrary to the claims made by the company, the REDACTED survey did detect low frequency noise/vibration in the garage of 25 REDACTED, despite the levels always being lower there than inside the house. The conclusions that the company's assets could not cause this noise/vibration are scientifically flawed because the frequency value for noise/vibration measured at source, for example in pipework, is not going to be the frequency of the resulting vibration in adjacent structures; this is known as 'harmonic resonance'. The only way to determine input and output events is using a controlled study where pumps are turned on and off and the effects of vibration are measured in the affected building. This was not carried out by the company and therefore the conclusion that its assets are not to blame for the noise vibration is not valid.
- Furthermore, although the company undertook measurements of noise/vibration at the pipe end in the REDACTED pumping station near his property, it did not run the pumping station itself or measure its effects in his property and this is another serious flaw in the company's investigation.
- In advance of the company carrying out the Ground Penetration Radar study and the Aecom survey, a joint meeting was held with REDACTED, the sewage and waste water treatment provider for his area. It was agreed in this meeting that the company would share any

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information with REDACTED demonstrating that the company's assets were not causing the noise/vibration in his property. The company has so far refused to co-operate with REDACTED and one can only assume the reason for deviating from the agreed next steps is that the study findings would be rejected by the scientists and engineers at REDACTED as a base line for carrying out their own studies.

- The company suggested that the next step of his complaint should be addressed to the Environmental Health Department at REDACTED. He has contacted the local Environmental Health Department and has been told that the company and REDACTED are responsible for the investigation of this problem as it relates to the construction of a water pumping station. The Environmental Health Department has offered to review the Aecom Survey data; however, so far the company has failed to provide this information.
- Construction of the pumping station in REDACTED by the company bisected the x road drainage ditch and then cut through the flood barrier that protects the low-lying properties in REDACTED from flood water draining from the higher X Road Carriageway.
- As a result, the ground water level in REDACTED is substantially higher than before construction resulting in the waterlogging of gardens for many months of the year. Concerns regarding the flooding of properties were raised with REDACTED and the company but have been ignored.
- The company's report has also omitted to mention the company's water main burst in X which resulted in the flooding of properties. This was greatly aggravated by the already high water table and water-logging caused by the construction of the pumping station. There have also been other water quality and supply issues in REDACTED that have been omitted from the company's report.
- He would like the adjudicator to review the customer service provided by the company and decide if a gesture of goodwill is required.
- He also requests the adjudicator to recommend further noise surveys at his home.

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

- In 2017, when it purchased REDACTED, the customer made contact to raise concerns about the pumping station which had been constructed across the road from his property by REDACTED. The customer raised concerns about a noise/vibration which he could hear inside his property and was concerned the installation of the new pumping station would also contribute to the noise/vibration.

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- Since then, it has carried out numerous investigations into its assets to see if they are contributing to the problem, but the customer feels that it has failed to thoroughly investigate the root cause of the vibrations and noise, and have only gone as far as confirming that the noise and vibrations are not coming from its assets.
- Three sets of surveys have been undertaken at the property, and the final survey completed by A also included additional investigations at its assets in B and the X Station.
- The surveys in June 2018 included four nights of testing for sound levels in the front upstairs bedroom of the customer's property, but the results of the tests were below the criteria set out for low frequency noise.
- The surveys in September 2018 made Fast Fourier Transform (FFT) measurements of sound and vibration, again in the front upstairs bedroom. Again, the results of this survey were negative and did not highlight any presence of any significant low frequency tonality. This also confirmed that the issue was not coming from its assets.
- On the 10 and 11 September 2020, tests were carried out at two locations and inside the customer's garage. At its water treatment works, investigations were carried out on water distribution pumps approximately 3 kilometres from the customer's home. Tests were also carried out at the Station, which is approximately 30 metres from the customer's home.
- If there were vibrations inside the property caused by the Emergency Power Station at the levels the customer suggests there is, there would be heightened levels of vibration at the Station, but the tests have not found there is.
- It has gone beyond what it can reasonably be expected to do to ensure its assets are not contributing to the vibrations inside the property and has already spent £21,960.00. It is not able to continue with investigations where other utility companies' assets are involved as it would be down to those companies to review and determine whether they are playing a part in the vibration at the property.
- It has now exhausted all avenues of investigation and has directed the customer to its local Environmental Health Department, who may be able to assist with further investigations into the vibration.
- Although it sympathises with the customer, it has found no reason to offer any further gesture of goodwill as it has investigated and found that the noise/vibration the customer complains of is not coming from its assets.

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## 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. 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 start my adjudication, I must state that I fully accept that the customer and his wife are suffering noise and vibrations inside their home that is having a detrimental and serious impact on their lives and well-being, especially as it is interfering with the quality and duration of their sleep.
2. In the comments the customer made about the company's response to his claim, he raises issues relating to the construction of the pumping station by REDACTED. For clarity, I must explain that as REDACTED is not a party to this case, I cannot adjudicate on any matters relating to the actions of REDACTED, and I can only adjudicate on the issues raised that relate to the company's actions.
3. Having considered all the evidence presented by the parties, I find that the company has thoroughly investigated whether or not the noise and vibrations the customer is experiencing is coming from its assets. The company has liaised with other companies that could be contributing to the problem, and its investigations have included tests and surveys conducted by independent noise and vibration specialists and have been far reaching in terms of the assets

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tested. Further, I accept that the outcome of the testing has shown no link between the noise and vibrations the customer is experiencing and the company's assets.

4. The customer wants the company to conduct further testing and, while I acknowledge the customer's reasons for this request, having considered the extent of the testing already conducted and the amount of money already spent on the investigation by the company, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer by refusing to investigate further. I also find the company's suggestion that the customer should ask the local Environmental Health Department to investigate reasonable; I understand that the customer has been told that this matter is not the concern of the Environmental Health Department as the noise comes from the pumping station but, as above, there is no evidence to confirm this and much evidence to dispute it.
5. In view of the above, while I appreciate that the customer will be extremely disappointed by my decision, I make no direction or recommendation to the company regarding further noise testing.
6. The customer has asked me to review the customer service provided by the company and consider whether a goodwill payment is appropriate. As there is no evidence to connect the noise/vibration to the company's assets and I have found no failing on the company's part with regard to its investigation, I cannot direct the company to pay compensation for the distress and suffering the noise/vibration has caused.
7. However, the evidence shows that the company previously admitted to some minor customer service failings and offered the customer £175.00 for these. I appreciate that the customer rejected the offer at the time but, as I have been asked to review the customer service provided to the customer and consider a goodwill payment, and the company previously identified some failings, I find it reasonable to direct the company to compensate the customer. The £175.00 previously offered to the customer is adequate for the failings shown in evidence and, therefore, I direct the company to pay the customer in this amount.

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### Outcome

I direct the company to pay the customer £175.00 in compensation.

### What happens next?

- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of 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.

*K S Wilks*

Katharine Wilks

**Adjudicator**

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