

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/X635

Date of Decision: 20 November 2021

Party Details

Customer:

Company:

Complaint

The customer has a dispute with the company regarding its refusal to permit her to connect a groundwater drainage pipe to its foul sewer network. The customer claims that her garden is subject to periodic flooding and specialist advice says the only option is to connect a land drainage pipe into the company network. The customer claims that despite ongoing discussions with the company and the involvement of CCWater the dispute is unresolved and therefore she has brought the claim to the WATRS Scheme and asks that the company be directed to permit her to connect her land drainage pipe into its foul sewer.

Response

The company says the customer has no legal right to be allowed to make the connection and refers to the Water Industry Act 1991. The company further states that the network is sized to permit carrying away of domestic wastewater and any land water connection may lead to capacity problems and possible flooding to neighbouring properties. The company has not made any offer of settlement to the customer.

Preliminary Findings

The claim does not succeed. I find that the evidence does not support on a balance of probabilities that the company has incorrectly denied the customer's request to be permitted to make a connection to its network. Overall, I find that the company has not failed to provide its services to a reasonable level and has not failed to manage the account to the level to be reasonably expected by the average person.

Preliminary Outcome

The company does not need to take further action.

The customer must reply by 17 December 2021 to accept or reject this decision

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Case Outline

The customer's complaint is that:

- She has experienced an ongoing dispute with the company concerning issues with development and new services. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- She experiences groundwater flooding to the garden of her property.
- She has engaged a specialist groundwater company to investigate the problem.
- The groundwater company identified that it would not be possible to construct a soakaway or to connect a land water drainpipe to the surface water sewer because of inadequate fall. The groundwater company identified only one possible solution and that is to connect a pipe to the company's foul water sewer that runs across a lower point in the garden.
- On 08 March 2021 she contacted the company for permission to connect a pipe into its foul water sewer. The customer says the company denied permission.
- She made further written contact with the company on 14 and 26 April 2021, but did not receive a response to either of the e-mails.
- She approached a Borough Councillor who in turn sent two e-mails to the company on her behalf, again the company did not respond.
- On 19 May 2021 she submitted a formal complaint to the company about the quality of customer service she had received.
- The company responded with two communications dated 21 May 2021 and 07 June 2021 in which it confirmed its position and refused to permit a land water drainage pipe to be connected to its system.

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- Believing the company had not properly addressed her concerns she, on 08 June 2021, escalated her complaint to CCWater who took up the dispute with the company on her behalf. The records show that CCWater contacted the company on 18 August 2021 and requested more detailed information from it and to review the customer service provided.
- On 26 August 2021 the company replied to CCWater confirming its position and explaining the reasons for denying the customer permission to connect a land water pipe to its system.
- Subsequently, on 03 September 2021, CCWater advised her that it had received a formal response from the company answering in reasonable detail the questions posed to it. The company had confirmed that it had not changed its position from that set down in its previous letter to the customer. CCWater also informed her that it could not take any further action to have the company change its position and was therefore closing her complaint.
- The customer remains dissatisfied with the response of the company and has, on 06 October 2021, referred the matter to the WATRS Scheme where she requests that the company be directed to permit her to connect to its foul water drainage system for a temporary period.

The company's response is that:

- It provided its response to the claim in its submission dated 20 October 2021.
- It acknowledges that the customer contacted it in March 2021 requesting permission to connect a land water drainpipe to its foul sewer.
- It refused to permit the connection and explained to the customer that under the Water Industry Act 1991 there was no legal obligation for the company to permit such connection.
- It further explained to the customer that the sewer network is designed to take away only domestic flows from inside properties plus runoff from roofs. It advised her that the network is not designed to remove groundwater and any such connection would reduce flow capacity with the increased risk of internal flooding to neighbouring properties.

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- It notes the customer's complaint was processed according to both Stages 1 and 2 of the complaints handling process.
- In summary it states the customer has no right to connect her land drainage to its network and the company is under no legal obligation to allow the connection.

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 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 dispute relates to the customer's dissatisfaction that the company has refused to permit her to connect a groundwater drainage pipe to its foul sewer network.
2. I note that the WATRS adjudication scheme is an evidence-based process, and that for the customer's claim to be successful, the evidence should show that the company has not provided its services to the standard that would reasonably be expected of it.
3. I can see that the customer contends that she suffers flooding to her garden and has retained a specialist groundwater drainage firm to advise her.

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4. The groundwater specialist identified that the only solution was to construct a land water drainpipe and connect it to the foul sewer network of the company.
5. However, the company refused to permit the customer to connect her groundwater drainpipe to its network.
6. The company cites Section 106 [The right to communicate with public sewers] of the Water Industry Act 1991 that sets down the applicable legislation in respect of connections to the sewerage network.
7. From my reading of Section 106 I agree with the company's position that the customer has no right to connect a groundwater drainpipe to the company's network.
8. I can see that this was explained to the customer by the company in its letters to her dated 21 May 2021 and 07 June 2021. The customer has not submitted any documentation to refute the company's understanding and position.
9. The customer at Section 5.2 of her Application to the WATRS Scheme has stated :

the foul water sewer is the only option to provide sufficient capacity for the runoff at their property and can be connected to in extreme circumstances if no other practical solution is available.
10. I note that the customer has not submitted any evidence to support her understanding in this regard.
11. In summary, I am satisfied that the company has explained to a reasonable level the reasons for its refusal to permit a groundwater drainage connection to its foul sewer network. I can see that it has explained the legal position in terms of the Water Industry Act 1991 and that the network in her area is sized to permit removal of domestic wastewater only. The company explained to a reasonable level that permitting her a connection may result in negative ramifications for her neighbours in terms of both external and internal flooding due to exceeding design flow capacity.
12. Overall, I am not satisfied that the evidence submitted has established that the company has not supplied its services to a reasonable level.

13. In her application to WATRS the customer requests that the company be directed to permit her to connect her groundwater pipe to its network. Based on my findings above I shall not direct the company to change its stated position and permit the requested connection.

14. My conclusion on the main issues is that the company has not failed to provide its services to the standard to be reasonably expected by the average person in respect of not permitting the requested connection and in the overall level of customer service provided.

The Preliminary Decision

- The Preliminary Decision was issued to the parties on 12 November 2021.
- The customer has, on 19 November 2021, confirmed receipt of the Preliminary Decision.
- The customer stated that she has no further comments to submit.
- Having read the comments of the customer I am satisfied that no amendments are required to the Preliminary Decision.

Outcome

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 by 17 December 2021 to accept or reject this 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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Adjudicator

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