

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X722

Date of Decision: 26 January 2022

#### Complaint

The customer says that she experienced substantial inconvenience and distress due to the company's handling of a damaged pipe.

#### Response

The company says that it was not responsible for the damage to the pipe and it responded appropriately when contacted by the customer.

The customer has previously been paid compensation of £385.00.

#### Findings

The company failed to provide its services to the customer to the standard to be reasonable expected by the average person in its handling of the initial discovery of the damage to the pipe.

#### Outcome

The company needs to take the following further action: It must pay the customer compensation of £850.00, and must apologise to the customer for the inaccurate information she was given relating to the damaged pipe and for the company's failure to appropriately follow up on that damage.

The customer must reply by 23 February 2022 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT-S722

Date of Decision: 26 January 2022

## Party Details

**Customer:**

**Company:**

## Case Outline

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

- Damage was caused to a pipe connected to the Property in December 2019 by private contractors undertaking work for her neighbour.
- She experienced blocked drains in January 2020 and called a private contractor.
- The private contractor attended on 19 January 2020, removing some of the blockage, but he reported that he believed there was a crack in the pipe, although he could not be certain without the use of CCTV. As use of CCTV would be an extra charge she contacted the company.
- The company attended on 21 January 2021 and cleared the remaining blockage.
- She asked the company's technician if there might be a crack in the pipe. He told her no, although evidence she received through a Subject Access Request (SAR) shows that he had recommended a repair.
- When she later asked him why he had said this, he explained that he needed to manage customer expectations.
- A day or two later she received a text from the company about a pending visit, which surprised her as she believed the problem had been resolved. She contacted the company but the agent to whom she spoke was unable to explain the need for the visit.
- Through her SAR she now knows that the company was attending the drain again, but that the technician knocked on the wrong door and left a calling card at the wrong property.
- In May 2020 she experienced further problems with her drains.

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- She contacted the company, which determined that the drain had collapsed underneath where the fence was installed in her neighbour's garden.
- The company undertook a repair, but the issue was not resolved.
- The company's technicians tried to clear the blockage by pumping water towards the house, but this resulted in water entering the Property, causing damage.
- The company used CCTV and determined that the rest of the drain had collapsed, including under her kitchen.
- Repairs were undertaken by her insurance company, although substantial inconvenience and distress occurred while the work was being done.
- She formally complained to the company, but received poor customer service.
- She requests an apology and compensation of £2,500.00.

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

- The company's obligation is to undertake work on a reactive basis.
- It is only potentially liable if it has been negligent, and the damage experienced by the customer did not result from any negligence on its part.
- A third party has acknowledged responsibility for the damage to the sewer, which was the cause of the problems experienced by the customer.
- The customer made contact on 19 January 2020 to report a wastewater blockage.
- An appointment was arranged for 25 January 2020.
- The customer made contact again on 20 January 2020 to advise that the problem had worsened, and the company rescheduled the appointment to 22 January 2020.
- The company attended on 21 January 2020, and was advised that the upstairs toilet was blocked but the kitchen gully was not. The customer also advised that a private contractor had determined that the blockage was located underneath the customer's drive.
- The company investigated and found the drain running clear, although a CCTV survey identified a defect to the drain.
- Although this defect was on the company's asset it was determined not to be the cause of the blockage experienced by the customer. The blockage was located at the bottom of the internal soil stack of the Property.
- The customer was advised that the blockage was a private issue.
- The company returned on 24 January 2020 to undertake further investigations of the defective pipe. It was found to be running clear and to not have worsened since the previous visit. It was noted that the defect could be patched.

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- There is no evidence of the technician telling the customer that there was no defect in the pipe.
- The company's technician noted that the defect may have been caused by installation of a new fence at a neighbouring property. A card was left at this property.
- The company received no further contact from the customer until 29 May 2020, when she reported that the upstairs toilet was backing up but the kitchen gully was working correctly.
- The company attended on 4 June 2020, confirming the existence of a defect on the shared sewer within the boundary of the Property and a structural defect on the private drain at the front of the neighbouring property.
- It was determined that the cause of the blockage was a collapsed drain underneath where the fence had been installed in the neighbouring property's garden.
- The customer confirmed on 22 July 2020 that she was happy for her complaint to be closed as the matter was being addressed by her insurers.
- The company acknowledges that there were failings in customer service, and the customer has already received payments of £335.00. An additional £50.00 will be paid for further customer service failings now identified.

### 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?

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1. The customer's claim focuses on a statement that the company acted negligently with respect to a damaged pipe and that this resulted in her experiencing blocked pipework and significant inconvenience and distress. While the customer acknowledges that her property insurance has paid for the remedial work required at the Property, she is claiming compensation from the company for the inconvenience and distress that she experienced.
2. The company does not dispute that the customer suffered the experiences she describes, but denies that it acted negligently. As a result, it denies that it is liable for the customer's claim.
3. Both parties agree that a pipe was damaged and that this damage was caused by a third party, rather than by the company. However, I find that the evidence produced by the parties satisfactorily establishes that the company identified the damage to that pipe in January 2020, with the company's technician recommending a repair. The company has confirmed that it returned to examine the pipe further, but that it was unable to gain access as the pipe was under a neighbour's property and the neighbour did not answer the door. However, while the company notes that it left a card for the neighbour, it does not argue that it made further efforts to examine the pipe, despite being aware of damage and the need for a repair having been diagnosed.
4. I find that it constituted a failure by the company to provide its services to the customer to the standard to be reasonably expected by the average person not to follow up with the customer's neighbour in order to examine the damaged pipe, or to notify the customer that it was aware that the pipe was damaged but that it could not gain access to the pipe to examine it.
5. The customer also says that the company's technician told her that there was no damage to the pipe, even though she subsequently found out that he was aware of the damage at that time. While the company emphasises that there is no direct evidence of such a statement being made, the customer has produced communications she made to third parties in which she referenced this statement by the company's technician. I am, therefore, persuaded that this statement was made, and I find that it constituted a further failure by the company to provide its services to the customer to the standard to be reasonably expected by the average person.
6. It does not follow from these findings that the customer is entitled to the full compensation that she claims, as the primary basis of the customer's claim is the inconvenience and distress that she experienced due to blockages in the pipework at the Property. However, alongside her comments on the Proposed Decision in this case, the customer provided additional evidence

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that I find satisfactorily establishes that it is more likely than not that a contributing cause of the collapse of the damaged pipe that ultimately resulted in the substantial inconvenience and distress that the customer experienced, was the damage to the pipe identified by the company's technician but then not resolved by the company. The new evidence produced by the customer was provided to the company, which confirmed to the Adjudicator that it had no additional comments to make.

7. In light of this evidence, I find that it is more likely than not that the damage to the pipe observed by the company's technician but then not addressed by the company contributed to the subsequent collapse of the pipe at another location and the inconvenience and distress that the customer then experienced. As a result, the customer's claims for the inconvenience and distress that I accept she experienced succeeds. However, the compensation available to the customer must be limited by the fact that the evidence only supports a conclusion that the company's failure to address the damage was a contributing factor to the subsequent problems she experienced, not that it was the only or even primary cause, as well as by the fact that the new evidence provided by the customer also confirms that the customer received compensation of £250.00 from her insurer for the inconvenience and distress that she experienced.
8. I have found that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person, and I accept that discovering that she had been misinformed by the company of the damage to the pipe and that the company then failed to undertake appropriate follow-up with respect to that pipe will have caused the customer significant distress. In consultation with the WATRS Guide to Compensation for Inconvenience and Distress I find that fair and appropriate compensation would consist of £850.00. This amount reflects the limitations noted in the preceding paragraph on the compensation that can be awarded to the customer, as well as that the customer has already received some compensation from both the company and her insurer, but also that one of the failings identified involved the conscious provision to the customer of inaccurate information.
9. Therefore, the company must pay the customer compensation of £850.00.
10. The customer has also requested an apology, and given the facts of this case I find that an apology would be appropriate.

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11. Therefore, the company must apologise to the customer for the inaccurate information she was given relating to the damaged pipe and for the company's failure to appropriately follow up on that damage.
12. For the reasons given above, the company must pay the customer compensation of £850.00, and must apologise to the customer for the inaccurate information she was given relating to the damaged pipe and for the company's failure to appropriately follow up on that damage.

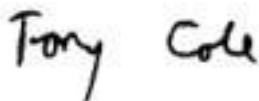
### Outcome

The company needs to take the following further actions: It must pay the customer compensation of £850.00, and must apologise to the customer for the inaccurate information she was given relating to the damaged pipe and for the company's failure to appropriately follow up on that damage.

### What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 23 February 2022 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 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.

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**Tony Cole, FCI Arb**

**Adjudicator**

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