

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X780

Date of Final Decision: 15 March 2022

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer says the company has not taken adequate action to prevent recurring flooding of its sewers. It took a week to clean the recent flooding and was poor in its communications. He claims for the company to carry out a full root cause analysis followed by a remediation program with an appropriate deadline for implementation.

Response

The company says its investigations showed the cause of the flooding was third party misuse. It had provided materials to educate residents and is now carrying out monthly maintenance to prevent recurrence. It considers it has met reasonable expectations and denies the claim.

Findings

The evidence does not show the company failed to provide its services to the standard to be reasonably expected in its response to the flooding.

The evidence has shown the company fell short in its communications, however I do not consider it appropriate to direct a remedy for this when the claim itself does not succeed.

Outcome

The company does not need to take any further action.

The customer must reply by 12 April 2022 to accept or reject this decision.

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ADJUDICATOR'S FINAL DECISION

Adjudication Reference: WAT-X780

Date of Preliminary Decision: 15 March 2022

Case Outline

The customer's complaint is that:

- He complains on behalf of his parents.
- In October 2021 raw sewage flooded his parent's rear garden and it took the company one week to clear this and clean the area. Over this time, they had to chase the company multiple times as it kept promising staff would attend and they then did not do so.
- He is aware the issue arises due to third parties blocking the system with fat and wipes, further that tree roots breached pipework compounding the issue. However, it is unacceptable that this is a recurring issue.
- He is also aware the company has given information to residents about waste disposal and put in place an additional maintenance program. However, he wants to company to take further action to prevent the flooding recurring.
- He seeks that the company carry out a full root cause analysis followed by a remediation program with an appropriate deadline for implementation, to prevent recurrence.
- In comments on the company's response, he says people will revert to habit and the maintenance will eventually be scaled back, so it will likely happen again. Misuse must occur in other areas and yet others do not experience repeated flooding and so there must be another cause to address. The situation is unacceptable and the company should take action to resolve it.
- In comments on a preliminary decision the customer said he was disappointed with the decision. It was not acceptable for anyone to live with a garden covered in raw sewage for over a week. This had reoccured every year sometimes multiple years for a decade yet this had been considered as an isolated incident.

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The company's response is that:

- It is confident the cause of the issue was misuse of the sewer network.
- It has arranged for education to be carried out in the area to make people more aware of what should and shouldn't be disposed of in the sewer network. It has also placed the sewer on a monthly maintenance programme to prevent the build-up of any further blockages in the sewer.
- The customer wants a more thorough root cause analysis completed. However, the investigations it completed via CCTV showed no structural defects on the sewer network which needed its attention.
- It works on a reactive basis and its investigations are based on the number of reports received. There are limited reports for this area/property and it considers it has completed the investigations which are reasonably expected.

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. On review of the documents provided I am satisfied the company investigated the complaint raised in October 2021 and found the flooding arose due to third party misuse of its system. It has since taken action to address this through educating residents and a regular maintenance

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program. I am satisfied the company provided its services to the standard to be reasonably expected in this regard.

2. I appreciate there has been misuse of the sewer in the past and so the customer has reason to believe the situation will recur. However, the company has no control over third parties. It can advise people not to misuse the sewers as it has done and it can perform more regular maintenance as it is doing. Beyond this the company is not obliged to take further action.
3. I appreciate the customer will be disappointed with this decision. It is understandable that he would want the company to take every measure available to prevent the flooding recurring. However, the company is not obliged to take every measure at its disposal with no regard to proportionality or cost. It is not possible to say with certainty if the flooding will recur or what the cause of any recurrence will be. However, if the problem recurs, I would expect the company to consider again if there is any further action it can take. I cannot direct it to take further action now, in the given circumstances.
4. I note it was a week before the company cleared and cleaned the garden. I do not consider this was an unreasonable delay. However, the documents provided show the company kept assuring the customer's parents it would visit to clear the garden, but at the end of each day it had not arrived as expected. His parents spent time chasing the company as a result. I find the company failed to provide its services to the standard to be reasonably expected in this regard. However, the customer has not sought a remedy for this. Bearing this in mind and as the substantive claim does not succeed, I do not consider it appropriate to direct the company to provide a remedy on this point.
5. To address the customer's comments on the preliminary decision, I note the company has limited responsibilities where flooding arises due to third party issues that it cannot control. While no-one would want to have a garden flooded with sewage, this did not occur because of any failing by the company. I appreciate the customer considers the company should do and should have done more, considering the repeated nature of this flooding. However, it remains the case that it is under no obligation to do so and I cannot find it failed to provide its services to the standard to be reasonably expected.

Outcome

The company does not need to take any further action.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 12 April 2022 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.



J Mensa-Bonsu LLB (Hons) PgDL (BVC)
Adjudicator

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