

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X039

Date of Final Decision: 24 July 2022

Party Details

Customer: The Customer

Company: The Company

Complaint

For around 18 years, there have been recurring issues of flooding and sewage blockage at the customer's property that the company has not resolved. The company did not deal with the customer's complaint about these issues properly. The claim is for the company to pay the customer £5,000.00 in compensation.

Response

WATRS has upheld its objection that the customer's complaint about recurring flooding and sewage blockage concerns the suitability of the sewage system, which is a matter that Ofwat is able to determine and therefore falls outside the scope of WATRS. It admits that it provided the customer with a poor level of customer service. It applied £300.00 to the customer's account due to the customer service issue. It subsequently offered the customer £1,700.00 in compensation, which the customer declined.

Findings

The customer's complaints about the suitability of the sewage system and missing data fall outside the scope of the Scheme and I cannot adjudicate on these issues. The adjudication is limited to the customer's complaint about the customer service the company provided her and its handling of her complaint.

In view of the company's admission and in view of the evidence, I find that the company did not properly investigate the customer's complaint regarding flooding and blocked sewage and (on its own admission) it did not implement the appropriate engineering resolution to the issue at an early stage. On this basis, I find that the company's services to the customer fell below the standard to be reasonably expected by the average person.

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Outcome

The company needs to take the following further action:

Pay the customer £1,700.00 in compensation.

The customer must reply by 22 August 2022 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- There are issues with the sewage service and blockage to the sewers at her property, which have been ongoing since she moved into the property in January 2004. The company carried out works that have not resolved the issue.
- The blockages would not have been ongoing up to 2022 if the company had carried out a more thorough and efficient investigation as far back as approximately 2015.
- The company has not taken her complaint seriously, which is reflected in its offer of compensation to her.
- The customer's claim is for the company to pay her £5,000.00 in compensation in respect of "blocked sewer pipe causing flooding".

The company's response is that:

- WATRS upheld the objection it made to the customer's complaint about recurrent flooding and sewer blockages. It objected to this aspect of the application under Rule 3.5 of the Water Scheme Rules which states that WATRS cannot deal with any dispute regarding "any matters over which Ofwat has powers to determine an outcome." The customer's dispute is in relation to sewage systems that are not fit for purpose, which is a matter that Ofwat is able to determine an outcome over and therefore falls outside the scope of WATRS.
- It has previously admitted and apologised for the poor service the customer has received. It offered the customer £300.00 in compensation, in view of the poor customer service. The customer declined the offer; however, a sewflow form was passed in June 2018 for the customer service shortfall that was identified in 2017 and it applied £300.00 to the customer's account. In addition, it offered the customer £1,700.00 in compensation as a gesture of goodwill, comprising £1,500.00 in compensation and a refund of annual sewerage charges of approximately £200.00. The customer has rejected this offer.

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- Its offer was fair and reasonable, and exceeds what it would be expected to pay and is in line with the Guaranteed Standards of Service (GSS) Regulations.
- It has acknowledged its mistakes, it paid £300.00 into the customer's account, and it made a further settlement offer. The customer has not provided any evidence to substantiate the claim for £5,000.00 and it does not consider that the customer is entitled to further compensation.
- The customer's complaint has at all times been taken seriously and responded to in a timely manner.
- It has not breached its statutory duties or acted negligently, neither has it failed to provide its services to the standard to be reasonably expected.

The customer's reply is that:

- The worry, anxiety, stress and frustration she has experienced for 18 years since the issues with flooding and blockage have been ongoing has impacted her physical and emotional health.
- The company has breached its contract with her because it has not maintained/repaired the faults to the sewer/pipes to a satisfactory level. She seeks £5,000.00 in compensation due to this breach.
- The company recently informed her that there are plans to repair the pipeline, but it has not yet confirmed the date when the repairs will be carried out. On 17 June 2022, the company sent her a message stating that "the repair team were struggling to get a date for their visit to the property due to a rise in emergency work." On 6 November 2020, she informed the company that a manhole cover was broken, but the manhole cover was not replaced for a few years "despite countless requests".
- There is data missing as she has not been provided with call out logs for 2016.
- The company has failed to meet its standards and it has failed in its duty of care to her, because it has not resolved the issue regarding blockages affecting the property.
- It is beyond comprehension that the company stated in its defence that she is not entitled to further compensation, given its admission in its letter of 18 March 2022 that it provided her with a poor level of customer service.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

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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?

Scope of the Scheme

1. I note that WATRS has decided that the customer's complaint regarding recurring flooding and blockage falls outside the scope of the Scheme on the basis that the complaint concerns matters which Ofwat has the powers to determine an outcome (Rule 3.5 of the WATRS Scheme Rules, February 2022 Edition). However, WATRS has determined that there are issues relating to the customer service and complaint handling provided by the company that fall within the scope of the Scheme and can be adjudicated upon.
2. I proceed on the basis that this adjudication is limited to issues regarding the customer service that the company provided the customer and its handling of her complaint, and I confirm that I cannot make any findings or directions in respect of the complaint regarding the suitability of the sewage system at the customer's property.
3. In addition, I find that the customer's complaint concerning missing data from call logs for 2016 falls outside the scope of the Scheme. I note that the company has dealt with the customer's request for information as a Data Subject Access Request, which is essentially a data protection issue. Under Rule 3.4.1 a dispute falls outside the scope of the Scheme if it concerns a matter in respect of which the "customer should be referred to a more appropriate forum for the

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resolution". The data protection issue raised in this case is a matter for a more appropriate forum, for example the Information Commissioner's Office, and consequently, I am unable to reach any findings or directions on this aspect of the complaint.

Customer service and complaints handling

4. The company admits in its defence that it provided the customer with a poor level of customer service in the manner in which it handled her complaint and I note that this admission is evident in the correspondence that the company sent to the customer dating back to October 2017. In its letter dated 31 October 2017, the company's agent stated that "I can understand your concerns of previous blockages and our failures of not keeping you regularly updated on previous correspondence and works." The company offered the custom £300.00 in compensation due to the poor service that it identified, which the customer rejected.
5. The customer sent a further complaint to the company on 8 February 2022, and the company made further admissions in its response of 18 March 2022 to her. The company stated that:

"It is evident that we did not properly identify, manage and resolve the issues you continued to report to us. We do have processes in place to highlight repeating issues and expect our staff to appropriately acknowledge and deal with these. As you mention, we did identify bellies in the sewer contributing to blockages on the system. In the first instance we look to combat such issues with a proactive maintenance jetting regime as this is less intrusive and can be more cost effective in resolving blockages of this nature. It can take some trial and error in getting the frequency right to have the most impact. When this becomes inefficient for example due to the high frequency of visits required to mitigate the impact on the customers affected we look at alternatives including engineering solutions, such as relining or relaying the pipework.

Looking through the history and the amount of times you have called us with an issue, it is clear our response has been unsatisfactory and would agree that repeat attendances could have been avoided by implementing an engineering resolution earlier.

I am sorry for the repeated loss of toilets and external flooding you have suffered, this is certainly not the standards of service we aim to provide to our customers...."

6. In view of the company's admission and in view of the evidence, I find that the company did not properly investigate the customer's complaint regarding flooding and blocked sewage and (on its

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own admission) it did not implement the appropriate engineering resolution for the issue at an early stage. On this basis, I find that the company's services to the customer fell below the standard to be reasonably expected by the average person. I find that the company caused the customer inconvenience and distress of a severe nature and the customer is entitled to compensation for inconvenience and distress.

7. When dealing with claims for inconvenience and distress, I consider the guidelines set out in the WATRS guide to compensation for inconvenience and distress. In deciding the appropriate amount of compensation in this case, I have taken into account that the customer has needed to spend time contacting the company about this issue, which she would not have needed to do had the company's service not fallen below the standard to be reasonably expected. I have noted the severity of the inconvenience caused to the customer.
8. I find that a particularly aggravating feature in this case is that the inconvenience and distress to the customer occurred over a long period of time, during which (the company admits) there was repeated loss of the use of toilets at the Property. Further, the company admits that repeat attendance at the property could have been avoided by implementing an engineering resolution earlier. I find that over a prolonged period of time, the customer has had to endure repeat appointments that could have been avoided had the appropriate solution been implemented at an earlier stage and, on the balance of probabilities, there was a missed opportunity to resolve the issue with the sewage system at an earlier stage in the complaints process.
9. Having considered the facts of this case and with reference to the WATRS guide, I consider that this claim falls within tier 4 of the guide to compensation and I consider that the company's settlement offer of £1,700.00 is reasonable and proportionate in the circumstances. I direct that the company shall pay the customer £1,700.00 in compensation for inconvenience and distress. I acknowledge that the amount of compensation awarded in this case is the same as the company's offer. I am satisfied on the evidence that this is the appropriate amount of compensation in this case.

Comments on the Proposed Decision

10. I have noted that in response to the Proposed Decision, the customer has requested a higher amount of compensation due to the "*personal impact*" the matter had on her over a number of years. I appreciate the customer's comments. I have found that the company's services to the

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customer fell below the standard to be reasonably expected by the average person and I have taken a number of factors into account in deciding the appropriate amount of compensation in this case, including the period of time over which the issues have been ongoing. I am satisfied that the amount of compensation directed in this case is reasonable and proportionate. In mitigation, I note that the company admitted the shortcomings in its service, it apologised to the customer, and it offered the customer compensation in an attempt to resolve the matter.

11. The customer has also requested that the company should complete the survey which is required for the repairs to the pipework. She has stated that she is concerned that the company may not continue with the survey or the repair works. As stated above, the complaint regarding the suitability of the pipework falls outside the scope of the Scheme and as a result, I am unable to make any findings or directions regarding the proposed works for the pipework. In particular, I am unable to direct the company to complete the survey and repair works as the customer has requested.
12. In relation to the customer service the company provided to the customer regarding the proposed repair works, other than the shortcomings I have identified above, the evidence does not conclusively indicate that there have been customer service issues after the company's letter of 18 March 2022. The customer has confirmed that in April and early May 2022, the company carried out investigations and informed her that a further survey was required, and on 15 June 2022, the company sent her a text message confirming that it had not been able to carry out the further survey as it was busy. I find that the evidence shows that after the company's letter of 18 March 2022, there has been a reasonable level of progress and updates to the customer.
13. In conclusion, I consider that the amount of compensation directed is reasonable and proportionate to the issues in this case.

Outcome

The company needs to take the following further action:

Pay the customer £1,700.00 in compensation.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by 22 August 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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I.S. Ezeogu LLB (Hons), Solicitor

Adjudicator

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