

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X939

Date of Final Decision: 23 June 2022

#### Party Details

Customer:

Company:

#### Complaint

The customer says the company has failed to put in place long term mitigation measures to resolve repeated sewer flooding and it has provided poor customer service. She seeks that the company provide an apology, put in place long term mitigation plans and pay an unspecified sum of compensation for distress and inconvenience plus interest.

#### Response

The company says the customer has not reported any flooding but it has mitigation in place to prevent flooding in her area and is considering long term measures. It accepts some service failings and credited the customer's account in the sum of £100.00. It apologises again for any distress but denies any compensation is due.

#### Findings

The evidence shows the company did not provide its customer services to the standard to be reasonably expected. However, I am satisfied it has already provided a suitable remedy for this.

#### Outcome

The company does not need to take any further action.

The customer must reply by 21 July 2022 to accept or reject this decision.

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# ADJUDICATOR'S FINAL DECISION

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## Case Outline

### The customer's complaint is that:

- Her property has suffered sewer flooding repeatedly but the company has not put in place any long term solution.
- Further, it has provided poor customer service including lack of responses, a delay in replying to a Subject Access Request and a late GSS payment without explanation.
- She seeks that the company provide an apology, put in place long term mitigation plans and pay an unspecified sum of compensation for distress and inconvenience plus interest.
- In comments on the company's response the customer says she was unaware to report flooding incidents to the department referred by the company. She also annotated the company's defence to show where she disputed points.
- In comments on a preliminary decision the customer:
  - Queries where it says she suffered flooding repeatedly. She says she suffered flooding once on 17 May reported at the time and again in August and again in September and repeatedly month on month and then week after week. At no time did the company tell her to use its reporting system.
  - The company delayed responding to her over 9 months.
  - Queries which of her properties the company's defence refers to and queries when the company last cleaned a sewer at one property.
  - Said she did not live at the property and while aware of one flood there could have been more.
  - Questions why the company delayed acting on the flood irrespective of the department she reported to.
  - Questions why the company hand delivered her a copy of the CCTV footage.

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

- Sewerage companies are not generally strictly liable for the escape of the contents of public sewers in the absence of negligence. Any claims that the flooding was caused due to a breach of its statutory duty are matters over which OFWAT has powers to determine an outcome and therefore cannot be adjudicated under the WATRS Scheme.
- It has checked its records for the past 5 years and confirms there is no record of any contact from the customer on its technical reporting system reporting foul flooding issues at her property.
- Others living near the customer reported flooding and it carries out 6 monthly maintenance checks to keep the sewer clear. It is also gathering information in order to identify a long-term solution.
- It has outlined its contacts with the customer. This includes the customer's repeated requests for a manager call back.
- It applied a goodwill credit of £100.00 to the customer's account for service failings.
- On reviewing the WATRS application it found a missed GSS payment dating from 2017. It therefore sent the customer a cheque and a letter explaining the reasons for this.
- It apologised for any distress caused by flooding issues. As it received no reports of flooding from the customer it will not pay compensation.
- In response to the customer's comments on a preliminary decision the company says it will separately write to the customer to address her queries about CCTV and sewer maintenance.

### **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

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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. My remit is to investigate complaints after they have completed the CCWater complaints process and been referred to WATRS. CCWater provided its case closure letter in February 2022 and referred the customer to WATRS. Therefore, while I acknowledge the customer then complained to WATRS about her ongoing issues with the company, it is not within my remit to look at these recent issues.
2. The Information Commissioner's Office is the more appropriate forum for dealing with any complaint that the company delayed responding to a Subject Access Request. I will therefore not adjudicate on this with reference to the WATRS scheme rules section 3.4.1.
3. On review of the information provided, there is a lack of evidence to support the customer's submissions that she reported flooding incidents to the company. In the absence of such, I cannot say the evidence shows the company failed to act properly upon reports. To address comments on a preliminary decision, I am not denying any flooding took place. Rather someone must bring this to the company's attention for it to be made aware and take any necessary action.
4. The company has explained there are flooding issues on the customer's road; it has short term mitigation in place and it is considering long term measures. There is nothing to suggest the company has failed to provide its services to the standard to be reasonably expected in this regard.
5. In considering the parties' submissions and evidence, I am satisfied the company was slow to address the customer's complaints on occasion and did not provide call backs as agreed. The evidence shows it did not provide its services to the standard to be reasonably expected in this regard. However, I am satisfied the company has already provided a suitable remedy by way of

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an apology and £100.00 credit. This is in line with the WATRS compensation guide and I therefore find no further remedy is due. To address comments on a preliminary decision, the evidence provided alongside the customer's claim and the company's response did not show a 9 month delay. I must disregard any new evidence provided in the customer's comments. And, if the customer is referring to a delay in dealing with her SAR request, I cannot comment on this, as explained above.

6. I acknowledge the customer would like to see CCTV footage and the company has refused this request. However, the customer has no right to the footage and the company has no obligation to share it. I therefore cannot say this amounts to a failing. In comments on a preliminary decision the customer suggests the company has provided footage. However, this has no bearing on my decision.
7. The company has evidenced it sent the customer a letter explaining the reason for the delayed GSS payment. I am satisfied with its action in this regard.
8. Overall, I find there was a shortfall in the company's customer service however it has provided a suitable remedy for this. I appreciate the customer considers this remedy inadequate, however it is in line with our usual approach. I therefore find that company does not need to take any further action.
9. It is not my role to address general queries raised by the customer in comments on a preliminary decision. However I note the company has confirmed it will provide a response to the customer's queries where relevant.
10. Insofar as I can assist the customer, the case outline is a summary of the parties' positions and is not a word for word account. The company made clear in the first paragraph of its response which property it referred. And, I have addressed other comments relevant to my decision at paragraphs 3, 5 and 6 above. My final decision remains the same.

#### **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 21 July 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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