

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X955

Date of Final Decision: 11 June 2022

Party Details

Customer:

Company:

Complaint

The customer says he has suffered repeated sewage flooding and received a poor service from the company. He wants the company to improve its customer service, provide him with an apology for the poor service, and pay him compensation comprising of £1000.00 for 10 days wasted waiting for the company to visit; £1000.00 for distress caused by the company's incompetency; £1000.00 due to having to suffer raw sewage in his house and; £1000.00 for the disruption to his family life due to stress.

Response

The company says it is not usually liable for sewage flooding unless proven negligent. It has previously apologised, made GSS payments and offered compensation for service failings. It denies the claim.

Findings

The evidence shows the company failed to provide its customer services to the standard to be reasonably expected.

Outcome

The company should pay the customer compensation in the sum of £250.00 for distress and inconvenience, if it has not done so already.

The customer must reply by 11 July 2022 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- Since January 2020 his property has flooded with raw sewage six times.
- Each time the company has found and cleared a blockage in its sewer. However when jetting the sewer the wastewater floods his garden and cellar.
- It has taken up to 10 days for the company to clean up following flooding.
- The company did not carry out a survey to investigate the cause of the flooding until recently though staff told him this should have happened after three flooding incidents.
- He received poor customer service following his complaint.
- He wants the company to improve its customer service, provide him with an apology for the poor service, and pay him compensation comprising of £1000.00 for 10 days wasted waiting for the company to visit; £1000.00 for distress caused by the company's incompetency; £1000.00 due to having to suffer raw sewage in his house and; £1000.00 for the disruption to his family life due to stress.
- In comments on the company's response the customer repeated details of the poor customer service received and the impact to him including time spent, time away from work and suffering the raw sewage in his garden while awaiting clear ups.
- The customer made no comments on a preliminary decision.

The company's response is that:

- Sewers may flood for many reasons. It is not usually considered liable for loss or damage caused by sewer flooding unless there is evidence of negligence.
- On each occasion the customer has called to advise of a sewer blockage, it has attended and undertaken the required works within its service level timeframes.

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- It has made payments under the GSS scheme and offered compensation for service failings. It has also previously apologised. However it does not pay compensation for wasted time, stress and inconvenience as no monetary value can be placed on these.

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. It is not in dispute that the customer has suffered wastewater flooding on a number of occasions however I cannot consider any remedy unless I first find a failing by the company.
2. In respect of the flooding itself, the cause of the blockages is unclear. However, it is not within the remit of WATRS to find the company negligent in the maintenance of its sewers as that is a role for Ofwat under the Water Industry Act 1991. I therefore cannot say the company has failed to maintain its sewers such that the customer has suffered flooding.
3. I can appreciate that from the customer's perspective any amount of time with raw sewage on his property is too long. However the company's records show it has completed clear ups within two weeks on each occasion. The evidence does not show the company failed to provide its services to the standard to be reasonably expected in this regard.

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4. The company has provided records of its communications with the customer and records of works carried out. The evidence shows the company's customer service fell short on occasion. It did not keep the customer updated meaning he spent time chasing up visits and it took three months to reply to the customer's stage 1 complaint. It later confirmed it would carry out a CCTV survey however there continued to be a poor level of communication with the customer. The evidence shows the company failed to provide its services to the standard to be reasonably expected in this regard.
5. The company's records show it paid the customer a £40.00 GSS payment for its delay in responding to his stage 1 complaint. It also paid a £150.00 GSS payment for the most recent internal flooding, and it apologised for its delay in arranging visits to resolve the issue. Following the customer's stage 2 complaint the company apologised again, explained it would learn lessons from the service failings, confirmed it would now clean the pipework every six months to prevent recurrence, and offered a further goodwill gesture of £200.00 for the poor service. Following the involvement of CCWater it increased this to a final offer of £250.00.
6. In regards to the customer's claim for the company to improve its customer services, it is not within the remit of WATRS to make directions as to the company's business practices. However, the company has confirmed it will learn lessons from its mistakes in this case. I am satisfied with the company's response and no further action is needed.
7. As to the customer's claim for an apology, I am satisfied the company has already provided suitable apologies. I therefore find no further action is needed.
8. Turning to the customer's claim for compensation, I acknowledge the distress arising due to the sewage flooding; however, I cannot hold the company responsible for this as I have not found any failing by the company which caused this. I also acknowledge the distress and inconvenience caused to the customer while waiting for the company to clear up his property, however I cannot say the company took longer than it should have done and so cannot consider a remedy for this. I have found a shortfall in the company's customer service; however, I am also mindful of the payments already made by the company. Taking into account the payments the company has already made, I consider its last offer of £250.00 is in line with the WATRS compensation guide by way of remedying the customer service failings proven. I therefore direct

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that the company pay the customer compensation in the sum of £250.00 for distress and inconvenience suffered, if it has not already made this payment.

9. I recognise the customer may be disappointed with this outcome. However, I have reached a decision on the given facts and in line with WATRS' usual approach in such cases. It remains open to the customer to accept or reject this decision and seek redress through alternative means if he so wishes.

Outcome

The company should pay the customer compensation in the sum of £250.00 for distress and inconvenience, if it has not done so already.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 11 July 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.



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

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