

WATRS

Water Redress Scheme

ADJUDICATOR'S PRELIMINARY DECISION SUMMARY

Adjudication Reference: WAT/X996

Date of Preliminary Decision: 1 July 2022

Party Details

Customer:

Company:

Complaint

The customer states that he was unhappy with the condition of his lawn that the company left it in following works carried out in his garden. The company agreed to provide further restoration works to his lawn after he complained but it failed to complete the work as appointments were missed. He seeks that the company pay him compensation including for loss of earnings, cost of a new lawn and a gesture of goodwill (unspecified).

Response

The company states that it agreed to provide further reinstatement works to the customer's lawn as turf laid was unlevel. One appointment was missed due to an issue with locating the property. It was willing to reimburse the customer the cost of getting a third party to rectify the lawn but it was unwilling to pay the cost for the whole lawn to be re-turfed via a private contractor. It was in touch with the customer with solutions however no agreement could be reached. It is willing to offer a goodwill gesture however the customer has not evidenced any loss of earnings.

Preliminary Findings

The company agreed to carry out further reinstatement works to the customer's lawn after it failed to restore it back to its original condition following works. It then failed to complete the work over the next five months, in the main due to customer service shortfalls including missed appointments and inadequate communication with the customer. Whilst the company was not under any obligation to pay the full cost of the invoice provided by the customer, the lack of any alternative solution provided over a prolonged timeframe is evidence of it not providing its services to the customer to the standard to be reasonably expected.

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The company did not make any settlement offer to the customer.

Please note, this Preliminary Decision is subject to comments from both parties and the Findings may subsequently change. This will be recorded in a Final Decision. Please refer to the 'What happens next?' section for more information.

**Preliminary
Outcome**

The company needs to take the following further action:

- Pay the customer the £450.00 in compensation for stress and inconvenience for failing to provide its service to the expected standard when handling rectification works to the customer's garden.

Please note, this Preliminary Decision is subject to comments from both parties and the Outcome may subsequently change. This will be recorded in a Final Decision. Please refer to the 'What happens next?' section for more information.

What happens next?

- If you think the adjudicator has misunderstood the facts or not taken a piece of evidence into account - you have 5 working days from the date of this Preliminary Decision to provide any comments you have.
- Depending on the comments received the adjudicator can amend the outcome/s reached in the Preliminary Decision, before it is sent to both parties as the Final Decision.
- The Final Decision will be sent to you within 5 working days of the adjudicator receiving any comments on the Preliminary Decision.
- If no comments from either party are received, this Preliminary Decision will appear as the Final Decision.
- Once the Final Decision is issued, this will then finalise the adjudication process with no further appeals or review available.

The parties have until 8 July 2022 to comment on this preliminary decision.

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ADJUDICATOR'S PRELIMINARY DECISION

Adjudication Reference: WAT/X996 Date

of Preliminary Decision: 1 July 2022

Case Outline

The customer's complaint is that:

- The company needed access to the customer's garden to lay a new pipe. The customer allowed for the work to be carried out however he is unhappy with the way his garden has been left.
- He feels the re-instatement of his lawn was left in a poor and mismatched state; only a strip on the lawn has been replaced where it was dug up. This has then caused the grass around it to die and miscolour. Whilst it is understood water companies will normally only replace like for like no betterment, it was worse in the customer's case as it damaged to the surrounding grass.
- Following his complaint to Consumer Council for Water (CCW), the company did agree to to re attend to lay further strips of new turf and also seed any remaining original areas however it then failed to follow through on this commitment.
- The customer requests that the grass to be fully re-laid due to the company's failed promises and lack of ownership.
- The customer has lost earnings during this time and is not happy with the level of compensation.

The company's response is that:

- It acknowledges that the customer is unhappy with the way his garden has been re-instated and would like it to fully relay the grass. The company asserts that it has been in touch with the customer with solutions but they are yet to come to an agreement.
- On 4 December 2021, the customer contacted it expressing his dissatisfaction with the reinstatement carried out in his garden following on from works it needed to carry out on the drainage in the customer's back garden.
- It carried out a site visit at the customer's home and agreed with the customer it would replace the strip of turf which had been put down by them, which is unlevel. They were also going to put grass seed in the areas which were affected by the crews walking over the grass in damp

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weather. Unfortunately, the date in which the rectification was due to be carried out did not go ahead. This was due to an issue with whereabouts on that day.

- The customer then refused access to them and wanted to get his own quote for the works to be done by a private contractor.
- It was willing for the customer to have the works carried out by a third party to try and turn things around. It received a quote from the customer which included 65m of turf, two tonnes of topsoil and £393.00 of extra materials. As this was so far from what it had previously agreed with the customer which was around 3m of turf, some topsoil and seed. The full quote came to £1066.00, which it rejected. The customer also had no explanation for the £393.00 of extra material included in the quote.
- It contacted the customer following receiving the quote and advised him that it would still be able to get a crew out to complete the agreed works however, it would not be paying to re-lay the whole garden via a private contractor.
- The company says it is still happy to get a crew out to rectify the customer's garden under the terms previously agreed. It has advised it will also look into a gesture of goodwill once all rectification work had taken place due to the service failings experienced.
- The customer has not provided any evidence of loss of earnings in support of his claim. The company says however it has agreed to rectify the customer's garden under the terms of its previous agreement. It is also willing to consider a gesture of good will once the rectification of the garden has been carried out.

Reply

- The customer says prior to the work being carried out the company provided an assurance that his garden would be left in the condition it was in.
- Throughout his complaint he has said the company should re-lay his turf as it's not how it should be.
- He has lost earnings due to having to take time off work to be available at times the company wanted to attend and then did not turn up.
- The company has said it contacted him when he did not receive any missed calls or voicemails which is "completely unacceptable".
- He has not received any contact from the company since 18 May 2022 despite telling him it would contact him soon.
- He has carried out the work to his garden himself so his children play in and can use the garden.

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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. The customer's claim concerns the service provided by the company following a concern raised regarding the condition of reinstatement work to his garden after the company carried out drainage work in his garden.
2. It is not in dispute that the company agreed at the outset to restore the customer's garden to its original condition once it had completed work required to pipes in his garden.
3. The customer initially raised a concern regarding the condition of reinstatement work to his lawn on 4 December 2021 during a call with the company. He sent photos showing the condition of his garden before and after the works. This evidence indicates that the reinstatement works provided to his garden were not to a reasonable standard as whilst a strip of new lawn turf had been laid where the garden has been dug up, the area around this section was patchy with dead sections of lawn. It is noted that the photos of his garden prior to the works show the lawn to be in very good condition with no patches.

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4. There is no evidence of the company acting upon the customer's initial verbal complaint made on 4 December 2021, however, following his written complaint sent on 6 January 2022, the company arranged for representatives to attend on 14 January 2022 to inspect the garden. It is evident that as a result of this visit, the company agreed to attend in mid-March 2022 to carry out further reinstatement works to the lawn. Therefore, the company's inaction following the customer's initial complaint on 4 December 2021 is evidence of a customer service shortfall by the company, however, by agreeing to carry out further works after inspecting the garden, it acted reasonably in this regard.
5. Following contact from the customer on 9, 10 and 16 March 2022, a representative subsequently attended on 17 March and it was confirmed to the customer that the works previously agreed would be carried out on 23 March 2022. The company's contractor did not attend on this date. In its Defence the company said this was due to an issue with locating the property on the day. Therefore, the failure to complete the promised reinstate work on 23 March 2022 is evidence of the service provided by the company not reaching a reasonably expected standard.
6. The customer subsequently contacted CCW in April 2022 and they requested that the company consider replacing the whole lawn due to damage caused to the areas around the strip of lawn replaced. In its response dated 21 April 2022, the company did not agree to this request but reiterated its previous offer which it said was to replace two further strips of turf in the affected area and spread some grass seed in the patchier areas. It said this work had now been arranged to take place on 25 April 2022.
7. Whilst in its Defence the company has said the customer refused access, the customer's email to the company dated 25 April 2022 does not reflect this rather it indicates that the company (or its contractor) failed to attend again on that date. The customer at this stage told the company he wanted to get a third party to complete the reinstatement works and on 26 April 2022, he sent a third party invoice to the company for the cost of the works. In its Defence, the company stated that it agreed to reimburse the customer for the cost of getting a third party to carry out the works in order to resolve his complaint. However, it said that as the invoice he provided was for £1066.00, was for work that went beyond what was agreed and included £393.00 for materials, it declined to pay the invoice. Whilst the company was under no obligation to pay the full cost of the invoice, the evidence indicates that it did not offer or provide any suitable alternative solution. As no agreement was reached the customer escalated the matter to WATRS for redress.

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8. In summary, whilst the company agreed to carry out further reinstatement works to the customer's garden after he complained about the standard of the original reinstatement works, it did not follow through with its promise. Over the next four to five months, the company did take some steps to provide the agreed works as it arranged appointments for the work to be carried out on two occasions however these appointments were missed and the rectification work was not provided. Furthermore, it is clear that there was poor communication on the part of the company meaning the customer had to chase the company in pursuit of a resolution on more occasions than was reasonable in the circumstances.

9. In its Defence the company has said it is still willing to carry out the rectification works, however, it is clear from the customer's Reply that this remedy is no longer required as by this date, the customer had done the work himself to enable use of the garden. The customer has not evidenced any direct costs incurred in carrying out this work, however, if he submits evidence of any costs with his Comments on Preliminary Decision, WATRS will consider if the company is responsible for his reasonable costs incurred. It is noted that in its Defence, the company has indicated it is willing to offer a goodwill gesture. Due to the original rectification work provided by the company not reaching the standard to be reasonably expected and the company's subsequent customer service failures when handling the customer's request for further reinstatement works, it is reasonable for it to pay the customer a measure of compensation for the stress and inconvenience caused. Based on the evidence, I assess an appropriate amount of compensation to be £450.00. This includes a nominal amount for missed appointments. This amount falls within the higher end of Tier 2 of the WATRS Compensation for Distress and Inconvenience.

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Outcome

The company needs to take the following further action(s):

- Pay the customer the £450.00 in compensation for stress and inconvenience for failing to provide its service to the expected standard when handling rectification works to the customer's garden.

Please note that this is a preliminary decision and the outcome may be subject to change dependent on the comments received by the parties. This will be recorded in the Final Decision.



A. Jennings-Mitchell, Ba (Hons), DipLaw, PgDip (Legal Practice)

Adjudicator

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