

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X998

Date of Final Decision: 5 July 2022

#### Party Details

Customer:

Company:

#### Complaint

The customer states that the surface water from his property runs to a brook and therefore the company has been charging him for a service it does not provide. He disputes that the pipe which carries the surface water is owned by the company. He requests a rebate of his surface water charges and £2,500.00 in compensation from the company for its failure to manage his complaint in a fair manner.

#### Response

The company acknowledges that the customer's surface water from his property runs to a brook that it does not own. However, it states that its mapping data confirms this passes through its surface water sewer before exiting into the brook. Therefore, in accordance with its Charges Scheme, the customer is liable for surface water drainage charges.


#### Findings

The company's Charge Scheme confirms that in instances where a customer's surface water does not enter the public sewer system, they may be eligible for a rebate of surface water drainage charges. However, the company's mapping data indicates that the customer's surface water runs through its surface water sewer before it reaches the brook. The company's investigations into the customer's complaint confirmed this. Therefore, based on this and because there is a lack of evidence to show the sewer pipe is unadopted or owned by the local authority, the customer has not shown he is eligible for a rebate or that the company failed to provide its service to a reasonably expected standard when handling his request.

#### Outcome

The company does not need to take any further action.

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The customer must reply by 2 August 2022 to accept or reject this decision.

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## Case Outline

### **The customer's complaint is that:**

- Rain water from his property runs directly into the brook that runs along the bottom of the field a street away from his property.
- He has been pursuing this with the company for the past 12 years, however, it has consistently denied the claim. In 2021, the company agreed to carry out a dye test which he attended. Technicians told him he was correct in his belief that water did not go through its sewer system.
- The report he subsequently received from the company was accurate up to the last line when it stated that the blue pipe joined its pipe before it exits in the brook. The map provided by the company includes few details and the red pipe indicated, is in the wrong place.
- The company insists his pipe joins up with its sewerage pipe at some point however if that was the case the water emptied into the brook would be contaminated and therefore illegal.
- After receiving the map he contacted the local authority who assured him that they owned and maintained the pipe. The customer asserts he has lived at the property for more than fifty years and he regularly sees the local authority vehicles but he has not seen the company attend to carry out cleaning or maintenance.
- He has submitted evidence of a builder's map that clearly shows the position and function of the pipeline. The company refused to allow him to present this evidence to it but did ask him to send the map that he declined to do.
- In March 2022, the company paid £50.00 into his account without asking him if he agreed to this. This "supposedly" was for supplying him with misleading and inaccurate information.
- After 12 years of "obfuscation" he requests compensation for money incorrectly charged for a service he has not had. He seeks the maximum amount, £2,500.00 for stress and inconvenience for this and the company's failure to effectively address and manage his complaint in a fair manner.

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## The company's response is that:

- Its Charge Scheme allows for customers to apply for a reduction to their surface water drainage (not highway drainage) part of their sewerage charges in the following circumstances:
  - (i) If none of the surface water from the property enters the public sewer network (other than as trade effluent), we will not charge for surface water drainage.*
  - (ii) If some of the surface water from the property goes directly into a watercourse and the customer pays someone else to take it away, we will reduce the charge for surface water by the amount paid to the other organisation to take it away (up to the amount we charge for that part of the service).*
- The customer first contacted it on 26 February 2010 to make an application for an allowance in respect of surface water drainage charges raised against his account. This claim was rejected as its mapping data confirmed that there are both combined and surface water public sewers on this close. He rang it on 11 March 2010 to dispute the outcome of his claim and it wrote to him confirming that its mapping data shows that there is a combined sewer and surface water sewer outside his property, and that surface water sewer drains to the brook via the public sewer, and that his claim has been disallowed.
- In its further response dated 31 March 2010, the company says it acknowledged that whilst it did not own the brook in question, it did own the public sewer which surface water from his property travels through before entering the brook.
- The customer rang back on 18 June 2010 and disputed the sewers were public and said they were built privately when the property was built. He stated that he had a map that showed the sewers were not public, and it asked him to send this to it.
- The customer contacted it again in September 2016 when it reaffirmed that his claim has been rejected correctly.
- The next time the customer contacted it on 1 July 2021 it handled his contact under Stage one of its complaints procedure and responded by telephone on 6 July 2021. It agreed to send out a team to carry out a dye testing investigation, which was subsequently completed on 17 August 2021. There was a delay in the survey being completed caused by its van breaking down and it made a £25.00 GSS compensatory payment to the customer.
- On 19 August 2021, it called the customer to advise that the dye testing investigation completed confirms his surface water claim had been rejected correctly.
- As the customer was unhappy with its response to his complaint this was escalated to Stage two of its telephone complaints process. On 23 August 2021, a Case manager called and explained that it had combined sewers which take foul water and surface water and this never goes to a

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watercourse or brook, but it also has separate surface water sewers like the one his surface water goes through. It advised that while it did not treat the surface water as it entered its network on its way to the brook, for this reason the surface water drainage charges applied on his account are correct.

- It subsequently agreed to visit on a further occasion however after consulting with its Developer Services Team it called the customer 17 September 2021 and advised that there was no requirement for a further visit. It explained that the drains (sewers) are public as they were adopted by it in 1997, so regardless of the plans he has when the property was built, it now own the drains (sewers).
- In its response to the Consumer Council for Water (CCW) dated 25 October 2021, it reiterated that the customer's property connects to public surface water sewers which run down his Close underneath the road. It then connects to the Avenue by making a right turn, turns right again into the Grove and then makes a left through a property garden before discharging into the brook.
- Following this, on 29 October 2021 it sent a further email the customer and advised that the surface water sewer in his Close shows on the system it uses to map its assets as one of its sewers, which was originally laid between 1949-1965, which looks to be an accurate estimation of date bearing in mind the style of the properties. It explained that at the time, the local authority had licence to run the waste water networks and these only came in-house to it (previously REDACTED) circa 2002. It said that due to its age it did not have a Section 104 agreement for this sewer - the likelihood is that if we did have an agreement, this would have long since been destroyed as the sewer in question is vested in it as it is showing on our map
- ~~reported~~ It provided a further response to CCW on 10 December 2021 in which it advised that the surface water sewer in question is a pre-existing adopted sewer that would have been vested in REDACTED (its predecessor) in 1974 from the local authority, and as such is now its responsibility.
- In its Defence the company apologised for referring to section 104 agreement its 29 October 2021 response as this was not in force at the time.
- The only form of 'proof' available to confirm the sewer is a public sewer/owned by it, is the mapping data, which shows in blue the surface water sewer, and in red the combined sewer.
- It confirms that there are several private drainage systems mapped on its records on the customer's Close (within individual property boundaries), which will have been added during incidents that it had investigated at the respective properties historically. Any drains that did not transfer to it during the private sewer transfer in 2011 but are found to be connected to the public sewer off the property boundary will be mapped as a public asset in line with the private sewer transfer legislation.

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- In its Defence it apologised for the links in its earlier response not working and that its reference to a Section 104 agreement in this case was irrelevant. As a measure of apology for the poor previous responses, it agreed to send the customer a goodwill payment of £50.00.
- In response to the customer's comments about the local authority owning the public surface water sewer, it holds bi-monthly meetings with the local authority and they had not actively challenged that it owns the public surface water sewer on his Close and the downstream surface water network.

The local authority does have an obligation to operate and maintain their network, in this instance the highway gullies on REDACTED, which may be the activity the customer has observed.

In conclusion, it has no reason to believe its mapping data is incorrect. As it has attended very few reactive visits in this area, the information on lateral drains/sewers from each property is limited. However, the connectivity survey/dye testing carried out in respect of the customer's property is conclusive, and confirms surface water from his property travels through its network before entering a local brook.

- In conclusion, as surface water from the customer's property travels through the public sewer before entering a nearby brook, he is liable for surface water drainage charges. It is therefore unable to refund the customer surface water drainage charges he has paid, and going forward it will continue to raise charges in respect of surface water drainage against his account.
- It is sorry for any stress and inconvenience the customer has experienced, however, it believes that the previous compensatory payments made totalling £75.00 are satisfactory, and it does not feel that there is any basis to make a further payment of £2,500.00.

### 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

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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 dispute relates to the wastewater/sewerage service supplied by the company.
2. The customer's complaint is that the charges for surface water drainage have been incorrectly raised as rainwater from his property that runs into a local brook does not enter the company's sewer network. He submits that the surface water from his property runs through a pipe that is owned by the local authority.
3. It is usual across the industry that in instances where a customer's surface water does not enter the public sewers, they can apply to their water and sewerage company for a rebate of surface water drainage charges. The company has provided details of its Charges Scheme, as set out in its Defence which reflects this position and makes clear that a rebate only applies if no surface water enters a public sewer.
4. In the customer's case, he disputes that surface water from his property enters the public sewer and is unhappy that despite having raised the matter on multiple occasions with the company over the past 12 years, it has refused to accept this thereby rejecting his claim for a surface water allowance. In its Defence, the company does not dispute that the customer's surface water runs into the brook which is not its asset. However, it maintains that, as it enters its sewer network before exiting at the Brook, he is not eligible for a reduction in the surface water drainage part of his sewerage charges.
5. The company has provided a map from its system that it says is used to map its assets. It says this shows two sewer lines (one red and one blue) that run along the customer's Close, under the road. It submits that the red pipe denotes a combined sewer pipe and the blue pipe is a separate surface water sewer pipe, which the customer's drain connects to. The customer has also submitted a map which shows the same pipes in approximately the same location. Both

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maps show a dotted line from the customer's property, representing the drain pipe, that runs to these pipes although the position of the drain is slightly different in each map. Both maps indicate that the customer's drain connects to the (blue) surface water sewer which carries the surface water along his Close that then takes a right turn along the Avenue, another turn right into the Grove and then it takes a left through a property garden before discharging into the Brook. The company has also provided at Appendix 12, the results of the dye test that the company carried out on 17 August 2021. I note this confirms that the surface water from the customer's property leads to the brook.

6. However, the customer disputes that the surface water sewer is owned by the company, rather he claims that the pipe is owned by the local authority. Therefore, the issue in dispute is the ownership of the pipe that carries the customer's surface water into the local brook.
7. Usually public sewers are owned by water and sewerage companies. However, there are still some private or unadopted sewers. The company seeks to rely on its mapping data to show that the pipeline in question is a public adopted sewer. In its Defence the company has given a detailed history of the sewer. In essence this is that it was originally laid between 1949-1965 and whilst at that time, the local authority had licence to run the waste water networks, as a pre-existing public surface water sewer, this was vested in North West Water in 1974 (its predecessor) from the local authority, and as such it is now its responsibility. The evidence at Appendix 12 shows that company's team whom attended to carry out the dye test investigation in August 2021 reported that surface water from the customer's property did go into the public sewer which it concluded was its asset.
8. Whilst the customer has said the council has assured him they own the pipe, this is not clear from the map he has provided and there is no other evidence to support this claim or to show that the sewer through which his surface water travels, is unadopted or privately owned.
9. In summary, the company's investigations confirm what is indicated in its mapping data that the pipe under the customer's Close that his surface water drain connects to, is a public sewer which it owns. The company's mapping data indicates it has owned the sewers in the customer's Close since taking over from its predecessor and that the sewers were initially adopted around the time were built between 1949-1965. This explanation is plausible and due to

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a lack of any substantive evidence which casts doubt on the accuracy of the company's mapping data, this is a reasonable start point. Due to a lack of evidence to show the sewer is unadopted, privately owned or responsibility for the pipe is vested elsewhere, on balance, the customer has not established that he is entitled to a rebate of his surface water charges.

10. Regarding the standard of customer service provided, the company has acknowledged instances where its service did not reach a reasonable standard when handling the customer's complaint. This included a missed appointment to carry out the dye test following the customer's stage one complaint dated 1 July 2021 and an incorrect reference to a Section 104 agreement in its 29 October 2021 response to the customer which it acknowledged also contained links that did not work. The company has confirmed it paid the customer £75.00 in recognition of these issues; £25.00 GSS payment for the missed appointment and £50.00 for the errors in its 29 October 2021. On balance this was reasonable and based on my review, there is no evidence to support the request for further compensation to be paid by the company.

#### **Outcome**

The company does not need to take any further action.

#### **What happens next?**

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 2 August 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.

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

**Adjudicator**

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