

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X144

Date of Final Decision: 1 October 2022

#### Party Details

Customer:

Company:

#### Complaint

The customer states that the company has recently informed her that her sewer pipe is private, therefore it is not responsible for carrying out any repairs needed or for paying the cost of connecting her to the public sewer. She disputes this as the search conducted prior to her purchase of the property concluded that the company is responsible for the drainage and sewage from her property. The customer requests compensation of £3,500.00 from the company to cover the cost of the connection.

#### Response

The company states it is not responsible for the customer's sewer pipe or any repairs needed to it as the waste pipes serving her property have not been adopted and are not connected to the public sewer. It is therefore not responsible to pay the customer's compensation claim. The company has not made any settlement offer to the customer.

#### Findings

The company has shown that through its investigations carried out at the customer's property, the waste pipes serving the property have not been adopted and are not connected to the public sewer. As a consequence its advice provided to the customer that it is not responsible for her sewer pipes is correct. Its explanation for this position differing from that given in the search carried out is reasonable and does not establish any failure on its part to provide its services to a reasonably expected standard. Therefore, it is not responsible to cover the cost of connection to the public sewer. Nonetheless, there were instances of the company's service provided not reaching the expected standard when dealing with the customer's communications about the substantive issue.

## Outcome

The company needs to take the following further action:

- Pay the customer £100.00 for stress and inconvenience caused by the instances of the company's customer service provided not reaching a reasonably expected standard when dealing with the customer's communications about the substantive issue.
- Provide an apology to the customer.

The customer has until 29 October 2022 to accept or reject the Decision.

## **ADJUDICATOR'S FINAL DECISION**

**Adjudication Reference: WAT/X144**

**Date of Final Decision: 1 October 2022**

### **Case Outline**

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

- She has been having problems with the drainage from her property. The company has been and cleared the problems in the past. It recently conducted a report and concluded that her drain is private therefore not its responsibility.
- When she bought the property in 2019, she had a search conducted that stated the company is responsible for the drainage and sewage from her property.
- Her property was built in 2014 and it came with a ten year guarantee. She tried to claim on this but the blockage issue is not on her land, therefore she is not covered under this policy.
- The drain is shared with her neighbour who experiences similar problems.
- As a result of her initial complaint to the company dated 22 December 2021, it stopped charging her sewage costs and refunded her money she had previously paid it.
- In response to her initial complaint to the company dated 22 December 2021, the company told her that it had not adopted the drainage on the estate that she lives on and was not responsible for the sewage for the 48 houses.
- In her Stage two complaint dated 10 May 2022, the customer advised the company that she had asked other neighbours on her estate and they are still paying sewage charges to the company. She said this indicates to her that the company is taking responsibility for the sewage on the rest of the estate, just not hers or her neighbour's properties. She asked the company to explain why this is.
- She seeks an apology from the company.
- She also seeks £3500.00 in compensation to cover the cost of the connection to the public sewer.

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

- It understands that the customer is unhappy with its previous responses to her complaint.
- The background is that the property was built and the billing account was set up based on information given to it by the owner/occupier at the time. It was not advised that there

was an alternative wastewater arrangement, and so it set up billing accounts with full water and sewerage charges, which is standard process as this is by far the most common scenario. These charges can be amended later if the setup is changed or found to be different.

- It was not aware that the property was not connected to the main sewers until it was investigating the sewage issues in 2020 and 2021. As a result of its investigations, it cancelled the sewerage charges for the property from the occupation date and refunded a total of £480.61 to the customer.
- The customer cannot understand why only her and her neighbour are affected by this issue. It can confirm that the layout of the sewer pipes to the customer's and her neighbour's property (to which she refers) are different to the rest of the estate.
- Regarding the customer's request for it to pay the costs of £3,500.00 to connect her to its sewer network, the pipework does not connect to its sewers and therefore it remains private. It is the customer's decision whether or not to request a connection into the sewers or to have any necessary work done to the existing pipework to make it a fully functioning system.
- As the Property was built after 1st July 2011, the ownership of the waste pipes does not automatically transfer to its ownership under the Water Industry Act (Schemes for Adoption of Private Sewers) Regulation 2011 (2011 Regulation). The developer of the property needed to contact it to commence the adoption process for any sewerage pipes. None of the drainage serving the property was put forward for adoption by the developer. This is likely to be because of the lack of a connection to its sewer.
- This is not something it could have foreseen, and it has investigated this thoroughly. It made multiple visits to confirm the set up at this property, to confirm the lack of connection and the private responsibility.
- The customer's 2018 Safemove report was completed based on the information available on its records at the time. The billing records would have been checked to see whether charges have been raised for sewerage and water services, and also its mapping system to check for sewers nearby. The billing system showed full charges at the time, for both water and sewerage services. The map showed a main sewer on the road near to the property.
- In summary, whilst it sympathises with the customer's situation:-
  - It is not responsible for the works carried out by the developer and cannot comment on their reasons for the way they have laid the sewer pipes from the property.
  - It works on a reactive basis and would not be aware as to how the customer's pipework is laid/connected until it was contacted regarding an issue.

- The customer has a choice of connecting to the public sewer, though that would be at the customer's cost. She may wish to take this matter up with the developers of the estate and approach the Environmental Health for support with this. However, the cost for this should not fall on it as it has no liability in this case.

### 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 company's refusal to accept responsibility for the sewer pipes serving her property.
2. The customer states when she bought the property, she had a conveyancing search conducted that stated the company is responsible for the drainage and sewage from her property. The company states it is not responsible for the customer's sewer pipe or any repairs needed to it as the waste pipes have not been adopted and are not connected to the public sewer.
3. Based on the evidence, I note that:
  - a. In 2018, the customer asked REDACTED (a conveyancing search company that the company has said is a trading arm of it) to provide a report on services for the

property which showed full charges at the time, for both water and sewerage services.

- b. The customer moved into the property in 2019.
- c. Between August 2020 and September 2021, the company attended the customer's property to investigate issues experienced with the sewerage, clearing blocked sewers on multiple occasions.
- d. On 30 September 2021, the company sent the customer notice that there was "an illegal" connection made from her property to the public sewer.
- e. The customer called the company on four occasions to discuss the notice before the company called her back on 11 November 2021.
- f. During this call, it advised the customer that the drains that serve her property discharge into a chamber that does not connect direct to the public sewer. It confirmed this in writing to her on 14 November when it advised that the property was built after 1st July 2011 and that none of the drainage serving the property had been put forward for adoption by the developer. Due to this, the drain that was serving her property is classed as a private system.
- g. The parties were in communication regarding this issue over the subsequent weeks and the customer raised a stage one complaint on 22 December 2021 in which she set out events, referencing the conveyance search that had confirmed the company was responsible for her sewer pipes.
- h. On 14 January 2022, the company reiterated that the drain that serves her property is classed as a private system and explained that whilst it is responsible for the public sewer, sections of the private sewer are not its responsibility.
- i. In February 2022, the company refunded the customer £480.61 for sewage charges paid to date and confirmed that she would only be charged for water charges going forward.
- j. The customer raised a stage two complaint on 10 May 2022 asking why the company was taking responsibility for the sewage on the rest of the estate, but not for hers and her neighbours.
- k. In its stage two response dated 18 May 2022 the company advised likelihood is that other properties on her estate connect to an unadopted section of sewer that then connects to its sewer meaning it is providing a service to them and so charges would be due. It clarified that it would not carry out work on the unadopted section of sewer, but it would still raise charges for the service it is providing. It said in her case, there is no connection to either the unadopted or the public sewers, therefore it is not responsible.

- I. The company reiterated its position in its 22 June 2022 response addressed to Consumer Council for Water (CCW).
4. In the majority of cases, ownership of private drains and pipes automatically passed to sewage undertakers under the 2011 Regulation, resulting in water and sewerage companies becoming responsible for the maintenance and repair of sewers. However, for properties built after 2011, in order for sewer pipes to be adopted, the developer needs to make an application to the company.
5. The company states that this did not happen in relation to the pipes serving the customer's property, and that it only identified that they were not connected to either the unadopted or public sewer through it attending the property in 2020 to 2021 to clear reported blockages. The document titled 'Timeline of case from initial case', provided by the company, includes notes from operatives who attended during this period. I am satisfied these support the company's above stated position and indicates that her drains discharge into a chamber that does not connect directly to the public sewer. Therefore, on balance, I accept its submission that the customer's sewer pipes are not connected to main sewer as there is an alternative wastewater set up.
6. It is evident that the dispute has arisen because the conveyancing search that the customer obtained in 2018 states that the company is responsible for the sewers serving the property.
7. The company's explanation for this is that this search was completed based on its records and mapping that, at that time, showed the property was being billed for both water and sewage charges and that a main sewer was located near to the property. It says billing was set up this way as it was not told of any alternative arrangement for wastewater, either by the developer or by the homeowner at that time. It claims this is a reasonable approach to take as "this is far the most common scenario" and asserts that these charges can be amended later if the setup is changed or found to be different.
8. In determining if this is a reasonable approach for the company to take, I have taken into account:
  - a. in the vast majority of cases, discharge from domestic properties enters the public sewers, which in turn entitles the company to raise sewerage charges.

- b. The public sewer map holds records of sewers. Previously, private sewers that were adopted under the 2011 Regulation are not all shown on the public sewer maps. The maps of the public sewers therefore do not have to be completely accurate.
9. Consequently, as the company had not been told there was an alternative waste set up for the property, and as its mapping indicated it was near a main sewer, on balance I find that it was reasonable for it to set up billing for the property to reflect that the customer's sewer pipes were connected to main sewer, on the basis that if this is shown to be different, it would refund sewerage charges.
10. In the customer's case, the alternative waste set up for the property only became apparent after it attended the property in 2020 to 2021 in response to reports of blockages. Due to the vast size of the sewer network, I accept that companies are able to take a reactive approach to the repair and maintenance of sewers. This reflects the historical legal position and recognises that sewerage undertakers unconditionally adopted private sewers in 2011, irrespective of their condition and without knowledge of where many of these sewers lay.
11. As such, I find that the delay in discovering how the customer's pipework is laid/connected and that there is an alternative waste set up for the property until it had cause to attend the property, does not constitute any service shortfall by the company.
12. Therefore, whilst the customer reasonably and understandably relied upon the information in the REDACTED search, the reasons given by the company account for the change in position. This does not establish any failure on its part to provide its services to a reasonably expected standard. As a consequence, I find that the company is not responsible for the cost of any repair needed to the customer's sewer pipe or the cost of connecting it to the public sewer.
13. Nonetheless, when reviewing its handling of the customer's case, it is noted that the company initially on 30 September 2021, sent the customer a communication incorrectly notifying her that her property had illegally connected to the sewer. Furthermore, when the customer called it on 14 October 2021 to discuss the notice received, it did not provide a callback as promised until after the customer called on three further occasions on 11 November 2021. I find that this demonstrates a shortfall in the customer service provided



by the company and constitutes evidence of the company failing to provide its services to a reasonably expected standard in this regard.

14. As the substantive claim has not been proven, the amount of the customer's compensation claim has not been substantiated in full. However, in light of the above mentioned instances of the company's service provided not reaching a reasonably expected standard, it is fair to direct that the company pay her a measure of compensation on this basis. I find a fair and reasonable amount to be £100.00 in compensation. This falls in the higher end of Tier 1 of the WATRS Guide to Compensation for Inconvenience and Distress. This amount reflects the degree of stress and inconvenience caused by the company providing incorrect information to the customer regarding the status of the connection and for not providing a call back within a reasonable timeframe.
15. The customer has requested an apology from the company. In light of this review, which has found instances of the company's service provided not reaching a reasonably expected standard, I find that it is fair to direct that it provide an apology to the customer in respect of this.

#### **Outcome**

The company needs to take the following further action:

- Pay the customer £100.00 for stress and inconvenience caused by the instances of the company's customer service provided not reaching a reasonably expected standard when dealing with the complaint.
- Provide an apology to the customer.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 29 October 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.

A handwritten signature in black ink, appearing to read 'A. Jennings-Mitchell', with a stylized flourish at the end.

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

**Adjudicator**