

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X181

Date of Final Decision: 7 November 2022

#### Party Details

Customer:

Company:

#### Complaint

The customer claims the company damaged his driveway while addressing a damaged manhole cover without his permission. Once the customer raised this issue, the company provided poor customer service. The customer is seeking the company to tarmac his entire driveway to match the area surrounding the new manhole cover.

#### Response

The company says the manhole cover was deemed dangerous, and the company completed the repair work to avoid potential personal injury. The company has a duty of care to ensure its pipework is safe and does not pose a danger to the public. In this instance, for health and safety reasons, the company deemed it necessary to replace the manhole's frame and cover. This involved cutting into the driveway as the company could not source an exact match for the existing manhole. Accordingly, the company is not liable for any damage to the driveway. Concerning the alleged customer service failings, the company has offered a goodwill payment of £25.00. The company has not made any further offers of settlement.

#### Findings

I am satisfied that the evidence shows that the company provided its services to the customer to the standard reasonably expected concerning the manhole cover. Concerning customer service, the evidence shows no other failings for which the customer has not already been offered adequate compensation.

#### Outcome

The company needs to take no further action.

The customer has until 5 December 2022 to accept or reject this decision

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

# ADJUDICATOR'S FINAL DECISION

Adjudication Reference: WAT-X181

Date of Final Decision: 7 November 2022

## Case Outline

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

- The company damaged his driveway while addressing a damaged manhole cover without his permission.
- Once the customer raised this issue, the company provided poor customer service.
- The customer is seeking the company to tarmac his entire driveway to match the area surrounding the new manhole cover.

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

- The manhole cover was deemed dangerous, and the company completed the repair work to avoid potential personal injury.
- The company has a duty of care to ensure its pipework is safe and does not pose a danger to the public. In this instance, for health and safety reasons, the company deemed it necessary to replace the manhole's frame and cover.
- This involved cutting into the driveway as the company could not source an exact match for the existing manhole. Accordingly, the company is not liable for any damage to the driveway.
- Concerning the alleged customer service failings, the company has offered a goodwill payment of £25.00.
- The company has not made any further offers of settlement.

## How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

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 another disadvantage as a result of a failure 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 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 centres on whether the company damaged the customer's driveway while undertaking repair works to a manhole without permission from the customer.
2. The company must meet the standards set out in the Water Industry Act 1991 and the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008.
3. The combined effect of these is to place an obligation on a water and sewerage company that when there is a report of damage to its pipework, the company needs to investigate thoroughly and, if repairs are required, make such repairs.
4. From the evidence put forward by the customer and the company, I understand that in February 2022 the customer contacted the company to make it aware of the damaged manhole cover on his driveway. On 18 February 2022, the company inspected the manhole cover and found it in a dangerous condition. The customer was given a permission to dig form for him to sign so that the company could commence repair work. However, I understand that this form was not signed.
5. On 10 March 2022, the company attended the site and replaced the manhole cover and its surrounding frame. This involved cutting into the driveway to mount the frame and then concreting it in. After further contact by the customer, on 14 March 2022, the company reattended the property to inspect the work and rescheduled an attendance for 29 March 2022 to replace the concrete with tarmac to match the existing driveway.

***This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.***

6. However, the evidence shows that the company failed to attend on 29 March 2022 and arrived on site on 1 April 2022 to complete the work. The same day the customer contacted the company's contractor to raise a complaint and highlight the poor service received.
7. On 28 April 2022, the customer contacted the company to query the status of his complaint. On 29 April 2022, the company responded to the customer apologising for the poor service received and confirming that it would investigate the matter. Between 6 May and 30 May 2022, various discussions took place between the customer and the company as to whether the company had permission to repair the manhole and whether the company could revisit the property to review the repairs. Following a site visit on 30 May 2022, the company proposed further works to the manhole cover. However, as this would make the repair area more prominent, the customer refused the additional work.
8. The customer remained unhappy with the company's responses and unwillingness to undertake to tarmac the whole drive and progressed the dispute to CCWater in June 2022 to resolve. However, the evidence shows that CCWater could not resolve the issues with the driveway. The company's final position was that a permission to dig form was provided by the company. However, as the manhole cover was deemed dangerous, the company had a duty of care to complete the repair work to avoid potential personal injury. The customer remained unhappy with the company's final position, and on 9 September 2022, the WATRS adjudication process commenced.
9. Regarding whether the company damaged the customer's driveway whilst repairing the manhole cover without permission from the customer, the evidence and the photographs provided show that the manhole cover was dangerous. Therefore, I find it reasonable that the company completed the repair work to avoid potential personal injury. The company has a duty of care to ensure its pipework and associated hardware do not harm the general public or its customers. The customer was given a permission to dig form before the work took place. However, the customer did not sign the form. Therefore, in my view, this left the company with no choice but to commence the repair works.
10. The evidence shows that when the initial repair was undertaken in March 2022, the driveway had to be cut, and the surrounding area around the new frame was not tarmacked to fit in with the customer's existing driveway. I understand that a new frame was required as the company could not match the existing frame with the new manhole cover. When the company reattended the

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

property on 1 April 2022, the company did tarmac the area to match, as best it could, the existing tarmac of the customer's driveway.

11. I note the customer's comments that the new tarmac did not match the existing tarmac. However, I find the company was under no obligation to match the tarmac, even if it was possible. After careful analysis of the correspondence, photographs, and other evidence, I cannot find any indication the company damaged the customer's driveway beyond what was required to install the new manhole cover.
12. The evidence shows that once the driveway issue was raised, the company investigated the issue as best it could and made further repairs to the customer's driveway to match the existing driveway surface as best it could. Whilst I appreciate the customer's position, I am satisfied that the evidence shows the company had a duty of care to undertake the repair of the manhole and reinstate the driveway as best it could.
13. Concerning the above, I am satisfied that the company did investigate any damage to the customer's driveway as best it could and acted appropriately according to the results of its investigations. I find there are no grounds to conclude the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person concerning the customer's driveway. Accordingly, this aspect of the customer's claim does not succeed.
14. The company has certain obligations in respect of its customer services. From the evidence provided, I am satisfied that by the end of the company's dialogue with the customer, the company had adequately explained the reasons why it could not consider the customer's request for tarmacking the complete driveway. The evidence shows that, where appropriate, the company offered goodwill payments totalling £25.00 for its missed appointment on 29 March 2022. Accordingly, I am satisfied there have been no failings concerning customer service for which the customer has not already been offered adequate compensation.
15. The customer has made comments on the preliminary decision and having carefully considered each aspect of the customer's comments, I find that they do not change my findings, which remain unaltered from the preliminary decision.

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

16. Considering the above, I find the evidence does not prove that the company failed to provide its services to the standard to be reasonably expected by the average person concerning the repairs to the manhole on the customer's driveway. Furthermore, I am satisfied there have been no failings regarding customer service for which the customer has not already been offered adequate compensation.

#### **Outcome**

The company needs to take no further action.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 5 December 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.



**Mark Ledger FCI Arb**  
**Adjudicator**

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*