

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

**Adjudication Reference: WAT/XX/X371**

**Date of Final Decision: 28 February 2023**

#### Party Details

**Customer:** The Customer

**Company:** The Company

#### Complaint

The customer states the company's contactors leave raw sewage at the property each time they attend to address blockages. The customer says she is also dissatisfied with the customer service provided by the company when handling her communications and complaint. The customer requests that the company increase its offer of compensation from £150.00 to £2000.00 for all of the issues encountered and that it provide a full clean-up service.

#### Response

The company says it has offered compensation of £150.00 to resolve the customer's complaint about the clean-up service and in regards to additional concerns she has raised. The company says this amount was offered to settle her complaint and it does not accept that it is responsible to pay the customer any further compensation. The company made no offer to settle the claim.

#### Findings

I accept from the evidence that the clean-up service provided by the company following planned works in October 2021 did not reach the expected standard. However, I find that the company took reasonable steps to address this issue and respond to the customer's complaint raised this and other service issues. However, as this review has identified further instances of the company's service provided to the customer not reaching the expected standard, the company shall pay the customer additional compensation of £60.00.

## Outcome

The company needs to take the following further action:

- Pay the customer an additional £60.00 in compensation for the stress and inconvenience caused by the further instances of its service provided not meeting the standard to be reasonably expected.

## What happens next?

The customer has until 28 March 2023 to accept or reject this decision.

# ADJUDICATOR'S FINAL DECISION

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Date of Final Decision: 28 February 2023

## Case Outline

**The customer's complaint (submission by the Consumer Council for Water on her behalf) is that:**

- The customer is unhappy with the company leaving sewage on her property on numerous occasions when it attended to access two manholes on her property.
- The customer also raises concerns about various health and safety and customer service issues.
- The customer requests that the company:
  - Increase its offer of compensation from £150.00 to £2000.00 for all of the issues encountered and;
  - Provide a full clean-up service.

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

- Under the Water Industry Water Act 1991 (the Act), it has a legal right and responsibility to access its assets to undertake any necessary work and maintenance.
- The customer's property is the end house in a row of six properties (the properties) that are all served by the same sewer. The customer's property is at the end of the run.
- The customer's property has an access manhole chamber in the back garden and a further manhole in the front garden which both may be used for the purposes of unblocking the sewer and carrying out any maintenance work on the network and allowing the properties upstream (ahead of the run) to have a waste water service that their facilities can drain through.
- It has attended on numerous occasions since at least 2011 in response to reports of blockages from the occupiers of the properties. All blockages are as a result of sewer misuse.
- It offers a basic clean-up service but for any in-depth clean up the customer must contact their home insurance company.

- Due to all the issues with fat and grease, in September 2021, it decided to clean the sewer line to prevent any further issues occurring. Non-emergency work was raised for this and customers were notified. It left a voicemail for the customer on 9 October 2021 asking for her to contact it in regards to access. At the same time, it received another report of a sewer flood which it attended on 9 October 2021 at which point the customer advised of an odour. It identified that the sewer was full and it cleared the blockage caused by a mass of grease and fat. It did a mini-clean up and left the site safe and secure.
- On 14 October 2021, it begun the planned work. On 29 October 2021, the customer called it advising that raw sewage had been left at her property and on the main road. She stated she did not want it to be jet washed as previously when it had done this, it had splashed on her house. The company says that work was raised following this work.
- On 3 November 2021, the customer made a complaint about mess being “left everywhere”. She asked for the company to put in writing that it would leave no mess again advising otherwise, that she would not allow access.
- The customer did not allow its contractor access on 3 March 2022 when they arrived to check if the sewer was free flowing and free from blockages. A letter was posted through the customer’s door asking her to call it as it needed access to carry out works.
- On 6 March 2022, the customer advised due to the mess they leave, she did not want its contractor attending until her complaint had been resolved. The customer also denied access on 15 March 2022 and it put a notice in her letter box explaining it needed access.
- It received a call complaint from the customer on 16 March 2022, which was passed to its Complaints Case Manager (CCM). Its CCM called the customer who raised other complaints including that an agent had put the phone down on her and regarding the behaviour of contractors who had attended. She asked that its contractor gave advance notice of its visits and requested compensation.
- It arranged with the customer for its crew to attend on 23 March 2022 to clean the line. It also spoke with the customer on this date and assured that her concerns would be taken up with the contractors, which it did.
- On 24 March 2022, it received a webform from the customer claiming a Customer Guarantee Scheme (CGS) payment, however, this was for a failed response to a written complaint, however, it found it had answered her complaints within its CGS. Its CCM called the customer on 24 March 2022 to ask her if she was happy with the work carried out on 24 March 2022 and she confirmed that she was although advised she was unhappy they had touched her bin.

- On 29 June 2022, it wrote to the customer advising any CGS she was entitled to had already been paid and it also sent her a Sewer Flooding Questionnaire (SFQ) to complete in relation to any sewer floodings going forward as these would be recorded on the Sewer Flooding Database.
- On 30 June 2022, the customer called and raised all of the issues again including that a representative put the phone down on her. This was the first occasion that she informed it that she had a weakened immune system so she was more susceptible to catching illnesses.
- It called her on 1 July 2022 to discuss her complaint and offered her £30.00 goodwill gesture for her journey which she turned down. It also raised a further £30.00 CGS payment.
- On 10 August 2022, it received a referral from Consumer Council for Water (CCW). It wrote to CCW on 17 August 2022 following a telephone conversation with them.
- It responded to CCW's emails dated 15 and 28 September 2022 on 29 September 2022.
- It received a pre-investigation letter from CCW on 22 November 2022 and provided a response on 1 December 2022.
- It raised a goodwill payment of £100.00 and a cheque was sent to the customer on 7 December 2022.
- It received a further referral from CCW on 9 December 2022 and on 19 December 2022 it replied and arranged for a further payment of £50.00 which the customer had asked for to bring the matter to an end.
- In summary, it has taken the following steps to resolve the customer's complaint:
- It has reacted appropriately to any sewer flooding and blockage reports from the customer and up until October 2021, the customer did not report any issues.
- It has reported to the relevant department and contractors any complaints about their behaviours. This was dealt with as part of its and their internal processes where it fed back all the issues raised including leaving gloves on bins and leaning on private property.
- By law it can take action to gain access to its assets in order to inspect and maintain its assets. It apologises to the customer if this message was delivered in a way which angered her.
- It arranged a meeting with a supervisor and a senior staff member which resulted in the planned maintenance being carried out.
- It has explained what a basic clean-up is and how the customer can arrange a more thorough clean. It has arranged for additional clean ups with its cleaning-contractor however when the customer was unhappy with this, it fed this back to them.

- It has explained in its responses to CCW that it could not arrange for a senior member of staff to attend on each occasion it may have to attend her property. This is because it does not have the resource to agree to this.
- It fully explained to the customer its position in all of its correspondence and engaged with CCW who helped facilitate an additional payment of £50.00 to bring the matter to an end and in line with the customer's request for £150.00
- Regarding the customer's request for compensation, it has seen no service failures in this matter which would warrant any further compensation. It has been consistent with its decisions and explained its position throughout.

## **Reply**

- The customer disputes various aspects of the Response and provides her version of specific events including:
  - The first time she was told about the CGS was on 24 March 2022 by the company's manager and she applied for CGS on the same day. The customer says that the company did not reply within 20 working days and it was not until after she chased it in June 2022, that she was informed of the SFQ on 29 June 2022. She was unable to complete the form as she could not type in the boxes, nor does she have a printer. In its response to CCW, the company said she could do this over the phone but she was not told her this at the time.
  - She disputes the company's claim it provided a basic clean up service and gives details of the mess that has been left on her property.
  - On 3 March 2022, two workmen turned up unannounced for planned works that she had not been notified about.
  - She states that the company's contractors are "very threatening" when they refer to court action.

## **Comments on the Preliminary Decision**

- The customer says the company has been attending sewage floods at her property since they moved in 50 years ago, not just since 2011, as referred by the company.
- During the work carried out on 24 March 2022, as well as placing sewage covered gloves on her bin, the company's contractor also leaned against her fence for no reason, which was

witnessed by a senior manager. The customer asks what guarantee can the company give her that this will not happen again.

- There was an additional unannounced visit on 7 March 2022.
- She reiterates that the company do not provide its basic clean up service properly. The customer provides further details and asks if now that the company is aware of both her and her mother's medical conditions, will it and its contractors work with due care and diligence.

### **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 complaint relates the service provided by company (including its contractors) when attending her property to clear blockages and maintain its assets. The customer says it leaves raw sewage on the property after each attendance, does not give notice of its visits and threatens legal action. She has also raised concerns about the customer service provided by the company whilst handling her communications and complaints.
2. I remind the parties that, in accordance with Scheme Rule 3.5, WATRS cannot be used to adjudicate disputes that concern any matters Ofwat has powers to determine an outcome.

Therefore, I am unable to consider any dispute between the parties concerning CGS payments as this directly relates to Ofwat's General Service Standard (GSS). Therefore, I am unable to consider submissions raised about this as it falls outside of the jurisdiction of WATRS.

3. In accordance with section 94 of the Act, the company is responsible for providing effective drainage and for maintaining its sewers.
4. It is agreed between the parties that the company has attended the property on multiple occasions since at least 2011 in response to reports of blockages. I note that the property is at the end of a run of houses that share the same sewer and it is clear from the evidence that the company needs to access the manholes at the property in order to clear the blockages. I find that by attending to clear blockages and to leave the sewer clear and free flowing, the company acted in accordance with its obligations under the Act. I acknowledge and accept from the evidence in the company's Response, including job notes, that the cause of the blockages is sewer misuse, including fats, grease and wet wipes being deposited in the sewer.
5. Regarding the customer's concern raised about the quality of the clean-up service provided by its contractor, she first contacted the company about this issue on 29 October 2021 when she advised raw sewage had been left on her property and the main road. I accept that the company's policy is to provide a "basic clean-up service" at no cost to the customer. I note its policy states that this may include: "litter picking and removal of solids, washing down affected areas, pumping out basements and disinfection".
6. Based on the customer's complaint raised with the company at the time, on balance I accept the clean-up service provided by the company's contractor on this occasion did not reach the expected standard as described under its "basic clean-up service". To address the issue, I find that the evidence indicates that the company raised a job for its cleaning contractor to attend to carry out a full clean-up. I consider this to be an appropriate response by the company. Nonetheless, the company's note dated 3 November 2021 in its Response, suggest the customer contacted it again to advise she was unhappy with the further clean up provided and requested that the company put in writing to her that contractors would not leave any more mess. Whilst in its Response, the company states it fed back to its cleaning contractor, I am mindful of the lack of evidence to show it took this action or to demonstrate that the company replied to the customer or explained its position in relation to her request. I



find that by not following up on the customer's request, it did not provide its service to the standard to be reasonably expected.

7. I note that the customer denied the company access to the property when it next attended to inspect its assets on 3 and 15 March 2022, due to the previous issue with mess left. The customer is unhappy with the company's letters and notices left advising her of possible legal action if she did not allow access. I find that legally, the company can take action to gain access to repair and maintain its sewer network. Therefore, in this circumstance, it was reasonable for the company inform the customer of the possibility of legal action if she continued to deny access. Further, on balance, I am satisfied that the wording used in these communications was reasonable and proportionate. However, I am mindful that, had the company addressed the customer's concern about the mess left when she first raised this in October 2021, the situation may have been avoided.
8. In her subsequent (telephone) complaint raised on 16 March 2022, the customer said there had been multiple occasions where the clean-up provided had not been satisfactory citing waste having previously been jet washed into her hedges which she has to clean up herself afterwards. Whilst this may have been the case, I find no evidence of the customer raising this issue with the company prior to 29 October 2021. Therefore, due to insufficient evidence, I am unable to accept that the company's clean service provided on any prior occasion did not reach the expected standard.
9. Within her complaint raised with the company, the customer also advised of damage caused to her tarmac driveway from previous jet washing. I can see that the company told her to contact her home insurance company which it said would then liaise with its insurers as part of its investigation. I find this is usual practice across the sector, therefore, the company's advice given to the customer in this regard, was appropriate and does not indicate any failure in the service provided by company.
10. The customer also raised a concern about the behaviour of its contractors whilst at the property that she felt risked health and safety, for example, when they touched her fence and bins after touching waste. In response, the company called the customer, arranged for senior staff to meet with her to discuss the concerns she had and to arrange with her the planned work it needed to do. The company's notes dated 23 and 24 March 2021, included in its

Response, indicate the customer was happy with the clean-up provided following planned works carried out on 23 March 2021. Therefore, I consider these steps taken by the company were reasonable and indicate it was taking her complaint seriously. I also note that in response to the customer's further communications, it confirmed that it had fed back her concerns to its contractors. I consider this shows the company's approach taken to avoid the issue reoccurring in the future, was reasonable.

11. I can see that the customer later informed the company (on 30 June 2022) that she suffered from an immune condition, therefore, having to clean mess left was a particular concern. As there is no evidence to show that the company was made aware of the customer's health condition prior to 30 June 2022, it could not be expected to have taken this into account or taken additional measures in regards to health and safety whilst working at her property before this date.
12. Regarding the customer's complaint about the unprofessional manner of one of its an agents from its contract centre, in its Response, the company explains it does not record all calls and is unable to identify the name of the agent. However, I note that there is a lack of evidence to show it attempted to locate the call at the time the customer first raised this on 11 July 2022. On balance, it was reasonable to expect the company to do so in order to thoroughly investigate this aspect of the complaint whilst the call recording may still have been available. As such, I consider this to be evidence of the company's service provided not reaching the expected standard.
13. Regarding the customer's request for providing two weeks advance notice of its visits, the company has explained in its responses to her that in the event of emergencies including reports of blockages, it could not delay its attendance as this may result in flooding customers' homes. I accept that it is not practical for the company to provide notice when responding to emergencies. However, I consider that it is reasonable to expect the company to provide notice of advance planned works. Based on the evidence, I accept that no advance notice was provided to the customer in respect to the planned maintenance it intended to carry out on 3 March 2022. On balance, I find this constitutes evidence of the company's service provided not reaching the expected standard on this occasion.
14. Regarding the customer's request for compensation, I note that on 11 July 2022 she requested £2000.00 for: leaving her property in a mess; for her having to clear up hazards

“time and time again”; stress caused by threats of taking her to court and bad customer service and; ongoing stress for not resolving the issues. The company initially offered £50.00 on 1 August 2022 on behalf of dissatisfactory service from its contractor and increased this to £60.00 on 17 August 2022. Following intervention from CCW, it increased its offer to £150.00. Whilst I consider that this amount to be reasonable and reflective of the service failures acknowledged by the company during its own and CCW complaints processes, as this review has identified three additional instances of the company’s service not reaching the expected standard: by not replying to her 3 November 2022 communication; in dealing with her complaint raised about the phone being put down on her and; by not providing notice of its planned works on 3 March 2022, I find it fair to direct that the company shall pay the customer further compensation of £60.00 for the stress and inconvenience caused. This falls into tier 1 of WATRS ‘Guide to Compensation for Inconvenience and Distress’. I am satisfied this is amount is reasonable and the overall compensation amount proportionate to the proven issues.

15. In regards to the customer’s request for the company to provide a full clean-up service, as previously mentioned, as per its policy, the company must provide a basic clean-up service which includes: “litter picking and removal of solids, washing down affected areas, pumping out basements and disinfection”. As I am satisfied this is reasonable, I am unable to direct that the company provide a “full clean-up”.

16. I acknowledge the customer’s comments on the Preliminary Decision. I thank her for highlighting these points, however, I am unable to answer her queries. After careful consideration of these comments, I find that they do not affect my above findings.

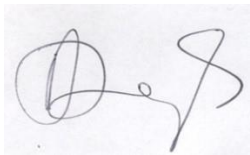
#### **Outcome**

The company needs to take the following further action:

- Pay the customer an additional £60.00 in compensation for the stress and inconvenience caused by the further instances of its service provided not meeting the standard to be reasonably expected.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 28 March 2023 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', written on a light-colored background.

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

**Adjudicator**