

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT X391

Date of Final Decision: 28 March 2023

#### Party Details

Customer: XX

Company: XX

#### Complaint

The customer reported blockages in her sewer starting in August 2021. The matter is still ongoing. The company says that the problem is with the customer's private pipework and is not its responsibility. The customer says that she has evidence contradicting this.

Customer service has been poor and the company's responses inadequate. Although the company has attended, the matter has not been resolved.

The customer seeks an apology from the company. She also wants the company to take responsibility and provide a properly functioning system.

The customer seeks compensation for the time the matter has been ongoing and for the inconvenience caused.

#### Response

The company has attended the customer's property on a number of occasions to clear blockages in the sewer. It says there are problems on the customer's private sewer pipe.

Investigations are ongoing. The company is carrying out regular surveys to try and establish the cause of blockages. The company says that it has acted reasonably in attempting to identify the cause of the problem. It says that it has dealt with customer complaints in line with its complaints procedure. The company denies that it failed to provide its services to a reasonable standard.

The company has paid the customer £150.00 as a gesture of goodwill, £216.00 in respect of a flooding incident and £50.00 for late payment of the money for the flooding incident.

The company denies that the customer is entitled to any further compensation

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## Findings

Sewer blockages have occurred outside the customer's property boundary. The company is responsible for the sewer section where blockages have originated.

The company has cleared blockages and carried out repairs to the sewer. The company has responded to complaints within the required timescales. However, repairs to date have not prevented blockages recurring. After over 16 months of ongoing problems with sewer blockages, the matter is not resolved. The company has therefore not provided its services to the standard to be reasonably expected.

The customer has suffered inconvenience and distress as a result of the ongoing problems with sewer blockages.

## Outcome

The company needs to take the following further action:

Pay the customer the sum of £500.00 in respect of inconvenience and distress.

# ADJUDICATOR'S FINAL DECISION

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## Case Outline

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

- The customer has experienced frequent blockages in the sewer pipe that runs between her property and that of her neighbour.
- The customer says that the company considers the problem to be on her private drainage pipework. However, she says that she has evidence that the problem is not within the boundary of her property.
- Customer service has been poor and the company's responses have been disruptive, intimidating and time consuming. The company has not resolved the ongoing sewer blockages.
- The customer wants to sell her property but has had to delay this due to the ongoing issues.
- The customer wants the company to provide a fully functioning system that is not subject to blockages. She wants confirmation that the company will take responsibility for future problems should there be a recurrence.
- The customer seeks an apology from the company.
- The customer seeks financial compensation for the problems and the time and inconvenience caused.

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

- The company has attended the customer's property on several occasions since August 2021. It has taken a number of steps to resolve the problem and restore flow in the sewer.
- The company's investigations are ongoing. It is carrying out four-weekly surveys to identify the origin of the blockages.
- The company considers that it has acted reasonably in attempting to identify the cause of the blockages. It says that as soon as the root cause is known, it will take reasonable steps to minimise the risk of future blockages.
- The company considers it has dealt with the customer's complaints in accordance with its complaints procedure. It denies that it has failed to provide its services to a reasonable standard.

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- The customer has been paid £150.00 as a gesture of goodwill, £216.00 in respect of a flooding incident and £50.00 for late payment of the amount for the flooding incident.
- The customer is not entitled to seek further compensation as the company has not breached its statutory duties or been negligent.

### 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.

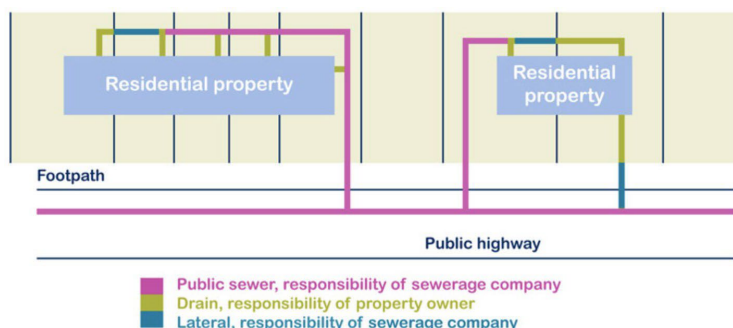
I have carefully considered all of the evidence provided. If I have not referred to a particular document or matter specifically, this does not mean that I have not considered it in reaching my decision.

### How was this decision reached?

1. The company's timeline shows that the customer has been at the property since May 2012. It notes that the customer first reported a problem with the drains on 27 August 2021. The company's report shows that it identified slight damage to a pipe on a neighbouring property but says that this should not have caused a blockage. The timeline shows the company received a further call on 24 October 2021 concerning an issue with the drains. A blockage was located on the neighbouring property and cleared.
2. The timeline shows several further occasions where the company attended to clear blockages. In some cases, it reports manholes full or overflowing. On each occasion, the company attended and cleared the blockage. Job notes provided by the company indicate blockages had occurred where the sewer ran through a neighbouring property.

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3. The company has stated in correspondence that the blockages are within the customer's private pipework and the company is not responsible for repairs. The company's response to the customer's application explains the responsibilities for private pipework. However, the response does not confirm that the problem is with the customer's private pipework.
4. The company says that since October 2011 it assumed responsibility for the shared sewer outside of the boundary of the customer's property. The company has provided a sketch showing the route of the sewer from the customer's property. The sketch shows that the sewer runs from her property to her neighbour's property where it connects with the neighbour's sewer and then runs towards the highway.
5. The company says that on 19 December 2022 it explained why it considered the matter to be a private issue. It stated that although blockages were in pipework within the neighbour's boundary, the pipe in question only serves the customer's property. The company says that makes it the customer's responsibility.
6. The current responsibilities for sewer pipes are explained on Ofwat's web site. A diagram illustrating this on Ofwat's web site is reproduced below.



Source: Ofwat

The responsibilities for the sections of sewers can be summarised as follows:

- a. For residential properties, sewer pipework up to the boundary of a customer's property is shown on the diagram as a drain. That is the responsibility of the property owner.
- b. A sewer pipe crossing a neighbour's property is shown on the diagram as a lateral from the point where it crosses the boundary into a neighbour's property. That is the responsibility of the sewerage undertaker.

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- c. Where a sewer pipe enters a neighbouring property and the neighbour's pipework connects to it, the neighbour's pipe is shown as a drain. That is the responsibility of the neighbour up to the point where it joins with the sewer crossing his or her property.
  - d. A pipe which runs directly from a property to a public sewer without crossing another property is the responsibility of the property owner up to the boundary. Thereafter it is the responsibility of the sewerage undertaker.
7. In this case, the sewer pipe from the customer's property runs through a neighbour's property. It becomes a lateral once it enters the neighbour's property. The neighbour's drain connects to that sewer pipe on the neighbour's property. The company has provided no evidence to support its statement that the sewer pipe within the neighbour's property, serving only the customer's property, is private. I therefore find, according to the responsibilities explained by Ofwat, that the company is responsible for the sewer pipe from the point where it leaves the customer's property.
  8. The company notes that under section 94 of the Water Industry Act 1991 (the "Act") it is responsible for all public sewers in its area. Section 94(1)(a) of the Act requires that the company cleanses and maintains its sewers, including any lateral drains, belonging to the company. The company notes that it is under no obligation to proactively inspect sewers for defects.
  9. In this case, the company was notified of a problem caused by a blockage in the sewer. It has therefore been made aware of a problem and has an obligation to investigate.
  10. An important question in relation to this matter is whether blockages have originated within the boundary of the customer's property or that of her neighbour. Blockages caused by a problem on the pipe within the boundary of the customer's property would be the responsibility of the customer. Blockages caused by a problem in the lateral on the neighbour's property would be the responsibility of the company.
  11. The company has stated in communications that the blockages have occurred on the customer's private pipework and are therefore not the company's responsibility. The customer says that blockages have occurred in the pipe on her neighbour's property.
  12. I have examined the company's job notes for various visits made in response to calls from the customer. Notes of a visit on 27 February 2022 record an obstruction in a chamber on the neighbour's property. Notes of a visit on 28 December 2022 record a blockage in the pipe on the

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neighbour's property with a further blockage located upstream. Notes also record work carried out by the company on parts of the sewer on the neighbour's property.

13. The evidence provided shows that blockages have occurred within the section of the sewer on the neighbour's property. This is outside the boundary of the customer's property. As established earlier, the section of sewer pipe on the neighbour's property is the responsibility of the company. Under the Act, the company is responsible for clearing that part of the sewer. The company is also responsible for maintenance and repairs to that part of the sewer.
14. I have noted that under the Act, the company is responsible for clearing and maintaining sewers owned by the company. However, if it is considered that the company has failed to carry out its duties under the Act, enforcement of the Act is the responsibility of Ofwat. Under Rule 3.5 of the WATRS Scheme Rules, matters where enforcement is the responsibility of Ofwat are outside the scope of a WATRS adjudication. I cannot therefore make any direction requiring the company to maintain its equipment. I can, however, determine whether the company has taken reasonable steps to resolve the problem.
15. There have been a number of incidents where the customer has suffered from blockages in the sewer. Blockages have been reported as occurring from August 2021 to December 2022. In an email to CCW sent 18 January 2023, the customer said that sewage was still backing up. The problem has therefore been ongoing for approximately 16 to 17 months to date. The root cause of blockages has not been established. However, as noted above, blockages have been recorded as being in the sewer on the neighbour's property and therefore the company is responsible for resolving the issue.
16. The company says that it has attended the customer's property on various dates since August 2021. It says that it has acted reasonably in attending and restoring the flow through the sewer. The company has also explained the work it has undertaken on the sewer so far to alleviate the possibility of material being trapped.
17. The company says that it has fully investigated the customer's complaints and taken all reasonable steps to resolve the blockages in the public sewer. It considers that it has provided its services to a reasonable standard.

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18. The company says that it will continue to investigate the matter. It says that once the root cause of blockages is known, it will take reasonable steps to minimise the risk of future blockages.
19. The customer wants the company to provide a fully functioning system and to assume responsibility for future problems should there be a recurrence. The company's obligations in respect of providing and maintaining sewer systems are set out in the Act. As noted earlier, failure by the company to comply with the Act is a matter for Ofwat to address. I cannot therefore give any direction to the company on this matter.
20. The customer seeks an apology from the company for maladministration, poor customer care and technical incompetence.
21. The company has stated that the sewer pipe within the neighbour's property is the customer's responsibility. This is not in line with the responsibilities explained by Ofwat. I also note that the customer has received correspondence where there are discrepancies in the information from the company.
22. The company has attended to blockages when reported. It has also carried out work on the sewer within the neighbour's property in an attempt to resolve the issue. I note there has been correspondence from the neighbour referring to that work. This includes work carried out inside the neighbour's house. The work undertaken to repair the sewer within the neighbour's property cannot reasonably be the responsibility of the customer. In addition, the company considers that at some point in the past, the sewer was illegally built over. If the sewer was private, I would not expect the company to refer to it being illegally built over. The company acknowledges this building over was prior to the neighbour purchasing the property.
23. Whilst the company has undertaken certain work, that work has not resolved the problem and blockages continued after the work had been carried out. However, it has stated that investigations are ongoing and once the root cause of blockages is established it will take reasonable steps to minimise the risk of future blockages.
24. I note that the company has apologised to the customer for the time the matter has been ongoing. I do not direct the company to make any further apology.

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25. Nevertheless, this matter has caused the customer considerable inconvenience due to the prolonged period in which blockages have been experienced. The customer says that she has delayed selling her house due to the ongoing problems. The customer seeks compensation for the time the matter has been ongoing and for the inconvenience caused.
26. I find that the customer has suffered inconvenience and distress due to the ongoing problems which have not yet been resolved.
27. In determining an appropriate amount to award for inconvenience and distress, I have taken account of a number of factors. These include the length of time the matter has been ongoing; the inconvenience to the customer; the company's position on whether this is a private matter; the fact work has been carried out but has not resolved the matter. Taking all factors into account, I find the impact this has had on the customer to be serious.
28. The WATRS Guide to Compensation for Inconvenience and Distress has four tiers for compensation awards. Compensation within Tier 3 is appropriate where the impact on a customer is serious.
29. It is noted that the company has paid the customer the sum of £150.00 as a gesture of goodwill. I order the company to pay the customer a further £500.00 in respect of inconvenience and distress. The total of these amounts is within the range of sums recommended in Tier 3.
30. I have also considered the company's performance in relation to the Guaranteed Standards Scheme (GSS). The GSS sets out the minimum standards of service customers are entitled to expect from water or sewerage undertakers. It includes standards a company must follow in relation to making and keeping appointments; account queries and payment arrangements; written complaints; supply interruptions and restoration; low water pressure; flooding from sewers. Should a water company fail to meet the standards required, customers may be entitled to compensation as set out in the GSS.
31. The company identified a flooding incident affecting the customer in April 2022. The company says that it has paid the customer the sum of £216.00 in respect of that incident. The company also says that it has paid the customer the additional sum of £50.00 due to the late payment in respect of the flooding incident. These payments are in line with the requirements of the GSS for external incidents of flooding. I make no further direction on this matter.

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32. In relation to written complaints from the customer, I find no evidence that the company has failed to issue a written response within the timescales required under the GSS. I therefore find no failure on the part of the company in relation to written replies to complaints.

#### **Outcome**

The company needs to take the following further action:

Pay the customer the sum of £500.00.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 27 April 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.

*I H Raine*

**Ian Raine**, CEng, MIMechE, FCI Arb, MCIBSE

**Adjudicator**

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