

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/XXX/X464

Date of Final Decision: 22 April 2023

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer states that his property is not connected to the public sewers. Whilst there is an overflow pipe from the tank, it is dry and has not been used in a long time. The customer requests that the company to refund his surface water drainage charges.

Response

The company states that the customer's property is connected to the public sewer via an overflow pipe from the tank in their garden. Therefore, as there is an existing connection, it says that no refund is due.

The company made no offer of settlement.

Findings

The company visited the property on two occasions when it was confirmed that the customer's property is connected to the public sewer via an overflow pipe from the tank in their garden. As there is no provision in its Charges Scheme for it apply a reduced or partial charge in this circumstance, I find that the company acted reasonably and in accordance with its Charges Scheme by applying the full surface water drainage to the customer's account.

Outcome

The company does not need to take any further action.

The customer has until 24 May 2023 to accept or reject this decision.

ADJUDICATOR'S FINAL DECISION

Adjudication Reference: WAT XXX/X464

Date of Final Decision: 22 April 2023


Case Outline

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

- The customer believes that his property is not connected to the public sewers.
- The customer was advised of this by his builder who located a tank in his property.
- The company conducted site visits which revealed that surface water goes into a tank in his garden and then soaks into the ground slowly, as per the design of the property. However, in "exceptional circumstances" the tank will overflow into the network.
- The customer states that the tank/overflow has not been used "in a long time and is dry inside".
- The customer disputes that he should have to pay Surface Water Drainage (SWD) charges in his bills.
- The customer requests that the company:
 - Refund his SWD charges.

The company's response is that:

- The customer's surface water drains to a soakaway at the property and then soaks into the ground. The soakaway has an overflow pipe connected into the public sewer to allow water to drain away in time of heavy and prolonged rainfall.
- It has attended the property on 17 September 2021 and again on 4 July 2022 and on both occasions confirmed that there is a connection from the tank to the public sewer via an overflow pipe. The company states that this is still live.
- Pursuant to section 141(1) of the Water Industry Act 1991 (the Act), water undertakers have the power to fix charges for any services provided in the course of carrying out their functions, and to demand and recover charges from any person to whom they provide services. The company explains that water undertakers publish their annual Charges Scheme in pursuance and for the purposes of sections 142 and 143A of the Act.
- Section 144 of the Act places a liability on occupiers for charges. In relation to the SWD charges, its Charges Scheme states: "This covers the cost of draining rainwater from your



property. If no rainwater from your property drains to the public sewer then you will not have to pay this charge”.

- As the customer is the occupier of the property and has a live connection for the property to the public sewer for surface water, albeit via an overflow, then the standing charge under its Charges Scheme falls due.
- The charge which the customer disputes is the fixed charge for the removal of the surface water from the property. The charge is not based on usage, nor does it offer a reduction in the charge for part connections as attempting to measure drainage in order to apply a partial reduction could not be achieved without creating a significant additional administrative cost burden for customers as a whole.
- The company states it does not agree to refund the customer’s SWD charges as the connection to its sewer has been confirmed and is still an active connection.
- Therefore, the SWD charges are payable and no refund is due to the customer.

Reply

- The customer reiterates the main points of the claim and states since moving into the property in 2009, the ‘emergency’ overflow pipe has never been used and yet he has been charged approximately £1000.00 by the company in SWD charges.

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 complaint concerns the company's refusal to refund SWD charges. The customer says the surface water from his property drains into a soakaway, therefore, he should not have to pay the company's charges for SWD.
2. The company states that the soakaway has an overflow pipe connected into the public sewer, therefore, the customer is liable for SWD charges.
3. Under the Act, I accept the company is entitled to fix charges for any services provided in the course of carrying out their functions. I find that the company's Charges Scheme states the SWD charge covers the cost of draining rainwater from the customer's property, however, if it is shown that no rainwater from the property drains to the public sewer then the customer will not have to pay this charge.
4. There is no dispute between the parties that the property has a soakaway that surface water from the property drains into. However, it is clear that the soakaway has an overflow pipe connected into the public sewer to allow water to drain away in time of heavy and prolonged rainfall. I note that this was confirmed by the company when it visited the property on 17 September 2021 and again on 4 July 2022 to assess if there was a connection. This is not disputed by the customer.
5. Therefore, as there is an active connection that takes surface water from the soakaway to the public sewer during times of heavy and prolonged rainfall, in accordance with its Charge Scheme, I am satisfied that the company is entitled to apply SWD charges and I find it is under no obligation to refund the customer SWD charges.
6. I acknowledge the customer's submission (as stated in the complaint from CCW dated 19 December 2022) that under normal circumstances, the surface water that drains from his property would not go into the public sewer. Therefore, he disputes the fairness of the charge merely by virtue of the connection from the soakaway and says that the tank/overflow has not been used "in a long time and is dry inside". I note that in response the company has explained that there is no mechanism to measure drainage for 'part connections' in order to apply a partial reduction.

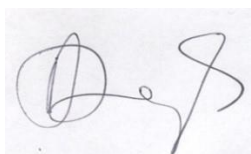
7. Whilst I accept that the soakaway would absorb the majority of rainwater that drains from the property and therefore may only rarely enter the public sewer, I am mindful that it is still an active connection. In light of this and as there is no provision either contained in the company's Charges Scheme or elsewhere for it to apply a reduced charge in the customer's scenario, on balance, I consider it is reasonable for the company to apply the full SWD charge, in accordance with its Charges Scheme.
8. In summary, I find that there is no evidence to demonstrate any instances of the company failing to provide its service to the standard to be reasonable expected when responding to the customer's request for a refund of SWD charges. Therefore, I find that the company is not required to provide a refund to the customer of the SWD charges.

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 24 May 2023 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.



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

Adjudicator