

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X514

Date of Final Decision: 18 May 2023

#### Party Details

Customer: XX  
Company: XX

#### Complaint

##### Complaint

The customer says the company has wrongly refused a claim for damages to his driveway following a flooding incident. And he is unhappy it uses asbestos cement pipes. He wants the company to arrange an independent house survey to ensure his home's integrity has not been compromised by the repeated mains bursts; carry out further checks to ensure the sand/silt in the void has been properly removed; repair a damaged wall; re-evaluate the safety issues surrounding asbestos concrete; pay £1500.00 for damage to his drive and pay £250.00 due to water in the void.

#### Response

There is no evidence of damage to the customer's property and its pipework is safe. It denies the claim.

#### Findings

The evidence shows the company provided its services to the standard to be reasonably expected.

#### Outcome

The company does not need to take any action.

The customer must reply by 16 June 2023 to accept or reject this decision.

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## Case Outline

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

- A pipe burst and flooded his property causing damage to his driveway.
- The company engaged a third party to inspect the driveway and they reported no damage, however he disputes this. He has provided photos in support. He considers the third party was not independent.
- He does not want to make use of his home insurance as this will increase his premiums.
- He is also concerned about the company's use of asbestos cement pipes and the impact on his health.
- He wants the company to arrange an independent house survey to ensure his home's integrity has not been compromised by the repeated mains bursts; carry out further checks to ensure the sand/silt in the void has been properly removed; repair a damaged wall; re-evaluate the safety issues surrounding asbestos concrete; pay £1500 for damage to his drive and pay £250 due to water in the void.
- In comments on the company's response the customer says:
  - The company has failed to demonstrate that diligent action was taken to ensure that the supply pipe was fit for purpose and would be unlikely to rupture.
  - The contractors failed to protect the public from harm by leaving a cut portion of the pipe on the rubble overnight unprotected.
  - The pump systems were not equipped with filtration when the excess escaped water was discharged into the groundwater system. This was negligence.
  - The company refused his offer of arbitration.
  - The company has paid his neighbour greater damages.
  - The water picked up soil, sand, silt, insects, urine, and excrement from dogs and other creatures once it escaped from the mains.
  - He has had a recent infestation of mice because his doors were open for hours whilst the pumping of the water from the void took place.
  - The finish to his outer lower wall is now mould ridden because of the power washing to remove the silt, this pressure wash also removed the masonry paint.

- He has provided videos and photos of the incident.
- In comments on a preliminary decision the customer says:
  - No reasonable person would have taken detailed photographic evidence of the property condition before the event.
  - He considers the water that entered his property became sewage once is picked up bacteria etc on leaving the mains. The Water Industry Act 1991 act provides for automatic compensation for sewage entering a property.
  - The adjudicator fails to address that this was three separate events over a year, and consider the resultant accumulative effects on the erosion of the soil in the interspace of the crazy paving creating a trip hazard. Neither has the adjudicator considered that the flow of water washed away the understructure of the driveway accumulatively.
  - The adjudicator has failed to prove that the attending cleaning team were suitably qualified structural engineers.
  - He was already aware of the WHO's position on asbestos concrete being considered a safe medium for the transport of water, however, under conditions that the pipe containing the water has failed that is not the case; they consider it a potential hazard.
  - The changes in the property are subtle but never the less cause a significant impact because of the necessary manual labour rework required to reinstate.

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

- The pipe which supplies water to the customer's home is made from asbestos cement material and has been supplying properties in this area with water since it was laid in 1962.
- It has explained to the customer that asbestos is only harmful when it is airborne. It reassured him that during a burst asbestos does not turn into dust and so will not pose a risk to health. The WHO advise there is no health risk involved with using asbestos cement for water mains.
- On 3 November 2022 the customer reported its pipe had burst, flooding his garden and drive. It attended the same day to pump water out while it carried out the repair.
- The customer was concerned the water had washed creatures into the void under his home so it agreed to carry out fogging to kill any insects.
- It offered £250.00 compensation as a gesture of goodwill for the inconvenience caused by the water leak which the customer accepted.
- It accepts it is liable for any damage caused by flooding. It engaged a third party to survey the customer's property for damage and they found none so it rejected his claim for damages.
- It denies the claim.

## 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 accepts it is liable for any damage caused to the customer's property due to the flooding incident. However, it disputes any damage occurred.
2. I have reviewed the customer's photos and considered his description of the damage shown. I note the photos show crazy paving with uneven slabs and a low garden wall. I cannot ascertain from these photos if there is any damage or if any damage was caused by flooding. And I have not seen any photos of the same areas before the flooding in order to make a comparison. In consideration of the evidence available I am unable to find the flooding damaged the customer's property.
3. The company engaged a third party to investigate the customer's claim and they found no damage to his property. The company then refused the customer's claim.
4. I acknowledge the customer is unhappy the company refused his claim for damages however, the evidence shows the company's decision was justified. I am satisfied it has provided its services to the standard to be reasonably expected.

5. I acknowledge the customer is concerned about the company's use of asbestos cement pipes. However I am not aware of any law or policy that prevents the company's use of such. The company has outlined its contacts with the customer seeking to reassure him as to the safety of this. I am satisfied it acted reasonably in doing so. The evidence does not show the company failed to provide its services to the standard to be reasonably expected.
6. The customer has provided photos showing the void beneath his house. The photos show a low level of silt/particles and general rubble that one may expect to see under a house. I cannot ascertain from these photos that the flooding resulted in any new deposits of silt or sand. And I have not seen any photos of the same areas before the flooding in order to make a comparison. I therefore cannot say the company is responsible for clearing this area.
7. I have addressed the customer's claim as outlined on his application form. Under WATRS rule 5.4.3 I must disregard any new complaints raised in the customer's comments on the company's response.
8. I have considered the customer's comments on a preliminary decision however my findings remain the same. That the customer disagrees with the judgements I have reached on the evidence provided is not reason to change my findings. For completeness, I can confirm that flooding from the mains water supply is not the same as sewer flooding for the purposes of compensation under the Act, irrespective of whether the mains water becomes dirty once it leaves the pipework.

#### **Outcome**

The company does not need to take any action.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 16 June 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.



J Mensa-Bonsu LLB (Hons) PgDL (BVC)  
**Adjudicator**