

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/X606

Date of Final Decision: 2 August 2023

#### Party Details

Customer: XX  
Company: XX

#### Complaint

The customer reported that for the second time she experienced flooding of wastewater inside and outside her property on 17 November 2022. Unlike all her neighbours on the street, she was not offered compensation. She requests the company to issue an apology and to compensate her for the inconvenience experienced.

#### Response

The company stated that the flooding was beyond its control. The company offered a £5,000.00 goodwill payment to each of the customer's neighbours because they were living in the property at the time of the flooding and demonstrated that they experienced internal flooding. By contrast, the customer has not provided evidence of internal flooding, and her house was uninhabitable at the time of the flooding.

#### Findings

The flooding affected the customer externally and I find that it also affected the basement of the customer's property. The company should have offered compensation to the customer, and not just to the neighbours for the damage caused by the flooding. As a result, I find that the company has fallen below the standard to be reasonably expected in its provision of service to the customer. However, as the customer's property was being renovated at the time of the flooding, I find on a balance of probabilities that the damage to her property was less than the damage experienced by her neighbours. In view of that, I direct the company to compensate the customer with £2,500.00 and to issue an apology.

#### Outcome

I direct the company to compensate the customer with £2,500.00 and to issue an apology.

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# ADJUDICATOR'S FINAL DECISION

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## Case Outline

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

- She experienced flooding of wastewater in August 2021 and on 17 November 2022.
- Whilst she received compensation for the first flooding, unlike her neighbours she was not given any compensation for the second flooding.
- The customer requests the company to issue an apology and to provide her with compensation.

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

- The flooding was caused by a storm that was beyond its control.
- Unlike the customer, her neighbours were living in the property at the time of the flooding, provided evidence of the internal damage, and were offered a £5,000.00 goodwill payment.
- The customer's property was uninhabitable, and she did not provide evidence of internal flooding.

## 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.

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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. In August 2021 the customer and her neighbours experienced flooding on their street. On this occasion the company paid the customer £1,492.22 for the damage to the customer's contents in her property. The company stated that it also spent £300,000.00 to improve the **XX** Pumping Station that caused the flooding during a storm. The work included the replacement of actuator valves and other mechanical parts.
2. On 17 November 2022 there was another flooding in the street. The company offered the occupiers who demonstrated that they had been affected by internal flooding a goodwill gesture payment of £5,000.00 to help them to cover the damage to the property and the energy costs of running dehumidifiers. The company stated that the flooding was beyond its control and the customer did not prove that she experienced internal flooding.
3. The company refers to Section 94 of the Water Industry Act 1991 and to the related case law (*Hammond v St Pancras Vestry* [1874] LR 9 CP 316) which provide that the company has only a duty to exercise reasonable care and diligence, and therefore it is only responsible for damages occurring as a result of a negligent failure to act.
4. The company stated that the flooding occurred because the pump actuator valves did not fully open on the 17 November 2022, even though they were inspected on the 8 and 15 November 2022. The company also attended the pumping station on the 16 November 2022 when the alarm was activated because storm pumps 1 and 2 did not fully open and storm pump 3 tripped. The company stated that it was inexplicable as to why the storm pump actuator valves did not fully operate on the 17 November 2022. I find this lack of explanation unsuitable for those customers affected.
5. In view of the previous flooding experienced in August 2021, the company has not provided a convincing explanation as to why the pump actuator valves did not work properly on 17 November 2022 after revising them the previous days. Thus, I find that the company ought to have been aware of the flooding risk and it should have taken adequate measures to ensure

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that the pump actuator valves did not malfunction. Accordingly, it was the failure of the pumps that caused the flooding on the customer's street.

6. The company stated that the customer did not experience internal flooding and that her house was being renovated, so it was uninhabitable on 17 November 2022. The customer disputes these statements and says that the property was inhabitable and that her basement and first floor were flooded. Although I have not seen pictures of the internal flood, the customer said that she sent the pictures to the company in registered email, and that these were lost by the company. Moreover, I note that CCW stated that, in view of the evidence provided, it is likely that water got inside of the customer's property. I have seen the pictures of the external flooding, which was above one meter from the ground, so I find on a balance of probabilities that the customer experienced flooding at least in her property's basement.
7. Thus, the flooding affected the customer externally and I find that it also affected the basement of the customer's property. The company should have offered compensation to the customer, and not just to the neighbours for the damage caused by the flooding. As a result, I find that the company has fallen below the standard to be reasonably expected in its provision of service to the customer.
8. With regards to the amount in compensation for damage, as well as the stress and inconvenience caused by the company's service failings noted above, I first note that the company offered the customer's neighbours a goodwill payment of £5,000.00. However, as the customer was not living in the property at the time of the damage, and she had builders on site that mitigated the water damage, I find that she must have experienced less damage than her neighbours.
9. In order to determine the amount of compensation, I take into consideration the non-binding guidelines used in the WATRS scheme. The guidelines have four tiers, which reflect the different levels of inconvenience and distress, with the highest being Tier 4. The scale recommends for cases falling within Tier 4 compensation up to the value of £2,500.00, but higher amounts may be awarded in exceptional circumstances. In view of the service failures, and the evidence provided by the parties, I find that the customer ought to be compensated in accordance with the top of Tier 4, which is half of the amount of the payments given to the customer's neighbours. Accordingly, I direct the company to compensate the customer with £2,500.00.

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10. The customer requests an apology for the company's poor services. I am mindful that the company apologised to the customer in the defence, but in view of the above findings, I direct the company to issue a written apology to the customer.

#### **Outcome**

I direct the company to compensate the customer with £2,500.00 and to issue an apology.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 29 of August 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.



**Pablo Cortés, Licenciado, LLM, PhD**

**Adjudicator**

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