

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0552

Date of Decision: 9 August 2017

Complaint

The customer's claim is that she is dissatisfied with the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011 because they are unfair and make her responsible for sewerage in her property. The customer submits that she has experienced sewage overflow from her private sewer and the company has advised that it will need to charge her for private sewerage work if she requests works to be carried out.

Defence

The company submits that it must follow government legislation and is unable to change this. It submits that in the past when there have been overflow issues on the customer's private sewer, as a gesture of goodwill, it examined her private sewer and removed blockages. However, it submits that it is not responsible for the customer's private sewer and there are no issues with the neighbouring public sewer system (which it has already examined).

Findings

The company has correctly adhered to legislation relating to private sewers and has not failed to provide its services to the standard to be reasonably expected. Furthermore, it has already gone beyond its responsibilities on several occasions in order to aid the customer with her private sewer.

Outcome

The company does not need to take any further action.

The customer must reply by 7 September 2017 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.

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Party Details

Customer: ██████████

Company: ██████████

Case Outline

The customer's complaint is that:

- Under the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011, she is responsible for all sewerage in her property.
- The customer submits that she is dissatisfied with this legislation as it requires her to be responsible for the sewerage issues in her property.
- The customer submits that when there was sewage overflow in her garden she contacted the company and it advised that it could come out to investigate the issue. However, there would be a charge to clear up sewage if the customer decided to contract the company for this work.
- The customer submits that the situation is unfair and the company should pay for the manhole in her garden to be moved, provide a rodding eye in the overflow pipe, set clear boundaries between private and public sewers and reassess the amount of compensation it should provide her.

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The company's response is that:

- It confirms the customer's submission that under the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011, she is responsible for all sewerage pipes in her property. The company submits that this is legislation which it must follow.
- The company submits that the customer is at the head of the run which means that the pipe only drains her property and she is therefore responsible for this private pipe until it leaves her property and connects to the public sewer (which the company is then responsible for).
- The company submits that on several occasions when the customer has experienced overflow from her private pipe, it has removed blockages as a gesture of goodwill.
- The company confirms that it has examined the public sewer system which it is responsible for and found no defects or blockages. Furthermore, as a gesture of goodwill, the company has also examined the customer's private sewer and also found no issues at this time.
- The company submits that the customer's manhole is private and it is not able to move this.
- The company submits that it has previously provided the customer with £50.00 as a gesture of goodwill for service she received on a visit in January 2017.

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.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

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.

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How was this decision reached?

1. The crux of this dispute lies with the customer's assertion that she is dissatisfied with Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011 because it is unfair and makes her responsible for all sewerage issues in her property. Both parties accept that this legislation makes the customer responsible for her private sewerage.
2. At this juncture, I must draw attention to the fact that it is my duty to apply the law as it currently is and it is beyond the remit of this scheme to challenge legislation. Consequently, I am unable to set aside or amend the requirements of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011 which makes the customer responsible for her private sewerage. Whilst neither party has disputed that the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011 makes the customer responsible for her private sewerage, in the interest of comprehensiveness, I note that the regulation guidance (also provided in the evidence bundle) from DEFRA (Department for Environment, Food and Rural Affairs) confirms that:

10. Lateral drains – All lateral drains that connect to a public sewer become the responsibility of the sewerage undertaker. Drains serving a single property and within its curtilage will remain the responsibility of the property owner or occupier.

Consequently, I accept the parties' own conclusions that the customer is responsible for her private sewerage.

3. In spite of the above, I am able to review whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person and whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing by the company. I will proceed accordingly.
4. I am mindful that on occasion the customer has experienced sewage overflow on her property from her private sewer. From the submissions of the parties, I note that when this was reported to the company in the past, as a gesture of goodwill, it has examined the customer's private sewer and removed blockages.

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5. However, the company has recently highlighted that in accordance with the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011; it is not actually responsible for maintaining the customer's private sewer and would need to charge for private sewerage services. Therefore, I am only able to conclude from the parties' submissions that the company appropriately outlined its obligations in accordance with legislation and confirmed that the overflow issue did not relate to the neighbouring public sewer as this was clear and without any fault. Furthermore, I find that it has gone beyond its responsibilities to aid the customer on occasion by examining and unblocking her private sewer as a gesture of goodwill. I am therefore not satisfied that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person in this instance.
6. Consequently, in the absence of any substantiated failures on the part of the company to warrant the redress claimed, I am unable to uphold the customer's claim for redress.

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 7 September 2017 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.



E. Higashi LLB (Hons), PGDip (LPC), MCI Arb.

Adjudicator

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