

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1199

Date of Decision: 18 February 2019

#### Complaint

The customer states that, in May 2018, she experienced internal sewer flooding at her council property as a result of extreme rainfall. The customer states that she had been preparing to leave for her family holidays at this time and this ruined her holiday experience. The customer explains that her insurance covered the cost of the damage. However, she feels that the company should take some responsibility for this issue and is therefore seeking compensation in the sum of £4450.00 for stress, the time she took off work and for ruining her holiday experience.

#### Defence

The company confirms that the 2018 flooding event experienced by the customer was caused by extreme rainfall. The company states that it cannot be held accountable for flooding caused by extreme weather events of this nature. This is expressly confirmed by the regulator OFWAT. The company states that there has been no negligence on its part. It explains that the customer's council property is located at the bottom of a steep sloping bank and is below street level. Accordingly, its geographical positioning may make it prone to flooding during extreme weather events. The company states that, in light of all the above, it does not accept any liability for the customer's claims for redress.

#### Findings

Based on the submissions provided, I am not satisfied that the company failed to provide its services to the standard to be reasonably expected by the average person. I find that the company is not liable for the flooding event caused by extreme weather. Consequently, in the absence of any failures on the part of the company, I am unable to uphold the customer's claims for redress.

#### Outcome

The company does not need to take any further action. The customer is not obliged to accept this decision and is free to further their complaint through all other avenues as available to them.

The customer must reply by 18 March 2019 to accept or reject this decision.

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

- The company does not accept the customer's claims.
- The company confirms that the 2018 flooding event experienced by the customer was caused by extreme rainfall. The company states that it cannot be held accountable for flooding caused by extreme weather events of this nature. This is expressly confirmed by the regulator OFWAT.
- The company does not accept that there has been any negligence on its part.
- It explains that the customer's council property is located at the bottom of a steep sloping bank and is below street level. Accordingly, its geographical positioning may make it prone to flooding during extreme weather events.
- The company notes that the customer is seeking compensation of £4450.00 for stress, the days she took off work and for her ruined holiday experience. However, the company states that the customer has not provided any evidence to prove any actual losses.
- The company states that, in light of all the above, it does not accept any liability for the customer's claims for redress.

### **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.

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## How was this decision reached?

1. The customer's claim is that, in May 2018, she experienced internal sewer flooding at her council property as a result of extreme rainfall. The damage was covered by her insurance but she believes that the company should provide her with compensation for stress, the days she has taken off work and her ruined holiday experience. The company did not accept any liability and explained that it has not been negligent in its obligations. It states that it is not responsible for flooding caused by extreme weather events. The customer referred her complaint to CCWater who concluded that the company was not liable to provide compensation for flooding caused by extreme weather events of this nature and found no negligence on its part. The customer is not satisfied with this outcome and is now seeking for the company to provide her with compensation in the sum of £4450.00 for stress, the days she has taken off work and her ruined holiday experience.
2. I remind the parties that adjudication is an evidence-based process and in order for any remedy to be awarded, the evidence must show that the company has not provided its services to the standard that would reasonably be expected of it.
3. It is not disputed that the cause of the flooding event was extreme weather (specifically, extreme rainfall causing hydraulic overload). Furthermore, based on the submissions provided, I note that the investigations into the flooding event confirmed that the geographic positioning of the customer's council property (located at the bottom of a steep sloping bank and below street level) makes it inherently more prone to flooding in the event of extreme rainfall. Under the circumstances, I do not find that the company can be held directly responsible for flooding caused by unpredictable/exceptional extreme weather events and/or the geographic positioning of the customer's council property. I find that this conclusion is further supported by the OFWAT guidance document on extreme weather, which expressly states that water companies are not liable to provide compensation for flooding caused by extreme weather events. Furthermore, I should make it clear that I find no substantive evidence that the flooding event had been caused by any negligence on the company's part (for example, a defect with the company's sewers). Under the circumstances, I am not satisfied that the flooding event experienced by the customer was caused by any failure on the part of the company to provide its services to the standard to be reasonably expected by the average person. Accordingly, I do not find that the company's

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refusal to accept liability for the flooding event caused by extreme weather amounts to a failure on its part.

4. Turning to a review of the company's overall actions in response to the customer's concerns, I find that the company provided detailed responses to the customer, explained its position with reference to the evidence it had gathered following a thorough investigation and provided the customer with a CGS (Customer Guarantee Scheme) payment as a gesture of goodwill. Accordingly, overall, I am not satisfied that the company's actions in relation to this issue amount to a failure to provide its services to the standard to be reasonably expected by the average person.
5. In conclusion, whilst I appreciate the difficulties experienced by the customer as a result of the extreme weather event, following careful review of all the submissions provided, I am not satisfied that the company has failed to provide its services to the standard to be reasonably expected by the average person. Consequently, in the absence of any established failures on the part of the company, I do not 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 18 March 2019 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), MCIArb.

**Adjudicator**

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