

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1419

Date of Decision: 19 June 2019

Complaint

The customer's claim is the company has failed to maintain its assets and this has led to periodic flooding of raw sewage within the boundaries of his property. The customer is seeking the company to initiate a maintenance programme ensuring the sewer is cleaned at regular intervals to prevent further flooding.

Defence

The company submits that in the absence of negligence under section 94 of the Water Industry Act 1991 the company is not liable for the escape of the contents of public sewers. The company submit it has not at any time been negligent, as it has conducted various investigations into the reasons behind the flooding and undertook CCTV surveys on the sewer which found it fully operational. Therefore, there is no need to initiate a maintenance programme as requested by the customer. On each occasion the customer has experienced flooding the customer has been compensated in line with the company's Guaranteed Standards Scheme. The company has not made any further offers of settlement.

Findings

I am satisfied the company did not fail to provide its services to the customer to the standard to be reasonably expected, with regard to identifying any defects with the sewer and initiating a maintenance programme. With regard to customer service, I find no additional failings for which the customer has not been already adequately compensated for.

Outcome

The company needs to take no further action.

- The customer must reply by 17 July 2019 to accept or reject this decision.

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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 dispute centres on whether the company should initiate a maintenance programme ensuring the sewer running through the customer's property is cleaned at regular intervals to prevent further flooding. The company is required to meet the standards set out in the Water Industry Act 1991 and the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008. The combined effect of these is to place an obligation on a water and sewerage company that when there is a report of a leak, the company needs to investigate fully if the company's assets are to blame and, if repairs are needed, make such repairs to prevent further leaks.
2. Furthermore, the company also has certain obligations in respect of its customer services as set out in OFWAT Guaranteed Standards Scheme and the company's own Customer Guarantee Scheme.
3. From the evidence put forward by the customer and the company, I understand the customer has experienced external flooding emanating from the company assets within his property on six occasions between March 2009 and 29 May 2018. After the last incident on 29 May 2018, the customer contacted the company with his complaint and requested the company advise him on what steps it was taking to remedy the flooding issue. The company responded on 8 June 2018 stating the recent flooding was due to hydraulic overload and no further action was needed. The

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customer refuted this response within his letter dated 11 June 2018 stating he was of the opinion the flooding was caused by a blockage and it required cleaning. Between 13 July 2018 and 8 March 2019 various correspondence took place between the parties and the evidence shows that, within this period, on 16 October 2018 the company conducted a CCTV survey of the sewer and found the lines were flowing freely; however, some fine root ingress was found which the company removed the following day. A further two CCTV surveys took place on 19 and 20 February 2019 and no significant defects found in these. The correspondence ends with a letter from the company dated 8 March 2019 stating no further action regarding the sewer was required as the sewer was fully operational, and no serious defects could be found. On 19 March 2019, the customer contacted CCWater to pursue the matter further and request the company initiate a maintenance programme to prevent further flooding.

4. With regard to whether the company should initiate a maintenance programme ensuring the sewer running through the customer's property is cleaned at regular intervals to prevent further flooding. As stated within the company's defence documents under section 94 of the Water Industry Act 1991, in the absence of negligence, the company is not liable for the escape of the contents of public sewers. After careful analysis of the correspondence and evidence, I cannot find any indication the company has been negligent with regard to the sewer. CCTV surveys were undertaken by the company that show the sewer had no significant defects and was operating freely. As shown by the correspondence within the CCWater documents, on each occasion previous to 29 May 2018, the company investigated the cause of the flooding and took appropriate action if cleaning was required. Whilst I appreciate the customer's position, I am of the view the company did investigate the flooding as best it could and acted appropriately according to the results of its investigations. I am satisfied the company's position not to initiate a maintenance programme is reasonable considering the circumstances. In light of the above, I find there are no grounds to conclude the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person with regard to the investigating of the source of the flooding at the customer's property.
5. The company has certain obligations in respect of its customer services. The evidence shows that, where appropriate, the company made GSS payments as required by the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008. The company admits within its correspondence that initially the exact cause of some of the flooding incidents was not clearly communicated to the customer as it was put down to hydraulic overload rather than a combination of blockages and hydraulic overload. I understand from the CCWater documents this was dealt with in the customer's dialogue with CCWater and a satisfactory conclusion

reached. I am therefore satisfied there have been no failings with regard to customer service, which the customer has not been already adequately compensation for.

6. In light of the above, I am satisfied the company did not fail to provide its services to the customer to the standard to be reasonably expected, with regard to identifying any defects with the sewer and initiating a maintenance programme. With regard to customer service, I find no additional failings for which the customer has not been already adequately compensated for. Consequently, the customer's claim does not succeed.

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 17 July 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 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.



**Mark Ledger FCI Arb
Adjudicator**