

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X975

Date of Final Decision: 22 June 2022

#### Party Details

Customer: The customer

Company: The company

#### Complaint

The customer states that he has experienced 12 sewage floodings from the manhole on his driveway since August 2020. The company delayed with making the Guaranteed Standard Service (GSS) payments in all but four of the floods. He says it has still not paid him for one flood or the goodwill gesture offered in its complaints process. The customer service provided by the company has been poor and it has not provided a timescale for a long-term solution to the problem. He seeks that the company take further action to prevent future external flooding of his home, including providing short-term measures. He seeks for the company to pay him compensation for the unsatisfactory customer service provided.


#### Response

The company states that it completed a CCTV survey of the sewage pipes in the vicinity of the customer's property in response to his reports of sewage floods. It removed a small amount of silt found however advised the customer it did not believe this to be contributing to the cause of the floods, rather these are as a result of hydraulic flooding from the combined sewer network. It has added the incidents to its flood risk register which will add weighting to his case for long term investment, as well as property level mitigation measures. The company says it is confident all appropriate GSS payments have been made.

#### Findings

The action taken by the company in response to the customer's reports of floods from the external manhole is reasonable. This includes investigating the cause by completing a CCTV survey, providing a clean up service and adding the incidents to its flood risk register to build up the customer's case for eligibility for flood mitigation investment. It also told him it would raise with its Investment Team potentially adding his area to other hydraulic flooding

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locations in the vicinity being assessed for a flood alleviation scheme. However, the company did not promptly carry out its CCTV investigation and there is no evidence of it paying the goodwill gesture promised in its complaint response. This constitutes evidence of it failing to provide customer service to the expected standard when handling the customer's reports and associated complaint. The issue of where further GSS payments are due to the customer, falls outside of the scope of WATRS.

The company did not make any settlement offer to the customer.

### Outcome

The company needs to take the following further action:

- Pay the customer the £100.00 goodwill gesture offered in its complaints process if it has not already done so.
- Pay the customer £100.00 for stress and inconvenience for failing to provide customer service to the expected standard when handling the customer's reports of sewage floods.
- Provide written evidence to the customer showing it raised with its Investments Team the possibility of adding the customer's area to other hydraulic flooding locations in the vicinity being considered for a flood alleviation scheme as agreed in its complaints response.
- Provide an update to the customer regarding its review of his eligibility for property-level mitigation according to its flood risk register, as agreed in its complaints response.

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# ADJUDICATOR'S FINAL DECISION

Adjudication Reference: WAT/X975

Date of Final Decision: 22 June 2022

## Case Outline

### The customer's complaint is that:

- The customer has experienced 12 sewage floods, external to his property since August 2020. The company was late in providing GSS payments due. The customer says that he should not have to chase the company each time for these payments.
- Despite numerous requests by phone and email for an explanation as to the causes of the problem and information on a resolution, the company did not engage with him until he referred the matter to CCW.
- The company however has not proposed any short-term solution to the issue.
- The customer asserts that during the sewage floodings, he or his family are unable to flush the toilet in case it surcharges and causes internal floods; he has an adult living at his property with severe learning disabilities, and he does not realise why he cannot flush and does not remember that he is not allowed to do this at these times.
- The company has consistently failed to clean-up the sewer floods on his drive within the 24 hours as per requirements. The flood of 23 December 2020 froze and he had a frozen lake of sewage water for five days.
- Faeces from the flood left on the drive has been accidentally tracked inside the property, needing to be cleaned up. This was "extremely unpleasant" and a health hazard. One incident caught his guest's car that was parked which was very embarrassing.
- The customer service provided by the company has been poor and it has not provided a timeframe for any long-term solution to the problem.
- The customer seeks that the company take further action to prevent external flooding of his home in future, including providing short-term measures.
- He seeks compensation for the unsatisfactory customer service provided (unspecified amount).

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

- It responded to all of the reports made by the customer and investigated to identify any potential issues with blockages on the network which could be causing or contributing to the floods. However, it is confident that the floods are as a result of hydraulic flooding from the combined sewer network. The flooding affects the communal parking area outside of the customer's property.
- It has completed a CCTV survey totalling 192mm of their 225mm line from the customer's property to where the line drops onto the truck sewer. It did identify a small amount of silt further down from the property, this was not causing any issues, however, it carried out a cleanse on the sewer to prevent this from becoming an issue in the future.
- It has added all of the flooding incidents to the flood risk register which is used to ascertain possible future long term works and promote property level flood mitigation measures. At the current time the customer's property has not been assessed or selected for mitigation however it will be considered for selection in line with others on the register according to frequency and severity.
- Regarding a long-term solution, it has agreed with the Director General of Water Services, a programme of projects to alleviate sewer flooding's in the region.
- This includes areas very close to the customer's property and it has asked for his area to be included in assessment for future flood alleviation. Whilst this scheme is in its infancy as part of feasibility work, it would likely look to install sewer monitors in the surrounding area to understand the sewer levels and influences on these.
- It has reviewed the customer's case and it is confident all appropriate GSS payments have been made totalling to £1516.49. It deems that no further payments are due in terms of compensation as the flooding is not as a result of a failure on their network or negligent action on their behalf.
- It does not feel that a gesture of goodwill for customer service is due.

### **The customer's Comments on Preliminary Decision**

- The customer requests WATRS to ask the company about the outstanding GSS payment, comments on the level of compensation awarded and advises of the company's profits last year.

### **How is a WATRS decision reached?**

In reaching my decision, I have considered two key issues. These are:

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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 customer's claim concerns the occurrence of repeated sewage floods, external to his home and the lack of any solution provided by the company to resolve the cause of the issue.
2. Under the Water Industry Act 1991 ('the Act'), the company has a duty to maintain its sewers and to ensure the area is, and continues to be, effectively drained and to make provision for the emptying of these sewers. However, it cannot be held responsible for sewer flooding when caused by factors beyond its control; therefore, it has a reactive approach to the maintenance of its sewers and where there is a known issue it will act accordingly.
3. Therefore, in the event of sewage floods reported, in accordance with its obligations, the company is required to investigate the cause to identify if there is any immediate action it can take to stop or reduce the risk of further flooding, for example by clearing a blockage on the sewer network that may be contributing to the cause of flooding. Further, as it is responsible for the maintenance of sewers, it is reasonable to expect the company to also clean up any sewage spills.
4. In this case, the records provided by the company in relation to the customer's sewage flood reports only date back to October 2021. These show the customer made reports of sewage


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flooding from the manhole on his driveway/car parking area (driveway) on 4, 20 and 29 in October 2021. However, it is evident that the first occasion the customer experienced a sewage flood on his driveway was in August 2020. This is confirmed by the company's records of a GSS payment made in relation to this incident. It is noted the customer subsequently made approximately six further reports during the year leading up to the October 2021 incidents.

5. It is acknowledged that the company completed a CCTV survey which it says covered 192mm of the 225m pipeline from the customer's property to where the line drops onto the truck sewer. The company told CCW and WATRS that whilst this did identify a small amount of silt further down from the property, it was confident this was not the cause of the flooding rather this was caused by hydraulic flooding from the combined sewer network. It also said that nonetheless it carried out a cleanse of this area to prevent this becoming an issue.
6. The exact dates of when the company carried out the survey and removed the silt is not clear from the available evidence, however, it appears this happened in late 2021. As it is clear from the evidence that the customer had been reporting the flooding incidents since August 2020, the length of time taken before it carried out CCTV survey to investigate the cause indicates a delay on the part of the company. On balance, this constitutes evidence of it failing to provide its services to a reasonably expected standard.
7. It is evident from the company's notes of its calls with the customer that he asked the company in October 2021 about what steps it could take to resolve the repeated floods as he was concerned that they were getting worse. Following the customer contacting CCW to reiterate his concerns, the company provided a complaint response on 14 December 2021 in which it repeated that the cause was hydraulic flooding but also explained that the age of the sewer system, added connections over the years and reduced permeable areas could all be contributory factors to the sewer network overloading during heavy rainfall. It said property level flood mitigation measures could be installed as a short-term measure however the customer's property had not been assessed or selected for mitigation as its current process prioritises those customers who experience internal flooding.
8. In regards to long-term solutions, it said it was aware of the need for further investment for flood alleviation in the customer's area and said it had recorded the flood incidents experienced by the customer on its risk register. It explained this captures the frequency and severity of flooding incidents and is used to prioritise investment to address hydraulic flooding issues. It said this

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would add weighting to the case for long-term investment, as well as for property level mitigation measures. In its stage two response the company said it would continue to review the need for property level mitigation in the customer's case and that whilst there was no flood alleviation scheme in place for the customer's area at that time, it had highlighted the need for flood alleviation in locations near the customer's area and so would ask its Investment Team if the customer's area could be considered as part of this. It however explained that if it undertook a flood alleviation scheme in his area, it would take a number of years before a solution was in place.

9. In its Defence the company reiterated its position in relation to both offering short-term and long-term solutions. Therefore, the company has in effect said that currently it is unable to agree to provide either property level flood mitigation measures or a larger scale flood alleviation scheme because eligibility is dependant on his case being assessed against other cases on its flood risk register which may be more urgent. The customer remains dissatisfied with its response and understandably wants the company to provide a solution due to the impact of the repeated sewage floods which are causing significant stress and inconvenience as described.
10. I am satisfied that by carrying out investigations into the cause of the floods as well as providing a clean up service where needed, this is evidence of the company acting in accordance with its obligations. Having determined that there were no blockages or damage to the sewer in the vicinity of the customer's property that may be increasing the risk of hydraulic flooding from heavy rainfall, save for a small amount of silt that the company then removed, on balance, the action it took in adding the incidents to its flood risk register, was reasonable. This is because the company has finite resources and it is reasonable for it to have a register and associated process in place to determine where both short-term property-level measures as well as investment into the sewer system in order to mitigate the risk of hydraulic flood mitigation is most needed.
11. Further, I remind the parties that large-scale works such as the flood alleviation scheme referenced as a possible solution falls outside the scope of this Scheme in line with Rule 3.3 as it concerns a company policy/decision. Therefore, any request for large-scale improvements to update the sewer network would fall outside of the remit of the Scheme by virtue of this rule. Nonetheless, as the company advised in its 4 March 2022 complaint response that it would ask its Investment Team for the customer's area to be added to those areas in the vicinity that were being considered for a flood alleviation scheme, it is reasonable to direct that the company

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provide written evidence of it raising this with its Investment Team in order to show it has followed through with this promise. Further, as the company advised in this response that it would continue to review the need for property level mitigation in the customer's case, I also direct that it provide the customer with an update on his eligibility for short-term property level flood alleviation measures.

12. Regarding the customer's submission that the company has yet to pay him a GSS payment in respect to the sewage flood on 9 August 2021, I am mindful that GSS payments are covered by a statutory scheme operated by OFWAT, therefore, I am unable to consider this aspect of the claim as it falls outside of the scope of WATRS on this basis. However, it is noted that within its stage two complaint response, the company stated that it would be willing to pay the customer a goodwill gesture of £100.00 in recognition of its failure to process GSS payments on time. In his WATRS application, the customer has said he has not received this goodwill payment. In this circumstance and as a result of my review of the company's handling of the customer's sewage flood reports that has identified a delay by the company in carrying out a CCTV survey of its sewage network in the vicinity of the customer's property, it is reasonable to direct that the company pay the customer a total of £200.00 in compensation for inconvenience and distress.

13. In his Comments on the Preliminary Decision, the customer requests that WATRS ask the company about an outstanding GSS payment. I must refer the customer to my above finding that this matter falls outside of the scope of WATRS. I find that his other comments on the preliminary decision do not affect my Decision.

### Outcome

The company needs to take the following further action(s):

- Pay the customer the £100.00 goodwill gesture offered in its complaints process if it has not already done so.
- Pay the customer £100.00 for stress and inconvenience for failing to provide customer service to the expected standard when handling the customer's reports of sewage floods.
- Provide written evidence to the customer showing it raised with its Investments Team the possibility of adding the customer's area to other hydraulic flooding locations in the vicinity being considered for a flood

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- Provide an update to the customer regarding its review of his eligibility for property-level mitigation according to its flood risk register, as agreed in its complaints response.

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## What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 20 July 2022 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.



**A. Jennings-Mitchell**, Ba (Hons), DipLaw, PgDip (Legal Practice)

**Adjudicator**

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