

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT 1808

Date of Decision: 10 March 2020

Complaint

The customer submits that the company supplied information to the credit reference agencies which negatively affected her credit score. If the company has administered the payment scheme correctly, she would not have been in arrears at any time during the period when credit reporting was required. The company could also have done more to inform her personally that she was being reported on negatively. As a result of the company's reporting, she missed out on capital repayments on a mortgage as her application for a repayment mortgage was turned down by the banks. The customer requests compensation in the sum of £10,000.00.

Defence

The company submits that the customer was put on an Instalment Plan from 30 January 2010 until 12 June 2018. This is a non-standard payment arrangement set at a lower amount to spread the cost of invoices over a longer period of time. The payments would usually increase by the cost of living rather than the amount required to clear the balance within the financial year. As an Instalment Plan does not cover the balance and ongoing charges this is reported negatively. It is the customer's responsibility to contact it to discuss appropriate payment options. The customer was notified on 30 July 2014, 22 May 2015, 16 April 2016, 21 April 2017 and 11 June 2018 that her existing payment plan was not sufficient to clear the balance on her account and that this could directly affect her credit rating. It was therefore entitled to report negatively to credit reference agencies. Notwithstanding that, as a result of the customer's complaint, it removed the negative markers from the customer's credit file. This was done as a goodwill gesture and did not amount to an admission of liability or an admission that it had reported the payment status incorrectly.

Findings

The company has not shown that it administered its Instalment Plan correctly. The company has not provided any explanation as to why monthly payments were reduced and/or why payments were not collected on some months. However, notwithstanding the above, customers must also bear some responsibility for their accounts. Evidence has been submitted which supports the company's submissions that the customer was notified on 30 July 2014, 22 May 2015, 16 April 2016, 21 April 2017 and 11 June 2018 that her existing payment plan was not sufficient to clear the balance on her account and that

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this could directly affect her credit rating. Had the company not put the customer on notice that there were issues with payments to the account, the negative entries on the customer's credit file would not have been justified. However, the customer was put on notice on a number of occasions but took no action to contact the company to review the payment plan; pay the accruing debt; or discuss her payment options despite several requests from the company. The company was therefore entitled to report the negative payment status of the customer's account to CRAs.

Outcome

The company does not need to take any further action.

The customer must reply by 7 April 2020 to accept or reject this decision.

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Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- RST Water supplied information to the credit reference agencies which negatively affected her credit score.
- If RST Water had administered the payment scheme she was on correctly, her payments would have covered her usage, as the payments would have increased yearly by the cost of living, also 12 payments would have been taken every year, and some years 12 payments were not taken.
- If the scheme had been administered correctly, she would not have been in arrears at any time during the period when credit reporting was required.
- Further RST Water could have done more to inform her personally that she was being reported on negatively, rather than being sent generic correspondence stating that she may be being reported on negatively. She has never heard of utility companies reporting to credit reference agencies before, therefore she had not considered this a possibility when trying to ascertain why her credit score was affecting her ability to pass credit checks for lending purposes.
- As a result of RST Water 'incorrectly' reporting her credit file and the lack of poor company administration, she missed out on capital repayments on a mortgage. Her application for a repayment mortgage was turned down by the banks due to RST Water's adverse credit reporting. Two mortgage applications had failed due to RST Water's reporting on her file, one in 2016 and another in 2017.

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- She has an interest only mortgage, and has had the same one for the last 12 years. She has recently been accepted for a repayment mortgage, but only now that RST Water has corrected the credit file and removed negative markers. The amount of capital that she asserts she lost was approximately £22,426. She is aware that WATRS claims have a ceiling limit of £10,000.00.
- Evidence from [] proves that she had applied for a mortgage with [] and that this was declined due to adverse credit reporting on her credit file. There were no other negative markers on either of the mortgage applicants' credit reports at the time of the mortgage application except from RST Water.
- The customer requests compensation in the sum of £10,000.00.

The company's response is that:

- Following discussions between the Information Commissioner's Office, water companies and OFWAT in 2010, approval was given to sharing data between water companies and Credit Reference Agencies (CRA), such as Experian. The sharing of a customer's information with CRAs does not require consent.
- In order to comply with the Data Protection Act 1998 (DPA 1998) and the General Data Protection Regulations (GDPR) the Company has a Privacy Policy which is available online or by calling customer services. The Company's Privacy Policy tells customers what we do with their personal data, including when we may share it with third parties. All customer invoices include a shortened version of its Privacy Policy.
- Measured charges are due and payable on receipt of the invoice. A customer may choose to pay by budget instalments (prior to receipt of the invoice) in accordance with the payment methods set out in the invoice.
- The Company offers two types of payment arrangements. The first is a Payment Scheme which means that the customer pays for the services as they are using them. Metered customers who are on a payment scheme which is set to clear arrears and ongoing charges will be reported positively and will show on their credit report as a zero status.
- The second is an instalment plan. This is a non-standard payment arrangement set at a lower amount to spread the cost of invoices over a longer period of time. The payments would usually increase by the cost of living rather than the amount required to clear the balance within the financial year. As an instalment plan does not cover the balance and ongoing charges this is reported negatively.
- It is the Customer's responsibility to contact the Company to discuss appropriate payment options.

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- The Customer was on a Payment Scheme from 5 September 2009 to 5 January 2010 with payments set at £40.00 per month. The payment of £40.00 that was due in December 2009 was returned by the Customer's bank account on 6 January 2010. On 27 January 2010 the Customer instructed the Company to reinstate the direct debit of £40.00 per month. As a result of the missed payment, the Customer's monthly payments of £40.00 were no longer sufficient to clear the balance and ongoing charges for that financial year. The Customer was therefore not paying the charges in accordance with the Company's payment terms and she was therefore moved to an Instalment Plan from 30 January 2010 for £40.00 per month in accordance with the Customer's instructions.
- The Customer remained on an instalment plan up to 12 June 2018. Although the Company did not start data sharing until 2014.
- All customers were notified in 2012 that the data sharing scheme was coming into force in 2014. The Customer was notified on 30 July 2014 (voicemail informing arrears would be reported), 22 May 2015, 16 April 2016, 21 April 2017 and 11 June 2018 that her existing payment plan was not sufficient to clear the balance on her account and that this could directly affect her credit rating.
- The use of the word 'could' and 'may' was appropriate as there were steps that the Customer could have taken to have prevented any negative reporting, for example, increasing her payments.
- Notwithstanding that, the Company was entitled to report the Customer's arrears to credit reference agencies and the reporting was correct.
- As a result of the Customer's complaint, the Company removed the negative markers from the Customer's credit file. This was done as a goodwill gesture and did not amount to an admission of liability or an admission that the Company had reported incorrectly.
- The Customer has failed to demonstrate that she has suffered loss as a direct result.
- The Customer has not provided any evidence that a capital mortgage was applied for in 2016 or 2017, or at all. The Company is not aware of the information that was provided to the mortgage providers and has not been provided with any evidence from the mortgage providers to confirm that the mortgage was refused. No evidence has been provided as to why the mortgage was refused and that it was a direct result of the Company's negative markers as alleged.

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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.

How was this decision reached?

1. I must remind the parties that adjudication is an evidence-based process.
2. It is almost inevitable in such adjudications that conflicts of evidence arise, and the mere fact that the adjudicator finds in favour of one party on a particular issue does not mean that the other is telling an untruth. The adjudicator's role is to balance the evidence that is presented.
3. The evidence confirms the company's submissions that the customer was moved to an Instalment Plan from 30 January 2010.
4. I note company's submissions about the difference between a Payment Scheme and an Instalment Plan. The company states that with an Instalment Plan the payment arrangement is set at a lower amount to spread the cost of invoices over a longer period of time; the payments would usually increase by the cost of living rather than the amount required to clear the balance within the financial year; and as an Instalment Plan does not cover the balance and ongoing charges this is reported negatively. However, there is no evidence to show that this was explained to the customer at the time.

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5. In addition, contrary to the company's submission that the payment amount would normally go up by the cost of living, I also accept the customer's submissions that the evidence shows that the company reduced the monthly payments in 2011. Further, the evidence confirms the customer's submissions that in 2011, 2013, 2014, 2015 and 2017 years the company did not collect payment from the customer for one or two months in the year. The company has not provided any explanation as to why monthly payments were reduced and/or why payments were not collected on some months. In the absence of any evidence showing otherwise, I am not satisfied that the company has shown that it administered the Instalment Plan correctly. I find that the company has failed to provide its services to the standard one would reasonably expect in this regard.
6. However, notwithstanding the above, customers must also bear some responsibility for their accounts.
7. I accept the company's submissions that it is a customer's responsibility to contact the company to discuss appropriate payment options.
8. Evidence has been submitted which supports the company's submissions that the customer was notified on 30 July 2014, 22 May 2015, 16 April 2016, 21 April 2017 and 11 June 2018 that her existing payment plan was not sufficient to clear the balance on her account and that this could directly affect her credit rating.
9. The company has also provided evidence to support its submissions that its invoices informed customers that their personal data may be shared with Credit Reference Agencies.
10. The customer was therefore, importantly, put on notice that payments on the account were insufficient; that there was a debt accruing on her account; and that failure to take action could affect her credit rating.
11. For the avoidance of doubt, I accept the company's submissions that the use of the word 'could' and 'may' was appropriate as there were steps that the customer could have taken to have prevented any negative reporting.

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12. However, there is no evidence to show that the customer took any action to to contact the company to review the payment plan; pay the outstanding debt; or discuss her payment options despite requests from the company.
13. I accept the company's submissions that since 2010, approval has been given for sharing data between water companies and Credit Reference Agencies (CRA), such as Experian by the Information Commissioners Office and OFWAT. The sharing of a customer's information with CRAs does not require consent. In the absence of any evidence showing that the customer took any action to to contact the company to review the payment plan; pay the outstanding debt; or discuss her payment options, I accept the company's submissions that it was entitled to report the payment status of the customer's account to CRAs. The company did not fail to provide its services to the standard to be reasonably expected in this regard.
14. The customer requests £10,000.00 compensation to cover the amount of capital that she asserts she lost due to the negative entries on her credit file as a result of the company's actions. Had the company not put the customer on notice that there were issues with payments to the account, the negative entries on the customer's credit file would not have been justified. However, as discussed above, the company alerted the customer that the payment plan being applied to her account was insufficient and required review. The customer took no action. The company was therefore entitled to report the negative payment status of the customer's account to CRAs. The customer is therefore not entitled to any compensation to cover the amount of capital that she asserts she lost due to the negative entries on her credit file.

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 April 2020 to accept or reject this decision.

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- 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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Adjudicator

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