

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1816

Date of Decision: 10 March 2020

#### Complaint

The customer submits that the company registered a default for non-payment against her with credit reference agencies ("CRA") in 2016. The default relates to an amount owed from a closed account in 2014. She advised that she had a new-born child and was extremely vulnerable after being in an abusive relationship. She moved out of the property to start a new life. She does not deny that she had issues paying but she wishes to advise that as she was fleeing domestic violence at the time. All she asks is that the default is registered at the correct time - 2014 and not nearly two years after she was not able to pay. In her WATRS Application Form, the customer also requests that the company remove the default from her credit file.

#### Defence

The company submits that before the account was closed in October 2014, the customer had fallen into arrears as the last payment received was in August 2013. The debt was later passed to a Debt Collection Agency ("DCA") and then returned to it in September 2015. As the DCA was unsuccessful in recovering the balance outstanding, it wrote to the customer on 16 December 2015 to let her know of its intention to file a Default if payment was not received by 13 January 2016. A request was received from the customer on 26 January 2016 for a monthly a payment plan. As this was after 13 January 2016, the Default had already been reported. It understands that the customer was experiencing difficulties when she moved out of the Property, although it was unaware of these circumstances until 31 October 2019. Had it been made aware of this earlier, it may have been able to assist further in preventing the Default. It has a duty to accurately report payment activity on customer accounts, removing the Default would be falsifying information. No offer of settlement was made.

#### Findings

The customer does not dispute that she received notification of the debt and requests for payment from the company and/or the DCA. I can appreciate that the customer was in a very distressing situation. It must have been an extremely difficult time for the customer. However, there is no evidence to show that the customer made the company aware of her circumstances. The company made efforts to contact the customer. The company also correctly notified the customer of arrears on her account and of its intention to file a Default notice on 25 December 2015. The customer failed to make payment by the deadline given and as such the company was entitled to file a Default

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notice. The company has a duty to accurately report payment status of customer accounts. As the Default had already been reported before payment had been made; it would be inaccurate for the company to remove the Default or register the Default in 2014. I have no power to direct the company to do so.

**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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# ADJUDICATOR'S DECISION

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## Party Details

Customer: [ ]

Company: [ ].

## Case Outline

### **The customer's complaint is that:**

- [ ] registered a default for non-payment against her with credit reference agencies ("CRA") in 2016.
- The default relates to an amount owing from a closed account in 2014. She had a new-born child and was extremely vulnerable after being in an abusive relationship.
- She moved out of the property to start a new life, taking into consideration what she had been subjected to she struggled to communicate this.
- She does not deny that she had issues paying but she was fleeing domestic violence and was in a horrific place at the time.
- The majority of the debt was also from a water leak at the property but as the landlord was serving eviction notices on her, as a terrified single mother who had been through what she had been through and who could not even go to the door, she was not going to report this water leak down the side of the property.
- The default should have been registered in 2014 when no payments had been received, not in 2016. All she asks is that the default is registered at the correct time - 2014 and not nearly two years after she was not able to pay.
- In her WATRS Application Form, the customer requests that the company remove the default from her credit file.

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

- The customer's account was closed on 27 October 2014, following information provided by her Landlord. A final bill of £621.64 was sent to the Property. The following day, we received an email from the customer, providing her forwarding address (5 Green Street). We updated our records accordingly and sent a copy of the final bill to the customer at 5 Green Street.
- As no payment or contact was received towards the final balance, a Final Notice was sent on 11 November 2014. This prompted the customer to contact us on 2 December 2014, and a payment plan was agreed for an initial payment of £10.00, and ongoing monthly instalments of £20.00.
- The agreed payment plan was automatically cancelled in February 2015, as no payment was received. The account was then passed to a Debt Collection Agency ("DCA"), working on our behalf and it remained with them until 16 September 2015.
- The DCA was unsuccessful in gaining contact with the customer, whilst the account was with them. Therefore, we sent a Notice of Intention to file a Default on 16 December 2015. This was sent to 5 Green Street and requested for a payment of the outstanding balance by 13 January 2016.
- The customer contacted us on 26 January 2016, to request a payment plan for monthly instalments of £20.00, via our online web forms, although the Default had already been reported (on 14 January 2016) by the time this was requested.
- Since 2010, water companies have been permitted by the Information Commissioners Office and OFWAT to share data with Credit Reference Agencies, such as Experian, Callcredit and Equifax. Since September 2015, we have shared information regarding the status of our domestic customers' accounts with a CRA. This is done on an automated basis via a shared database maintained by the CRA.
- Initially, arrears are simply reported as being outstanding, which means that if a customer fails to pay their bill when they become due, we may register a late payment marker against their credit file which may impact their ability to get credit.
- Once an account has been in arrears for 3 months, the relevant customer will receive a Notice of Intention to Default. If the account is not paid in full within a 28-day period, a 'Default' will be registered with the CRA. The grace period prior to recording the 'Default' reflects that we seek to make every effort to contact our customers to make arrangement for payment or to settle any disputes.

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- In sharing data with Credit Reference Agencies, it's important that we submit data in accordance with the Steering Committee on Reciprocity ("SCOR") rules. Therefore, we have an obligation to accurately report payment activity, which we have done.
- The customer's account fell into a state of arrears whilst she was still living at the Property, as we only received one payment of £30.00 (on 6 March 2014), after August 2013. Also, no contact or payment was received from the customer until 26 January 2016, which was after the Default had already been reported.
- The information shared with the CRA's is an accurate reflection of the customer's payment activity. It has a duty to accurately report payment activity on customer accounts. Removing the Default would be falsifying information, and in our opinion against the SCOR rules.

### 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. 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.

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3. It is not in dispute that the customer's account fell into arrears from 2013.
4. The company has submitted the customer's billing and payment history from 1 December 2012 to 12 December 2019 in evidence which supports its submission that after August 2013 it only received one payment of £30.00 from the customer (on 6 March 2014) until January 2016.
5. The customer does not dispute that she received notification of the debt and requests for payment from the company and/or the DCA.
6. I am mindful that the Consumer Council for Water (CCW), its correspondence to the customer, confirms that it had "seen copies of correspondence which does reflect that [the company] had made every effort to contact you to try and resolve the matter."
7. I accept the company's submissions that since 2010, water companies have been permitted by the Information Commissioners Office and OFWAT to share data with Credit Reference Agencies, such as Experian, Callcredit and Equifax. The company states that it has automatically shared information regarding the status of domestic customer accounts with a CRA since September 2015.
8. I accept the company's submissions that it has a duty to accurately report payment status of customer's account.
9. The company has submitted in evidence a copy of its letter to the customer dated 16 December 2015 informing the customer of its intention to file a Default. I am mindful that the letter clearly states that failure to make payment in full by 13 January 2016 would result in a Default notice being filed.
10. It is not in dispute that the customer did not make payment by the deadline given.
11. I can appreciate that the customer was in a very distressing and difficult situation. The customer does not dispute that she did not make the company aware of her circumstances. The company states that had it been made aware of this earlier, it may have been able to assist further in preventing the Default.

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12. I accept the company's submissions that it correctly notified the customer of the arrears on her account and of its intention to file a Default notice on 16 December 2015. As payment was not made by the requested deadline, the company was then entitled to file a Default notice in 2016. The Default had already been reported by the time the customer had got in touch to arrange a payment plan. As discussed above, I accept the company's submissions that it has a duty to accurately report payment status of customer accounts. As the Default had already been reported before payment had been made; it would be inaccurate for the company to remove the Default or register the Default in 2014. I have no power to direct that company do so.

13. The customer has not shown that the company failed to provide its services to the standard to be reasonably expected in respect of the Default. Consequently, the claim is unable to 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 7 April 2020 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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**U Obi LLB (Hons) MCI Arb**  
**Adjudicator**

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