

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1776

Date of Decision: 28 January 2020

Complaint

The customer alleges that she has been overpaying on her water charges. Since 2014, the company was aware that a number of neighbouring properties in the same building as hers could not have water meters. However, no-one from the company contacted the customer to let her know this or to move her account to the Assessed Household Charge ("AHC") tariff. She would like the company to provide (1) a refund of £1,318.45, i.e. the difference between the Rateable Value ("RV") basis of charging and the AHC tariff amount and (2) compensation of £500.00 for the mental, physical and emotional stress caused.

Defence

The company's bills and Annual Billing Leaflets give details about metering and the ways that the company might be able to help if a customer is struggling to pay their bills. The effect of the company's Charges Scheme is that - until such time as any customer applies for a water meter - the company will always bill a customer using the RV of their property. The backdating of the AHC tariff ("the Adjustment") to June 2014 is currently in progress. The Adjustment is the difference between the RV and AHC charges and will be credited to the customer's account - but not refunded as a payment to her.

No offer of settlement has been made.

Findings

Until such time as the customer first applied for a water meter on 11 February 2019, it was appropriate and justifiable for the company to be billing the customer on the basis of the RV of her property. The company has otherwise acted consistently and in line with the procedures laid down in its Charges Scheme.

Outcome

The company does not need to take any further action.

The customer must reply by 28 February 2020 to accept or reject this decision.

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- When the customer contacted the company to ask why her bills were so high, the agent told her that they were only aware a meter could not be installed at her property *in early 2019*. This contradicts the 2014 Awareness date.
- The customer has, therefore, been overpaying her water bills. Not only has this resulted in her being unable to meet payments to the company but it has also impacted her entire financial life, which has put her under extreme mental and emotional stress.
- The company has now said that it will reinstate a debt that had been archived for the last three years (of which the customer was not aware of and which was not previously mentioned) if she does not accept their offer terms. The customer feels that this is tantamount to bribery and exploitation.
- In view of the above, the customer would like the company to provide the following:
 - a refund of £1,318.45, which - accounting for the payments made between June 2014 and February 2019 - is the difference between the Rateable Value (“RV”) basis of charging and the AHC tariff amount; and
 - £500.00 compensation for the mental, physical and emotional stress this has caused due to the financial difficulty this placed her under, which has also impacted other parts of her financial life and contributed to her having to attend therapy.

The company’s response is that:

- On every bill sent out, details are included:
 - about metering; and
 - asking customers to contact the company if they are struggling to pay - so that the company can discuss options with a view to providing help.
- Also, with each of the customer’s annual bills sent out, an ‘Annual Billing Leaflet’ was enclosed. This leaflet included more details about metering and the ways that the company might be able to help if a customer is struggling to pay their bills.
- The company has offered to backdate the customer’s AHC tariff to 14 June 2014, which is the date when the company became aware that the customer’s home was unlikely to be able to have a meter fitted.
- Although the offer was not accepted by the customer, the company says that this credit is nevertheless in the process of being actioned and the AHC is being backdated to the 14 June 2014 date. The company says that it believes this is ‘the right thing to do’ in view of the facts of this case.
- The Inland Revenue’s District Valuer decided the RV in each instance based on the subject

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property's:

- size;
 - location;
 - access to local facilities and transport;
 - desirability (for example, if it had central heating or double glazing).
- The RV was meant to represent the theoretical amount of rental income that the property might command annually and was reviewed at five-yearly intervals or when major improvements were made.
 - Since 1 April 1990, no new or amended RVs have been issued. However, legislation allows all water companies in the UK to continue basing their charges on the RV of any property as at that date. Ofwat, on its website, explains how RV operates and how the RV of a property cannot be appealed or altered.
 - Section 143 of the Water Industry Act 1991 gives the company the power to set a Charges Scheme.
 - The effect of the Charges Scheme means that - until such time as any customer applies for a water meter - the company will always bill a customer using the RV of their property.
 - The company first received a request for a water meter from the customer on 11 February 2019.
 - The company's 2019/20 Charges Scheme (and its Scheme for each previous year) also includes a policy dealing with:
 - the process when it comes to applying for a water meter; and
 - what will happen if a meter cannot be fitted for whatever reason.
 - At the time when it became aware that the customer's home was deemed unmeterable, the company's policy was the same as it is today, i.e. a metering application needs to be made prior to any tariff change being considered.
 - The company's view is that metering is a fairer way to charge its customers for the services it provides. Metering also has the benefit of encouraging the responsible use of water and helps the company to target leakage repairs more efficiently. This, the company says, is why it has undertaken a sustained customer campaign on the benefits of metering. Information about how to switch to metering is set out in:
 - the company's bills;
 - in its 'Annual Billing Leaflets'; and
 - on the front page of its website.
 - All of the company's customers have the right to request a meter. Where, for practical reasons, a meter cannot be installed, the company - at that stage - informs its customers about the AHC.

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- The company appreciates that the customer would like to see the AHC used more widely but Ofwat - in its document entitled “*water meters - your questions answered*” makes clear its position on how the AHC may be used:

“The purpose of the charge is to make sure that customers’ are not unreasonably disadvantaged because they cannot have a meter. The charge is not available if the company can fit a meter at their property”.

- Ordinarily, the company needs to survey a property to see if it is suitable for a water meter.
- On 11 February 2019, an agent in the company’s call centre applied for a water meter on the customer’s behalf. On the occasion of the resulting survey appointment, on 9 March 2019, the customer was not at home.
- However, when the company next heard from the customer, on 6 August 2019, the agent who took that call identified an internal notice that had been left on the customer’s account. This internal notice stated that the building - of which the customer’s home is part - was deemed unmeterable in 2014.
- At this juncture, the agent applied the AHC tariff to the customer’s account with effect from the date of her meter application. This, the company submits, was the correct course of action to have taken and was in line with the company’s Charges Scheme.
- However, as indicated above:
 - the decision was latterly made to backdate the AHC tariff to the date when the company became aware that the customer’s home was most likely unable to have a meter fitted; and
 - the customer’s account has been transferred to a new billing system, which the company has just introduced - and so the backdating of the AHC tariff (“the Adjustment”) is currently in process, rather than completed. The Adjustment is the difference between the RV and AHC charges.
- The customer requests that the Adjustment of £1,318.45 - which is soon to be applied to her account - be refunded to her instead, as a payment. The company says that it cannot meet this request because:
 - the Adjustment of £1,318.45 that will be credited to the customer’s account is the difference between:
 - the RV bills for the period between 14 June 2014 and 15 February 2019, being the date from which the company has applied the AHC tariff (“Relevant Period”); and
 - the level that the AHC bills would have amounted to over the same Relevant

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Period;

- had the customer paid all of her RV bills in full over the Relevant Period then, of course, the Adjustment figure would have been refunded to her; but
- as she had not paid all of her RV bills for the Relevant Period, the Adjustment has simply 'balanced up' the customer's account as if the company had charged her, using the AHC, ever since 14 June 2014;
- Some of the arrears that had built up over time on the customer's account had been archived but were still due for payment.
- The customer states that she was unaware that the company had archived the RV bills that she had not paid for the years 2014/15 and 2015/16. The reason that the company archives debts is to reduce its debt recovery costs. This, in turn, reduces the 'cost to serve', which ensures that the company is able to keep its customers' bills as low as it can.
- The archiving in this case was done in October 2016. When the customer's (next) bill was issued in February 2017, it clearly showed that the company had archived debts amounting to £1,009.04.
- Given that the Adjustment is being credited to cover the Relevant Period, the customer disputes that it is appropriate for the company to take the debts out of archive. The company responds by saying that, if it did not take the debts out of archive - and still applied the Adjustment credit to her account - the company would effectively be:
 - paying the customer's bills for the years 2014/15 & 2015/16; and
 - providing a 'free' service.
- As to the customer's claim that she told the company over the years that she had been in financial difficulty, the company's response is as follows:
 - when a customer advises that they are struggling to meet their bills, the company has a range of support schemes that it can offer. The company's agents are encouraged to discuss such schemes with customers. It is not in the company's interests to avoid offering financial help to its customers or to avoid offering metering as a way of reducing charges. This is because, if a customer cannot pay their charges, their account will go through to the company's debt recovery process and this in turn:
 - costs the company money; and
 - ultimately, increases the level of bills that need to be submitted to customers;
 - the agents' notes of calls received from the customer, between 2014 and 2017, do not show that the customer said she was in financial difficulty. As the company no longer has audio copies of these calls, it can only rely on its agents' notes for each call. All of

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its agents are trained to compile detailed notes about the conversations that they have with customers;

- Equifax has advised that the customer has a high propensity to pay, which suggests that she is able to regularly make payment to other lenders as per an agreement. Therefore, the company has not considered the customer to be an individual to whom it needed to be more proactive in offering extra support.
- In light of all of the points above, the company takes the view that the customer has not previously advised that she was in financial need.

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. Please note that 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 have reviewed in particular:
 - a. the customer's WATRS Application Form; and
 - b. the 'chain of events' (and all the embedded system notes and screenshots) set out on pages 1 to 10 of the company's defence; and

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- c. the 'evidence 1, 2, 3, 4, 5 and 6' documents appended to the company's defence.
2. I have also had the benefit of reading:
 - a. the customer's detailed comments ("Comments") filed in reply to the company's defence. (I note that there are eleven new evidence items introduced in support of the customer's Comments. In line with Scheme Rule 5.4.3, however, I have disregarded that new material); and
 - b. the company's response to the Comments, emailed on 6 January 2020 ("6 January Response").
3. The fundamental claim that the customer is making, as I understand it, is that:
 - a. over a significant period of time, the company knew - or ought to have known - that the customer was paying too much in respect of her water charges ("Overpaying"); and
 - b. her account should have been moved over to the AHC basis of charging; and
 - c. by failing to alert the customer to this situation, the company breached the obligations that it owed, for example, under its Customer Commitment Code of Practice (and failed generally to provide its services to the standard to be expected).
4. In support of this main premise to her case, the customer contends that there were particular prompts ("Prompts") by which the company should have latched on to the fact that she was Overpaying, specifically that:
 - a. from 2014, the company was aware that a number of neighbouring properties in the customer's building were 'unmeterable'; and
 - b. between 2014 and 2017, the customer had contacted the company to indicate that she was experiencing financial difficulty in paying her bills.
5. By way of response, the company relies closely on the guidance from Ofwat and on the procedures and policies that arise from its Charges Scheme. This boils down to a few key points, as I see it:
 - a. metering is the alternative to RV, effectively;
 - b. the company says that it has run a "*sustained campaign*" to promote the benefits of metering to its customers;

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- c. the company submits that “ ... *with regards to metering ... it would be our preference for all of our customers to be metered. This encourages sensible water consumption and with water meters fitted to customer’s supplies, leaks are identified quicker ...*”
 - d. a metering application first needs to be made, therefore, before any tariff change can be considered.
6. Having examined the relevant sections of its Charges Scheme, it seems to me that the company has set out the position accurately in its defence. I am satisfied that, *until such time as a customer applies for a water meter*, it is appropriate and justifiable for the company to bill on the basis of the RV of the property concerned.
 7. I accept the company’s submission that 11 February 2019 was the first date that a request for a water meter was received from the customer in this case. On the face of it, therefore, it follows that the company was correctly charging the customer on the RV basis.
 8. I have considered, however, whether this position is (or could be) undermined by either of the two Prompts highlighted by the customer.

2014 Awareness that neighbouring properties in the same building were ‘unmeterable’

9. I have taken account of the fact that there was clearly an ‘internal notice’ entered onto the customer’s account. The notice flagged that the customer’s building (that is to say, other properties in the customer’s building) had been deemed unmeterable in 2014. The question that arises is whether the presence of this internal notice should have prompted the company to contact the customer about a change of tariff. In my assessment, however, that sort of level of proactivity cannot reasonably be imposed on the company.
10. Returning to the procedure in the Charges Scheme, it is clear that the ‘trigger’ for the company to act is the customer’s (first) request for a water meter. Before any such request is made, I do not consider that the company could reasonably be expected to be cross-checking what the metering situation was in neighbouring properties - even properties in the same building.

Between 2014 and 2017, the customer says that she contacted the company to indicate that she was experiencing financial difficulty in paying her bills.

11. This is a difficult area because the company disputes that any such contacts (i.e. the customer indicating that she was in financial difficulty) were made. It is perhaps fairer to say that the

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company has no record of such approaches. Reading her Comments, I quite appreciate the customer's frustration on the point. I note, for example, she states:

"... I took all the necessary steps to communicate with [] Water every time I was experiencing financial difficulty to try and get help. This included calling them every time I was unable to pay a bill so they were always aware of my situation. As stated previously, the fact that these notes were not documented on my account and it has been 'assumed' I did not contact them is a huge cause for concern ..."

12. Having given this aspect very careful consideration, I am not persuaded that there is a sufficient basis to doubt the accuracy or completeness of the agents' notes on which the company relies. The notes are the best documentary evidence that is now available and I attach some weight to them for that reason. I also take into account the submission made by the company that:

"... It's not in the interest of [] not to offer financial help to our customers, or [not to offer] metering as a way of reducing charges. This is because if a customer can't pay their charges, their account will go through our debt recovery process and this in turn, costs [] money and ultimately, this cost increases our customers' bills ..."

13. On balance, therefore, I do not consider there is sufficient evidence of the company being made aware that the customer was experiencing financial difficulty (at least, not to the extent that the company was thereby required proactively to engage with the customer about a change of tariff).

The Adjustment

14. Finally, I note that the Adjustment is in the process of being signed off by the company. The customer has raised a particular concern about the company's proposal to 're-apply' the archived debt. Having looked at the issue, however, I regard the company's analysis on this as sound. As is stated in its 6 January Response:

"... if we were to apply the manual adjustment credit of the difference between RV and AHC charges to []'s account, without re-applying the archived debt ... []'s account would be in credit by £1003.63 without her having paid towards the service we provided for the years 2014/15 and 2015/16 ..."

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Conclusion

15. For all the reasons given above, I am satisfied that the company in this case has provided its services to the standard to be reasonably expected.

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 28 February 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.



Nik Carle (LLB (Hons), Solicitor, DipArb, FCI Arb)

Adjudicator

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