

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0632

Date of Decision: 03 January 2018

#### Complaint

The customer's claim is the company incorrectly submitted late payment marks with various credit reference agencies on the customer's credit file. The customer states the late payment marks related to estimated bills which were later revised with bills based on actual readings and he should not be liable for late payment on estimated bills. Furthermore, these marks have caused the customer inconvenience and prevented him securing further credit facilities. The customer also states that the company has breached the Data Protection Act by submitting incorrect information to the various credit reference agencies. The customer is seeking the company remove these late payment marks from the customer's credit files. In addition, the customer is seeking the company to clarify their position regarding the alleged breach of the Data Protection Act and to pay compensation for the inconvenience and distress caused.

#### Defence

The company submits the late payment marks are correct as the customer did not make payment within the required period. The company further submits that it is entitled to base its bills on estimated or on actual readings and for payment purposes it makes no difference on what basis the bill is calculated. Furthermore, the company has provided a good level of service at all times throughout its dialogue with the customer and therefore the company is not liable for any damages in this respect.

#### Findings

I am satisfied the evidence points to the fact the company did not fail to provide its services to the customer to the standard to be reasonably expected with regard to the late payment marks. Furthermore, I am satisfied there have been no failings with regard to customer service as the company has provided a good level of service at all times throughout its dialogue with the customer.

#### Outcome

The company does not need to take any further action.

- The customer must reply by 31 January 2018 to accept or reject this decision.

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## ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0632

Date of Decision: 03 January 2018

### Party Details

Customer:

Company:

### Case Outline

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

- The company incorrectly submitted late payment marks with various credit reference agencies on the customer's credit file. The customer states the late payment marks relate to estimated bills between 20 November 2014 and 15 May 2017. Some of these bills were later revised with bills based on actual readings and therefore he should not be liable for late payment on the estimated bills where these bills were later found to be incorrect. Where estimated bills were issued and later revised, based on actual readings, he was credited with £1086.75 to reflect the actual readings, leaving a balance of £207.33. This balance of £207.33 was paid 19 July 2017, therefore no sums are outstanding.
- The customer further states the company was in breach of sections 7 and 13 of the Data Protection Act as it has disclosed inaccurate information to a third party (the credit referencing agencies). Furthermore, the marks on the customer's credit file have caused the customer inconvenience and prevented him securing further credit facilities.
- The customer is seeking the company remove these late payment marks from the customer's credit files. In addition, the customer is seeking the company to clarify their position regarding the alleged breach of the Data Protection Act and the company to pay compensation for the inconvenience and distress caused.

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

- The company's position is the late payment marks are correct, as the customer did not make payment within the required period. The company submits that it is entitled to base its bills on estimated or actual readings and for payment purposes it makes no difference. Where estimated bills were issued and later revised, based on actual readings, the customer's account has been credited to reflect the actual readings, however, this does not alter the fact the customer made late payments.
- Furthermore, the company asserts that it has provided a good level of service at all times throughout its dialogue with the customer and the customer has already been compensated for any alleged failings. Therefore, the company submits that it is not liable for any further damages in this respect.

### **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.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

I have carefully considered all 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. To succeed in a claim against the company, the customer must prove on a balance of probabilities the company has failed to provide its services to the standard one would reasonably expect and that because of this failure the customer has suffered some loss or detriment. If no such failure or loss is proved, the company will not be liable.
2. I must also remind the parties that adjudication is an evidence-based process where the burden of proof rests on the claimant, in this case the customer, to prove his case on the balance of the evidence.

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3. The customer submits the company has breached the Data Protection Act with regards to disclosing inaccurate information to third-party credit referencing agencies. The legal interpretation and application of the Data Protection Act is a complicated issue and overseen by the Information Commissioner's Office. Under rule 3.4.1 of the Water Redress Scheme Rules a more appropriate forum for an alleged breach of the Data Protection Act is a complaint to the Information Commissioner's Office under Section 42 of the Data Protection Act. I am therefore unable to consider this aspect of the dispute.
4. The dispute centres around whether the company should have placed late payment marks on the customer's credit files with various credit reference agencies where bills were based on estimated readings not actual readings. The company is required to meet the standards set out in OFWAT's guidelines on collection of debt. These guidelines set out what support is available to customers who find their bills unaffordable and how the company should deal with customers who fall into debt, including any arrangements to share data with credit reference agencies.
5. 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.
6. From the table attached to a letter to the customer dated 13 July 2017 and the company's defence documents it seems that the bill for the period 12 May 2014 to 20 November 2014 was due on receipt, however, not paid. In accordance with the company's code of practice on debt the customer was sent a Final Demand on 31 December 2014 and then a Notice of Further Action on 4 February 2015. The bill was paid on 2 March 2015. I understand from the company's defence that this bill was based on actual readings.
7. From the evidence put forward by the customer and the company, the bill of £92.03 for the period 20 November 2014 to 11 May 2015 was issued on 21 May 2015 and once again due on receipt. In this instance, the bill was based on estimated readings and also failed to take into account payments of £30.00 made before the bill was issued. The customer made a payment of £15.00 on 3 July 2015. The company sent a Final Demand for £77.03 on 24 June 2015 and then, after a further payment of £40.00 by the customer, a Notice of Further Action regarding £37.03 was sent on 20 July 2015. On 4 August 2015, a payment was made of a further £40.00 clearing this bill and putting the customer in credit by £32.97. I note the failings by the company with regards to the incorrect sum billed and the incorrect sums set out in the Final Demand and

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Notice of Further Action, however, it does not change the fact the bill was not finally paid until 4 August 2015.

8. From the evidence put forward by the customer and the company, the bill of £108.78 for the period 11 May 2015 to 9 November 2015 was issued on 27 November 2015 and was, once again, due on receipt. In this instance, the bill was based on estimated readings and also failed to take into account additional payments of £15.00 made before the bill was issued and previous credit of £37.03. The customer made a payment of £15.00 on 2 December 2015. The company sent a Final Demand for £93.78 on 8 January 2016 and a Notice of Further Action regarding £93.78 was sent on 8 February 2016. On 2 March 2016, a payment was made of a further £60.00 clearing this bill and putting the customer in credit. However, the evidence shows that on 8 March 2016 the company incorrectly chased the customer for £33.78, which would have been cleared on 2 March 2016, and I note the failings by the company with regards to the incorrect sum billed and the incorrect sums set out in the Final Demand and Notice of Further Action, however, it does not change the fact that the bill was not finally paid until 2 March 2016.
9. In compliance with OFWAT's guidelines on collection of debt if no payment plan is in place with the company or full payment has not been received the company is entitled to report this to the credit reference agencies.
10. In my view, the evidence shows the company was entitled to place late payment marks on the customer's credit file due to the fact that actual full payment took place some considerable time later than when the bills were due.
11. Under the company's Charges Scheme (made under powers conferred by Section 143 of the Water Industry Act 1991) the company is entitled to bill on actual meter readings or where the company does not have access to the meter, the company can then base its bill on estimated readings. Once the company has actual readings the company should revise its estimated readings to reflect the actual readings and either credit the customer or issue a revised bill depending if the actual reading is higher or lower than the estimated bill.
12. The evidence shows the meter was inside the customer's property and that due to the customer working abroad it was difficult for the company to acquire actual meter readings. This lack of actual meter readings led the company to issue most of its bills based on estimated readings.

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13. Subsequent to the earlier bills a further estimated bill was issued on 26 May 2016 for the period 9 November 2015 to 10 May 2016 and on 15 November 2016, the company issued another estimated bill for the period 10 May 2016 to 8 November 2016. I understand from the evidence that both bills were paid promptly.
14. On 28 November 2016, the company requested the customer supply an actual meter reading so the company could adjust the previous estimated bills as required. The evidence shows the customer did not provide the company with an actual reading and the company only managed to take a reading of the customer's meter on 16 May 2017. In line with the company's Charges Scheme the company cancelled the previous estimated bills and issued a new bill for £1,294.08 based on the actual readings.
15. On 12 July 2017, the company credited the customer's account with £1,086.85 for failings with regard to the estimated bills leaving a balance of £207.33 for the previous six months. This balance was paid 19 July 2017 and a payment plan set up going forward (see company letter dated 14 July 2017). The £1,086.85 credit effectively refunded the customer any sums paid whilst the company had charged him using estimated bills.
16. I therefore find the company has not failed to provide its services to the standard one would reasonably expect with regard to billing on estimated usage and the customer has suffered no loss or detriment as the company has credited the customer's account with £1,086.85 for any failings with regard to the estimated bills.
17. As above and based on the available evidence, I find the customer has not proved the company incorrectly placed late payment marks on his credit file, nor has the customer proved the company failed to provide services to the standard to be reasonably expected when billing.
18. The company has certain obligations in respect of its customer services. From the evidence provided I am satisfied that by the end of the company's dialogue with the customer, the company had adequately explained the reasons behind the late payment marks being placed on the customer's credit file.
19. Bearing in mind the fact this matter has been ongoing for some time and after careful review of all the correspondence provided in evidence I am satisfied that the company's credit of

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£1,086.85 is fair and reasonable in the circumstances to cover the failings with regard to the estimated bills.

20. In light of the above, I find the customer has not proven the company failed to provide its services to the standard to be reasonably expected with regards to the company placing late payment marks on the customer's credit file, nor has the customer proved the company failed to provide services to the standard to be reasonably expected when investigating these issues. Furthermore, I find there have been no failings with regard to customer service to which the customer has not already been compensated for.

#### **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 31 January 2018 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.

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**Mark Ledger FCI Arb**  
**Adjudicator**

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