

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1302

Date of Decision: 28 March 2019

Complaint

The customer submits that, prior to applying for the company's WaterSure Tariff, the company indicated to her that she would be eligible for this Tariff. However, the company subsequently refused her application on the basis that she has a swimming pool. The pool has a filter system which means the water is chemically treated and so the pool does not need to be re-filled. Therefore, she believes the pool does not make her ineligible for the WaterSure Tariff. The customer requests that the company accept her onto the WaterSure Tariff.

Defence

The company asserts that after fully investigating the claim, it confirms that the customer's application for the WaterSure tariff was correctly declined on two grounds: the customer has a swimming pool at her home with a capacity of over 10,000 litres; and she has not provided proof that she is in receipt of Child Benefit for three or more children. The company accepts that on two occasions its advisors provided unclear or incorrect advice to the customer in regards to her potential eligibility for the WaterSure Tariff. It was never its intention to mislead the customer. It has compensated the customer for this error, and it apologises once again for any confusion, or distress this may have caused. The company denies that it is liable to apply the Tariff to the customer's account due to her ineligibility. The company did not make any settlement offer.

Findings

The company's WaterSure Tariff is designed to help low income households that have a water meter and need to use extra water, by capping the annual charge. The documentation provided by the company shows that there is a strict eligibility criteria and that circumstances that would preclude a customer's eligibility includes having a swimming pool with a capacity of over 10,000 litres. Due the customer having a swimming pool with a capacity of over 10,000 and also because she has not provided proof that she is in receipt of Child Benefit for three or more children, I am satisfied that the company has shown it correctly declined her application to be accepted onto its WaterSure Tariff. The company's call centre advisors had incorrectly indicated to the customer that she would be eligible and this is evidence of the company failing to provide its services to a reasonably expected standard. However, I am satisfied that the company has already apologised to the customer for providing misleading

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advice given and applied a £50.00 credit in recognition of its errors. The company is not required apply to the WaterSure Tariff to the customer's account.

Outcome

The company is not required to taken any further action.

The customer must reply by 29 April 2019 to accept or reject this decision.

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Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- The company advised her on three separate occasions that she qualified for the WaterSure Tariff and the tariff would help her to reduce her high bills received in relation to her property at [] ('the Property'). She therefore completed and returned the WaterSure application form along with the evidence required.
- Her application for the WaterSure tariff was subsequently rejected by the company.
- She therefore received contradictory information from the company that misled her into believing she is eligible for the tariff.
- She also informed the company that she has an external swimming pool that holds over 10,000 litres of water. The pool has a filter system, which means the water is chemically treated and so the pool does not need to be re-filled. She believes the pool does not make her ineligible for the tariff.
- The customer requests that the company accept her onto the WaterSure tariff because it misled her and made her complete and return all of the forms in support of her claim. She also contends that her swimming pool does not require any additional water demands because of its filter system.

The company's response is that:

- It confirms that the customer lives at the Property where she has been billed for its water and sewerage services since July 2016.

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- The customer's application for the WaterSure tariff ('the Tariff') was declined on the basis that she has a swimming pool with a capacity of over 10,000 litres.
- It acknowledges that the customer disputes that because the pool is filtered, she remains eligible for the Tariff. Since receiving the customer's WATRS application, the water usage was reviewed since the customer moved into the Property. Its key observation was that the water usage increases over the summer months. Whilst it understands that its customers typically use more water during the summer months, the customer's increase in usage is significantly higher than it would normally expect to see.
- In addition, it visited the Property on 28 October 2017 to investigate the high usage. An inspector identified a slight leak, possibly originating from the customer's toilet. The inspector noted that the flow rate of the leak was not significant enough to cause the meter to spin continuously, and in turn, it couldn't be quantified. In addition, the inspector documented that the customer had been filling the swimming pool during the summer.
- Its Tariff is a scheme designed to help low income households that have a water meter and need to use extra water. The Tariff caps the annual charge so customers can use the water they need without worrying about the cost. The WaterSure Wales charge from 1 April 2018 to 31 March 2019 is £319.95.
- The company asserts that to be eligible for the Tariff, someone living in the home needs to be in receipt of a qualifying benefit, or tax credit. In addition to this, they, or someone in the home needs to either; have a medical condition that requires significant use of extra water, or receive Child Benefit for three or more children under the age of 19, who live with them.
- For it to confirm eligibility for the Tariff, it requires proof of benefits and/or tax credits to be submitted with the application. This can be in the form of an Award Notice or bank statement showing the name and full address.
- There are a number of reasons that would preclude a customer being entitled to the Tariff, e.g. not having a water meter at the property, watering the garden with a non-handheld appliance such as a sprinkler, or having a swimming pool or pond with a capacity of over 10,000 litres. The criteria for the Tariff is explained in its booklet entitled: 'WaterSure [] 2018-2019'.
- The Tariff application form explains "you don't qualify if you have a swimming pool, or pond with a capacity of over 10,000 litres", whereas its Scheme of Charges says, "the water supplied to the household must not be used to replenish a pond, or swimming pool with a capacity greater than 10,000 litres".
- In relation to the claim that she received conflicting information on a number of occasions that led her to believe that she would be eligible for the Tariff and therefore completed an application

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form accordingly, it has fully investigated the concerns raised by the customer and it has reviewed all of the calls (prior to the customer returning the application to it, as this is when she feels the misleading information was provided).

- On 23 August 2018 the customer called about her high bill. To assess if she would be eligible for one of its social tariffs, the call centre advisor asked about the household circumstances. The customer advised that she had four children under the age of 19 living at home, and her Grandmother, who also lives in the Property, was receiving a qualifying benefit. The call centre advisor believed at that time that the customer would qualify for the Tariff and sent an application form. The customer was not asked if there was a swimming pool at the Property during this call.
- It received a further call from the customer on 29 August 2018, after receiving the application form. The customer asked if the swimming pool would prevent her from applying for the Tariff and explained the pool is filtered and doesn't require refilling. She was advised to put the details of the pool on the application form, and it should be okay. The company admits this information was incorrect as the customer should have been told at this point that she was not eligible.
- It would like to reiterate that it was never its intention to mislead the customer. The customer has been compensated for this separately, and it apologises once again for any confusion, or distress this may have caused.
- It received the customer's application on 31 August 2018. Section 5 of the application was also completed with the names and dates of birth of the customer's four children. The customer noted on the application form that she didn't receive Child Benefit for the children, and therefore no evidence was submitted. Based on the eligibility criteria, if a customer is not in receipt of Child Benefit, this alone would make them ineligible for the Tariff.
- The customer advised during subsequent conversation that she is in receipt of Child Benefit and will forward the evidence to it. To date, it has not received this.
- To summarise, it still believes the customer is ineligible for the Tariff on the basis she has a swimming pool with a capacity of over 10,000 litres. Taking into consideration the customer's usage over the summer periods, and its inspector's notes, it has reason to believe it is refilled direct from her supply.
- Further, the customer has not provided any evidence that she is in receipt of Child Benefit to date regardless of the swimming pool, in the absence of a Child Benefit Award Notice, the customer would not be entitled to the Tariff.

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- It has apologised to the customer regarding the miscommunication, and as a gesture of goodwill, the customer's account was credited with £50.00. It believes this is fair recompense for the errors made.

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 remind the parties that adjudication is an evidence-based process and it is for the customer to show that the company has not provided its services to the standard that would reasonably be expected of it.
2. The dispute relates to the company's refusal to accept the customer onto its Tariff after it had indicated she would be eligible. Under the Scheme Rules, I am unable to consider whether the company's policy in relation to eligibility for the Tariff is fair, if indeed this is being alleged. However, I am able to look at if the company has applied the Tariff criteria correctly in the customer's case. I shall proceed with the decision on this basis.

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3. The company has supplied evidence in support of its stated position including a booklet entitled 'WaterSure [] 2018 to 2019' (this includes the application form), its Scheme of Charges, its letter to the customer dated 14 November 2018, its inspector notes of 28 October 2017 and the customer's completed application form. I also acknowledge receipt of the Consumer Council for Water (CCW) document bundle.
4. Based on the evidence supplied by the company, in particular the information in the booklet, 'WaterSure [] 2018 to 2019' and page 17 of the company's Scheme of Charges, I accept that in order to qualify for the Tariff, someone living in the home needs to be in receipt of a qualifying benefit, or tax credit. In addition to this, they, or someone in the home, needs to either have a medical condition that requires significant use of extra water, or receive Child Benefit for three or more children under the age of 19, who live with them.
5. In the customer's case, she provided proof to the company that her Grandmother living at the Property is in receipt of a qualifying benefit. I note that in her completed form, the customer indicated that she was not in receipt of Child Benefit (for three or more children). The company submits that although the customer has since advised that she is in receipt of Child Benefit for three or more children, proof of this has not been provided to date. Therefore, I accept the company's assertion that due to the absence of evidence to show she is in receipt of Child Benefit for three or more children, she would not meet the eligibility criteria for the Tariff.
6. Further, I am satisfied from the evidence that having a 10,000 litre capacity swimming pool at the Property would preclude the customer from being entitled to the Tariff. Whilst the customer advised the company that she has a 10,000 litre capacity swimming pool, I acknowledge her submission that, because it has a filter system it means the water is chemically treated and so the pool does not need to be re-filled, this does not make her ineligible for the Tariff. I find that the literature on the Tariff is silent on this point but the company has provided evidence of the customer's water usage recorded on the water meter since she moved in to the Property in July 2016. In light of the customer's average daily usage between September to March 2017 and 2018 being 0.85 cubic metres whilst between March and September, the average daily usage recorded is 1.54 cubic metres, I accept the company's submission that this shows a significant increase in usage during the summer months. The company has also highlighted a report by its inspector dated 28 October 2017

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that documents that the customer had been filling the swimming pool during the summer. Therefore, as there is no suggestion in the Tariff information that swimming pools with their own filter system are accepted on the Tariff and as I consider that the customer's increased usage during summer months casts doubt on the suggestion that the pool does not need re-filling, on balance I accept that the pool at the Property would make the customer ineligible for the Tariff.

7. In relation to the customer's submission that she was misled by the company in regards to her eligibility for the Tariff prior to submitting her application, the company asserts that on two occasions its advisors provided information to the customer that it accepts could have been misconstrued. On the first occasion, on 23 August 2018, after asking the customer questions about her circumstances to establish her eligibility for the Tariff, the advisor believed the customer would be eligible. The company asserts that the advisor had not asked if she had a swimming pool. On the second occasion, on 29 August 2018, the customer asked if the swimming pool would prevent her from applying for the Tariff and explained the pool is filtered and doesn't require refilling. The company confirms that the customer was advised to put the details of the pool on the application form, and it should be okay. Therefore, the company admits this information was incorrect as the customer should have been told that she was not eligible, when the customer had advised she had a 10,000 litre swimming pool.
8. In light of my above observations, I accept that the service provided by the company on these occasions fell below a reasonably expected standard and I accept that based on this advice, the customer completed the application form believing she would be accepted onto the Tariff. The customer has said she was misadvised on three occasions; however, without further information from the customer (for example the date of the third occasion and the information she received from the company), I am unable to accept there were further instances of misadvice from the company. However, in relation to the accepted failures, the company has evidenced that it applied a £50.00 credit to the customer's account in acknowledgement of its unsatisfactory service provided in this respect. I am satisfied this is a fair and appropriate remedy in the circumstances and therefore I make no further award.
9. The customer seeks to be accepted onto the Tariff. As the company has demonstrated that the customer does not meet the eligibility criteria, on the grounds that she has a swimming

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pool with a capacity of over 10,000 litres and because she has not provided proof that she is in receipt of Child Benefit for three children or more, I find that it is not liable to apply the Tariff to the customer's account. As above, the company failed to provide its services to a reasonably expected standard when, on two occasions, its advisors were unclear or incorrectly indicated to the customer that she would be eligible for the Tariff. However, I find that this error does not justify the customer's request to be accepted onto the Tariff. As a consequence the claim does not succeed.

Outcome

The company is not required to taken any further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 29 April 2019 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.



A. Jennings-Mitchell, Ba (Hons), DipLaw, PgDip (Legal Practice), MCI Arb
Adjudicator

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