

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1525

Date of Decision: 2 August 2019

Complaint

The customer's claim is the company has marked her credit file beyond the six-year period from the original debt. Furthermore, these marks have caused the customer inconvenience and prevented her securing further credit facilities. The customer also states the company has breached the GDPR regulations by submitting incorrect information to the various credit reference agencies. The customer is seeking the company to remove the mark on her credit file and pay compensation of £10,000.00 for inconvenience and distress incurred.

Defence

The customer's account remains in default and therefore the marks are a true reflection of the customer's credit status. Furthermore, the company has concerns about granting compensation to a customer when a debt remains unpaid. The company has removed the marks on the customer's file from October 2018 to June 2019 as requested by the Information Commissioner's Office (ICO). However, the company is still in discussions with the ICO as to whether this is correct and whether the company was in breach of the GDPR principles. Furthermore, the company states there were no failings with regard to customer service as the company has provided a good level of service throughout its dialogue with the customer. The company has not made any further offers of settlement.

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 needs to take no further action.

- The customer must reply by 30 August 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

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Date of Decision: 2 August 2019

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The company has marked her credit file beyond the six-year period from the original debt.
- Furthermore, these marks have caused the customer inconvenience and prevented her securing further credit facilities.
- The customer also states the company has breached the GDPR regulations by submitting incorrect information to the various credit reference agencies.
- The customer is seeking the company to remove the mark on her credit file and pay compensation of £10,000.00 for inconvenience and distress incurred.

The company's response is that:

- The customer's account remains in default and therefore the marks are a true reflection of the customer's credit status.
- Furthermore, the company has concerns about granting compensation to a customer when a debt remains unpaid.
- The company has currently removed the marks on the customer's file from October 2018 to June 2019 as requested by the Information Commissioner's Office (ICO). However, the company is still in discussions with the ICO as to whether this is correct and whether the company was in breach of the GDPR principles.
- Furthermore, the company asserts it has provided a good level of service at all times throughout its dialogue with the customer. Therefore, the company submits it is not liable for any further damages in this respect.

How is a WATRS decision reached?

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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 the company has failed to provide its services to the standard one would reasonably expect and 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 I have not considered it in reaching my decision.

How was this decision reached?

1. The dispute centres on whether the company should have placed late payment marks on the customer's credit files with various credit reference agencies where the debt has become a statute barred debt. 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.
2. 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.
3. From the evidence put forward by the customer and the company, I understand three bills dated 15 May 2012, 26 November 2012 and 23 January 2013 remain unpaid. The customer does not dispute these bills remain unpaid; however, she is unhappy the company has continued to pursue and report these debts beyond the six-year statutory time bar. The evidence shows these debts have been regularly chased by the company until 29 September 2016. On 29 September 2016, the company deleted the default from the customer's credit file in line with the guidance from the ICO and credit reference agencies. As the debts remained unpaid, in November 2018, the company recommenced placing marks on the customer's credit file. On 29 November 2018,

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the customer contacted the company requesting the marks be removed from her credit file as it was incorrect and did not comply with GDPR. Various correspondence took place between the parties resulting in the ICO contacting the company requesting it explain its processes and actions regarding the customer's complaint. On 19 June 2019, the company removed the marks on the customer's file from October 2018 to June 2019 as requested by the ICO. However, the evidence shows the company is still in discussions with the ICO as to whether this is correct and whether the company was in breach of the GDPR principles. On 24 June 2019, the customer commenced the WATRS adjudication process.

4. The customer submits the company has breached GDPR with regards to disclosing inaccurate information to third-party credit referencing agencies. The legal interpretation and application of the GDPR is a complicated issue and overseen by the ICO. Under rule 3.4.1 of the Water Redress Scheme Rules a more appropriate forum for an alleged breach of the GDPR is a complaint to the ICO. I understand the customer has made a complaint and the company has currently removed the marks on the customer's file from October 2018 to June 2019 as requested by the ICO. However, the company is still in discussions with the ICO as to whether the company was in breach of the GDPR principles. Therefore, I find I am unable to consider this aspect of the dispute.

5. With regard to the customer's comments that the company should not chase a debt if it is statute barred. If a debt is statute barred it is not 'written off' and it doesn't disappear, it just becomes unenforceable in court. Furthermore, the company would not be allowed to keep chasing a debt that is statute barred if it has not been in touch with the customer at all during the six-year limitation period. However, the company can keep asking the customer for payments if it has been in regular contact. As evidenced by the timeline set out within the company's defence documents the company has been regularly contacting the customer regarding payment of the outstanding debts. Whilst I appreciate the customer's position regarding her health and the impact on her credit score, the fact remains that the debts are unpaid. Accordingly, I find the company is entitled to continue to chase the debts as long as it is not in breach of the GDPR principles. As to whether the company should continue to place marks on the customer's credit file, as matters currently stand, the debts have not been written off and therefore still outstanding. 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. So, excluding the alleged breach of the GDPR principles, I am of the view the company has not failed to provide its services to the customer to

the standard to be reasonably expected by the average person with regard to the late payment marks. Accordingly, this aspect of the customer's claim and request for redress fails.

6. 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.
7. In light of the above, I find the customer has not proven the company failed to provide its services to the customer to the standard to be reasonably expected by the average person with regard to the costs for preventing rodent ingress and damage. Furthermore, I am satisfied there have been no failings with regard to customer service as the company has provided a good level of service throughout its dialogue with the customer. Consequently, the customer's claim does not 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 30 August 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 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.



**Mark Ledger FCI Arb
Adjudicator**

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