

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0716

Date of Decision: 9 April 2018

Complaint

The customer runs a farm. It has been discovered that only the farmhouse returns used water to the sewer, the farm buildings do not. In light of this, the customer wants backdated and ongoing charges to be removed and their bills calculated in the same way as for an unmetered domestic household. Their water meter is currently situated at the bottom of a ditch and is unreadable as a result. They would like it to be relocated. The company's customer service and communications have been very poor. The customer requests that a sub meter be installed free of charge. They additionally seek an apology, reimbursement of £6882.00 private contractor costs incurred and compensation of £2500.00 for inconvenience and distress.

Defence

The outstanding water charges are properly payable. In order to monitor the amount of waste water that returns to the sewer, a private sub meter would need to be fitted to the property (at the customer's expense). A leak allowance in the amount of £5,696.27 has already been approved and applied to the customer's account.

No offer of settlement has been made.

Findings

The case for removing or changing the calculation basis of the outstanding charges is not made out. The company adhered to the wholesaler's policy regarding the installation of the private sub meter. In those respects, the company's services were provided to the standard to be reasonably expected by the average person. The problems with the current location of the water meter are, however, as the customer describes (i.e. it is unreadable). That aspect of the complaint is upheld.

Outcome

The company needs to take the following further action: it must renew efforts with the wholesaler to investigate moving the customer's water meter to a more suitable location.

The customer must reply by 8 May 2018 to accept or reject this decision.

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Party Details

Customer:

Customer's Representative:

Company:

Case Outline

The customer's complaint is that:

- They run a farm. The relevant premises comprise farm buildings and a farmhouse (which is their main residential dwelling).
- Since January 2016, on their farm buildings account, they have been charged for used water returned to the sewer.
- Following a very long and difficult complaints process through the company, it was confirmed that the farm itself returns no used water to the sewer system. The (residential) farmhouse, in fact, is the only place from which used water is returned to the sewer.
- Despite this, the company:
 - refuses to stop the used water charges; and
 - insists that a costly sub meter be fitted (at the customer's expense) to measure the water usage from the farmhouse; and
 - will not backdate any used water charges already demanded - notwithstanding the fact that this service has never been received (as the drainage on the farm simply does not allow it.)
- In line with many unmetered households across the country, the customer does not see why they cannot be billed for water usage as an average household family of four people.
- They have spoken to a number of other local farmers and none of them is charged for water usage in the way that the company requires the customer to be charged. Those other farmers

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do not have sub meters and are seemingly under no obligation to install any. The company has said that those other farms have “a written agreement in place many years ago and it was on this basis they were exempted from having a sub meter”. It is felt that this is discriminatory as the closest neighbour to which this applies is a dairy farm of the same size and nature as the customer’s business.

- Their water meter is sited in an unsuitable position. It is located at the bottom of a (nearly) one metre ditch which often fills with water, rendering the meter unusable and unreadable. Only one actual meter reading has been obtained between December 2013 and February 2017. The meter has been fitted with a radio device to help with the problem but this does not work. Despite the inability to obtain meter readings, the company still insists that the meter site is appropriate and that no re-location is necessary. This means that there is no assurance as to what water the customer is actually using and they cannot hope to resolve their billing concerns until this is addressed.
- From the first moment that a complaint was made verbally, there has been extremely poor customer service and communication on the part of the company.
- In view of all of these difficulties detailed above, the customer would like the company:
 - to remove all backdated and ongoing used water charges from their account. It has been proven that the farm does not send used water back through the return to sewer system. As this service has not been received by the customer, they feel it is unreasonable to expect them to pay for it; and
 - to treat the farmhouse as a four-person, family household for billing purposes (as would be the case for non-business unmetered households). The company should use the same average consumption calculations that it uses for unmetered domestic households as per its ‘Household Scheme of Charges 2018-2019’; and
 - to provide an explanation in writing as to why farms in the local area have a used water exemption letter, when the customer is not entitled to one; and
 - as a gesture of goodwill, to install (and pay for) a sub meter to read water usage for the farmhouse. As the farmhouse is a domestic dwelling, it is reasonable that the customer should benefit from the offer of free meter installation; and
 - to ensure that the £5000 sum paid in January 2017 (when the customer was threatened with having their water cut off) does not go towards paying for any used water charges but instead is put towards paying off water supply charges; and
 - to relocate the farm’s main water meter to a suitable position where it will be easily accessible and readable; and

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- to provide an apology for its poor handling of the customer's complaint and for the emotional and health problems that this situation has caused within the customer's family; and
- to reimburse the cost incurred of the leak investigation by a private contractor, in the sum of £6882.00; and
- to pay compensation of £2500.00 for all the inconvenience and distress suffered as a result of the company's poor standard of customer service.

The company's response is that:

- It was contacted by the customer on 24 March 2016. They were concerned about the high consumption on their latest invoice.
- An appointment was booked for an engineer to attend on 1 April 2016 to visit the property, in order to check the water meter and supply for any problems.
- The engineers arrived at the property but were unable to complete their checks as the customer was unavailable. The engineers tried to contact the customer on the number that they were given but there was no answer. A voicemail and a 'no contact' card were left at the property for the customer to call and re-arrange the appointment.
- The customer called on 8 April 2016 and arranged a new appointment for 12 April 2016. The visit took place on that date. It was confirmed that there was a non-visible leak on the private supply as there was movement on the meter when all the stop taps were switched off.
- As per the standard wholesaler policy, it would be the customer's responsibility to locate and repair the leak in these circumstances (because the leak was on their private pipework.)
- No further communication was received until the customer made contact on 10 January 2017. At that point, the customer was concerned that they were receiving reminder letters for an outstanding balance that they felt was still under dispute.
- From this communication, it was assumed (at this stage) that:
 - the leak identified in April 2016 had been repaired; and
 - the reminder letters that the customer was referring to were for non-payment of their consumption.
- The only payment received from the customer was for £5,000 on 12 January 2017.
- An email was then received from the customer on 17 January 2017. They wanted the company to investigate the possibility of a leak as the consumption had increased dramatically. They also stated at this juncture that not all of the waste water returns to the sewer.

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- On 9 February 2017, the customer was informed that a private sub meter was needed to monitor the amount of water that was returning to the sewer. This would need to be installed at the customer's own cost and could be fitted by an independent private plumber.
- The company refers to the wholesaler's policy on private sub meters. Without a sub meter being fitted, the full waste water charge would be applicable. If any allowance was due, it would only be backdated to the date when the sub meter would be installed.
- The customer was also informed that a request for an engineer to visit the property would need to be arranged to check the water meter and the supply.
- The subsequent visit took place on 1 April 2017. It was confirmed on that occasion that there was a leak on the private supply and that this needed to be repaired as soon as possible. The customer was (again) informed that it was their responsibility to locate and repair the leak, at their own cost, as the leak was on private pipework.
- The engineer also commented that a 3-way radio cable and scanner needed to be fitted so that the customer and the meter-reader could read the meter remotely, without entering the field (as the customer had stated that they were having trouble reading the meter.)
- The company tried to arrange an appointment with the customer on a number of occasions but the scheduling team were unable to make contact on the number provided. An appointment was eventually arranged for 8 May 2017 and completed.
- On 20 June 2017 Mr Brown made contact. He works for [] County Council. He informed the company that Mr & Mrs Green were tenants only and that it was the Council's responsibility to repair any leaks or problems at the property. This was the first time that the company was informed that Mr & Mrs Green were tenants of the farm and that they only rented the property from the local Council.
- The leak was repaired on 7 July 2017 at the property and an allowance was approved for the amount of £5,696.27, which was applied to the account.
- The company is sorry the customer considers that their complaint has been handled poorly and they feel that they are being discriminated against for the waste water charge (from which other farms are exempt.) However, the customer has been advised on a number of occasions:
 - that the company cannot comment on how other farms are being charged; and
 - that a sub meter is required so that the amount of water returning to the sewer can be properly monitored.
- Given that a leak allowance has already been granted and applied, the company believes it is correct to hold its position that:
 - the water charges in question are payable; and

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- a private sub meter does need to be fitted at the property to monitor the amount of waste water that returns to the sewer;

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 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 should 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 their case on the balance of probability.
2. I should also acknowledge that I have had the benefit of reading the customer's 7-page letter, dated 20 March 2018, commenting in response to the company's defence ("Comments").

Complaint 1

3. The first strand to the customer's complaint, I note, concerns the outstanding used water charges. The customer seeks to have these backdated charges removed. They also contend that the farmhouse should be treated as a four-person, family household for billing purposes (as would be the case for non-business unmetered households). In this regard, the company – it is submitted - should use the same average consumption calculations that it uses for unmetered domestic households.

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4. The customer's arguments as to why the company should re-visit the used water charges (and its basis for billing) are straightforward to follow. They seize on the proof available, now, that the farm buildings do not send used water back through the return to sewer system. I am quite satisfied that the farmhouse - i.e. the residential dwelling - is the only place from which used water is returned to the sewer.
5. So far as foul and surface water drainage discharging to the sewer is concerned, I see that the company readily accepts the different arrangements for the farm buildings vis-à-vis the farmhouse. However, this factor alone is not enough to prompt the company to remove or adjust the used water charges in question. The company has said that – in order for the used water charges to be reduced or amended, the customer would need to fit a sub meter at their own expense.
6. I have given careful consideration to whether the company's stance is a fair and reasonable one. The company's position is framed by reference to the wholesaler's policy on private sub meters ("the Policy"). The Policy states that:

*"(xi) If the **occupier** is not satisfied that the volume of used water should be based on the reading from their water **meter**, they may arrange for the installation and maintenance of meter(s), gauge recorder or other apparatus to determine a more accurate measurement, provided that:*

*A. **we** will not bear the cost of installing or maintaining the equipment;*

*B. **we** must approve the water fitting in question and the location where it is to be installed; C. the **retailer** must provide full details of the volumes of water or used water recorded.*

*As long as **we** are satisfied as to the accuracy of the volume of water or used water recorded by the apparatus installed, we will use this information to determine the volume of used water discharged to the public sewer.*

*If **we** are not satisfied or if the **retailer** fails to provide full details of the relevant volumes to **us**, **we** will base the used water charge on the volume of used water discharged as described in section (x) above"*
7. It is appropriate, I find, for the company to point to the Policy to the extent that it does. The Policy is clear that the wholesaler "... will not bear the cost of installing or maintaining the equipment ...". Whether as a gesture of goodwill or otherwise, therefore, I do not consider that the company should be required to pay for the installation of the sub meter (as the customer asks).

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8. I have reached the conclusion that the installation of a sub meter provides a reasonable answer to the customer's concerns. I am not persuaded that it is warranted to 'split' the billing approach, so that the charges for the farmhouse are calculated on an average consumption basis (in the same way as would apply for an unmetered domestic household.)
9. I am also not persuaded that the company should be required to change its stance purely because of arrangements that other local farms might enjoy. In fairness, there may be a host of specific reasons why those neighbours or other businesses happen not to be paying for their waste water services. Whilst the customer's frustration is understandable, I do not consider that they have made out their case that the company's approach is unfair or discriminatory in this respect.

Complaint 2

10. The second strand to the customer's complaint concerns the location the water meter. The customer is calling for it to be re-sited. As the customer has picked up in their Comments, the company – in its defence – does not appear properly to address the point that the customer is making. The customer acknowledges that a radio device was fitted to the meter but they then make clear in their submissions:
 - a. that "*this* [i.e. the radio device] *does not work*"; and
 - b. that they were told by the company's operative fitting the radio device that "*this won't work down that ditch*"; and
 - c. that consequently – as it stands - the meter "*remains unreadable*".
11. I accept the evidence and submissions put forward by the customer about the continuing problematic situation of the meter (and the fact that the addition of radio device has not helped). The customer's key argument on this is a powerful one, as I see it: "... *This issue means we have no security as to what water we are actually using ...*"
12. Having regard to Scheme Rule 6.5, I do not consider that I can require the company itself to relocate the water meter. This is because these are works that only the wholesaler is able to undertake. However, in the circumstances, I am persuaded that the company should be urged to renew efforts with the wholesaler to investigate:

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- a. the current effectiveness of the meter (in terms of its accessibility, readability and usability generally); and
- b. the adequacy of the radio device fitted (and whether it is functional and/or needs to be repaired or replaced); and
- c. the merits of moving the meter to a new location altogether.

Complaint 3

13. The third and final aspect of this case is the customer's complaint that - "*from the first moment a complaint was made verbally by P. Green*" - the company has been guilty of poor customer service and communication. In their Comments, I note that the customer puts it this way: "*The communication among all concerned in dealing with us was chaotic and it was very frustrating and confusing to be at the customer end of this. We believe it also demonstrates a lack of proper customer service in terms of timely responses and accurate advice*".
14. Having read the company's 'Timeline of Events' alongside the customer's detailed Comments, it is evident that there were delays and considerable difficulties in communications between the parties. Whilst I have no doubt that these indeed proved "*very frustrating and confusing*" for the customer, it does seem to me that there are some important points of context too:
 - a. in their Comments, the customer explains that "*...the nature of the job makes my father-in-law and husband uncontactable for much of the day and they could be anywhere on site on a large farm or indeed at other fields we rent at any point ...*" The customer asserts that the company ought to have used letters or emails to confirm appointments (as opposed to telephoning). However, the company's evidence is that they regularly left messages for call-backs. I am inclined to accept that messages probably were left on the occasions when the company says that they were. This, I find, was an adequate method for the company to try to make contact with the customer. It seems to me reasonable to expect that voicemail messages might come to the customer's attention slightly more promptly than emails or letters; and
 - b. the customer refers to delays on the company's part "*in resolving our complaint*". I take that to be the complaint over used water returning to sewer (and the position regarding the farm buildings versus the farmhouse, etc.) However, as regards the used water charges, I have not ultimately been able to support the resolution that the customer was contending for. Moreover, my reading of the relevant history shows that a good deal of

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time was taken up with 'other' matters (i.e. matters not associated *directly* with the complaints that the customer is making in this case: responsibility for and attending to the repair of the leak, for example); and

- c. the only payment (ever) received from the customer - at any material time – was one for £5,000 on 12 January 2017. I note that it is mentioned in the Comments that the customer was advised by their accountant that no payments should be made at all; and
- d. specifically on a gesture of goodwill basis, a leak allowance of £5,696.27 has already been granted in the customer's favour and applied to their account.

15. When assessing the appropriateness and reasonableness of the company's conduct in this case, I have factored in these above-mentioned considerations. Having given them due weight, I am not persuaded that the customer service provided by the company was as "*incredibly poor*" as alleged or markedly below the requisite standard to be expected.

Conclusion

16. For the reasons set out above - in respect of complaint 1 (used water charges) and complaint 3 (poor customer service and communication) - I cannot find any significant failing on the part of the company in the provision of its services to the customer to the standard to be reasonably expected by the average person. Complaints 1 and 3 – together with the customer's related requests for services to be provided, for an apology, for something to be done about their bill and for compensation – are unable, therefore, to succeed.
17. The customer's complaint 2 (regarding the situation of the water meter), however, is upheld. In this regard, I direct that the company should renew efforts with the wholesaler to undertake the investigations recommended at paragraphs 12(a) to (c) above.

Outcome

The company needs to take the following further action: it must renew efforts with the wholesaler to investigate moving the customer's water meter to a more suitable location.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 8 May 2018 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.



Nik Carle, LLB (Hons), Solicitor, DipArb, FCIArb

Adjudicator

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