

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT 1867

Date of Decision: 25 March 2020

Complaint

The customer has a dispute with the company regarding the application of its surface water drainage charging policy. The customer queries why he must pay the charge in the drier summer months when there is little rainfall, and also questions why his bill for the summer period is greater than that levied for late winter and spring. Consequently, he requests the company amend his bill to waive the charges during the summer period and return his payment to the same level as before 01 April 2019.

Defence

The company states that it applies its surface water drainage charges in compliance with OFWAT guidelines and in accordance with the Water Industry Act 1991. The company asserts that it has dealt timeously and fully with the customer's complaint and explained in detail the workings of its applicable policy. The company has not made any offer of settlement to the customer, and believes it has acted in a correct and reasonable manner. It believes the surface water drainage charges are correct and payable and declines to accede to the customer's claims.

Findings

The customer has not presented sufficient evidence to support his claim that the company should amend its surface water drainage charging policy. I am satisfied that the company is correctly implementing its own policy which is in accordance with OFWAT guidelines. Additionally, I am satisfied that the company dealt at all times with the customer in a reasonable manner and has explained in reasonable detail the workings of its policy. Consequently, I find the company has not failed to provide its services to the extent to be reasonably expected by the average person.

Outcome

The company needs to take no further action

The customer must reply by 24 April 2020 to accept or reject this decision.

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Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- The customer claims he has experienced an ongoing dispute with the company regarding a billing issue and in particular, the increasing charge for surface water drainage. Despite the customer's ongoing communications with the company and the involvement of CCWater, the dispute has not been settled.
- The customer details his surface water drainage charges for the first nine months of 2019 as follows, -- 01 January 2019 to 31 March 2019 = £10.88, 01 April 2019 to 30 June 2019 = £11.09 01 July 2019 to 30 September 2019 = £11.09.
- The customer claims that he understands that during the first quarter rainfall is heavier and the surface water drains into the public sewer to be disposed of by the company. However, he states that rainfall reduces during the spring period up to the end of June and the summer period experiences very low rainfall and is predominantly dry. Yet, the customer asserts his surface water charge has increased.
- The customer believes that the company is unfair in its pricing policy and should not be charging for surface water drainage during the summer months when rainfall may be negligible.
- The customer also queries why the quarterly charge is higher in spring and summer than during the late winter quarter when rainfall is higher. He notes that the company encourages

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consumers to reduce their water consumption and usage and imposes measures such as hosepipe bans and restrictions on car washing, etc. Yet, he notes that while imposing these restrictions the company increases the charge and consequently he is being made to pay more for a lesser service.

- The customer asserts that he wrote to the company on 04 October 2019 to complain about the surface water charges, and received a reply dated 21 October 2019. The customer records that he believes the response to be unsatisfactory.
- The customer, dissatisfied with his interactions with the company, escalated his dispute on or around 28 October 2019 to the Consumer Council for Water (CCW) who took up his case with the company on his behalf. The customer has stated he believes the reply he received from CCW was also inadequate, and that the letter it sent to him had also misspelt his name. The customer further records that, despite the intervention of CCW, the dispute is ongoing and the company has not revised its standpoint and CCW are unable to facilitate a resolution between the parties.
- Being dissatisfied with the response from CCW the customer subsequently contacted OFWAT to escalate his dispute. The customer claims he received a reply dated 20 January 2020, and again he was unhappy with the response, which he asserts did not answer his question regarding surface water drainage charges.
- The customer remains dissatisfied with the response of the organisations he has contacted and consequently, on 28 January 2020, has referred the matter to the Water Redress Scheme (WATRS) whereby he seeks to have the company amend its surface water drainage charges such that the summer months are free and to reimburse him the costs he has incurred in pursuing his dispute.

The company's response is that:

- The company submitted its Defence paper to the claim on 05 March 2020.
- The company confirms that the customer is a domestic household customer and it provides both water and sewerage services to the property.
- The company confirms receiving a written complaint from the customer dated 04 October 2019 in respect of the charges levied for surface water drainage. The company states that it contacted the customer by telephone on 16 October 2019 and discussed with him the details of his complaint.

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- The company asserts that it sent a written response to the customer dated 21 October 2019. The company states that its letter addressed the issues raised in the customer's letter including clarification that it sets its surface water drainage charges at the beginning of each financial year and relates that the charges are calculated in accordance with the relevant OFWAT guidelines.
- The company further informed the customer that it applies the same charge for surface water drainage to all properties and that it operates a fixed charge which does not reflect if the weather has been wet or dry. It also advised him that it is not possible to measure the quantity of rainfall that is removed as surface water.
- Finally, in its letter of 21 October 2019, the company confirmed that the surface water charge of £11.09 per quarter as from 01 April 2019 is correct.
- The company confirms that the customer contacted it again by telephone on 28 January 2020 to discuss the surface water issue further. It asserts that it responded in writing to him with its letter dated 29 January 2020 in which it explained again that its surface water drainage charge is a fixed amount calculated annually and is not dependent on the quantity of rainwater disposed of. The company further notes that it advised the customer that he had now exhausted the company's complaints procedure and it regarded his complaint as closed.
- The company refutes the customer's assertion that rainfall is nil in the summer months, and states that it only requires water saving measures to be applied during times of potential or actual drought.
- In summary, the company believes it has correctly applied its procedures in respect of its surface water drainage policy and charges. It believes it has responded reasonably to the customer's complaint and has adequately answered his queries and explained its charging policy and how it is applied. The company asserts that the bills issued to the customer are correct and it declines to waive charges for the summer months as requested by the customer or to pay him compensation of any sort.

The customer's comments on the company's response are that:

- The customer does not appear to have submitted comments on the company's Defence document.

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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 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. The dispute relates to the customer's dissatisfaction over the company's application of its surface water drainage charging policy. The company asserts that it has followed its own procedures in respect of surface water drainage and that it has reasonably responded to the customer's complaints.
2. I note that the Water Redress Scheme is an evidence-based, adjudicative 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.
3. I note that the customer first complained to the company by letter dated 04 October 2019 which it received on 08 October 2019. I further note that the company contacted the customer by telephone on 16 October 2019 and followed this up with a written response dated 21 October 2019.
4. From my review of the telephone conversation notes and the letter of 21 October, I am satisfied that the company responded in reasonable time to the customer and addressed his complaints in reasonable detail and clarity.

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5. Similarly, I note that the company contacted the customer by telephone on 28 January 2020 and explained the rationale behind its surface water charging policy and followed this up with a further explanatory letter dated 29 January 2020. I am satisfied that the company managed the customer's complaint with a reasonable level of skill and care.
6. The customer has queried why he is charged for surface water drainage during the summer months when actual rainfall may be very light, and why the summer months are charged at the same rate as the normally wetter winter months. The company has explained that it is not possible to measure actual quantities of surface water it collects and thus it implements a fixed annual charge which is not related to actual quantities of rainfall. By reference to the evidence submitted to me I am satisfied that this charging policy is in compliance with the applicable guidelines set down by OFWAT.
7. Additionally, the company has detailed that it sets its charges on an annual basis, with the financial year running from 01 April to 31 March. On this basis, it has explained to the customer why his quarterly charges increased from £10.88 to £11.09 as from 01 April 2019. It has also explained in sufficient detail that the quarterly charge during the summer months is the same as the winter months by virtue of it calculating the annual charge and simply dividing it into four quarterly payments. Again, I am satisfied the company is complying with the OFWAT guidelines.
8. The customer, in his WATRS application, has requested that the company do not charge him for surface water drainage during the summer months and do not impose an increase in its charges. It is outside the jurisdiction of this Scheme to direct the company to amend its policies which have been drawn-up in compliance with OFWAT guidelines and in accordance with the Water Industry Act 1991.
9. I am satisfied that the company has fully and correctly explained to the customer the application of its surface water drainage policy. I further find, that the company appears to have charged the customer correctly and as such I shall not direct that the company amend its charging policy or that it excludes the customer from the price increase introduced as from 01 April 2019.
10. The customer has additionally requested that he be reimbursed the postal and telecommunications costs he has incurred in contacting the company in pursuit of his complaint. As I have found no policy errors or customer service failings by the company it follows that compensation is not appropriate.
11. Overall, I am sympathetic to the frustrations of the customer inasmuch that he believes the amount he pays for surface water drainage should be seasonally adjusted. However, the policy

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of the company is OFWAT compliant and has been explained to the customer in reasonable detail. Equally, the company has the right to adjust its charges on an annual basis.

12. In summary, I find that the customer has not provided sufficient evidence to justify the claim. As such, I will not direct that the company amend the charges levied nor reimburse the costs claimed by the customer.
13. My conclusion on the main issues is that the company has not failed to provide its services to a standard to be reasonably expected by the average person, and therefore, my decision is that the claim does not succeed.

Outcome

The company does not need to take further action.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 24 April 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.



Peter R Sansom
MSc(Law); FCI Arb; FA Arb;
Member, London Court of International Arbitration.
Member, CI Arb Business Arbitration Panel.
Member, CEDR Arbitration Panel.

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Adjudicator

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