

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/SW/2070

Date of Decision: 8 October 2020

#### Complaint

The customer complains about the company's poor customer service, overcharging, aggressive behaviour, threats and lies. The customer wants the company to reduce his wastewater removal charge because he recycles his wastewater and does not return it to the sewer. The customer believes that the company's meters have a design fault and he has been overcharged as a result. He believes that the company agreed to reduce his charges by at least £200.00 but has failed to do so and that the company also failed to apply a surface water drainage charge rebate when it was provided with evidence he had a soakaway. The customer wants the company to apologise for its failings, change his account from metered charges to unmeasured charges, and pay at least £500.00 in compensation for the inconvenience and distress he has suffered as a result of the company's actions.

#### Response

The company will not reduce the wastewater disposal charges on the customer's account as he does not qualify for a Non Return to Sewer Allowance. There is no evidence that the meter is faulty and the company has no record of offering the customer £200.00 as compensation for overcharging. Therefore, the company believes that all charges on the customer's account are correct and payable. The customer's account cannot be changed from metered to unmeasured charging as the applicable statutory provisions do not allow it. The company denies any failing with regard to the customer's surface water drainage charge rebate but accepts that it refused to discuss the customer's account with his partner until data protection requirements had been met. It accepts and regrets that some administrative errors occurred during the handling of the customer's complaint, but denies that it has behaved in a threatening or dishonest manner. The company has already provided goodwill payments to apologise to the customer for the administrative failings and the company denies further liability.

The company has not made an offer of settlement.

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## Findings

Under rule 3.5 of the WATRS Scheme Rules, I am unable to adjudicate on disputes relating to the fairness of the company's contractual terms and/or commercial practices. Therefore, the fairness of the company's wastewater disposal charges, the fairness of the company's Non Return to Sewer Allowance criteria, and the fairness of the unit price the company charges for water are outside of the scope of this Scheme. Having considered the evidence, I do not accept that the company's meters are faulty and I find that the charges applied to the customer's account are correct and payable. I also accept that statutory provisions prevent the company from removing the customer's meter and changing the basis of his charges to rateable value. The company accepts that it made several administrative errors but I find no evidence that the company has been intentionally dishonest or behaved in a threatening or bullying manner. Having considered the customer service failings admitted by the company, and the goodwill gestures already paid, I find that the customer has been adequately compensated for any distress and inconvenience suffered and I make no further direction to the company in this regard. I also find that the company has already sufficiently apologised to the customer.

## Outcome

The company does not need to take any further action.

The customer must reply by 5 November 2020 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/SW/2070

Date of Decision: 8 October 2020

## Party Details

**Customer:** Mr Paul Muller.

**Company:** Southern Water, a water and sewerage company.

## Case Outline

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

- His complaint is about the company's appalling customer service, lies, aggressive tactics, faulty meter design and overcharging.
- He complains that the company charges for wastewater disposal on the basis that its customers return most of their wastewater to the sewers, but he recycles his water to use in his garden and to flush his toilet. He accepts that the water flushed down the toilet goes down the drains, but the water poured onto his garden is not processed by the company, yet it charges him for it anyway. He has been recycling all his wastewater for a year because the company overcharged him when his meter wrongly recorded usage on his outside tap. He believes he meets the criteria for a Non Return to Sewer Allowance and states that the amount of water he recycles can be measured by the bucketful to enable the assessment of the allowance.
- The company's technical team confirmed to his partner that its meters have a design fault causing them to record water use even if the end of a tap is blocked in some way. They stated that this would happen "even if you put your hand over the end of the tap". This fault caused his meter to wrongly record high water usage through the outside tap last spring and summer because a hosepipe with a closed end was attached to the open outside tap for several days without him realising; the hose did not leak or explode when it was filled with water, it simply held the water, so no new water was drawn from the system, yet the meter continued turning as if water was flowing out. He has not used the outside tap to water his garden since this occurred.

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- When he received the high bill the company assured his partner that he would receive compensation of at least £200.00 once the bill had been recalculated based on average usage for a two person household; however, the company has not paid as promised.
- The company claims that he already receives an abated sewerage charge for the water that he uses but isn't returned to the sewer, but this is inaccurate; the only reduction he receives relates to the removal of the surface water charge as his property has a soakaway.
- The company's suggestion of installing a remote water meter is unacceptable. The company has proved itself to be untrustworthy and it could remotely increase his meter readings in order to increase his bills even more. Also, he has repeatedly stated that he cannot allow the company to install a remote meter because the property belongs to a Trust and the trustees will not agree to a remote meter.
- The company ignored the fact that they were informed by his solicitor that the property has a soakaway and the company continued to charge for months before giving him a refund.
- The company falsely claimed that the water account was opened with an estimate, when he provided an actual reading and photograph of the meter when he moved in.
- The company falsely claimed it had taken a reading of the meter after he moved in, when it hadn't and they can't access the meter without entry to the house.
- The company tried to explain away the high bill by falsely claiming he had a leak, when he repeatedly explained that he didn't.
- The company falsely accused him of denying entry to the house.
- The company falsely stated that he said he had an outside tap which he doesn't turn off.
- The company did not reply to a letter he sent in October 2019 until March 2020, but pretended it had.
- The company threatened to immediately increase his direct debit to over £100.00 per month if he didn't immediately reply to a letter, even though he had not failed to make any previous direct debit payments; this caused him to suffer huge stress and damaged his health.
- The company insulted his partner and falsely accused her of speaking aggressively. It also refused to speak to her on his behalf, even after he had completed the necessary data protection clearance.
- The company has paid £50.00 for customer service issues, but this is inadequate in view of its lies and aggressive behaviour.
- The company overcharge for water generally and take advantage of its monopoly.
- He wants the company to pay at least £500.00 in compensation, although £1,000.00 would be more appropriate for all the inconvenience and distress caused by the company's failings.

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- He also wants the company to reduce the wastewater removal charge by basing it on 10% of the water usage recorded on his meter.
- He wants the company to change his account from metered charges to water rate based charges.
- He wants the company to apologise for the lies within its letters, its aggressive behaviour when it threatened to increase his direct debit, its mistreatment of himself and his partner, its overcharging, its meter design fault, its failure to reply to the letter he sent in October 2019 until March 2020 and for falsely claiming it had done so previously, its general bullying and for its failure to offer proper compensation to date.

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

- It raises charges for its water and wastewater services in accordance with the provisions of the Water Industry Act 1991 ("the Act").
- Section 142 of the Act gives it the power to fix charges for any services provided in the course of carrying out its functions and to demand and recover charges from any persons to whom the undertaker provides services.
- Section 143 of the Act provides that it may make a scheme ("a Charges Scheme") which fixes the charges to be paid for any services it provides, including the unit price of water and measured wastewater charges. The Charges Scheme is approved by Ofwat, the industry regulator.
- The customer wants the company to reduce the measured wastewater charges on his account because he recycles his wastewater to use in his garden and, therefore, it is not returned to the sewer.
- It uses the volume of water supplied to the property as the basis for calculating the wastewater volume charges. It recognises that there are differences in the way customers use their water supply, however, it would not be cost-effective to apply an individual measure to each customer's wastewater. Accordingly, customers are treated equally and an allowance of 7.5% is applied as standard to take account of any water which does not return to the public sewerage system.
- Some customers qualify for a Non Return to Sewer ("NRTS") allowance but, in order to obtain such an allowance, a customer must show that the volume of water discharged from their premises is consistently and significantly less than 92.5% of the volume of water supplied.
- In order to qualify for a NRTS allowance a customer must show that their circumstances differ from typical domestic water users. For example, a customer may have a separate water supply

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installed to the part of the premises where water does not return to the sewer, or a private sub meter may be installed to measure the actual usage of water not returning to the sewer. However, the customer has not been able to demonstrate that there are any circumstances that qualify him for a NRTS allowance.

- It has no record of receiving any direct contact from the customer's solicitor stating that the customer's property has a soakaway. However, on 18 September 2019, it received a letter from the customer that included a copy of a letter from Parkes Wilshire Johnson Solicitors, which had been sent to Horsham District Council on 18 March 2019, stating that the property has a soakaway. Following receipt of this letter, it cancelled the customer's bills between 6 March 2019 and 13 August 2019 in order to apply a surface water drainage charge rebate. The charges and bills were amended on 1 October 2019.
- The water meter at the property is fitted internally to ensure that only water used at the property is recorded on the meter; internal meters eliminate the chance of a meter being fitted to an external supply that could be jointly shared with a neighbouring property, and also eliminate the risk of external supply pipe leaks being recorded as water use on the meter.
- The customer believes that there is a meter design fault and states that its technicians have confirmed this. He states that the meter dials continue to move when the outside garden tap is turned on and connected to a hosepipe with the nozzle in the off position, or with a tap turned on and a hand placed over the tap to block water from flowing freely, and that this demonstrates a fault.
- When the hosepipe nozzle is closed and the tap is turned to the on position, water continues to flow through the meter, out of the tap and into the hosepipe. As water continues to flow into the hosepipe, the hosepipe will expand to accommodate the volume of water flowing into it, however a hosepipe can only expand to a certain level at which time it will burst or the nozzle will become detached leaving water running freely from the hosepipe. A similar situation will arise where a hand covers a running tap, pressure will increase until the hand is forced away, leaving water running freely. There is no meter design fault as water being recorded when it is flowing freely through the meter and out of an open tap into another vessel, which in the customer's case was a closed hosepipe, is normal.
- No investigations were necessary as the customer performed a Tap Test and confirmed that the meter was static when all the taps, including the outside garden tap, were turned off. However, the customer was offered an independent meter accuracy test for further reassurance, but he did not take up the offer.
- All meters are subject to rigorous quality control checks prior to being installed and meters cannot over-record. Therefore, it does not believe that the meter has a design fault.

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- The customer states that he was promised £200.00 as compensation for the high bill caused by the meter fault. It has no record of this offer and is confident that the customer has only been billed for water he has used. Therefore, all charges on the account are correct and payable.
- The customer would like the water meter to be removed and his account based on unmeasured charges. However, because the company's area has been classed as an area of serious water stress the company has statutory powers to meter households. The statutory provisions allow customers to revert to unmeasured charges in some circumstances; however, the customer does not qualify to revert to unmeasured charges and it has already provided a detailed explanation of the reasons for this.
- The customer also makes several complaints about the way his account has been handled.
- When the previous occupiers moved out, it used an estimated meter reading of 2,050m<sup>3</sup> to produce their final account. On 23 February 2019, the customer's partner called to explain that the customer would be moving into the property on 4 March 2019 and she provided a meter reading of 2,050m<sup>3</sup>. This reading was exactly the same figure as the estimated reading used to close the previous occupier's account. On 6 March 2019, the customer registered a water services account online and also submitted the move in reading of 2,050m<sup>3</sup>.
- It acknowledges that the customer was advised in a letter dated 26 September 2019 that it used an estimated move in meter reading instead of an actual meter reading. The mistake seems to have occurred because both the estimated reading used to close the previous occupier's account and the readings supplied by the customer and his partner were identical.
- It also accepts that the customer was told that a meter reading taken on 13 August 2019 had been a scheduled reading when it was an estimated reading.
- It has apologised for these administrative errors and has offered to install an Automated Meter Reading Unit, which would allow meter readings to be received remotely to ensure future bills are accurate and not estimated. However, the customer has not accepted this offer as he fears the automated meter could be used to increase his bills dishonestly.
- The customer complains that it sent an aggressive letter threatening to increase his Direct Debit amount and refused to allow his partner to discuss his account on his behalf, despite giving authority for her to represent him.
- On 23 August 2019, after a meter reading showed high usage and it had been unable to reach the customer on the telephone, it sent a letter to the customer explaining that his account had been reviewed and his Direct Debit payments needed to increase.
- On 5 September 2019, it received a call from the customer's partner who wanted to discuss the account billing and payment increase. It explained that as she was not a named person on the account, it was not possible to discuss payments or bills with her due to data protection.

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- Later on the same day, the customer called and explained that he had received a letter saying his Direct Debit needed to increase and he provided the name of his partner to allow her to speak on his behalf. However, the customer was unable to provide his partner's year of birth, which is required for data protection purposes.
- The customer's partner called again to discuss the account billing. It explained that the account holder had not provided full information to meet the data protection requirements and, therefore, it was not possible to discuss any financial details with her.
- The customer then called and stated that a leak from internal piping was the reason for the increase in water consumption. It asked the customer to repair the internal leak and explained that once this had been completed the Direct Debit would be reassessed. The customer provided his partner's date of birth and the account was updated to authorise her to discuss the account. The customer later confirmed that a leak had been ruled out and it reset the Direct Debit to an agreed amount.
- On 13 September 2019, it received a letter from the customer explaining that he was unhappy with the customer service received when his partner called to query the bill, despite him giving permission for it to speak with her.
- On 17 September 2019, it sent a letter explaining that it could only discuss the account with the registered account holder until the data protection requirements had been completed to allow it to discuss his account with his partner. The customer seems to think it was being obstructive, but it was simply complying with data protection laws.
- It acknowledges that the meter reading referred to in the letter sent on 17 September 2019 was in fact an estimated reading rather than a scheduled reading as stated; however, this was an administrative error and not an attempt to mislead the customer. It also accepts that it incorrectly stated that the customer did not turn off the hosepipe; however, this again was an administrative error. £50.00 of goodwill credits have been applied to the customer's account in order to apologise for these failings.
- On 11 March 2020, the customer called and complained that he had received no response to his letter dated 10 October 2019 and asked for compensation. It explained that a response had been sent by post on 11 October 2019 and, as this was within the correct timescale, no compensation was due.
- The customer has asked for compensation at least £500.00 for inconvenience and distress caused by the false statements and incorrect charges. It deeply regrets any distress caused by the administrative errors, but it has already provided adequate goodwill payments and denies further liability.

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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 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. The customer wants the company to reduce the amount he is being charged for wastewater disposal. The basis of the customer's claim is that the application of the set charge is unfair because it presumes that all customers return almost all their wastewater to the sewer; however, the majority of his wastewater is not returned to the sewer as he recycles it to water his garden.
2. The company responds by stating that, in accordance with its Charges Scheme, all customers pay a charge for wastewater disposal for 92.5% of the water usage recorded on their meters, unless they qualify for a NRTS allowance. The company states that the customer does not meet the criteria for an allowance as he is unable to show that the amount of wastewater he returns to the sewer is "consistently and significantly less than 92.5%". The customer states that this is unfair because the amount of water that he returns to the sewer is consistently and significantly less than 92.5% of the water recorded on his meter and could be measured by the bucketful.

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3. Having considered the evidence provided by both parties, I accept that the wastewater disposal charges are outlined in the company's Charges Scheme and that the Charges Scheme has been approved by Ofwat, the industry regulator. I also accept that the company has considered whether the customer meets the criteria for a NRTS allowance and has found that he does not.
4. However, in order to fully address the customer's complaint I would need to consider whether the company's method of assessing wastewater disposal charges, and its criteria for NRTS allowances, are fair.
5. Under rule 3.5 of the WATRS Scheme Rules, I have no jurisdiction to adjudicate on disputes relating to the fairness of contract terms and/or commercial practices. Therefore, the fairness of the company's wastewater disposal charges, and the fairness of the company's NRTS allowance criteria, are outside of the scope of this Scheme. I appreciate that this outcome will disappoint the customer, but I am unable to consider this part of the customer's claim further.
6. The customer also complains about the unit price charged by the company for water. The Water Industry Act 1991 entitles the company to charge for its services and set a Charges Scheme. The price of the company's services is outlined in its Charges Scheme and the Charges Scheme is approved by Ofwat, the industry regulator. As above, I am unable to consider the fairness of the company's commercial practices or contractual terms under rule 3.5 of the WATRS Scheme Rule and, therefore, this matter also falls outside of the scope of this Scheme.
7. The customer believes that the company's meters have a design fault because they record water usage when an open tap is connected to a closed hosepipe. The customer believes that this fault has caused him to be charged for water he has not used and, therefore, the charges on his account are incorrect.
8. Having considered the evidence presented by the parties, I cannot accept that the movement on the meter noted by the customer when the outdoor tap was open and the hosepipe was closed proves that the meter is faulty or accounts for the high meter read. Also, as the customer did not agree to a meter accuracy test, there is no clear evidence to show that the company's meters are faulty.

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9. The customer states that during a telephone call the company agreed to recalculate his bill based on average usage and said that he would receive a refund of approximately £200.00. I appreciate the difficulty of proving what was said during a telephone conversation, but I find that the evidence provided does not support the customer's claim.
10. In view of the above and on the balance of probabilities, I find that the meter recorded actual usage and that the charges applied to the customer's account are correct and payable. Again, I understand that my decision will disappoint the customer, but I cannot find that the company has failed to provide its service to the standard reasonably expected by the average customer by refusing to reduce the charges on the customer's account. Therefore, I make no direction to the company in this regard.
11. The customer wants his meter removed and his charges to be based on rateable value. I accept the company's assertion that the statutory provisions it outlines in its response to the customer's claim prevent it from removing the customer's meter and changing the basis of his charges to rateable value. Therefore, the customer's claim in this respect cannot succeed.
12. The customer is unhappy with the level of customer service he has received from the company and believes that the company has lied to him on several occasions and used threatening and bullying tactics. Having reviewed the communications between the parties in detail, while I do accept that the company made minor administrative errors on several occasions, I find nothing to suggest that the company has been intentionally dishonest or behaved in a threatening or bullying manner.
13. The customer outlines several specific complaints about the company's customer service. However, the evidence shows that the company was entitled to increase the customer's Direct Debit payments and I find no failing in its decision to write to the customer to inform him of this, or in the way the letter was worded. I also accept that the company complied with data protection laws when it refused to speak to the customer's partner about his account and find no evidence that the company failed to consider the customer's surface water drainage charge rebate when it was informed that the customer had a soakaway.
14. The customer claims at least £500.00 for the distress and inconvenience he has suffered as a result of the company's failings. However, while I do accept that the minor administrative errors fall below the expected standard, I do not find that the failings shown in evidence justify the

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amount of compensation the customer claims and, on balance, I find that the customer has been adequately compensated by the goodwill gestures already provided by the company. Therefore, I make no further direction to the company in this regard.

15. The customer seeks an apology for the company's alleged lies, aggressive behaviour, mistreatment of himself and his partner, overcharging, meter design fault, administrative failings, general bullying, and its failure to offer proper compensation. However, as I have found that the company's service did not fall below the reasonable standard expected by the average customer, except in regard to minor administrative errors for which the company has already apologised, and find no other fault on the company's behalf, I am unable to direct the company to apologise to the customer.

#### **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 5 November 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.

*KS Wilks*

Katharine Wilks

**Adjudicator**

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