

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-XX15

Date of Decision: 09/11/2020

Complaint

The customer's claim is that the company incorrectly closed then reopened her account, which led to the company registering a default on her credit file for unpaid charges. The default on her credit file was a breach of General Data Protection Regulation (GDPR), led to a mortgage application being denied and placed her at a financial disadvantage. The customer is seeking the company to review its processes and systems to ensure that this does not happen again and pay compensation of £14,345.10. This amount is made up of: £10,000.00 for the breach of GDPR; £2,500.00 for the distress and inconvenience incurred; £95.40 for the annual cost of the Equifax subscription; £623.82 for additional mortgage repayment costs; and £1,125.88 for the additional mortgage payment on her original mortgages.

Response

The company says that the customer's concerns regarding the GDPR breach are already being investigated by the Information Commissioners Office (ICO). Furthermore, the WATRS adjudication scheme cannot be used for matters relating to the fairness of contract terms or commercial practices, and therefore both of these issues fall outside the scope of this adjudication. With regard to the account issues and the default on the customer's credit file, the company has apologised and made payments totalling £9,914.12. Accordingly, no further sums are due. The company has not made any further offers of settlement.

Findings

I find the customer has proven that 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 customer's account and the debt marker on her credit file and as a result has incurred inconvenience and distress. However, I find that I am satisfied there have been no failings concerning customer service, which the customer has not been already

adequately compensation for.



The company shall pay £150.00 to the customer.

The customer must reply by 07/12/2020 to accept or reject this decision.

ADJUDICATOR'S DECISION

Adjudication Reference: WAT-XX15

Date of Decision: 09/11/2020

Party Details

Company:

Case Outline

The customer's complaint is that:

1. • The company incorrectly closed her account, then reopened a new account but without linking the two accounts. This led to the company registering a default on her credit file for unpaid charges. • The customer says that default on her credit file led to her mortgage applicable being denied, was a breach of General Data Protection Regulation (GDPR) and placed her at a financial disadvantage due to being unable to access lower interest mortgage options. • The customer is seeking the company to review its processes and systems to ensure that this does not happen again and pay compensation of £12,500.00. This is made up of: £10,000.00 for the breach of GDPR; £2,500.00 for the distress and inconvenience incurred; £95.40 for the annual cost of here Equifax subscription; £623.82 for her additional mortgage repayment costs; and £1,125.88 for the additional mortgage payment on her original mortgage.

The company's response is that:

1. • The customer's concerns about the GDPR breach are already being investigated by the ICO and therefore fall outside the scope of this adjudication. • The WATRS adjudication scheme cannot be used for matters relating to the fairness of contract terms or commercial practices and therefore this issue also falls outside the scope of this adjudication. • With regard to the account issues and the default on the customer's credit file, the company has apologised and made payments totalling £9,914.12. • Accordingly, no further sums are appropriate.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

- Whether the company failed to provide its services to the customer to the standard to be reasonably expected by the average person.
- 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.

Customer:

How was this decision reached?

1. The dispute centres on whether the company incorrectly closed the customer's account, which led to the company registering a default on her credit file for unpaid charges and in doing so breached the GDPR.
2. The company is required to meet the standards set out in the Water Industry Act 1991 and the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008.
3. Furthermore, the company also has certain obligations in respect of its customer services as set out in the OFWAT Guaranteed Standards Scheme and the company's Customer Guarantee Scheme.
4. From the evidence put forward by the customer and the company, I understand on 6 May 2017 the customer's future husband added his name to the customer's existing account and then informed who he thought was his existing water provider, , that he would be moving home and wished to close his account. On 12 May 2017, passed this moving home information and his request to close his account onto the company, as the company was the customer's future husband's water services provider. However, the evidence shows that the company then closed the customer's existing account, which the customer's future husband was named on, rather than the future husband's previous account. On 15 May 2017, the company issued a final bill for the sum of £44.12 to the customer. On 18 May 2017, a new account was opened for the customer, and her future husband and new payment plan details were sent out. However, the balance on the previous account of £44.12 was not transferred over to the new account.
5. On 2 October 2018, the new account was updated to reflect the change in the

customer surname following her marriage. On 6 November 2019, the customer contacted the company to pay the outstanding balance of the account which had been closed on 12 May 2017. The customer informed the company that she had not been aware of any outstanding balance. On 11 November 2019, the customer contacted the company to raise a complaint that the company had registered a default on her credit file for unpaid charges. I understand that the customer followed this up with a further call on 2 December 2019 as the default had not been removed. The evidence shows that on the same day, the default registered on the customer's account was removed.

6. On 4 April 2020, the customer contacted the company to highlight that she had sent two pieces of correspondence in February and March 2020 to which she had received no response. The customer also raised the issue that due to the false debt marker on her credit file, her mortgage application had been refused which had caused her to incur a significant financial loss. Following this message, the customer then took her complaint to CCWater. Various discussions then took place between the parties which resulted in the company adding goodwill payments of £314.12 to her account, making a £40.00 CGS for the company's failure to respond to the customer March enquiry and paying £9,600.00 for the financial losses incurred by the customer due to the debt mark on her account.

7. As to whether the company provided its services to the customer to the standard to be reasonably expected concerning the opening and closing of the customer's account and placing the debt marker on her credit file, as the evidence shows, the company has admitted its error with the opening and closing of the customer's account and failing to transfer the balance to the new account. Had the balance been transferred correctly, then this long drawn out dispute would not have arisen. Accordingly, I find that the company failed to provide its services to the customer to the standard to be reasonably expected, concerning her account and the default mark on her credit file. I understand from the CCWater documents this was dealt with in the customer's dialogue with CCWater, and payment of £9,600.00 was made for financial losses incurred by the customer and various goodwill payments was also made in recognition of the company's failings. The customer has requested that the company pay a further £95.40 for the annual cost of her Equifax subscription, £623.82 for her additional mortgage repayment costs and £1,125.88 for the additional mortgage payment on her original mortgage.

8. I understand that due to its failure to provide its services to the standard to be reasonably expected the customer has requested that the company are directed to review its processes to ensure that this does not happen again, and if it does, ensure customers receive financial redress that is commensurate with the distress caused. Under rule 3.5 of the Water Redress Scheme Rules, it states that the

scheme cannot be used for the disputes relating to the fairness of contract terms or commercial practices. Therefore, I find I am unable to direct the company to review its processes to ensure that this does not happen again, and if it does, ensure customers receive financial redress that is commensurate with the distress caused.

9. Concerning the Equifax subscription costs of £95.40. The company states that it is up to the customer to ensure that her credit file is routinely checked for any unexpected markers and to carry out due diligence. The customer states that the costs of the Equifax subscription were required so she could check on the status of the debt mark on her account. However, I am of the view that various organisations such as banks sometimes offer check checks free of charge along with various companies and free to subscribe to apps. On careful review of all the evidence, I find due to the proven failings of the company it was not a requirement that the customer has an annual subscription to monitor her credit file and therefore I find that this aspect of her claim fails.

10. With regards to the £623.82 for the customer's additional mortgage repayment costs. I understand that the customer provided a table of calculations, which stated the financial loss that would be potentially incurred over five and a half years. Still, in the email from the customer's mortgage advisor dated 4 May 2020, it states a fixed term of 5 years. After careful analysis of the various documentation put forward in evidence, I find that I am persuaded that the company was correct when calculating any anticipated losses, to limit those losses to a five year period.

11. Concerning the £1,125.88 for additional mortgage payments on her original mortgages. I am conscious there is no evidence to support the customer's requested redress of £1,125.88. The WATRS scheme is evidence based and I am satisfied the customer has neither supported her position with evidence nor explained why she is unable to do so. As above, the company has already made a payment of £9,600.00 in relation to the buy to let mortgages affected. I am also aware the customer has received payment before any actual financial loss has been incurred, as until the five-year fixed terms have completed the sums will not have been lost. Accordingly, I find that the customer already been adequately compensated for this aspect of her claim and so direct nothing further.

12. 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 to the ICO, and the company has removed the mark on the customer's file. 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 and the customer's claim for £10,000.00 for the alleged breach in GDPR fails.

13. With regard to the customer's comments that she has endured emotional distress due to the company's initial actions and failure to rectify the issue. As above, I found that the company has failed to provide its services to the customer to the standard to be reasonably expected by the average person concerning the opening and closing of the various accounts and its failure to transfer the outstanding balance to the customer's new account. Whilst I sympathise with the customer regarding the inconvenience and stress, I find the redress requested of £2,500.00 is disproportional to the claim, and I am of the view that £150.00 is a more appropriate sum bearing in mind the issues in dispute and the goodwill payments already made to the customer. Therefore, I direct the company to pay £150.00 to the customer to cover this aspect of the customer's claim.

14. The company has certain obligations in respect of its customer services. The evidence shows that, where appropriate, the company made goodwill payments and CGS payments as required by the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008. The company admits within its correspondence that errors were made with the customer's accounts, and there were delays in responding to the customer during the early stages of the COVID-19 pandemic. I understand from the CCWater documents this was dealt with in the customer's dialogue with CCWater and goodwill payments totalling £314.12 were made together with a CGS payment of £40.00. I am therefore satisfied there have been no failings concerning customer service, which the customer has not been already adequately compensation for.

15. In light of the above, I find the customer has proven that 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 customer's account and the debt marker on her credit file and as a result, has incurred inconvenience and distress. However, I find that I am satisfied there have been no failings concerning customer service, which the customer has not been already adequately compensation for.

Outcome

1. The company shall pay £150.00 to the customer.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.

- The customer must reply within 20 working days 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.

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Mark Ledger

Adjudicator