

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X330

Date of Decision: 22/04/2021

Party Details

Customer:

Company:

Complaint

The company has charged the customer for surface water drainage for the last twenty years, but a recent visit by a drainage company revealed that his property is not connected to the company's sewer for surface water drainage. The company has provided a refund of the surface water drainage charges the customer has paid since 1 April 2013, but has refused to backdate the refund any further. The company should have taken pro-active steps to inform the customer that he could apply for a rebate. In view of this, the customer would like the refund of surface water drainage charges backdated for twenty years rather than six.

Response

The company has refunded the customer £407.82 for the period from 1 April 2103 to 11 September 2020. This is the maximum refund available under its policy and the Limitations Act 1980. Previous to October 2020, it was not made aware that the surface water from the customer's property drained into soakaways and, therefore, it would be unfair to deviate from its policy. In view of this, the company denies responsibility to provide a further rebate.

The company has not made an offer of settlement.

Findings

In accordance with the company's policies and the Limitation Act 1980, the company has correctly provided the customer with a rebate of surface water drainage charges from 1 April 2013. The evidence does not persuade me that the company should have informed the customer of his entitlement to a rebate before he made his application in October 2020. Therefore, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer and the

customer's claim does not succeed.



The company does not need to take any further action.

The customer must reply by 20/05/2021 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

• He was told by that his property is served by soakaways and he should contact his water provider for a surface water drainage rebate. • He contacted the company and it provided him with a rebate for a period of six years. However, the customer was disappointed because he has lived in the property for twenty years and it was only by chance that he discovered he was being charged for a service he did not use. Therefore, he feels that the company should bear some responsibility for not alerting him to the possibility that the property may have soakaways. • The failure to take pro-active steps to inform him that he was entitled to a surface water rebate suggests a corporate culture of turning a "blind eye" to potential over-charges. The customer is also concerned that the company is potentially over-charging many more of their rural customers. • In its response to the claim, the company states that a refund of more than six years is barred by the Limitation Act 1980. However, no assurance has been provided by the company that potential overcharges and undercharges are treated equally, yet any bias would mean that the Limitation Act is unfair. • He would like a full refund of the surface water drainage charges he has paid for the twenty years he has lived at the property, rather than the six years provided by the company.

The company's response is that:

• The customer made contact on 9 October 2020 to say that his surface water did not drain into the public sewers. On 9 November 2020, it visited the property and this was confirmed. • The customer lives in a one-off new build property and the building company would have been aware that it is their responsibility, or the responsibility of the property owner, to contact the water company if they believe none of the surface water from any part of the property enters the public sewers. • When it bills customers, it cannot reasonably be expected to know and understand the individual set up and unique features of each property, so it makes it clear to its customers what it charges them for on their bills, in its Charges Scheme, and on its website. It also makes it clear that if surface water from a customer's property does not drain into the public sewer, their charges can be amended if they make contact. • When it was informed that the customer had soakaways on 9 October 2020, it worked quickly to ensure he was refunded, not just for the preceding year, but for the six previous years, in line with the Limitation Act 1980. Therefore, the period for which it has provided a refund is the longest period it is obliged to offer. A refund of £407.82 for the period from 1 April 2103

to 11 September 2020 was made to the customer, and it also provided him with a copy of the calculations. • It has to be fair and consistent with all customers when exercising its duties as a water and sewerage company. Previous to 9 October 2020, it was not made aware that the surface water from the property drained into soakaways, no neighbouring properties had previously applied for a rebate, and there have been no service failings; therefore, it cannot justify deviating from its policy and it would be unfair to do so. • In view of the above, responsibility to backdate the refund of surface water drainage charges further is denied.

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.

How was this decision reached?

1. Before I start my adjudication, I state that I accept that water companies are entitled to apply a standard charge to customers' accounts for surface water drainage, and that customers have to apply to their water company and provide the required evidence before an exemption can be granted.
2. The evidence demonstrates that the customer first informed the company that his property was not connected to its sewers for surface water drainage on 9 October 2020. The company accepted that no surface water flows from the customer's property into the main drainage system and granted the customer a rebate from 1 April 2013.
3. I accept that the Limitation Act 1980 applies to refunds from water companies and, therefore, the maximum refund a water company is obliged to provide is for six charging years prior to when an application for a rebate is made. Therefore, I

accept that in accordance with its policy and its legal obligations, the company is not obliged to provide the customer with a further rebate.

4. The customer states that if the company had made him aware that his property was not connected for surface water drainage earlier, he could have applied for an exemption sooner. The company states that it only became aware that the customer's property may not be connected to the sewer for surface water drainage when the customer made contact on 9 October 2020.

5. Guidance issued by Ofwat, the industry regulator, which is available on its website, states that water companies are only expected to provide a rebate for the charges paid by customers in relation to surface water drainage if the water company knew, or might reasonably have been expected to know, that a property was not connected to the public sewerage system in relation to surface water drainage.

6. Having reviewed the evidence provided by the customer, I do not find it reasonable to expect the company to find and contact properties that may be entitled to an exemption from the surface water drainage charge as this would be a lengthy and difficult task. It therefore follows that I do not accept that the company knew or ought to have known that the customer was entitled to an exemption before 9 October 2020.

7. In view of the above, whilst I appreciate that my decision will disappoint the customer, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer by refusing to backdate the customer's exemption further than 1 April 2013. Therefore, the customer's claim for a further rebate does not succeed.

Outcome

1. 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 within 20 working days to accept or reject this final 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.

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Kate Wilks
Adjudicator