

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X360

Date of Decision: 19/05/2021

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer complains that the company has behaved “shockingly” even though it knew that the customer was (REDACTED) The customer’s income for 2020 from XXX was under £5,500.00, so she is shocked and saddened. The customer was threatened with court enforcement just before Christmas. The customer complains that the company has not applied “helpinghands”, has refused to remove the CCJ which is preventing the customer from obtaining accommodation and has not included a social tariff. The customer has reiterated the points and clarified them in her response to the Preliminary Decision. She asks for an apology, compensation and for the company to reduce her bill.

Response

The company says that since 2017, it has placed the customer on its social tariff, has made many attempts to help her and to contact her but the customer has neither paid her bills nor agreed to a payment plan. As the customer was not contacting the company, it obtained a Court Judgment and in the absence of contact from the customer, the company has tried to enforce this. As the customer has since engaged with the company and complained the company has withdrawn the case from enforcement due to her difficult circumstances.

Findings

I find that even though the customer is vulnerable and has been unwell during the period of this dispute, the company would reasonably have

been expected to ask her to discharge some part of her bill or engage with the company over the period in question. I find that the history shows that she has not done so. The customer has not, save as to her complaint about the social tariff, as to which I find that the company has applied its policy, challenged the accuracy of the bill or said that she did not receive the services. I find that in the absence of responses by the company to requests for payment or contact, an average customer would have expected the company to enter judgment for non-payment. The customer has not shown that the company failed to supply its services to the expected standard.



The company is not required to take further action.

The customer must reply by 17/06/2021 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

• (REDACTED). • The customer's income for 2020 from ESA was under £5,500.00. • She has been threatened even with court enforcement just before Christmas. She has also been told that the company will not write-off the amount due. • The company has refused repeatedly to apply to remove the CCJ which hinders the customer in trying to rent a property and the bills for 2017 do not include social tariff for the whole term. • (REDACTED). To be threatened with enforcement agents is not acceptable. • (REDACTED). The company has applied a supposed goodwill gesture for this address. • She says that she will need to put all emails and relevant documents in a separate email for this complaint. In her comments in reply to the company's response, she said that she has not had enough time to deal with this and wanted to ask for an extension. • In her response to the Preliminary Decision, the customer has reiterated the concerns above and uploaded further documents, including a doctor's report dated 9 October 2020.

The company's response is that:

The company's response is that: • The company expresses empathy in respect of the customer's present circumstances and reassures the customer that the company is willing to continue to offer assistance to the customer where appropriate. • The company points out that it is legally authorised to charge for water and that it published its Charges Scheme. The customer does not dispute liability for the water services she has received and the company believes that it has made every attempt to help the customer over the 2 years and 9 months before her account was passed for Court

Judgement. During this time, the company received very minimal contact from the customer or any supporting organisations, and no payments were made towards her account.

- In May 2017, 2 months after opening her water account, the customer advised that she had been in contact with the Citizens Advice Bureau for financial support. The company also received correspondence from (REDACTED) in July 2017, advising they were looking to arrange an offer of payment.
- • The Social Tariff has not been applied to her charges for 31st

December 2016 to 13th March 2017. It was applied for on 28 March 2017, which was during the first point of contact from the customer. All future bills from this point have had the Social tariff applied, as appropriate. Details of the discount is included within the copies of the customer's water bills supplied.

- The customer has also referenced the Social Tariff being applied to her second account for (REDACTED), where the customer moved without notice to the company. Although this is a separate water account and at this stage has not been passed for any further debt recovery, the company would have been happy to continue her existing water account number over to her new address if she had informed the company. This would have also meant the Social Tariff would have continued as normal.
- The Social Tariff was later applied to the customer's second account on 8 January 2021, as part of an attempt to resolve her complaint. Had the Social Tariff been placed on this account from when the customer moved into (REDACTED) on 14 February 2020, she would have received a discount of £69.48 on her water bill dated 28 September 2020. Therefore, given the circumstances, the company applied a goodwill gesture of £70.00 to her water account to allow for the amount the Social Tariff would have deducted between 14 February 2020 to 15 September 2020.
- In December 2019, the company was made aware by the property owner that the customer had been resident at REDACTED since February 2014. Although the company could have partially backdated her water charges, it has not made any adjustments in relation to her occupation date at this address. Therefore her account remains open from only 31 December 2016, nearly 3 years after she took over responsibility, for which she has not been charged anything.
- To date the company has not received any payments to either of her water accounts.
- The customer's second account for (REDACTED) for the period 14 February 2020 to 13 February 2021 is now closed and has an outstanding balance of £369.36. The company has also not been made aware of the customer's forwarding address, therefore all written correspondence will still be sent to (REDACTED). This account is also currently following our recovery procedure and a letter was due to be sent to the customer on 27 March 2021 advising that her account is due to be passed to an external debt collection agency. However, in order to allow the customer more

time to contact the company in relation to this account, the company has held any further recovery for 1 month, until 27th April 2021. • The company says that a court will only set aside a judgment debt if there is a reasonable prospect of the claim being defended. In the present circumstances, no valid defence has been identified. • The company argues that obtaining judgment is a last resort. The customer has applied for relief from the Court, for which the usual outcome is a Court approved payment plan. The CCJ is a matter of record until the sum has been satisfied or following the expiry of 6 years. • As the company has followed its recovery process for vulnerable customers with the courts, and the charges on the customer's water account are not disputed, the outstanding balance remains payable in full.

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.

I have also taken into account the customer's response to my Preliminary Decision.

How was this decision reached?

1. 1. I bore in mind in reaching my Preliminary Decision that, prior to the Preliminary Decision, the customer had asked for an extension of time in which to respond to the company's submissions. She said:

“I have not provided any evidence at this stage at all and this will take time to collate.”

The customer has now submitted further evidence by way of comment on the Preliminary Decision. I have read this information as it formed part of the customer's reply at this stage of the WATRS process, but this has not, however,

altered the conclusion which I reached at the Preliminary Decision stage. It also has not caused me to depart from my finding at the Preliminary Decision stage that it was fair and reasonable for me to proceed to make a decision in this adjudication without allowing further time for the submission of additional evidence in reply to the company's response. I made that decision on the basis that this was not permitted by the Scheme rules.

2. I also bore in mind in my Preliminary Decision that the Rules of the Scheme state that disputes that are subject to existing court action or on which a court has ruled are outside the scope of this Scheme unless the court's decision has been set aside. However, having regard to the matters raised by the customer including in her comments on the Preliminary Decision, I am satisfied that the issues about which she is concerned do not relate to the decision which the court had to take; the customer does not challenge that she is liable for the bill, rather she argues that the company should have placed greater weight on the fact that (redacted) make it difficult for her to pay off the debt. While this includes a decision by the company to ask the court to issue a judgment, the company's decision is not a matter that the court could have ruled upon because the courts concerns are restricted to whether the money claimed by the company is owed. As the management of the customer's account is not a dispute that the court could consider, I find that the customer's case does not raise a dispute that is subject to existing court action. For this reason, I find that the Rules do not prevent me from considering this application.

3. I turn to the substance of the customer's complaint, which revolves around the discretionary decisions made by the company to recover payment of the charges for water. The customer as indicated above, argues that the company should, in the management of her account, have placed more weight on the factors adversely affecting her. (REDACTED) She complains that the company's actions in obtaining judgment and trying to enforce it have added to the impact of her x and that the company could have obtained payment directly from her benefits instead of taking court action. (REDACTED).

4. The company has explained the history of the customer's account and supported this with documentary evidence. I have also had regard to the information provided by the Consumer Council for Water (CCW). I find that the following occurred.

- 27 March 2017- The customer telephoned the company to open her water account with effect from 31 December 2016. The company's Social Tariff was discussed and applied for during this phone call.
- 28 March 2017- An opening bill and first cyclical bill of £7.58 and £38.69 were both sent to the customer. On the same day, the Social Tariff was applied to the customer's account and a letter was sent to confirm this. The company explains that this tariff is only applied as of the date of application and therefore the tariff discount was not included within the bills referred to above.

- 19 April 2017- A reminder was sent via post as no payments had been made and there was no payment plan in place.
- 5 May 2017- A final notice was sent via post.
- 12 May 2017- A letter of complaint was received by the company from the customer. She asked the company to desist from sending threatening letters like the final notice. (REDACTED). She explained that she was seeking advice about her position and that she was disappointed that the company was sending her such letters at this time.
- 17 May 2017- An outbound call was made by the company's Resolution Team to discuss the customer's complaint. No contact was made, and an SMS was sent, providing the customer with contact details for her case handler. The customer did not respond.
- 23 May 2017- A second call attempt was made to the customer. As this did not succeed, a letter was sent asking the customer to make contact over the phone in order to resolve her complaint.
- 24 May 2017- A call was made by the company to the customer and a conversation occurred. The company agreed to hold recovery until her next cyclical bill was produced in October 2017. It was agreed that the customer would contact the company when this was received.
- 19 July 2017- An email was received by the company from XX with authorisation from the customer to discuss her water account. A call was made by the company to XX but there was no answer. A letter was therefore sent to XX advising of the balance on the water account. The company also asked XX to consider the customer's future water charges when making an offer of payment and to contact the company's Credit Control team if they had any queries. Nothing further was heard.
- 25 September 2017- A bill for the preceding six months, including the balance

carried forward, was sent. With arrears, the amount due was £301.83.

- 19 October 2017- A reminder was sent via post as no contact had been received from the customer or any support organisations. No payments had been made and there was also no payment plan in place.
- 29 November 2017- A final notice was sent via post as the company had still not received any payment towards the customer's water account and the customer had not engaged in proposals for payment.
- 10 January 2018- A warning letter was sent to the customer advising that her account may be passed out for debt collection.
- 26 January 2018- The company made an outbound call to the customer as no contact or payments had been received. There was no answer, and the company left a voicemail message. No call back was received.
- 29 March 2018- A cyclical bill was sent to the customer. The balance then due, with arrears, was £509.89.
- 27 September 2018- The next cyclical bill was sent to the customer. The amount due with arrears was £706.23.
- 14 November 2018- The company applied to the Department of Work and Pensions (DWP) to request that payments be taken directly from the customer's benefits, if possible. All three benefit offices were applied to because the company had not received any payments or further contact from the customer.
- 5 December 2018- the DWP application was rejected by the first benefit office. The company says that although the rejection reason is listed as "not at this address", this is a common reason used by DWP when they do not hold any record of the claimant in question and does not always mean the customer was not living at the address. A letter was sent to the customer to advise her that the DWP application had been rejected. She was asked to contact the company to set up a payment plan but she did not do so.
- 11 January 2019- The company received a letter received from DWP advising there had been a "system error" with the application and requesting a further application. On the same date, the company reapplied to all three benefit offices for DWP payments.
- 11 February 2019- A letter was received from the first DWP office stating that the company's application for payment was rejected on the basis that the address in the complaint was not the same as that held on the benefit records.
- 12 February 2019- the company sent a letter to the customer stating that as DWP payments had been rejected, she was asked to contact the company to set up a payment plan. The customer did not contact the company.
- 25 February 2019- The company received a letter from second DWP office that the application for payment was rejected because the customer was not at the relevant address.
- 19 March 2019- An outbound call was made to the customer to discuss the money owed on her account. No voicemail facility was available to leave a

message.

- 27 March 2019- The next cyclical bill was sent to the customer totalling £905.15.
- 13 May 2019- The customer's water account was entered into the company's internal debt collection management system. On 10 July 2019, an outbound call attempt was made by the company to discuss the balance on the customer's water account. There was no answer, and no voicemail facility was available. On the same day, a recovery letter was sent to the customer requesting payment as no contact had been received. This asked for payment of the outstanding amount, but it also asked the customer to contact the company and stated that the company would "offer every possible assistance" to the customer. The customer did not respond.
- 24 July 2019- An outbound call attempt was made by the company to discuss the balance on the customer's water account. There was no answer and no voicemail facility was available.
- 24 July 2019- An empty property letter was sent to the customer's address in case she had since moved. This letter indicated that the occupier should contact the company and explained that if the company was thought to be vacant, the water might be cut off for security and hygiene reasons.
- 1 August 2019- (REDACTED). In relation to the management of money, the form said that this made her anxiety and distress worse, especially having to deal with bailiffs. She asked whether she was on the Social Tariff and complained that a threat had been made to cut off her water supply. The customer advised that she was receiving Employment Support Allowance (ESA). The customer also confirmed that she had been in contact with the CAB and Crosslight.
- 2 August 2019- An email response was sent to the customer confirming that the Social Tariff had already been applied to her account and offering help to set up a payment plan.
- 14 August 2019- An outbound call attempt was made by the company as it had not received a response to the email dated 2 August 2019. The call would not connect on this attempt. The company therefore put a payment plan in place in the hope of prompting payments. The details of the plan and a payment card were sent to the customer.
- 4 September 2019- An instalment default notice was sent as the customer did not pay the first instalment of the payment plan put in place.
- 25 September 2019- A cyclical bill was sent to the customer in the total sum of £1,142.55.

- 3 October 2019- The company asked for a land registry search to identify if the property was owned or tenanted. The company wanted get confirmation of the occupancy, before sending a letter before claim to the customer.
- Information was received on 23 October 2019 confirming that the property was tenanted and on 23 October 2019, a letter before claim was sent to the customer advising that if the company did not receive a reply within 30 days then the company could begin court proceedings. This letter also included information about various organisations who can offer debt advice.
- On 25 November 2019, a letter was sent to the registered owner of the property requesting confirmation of the current and previous occupants of the property.
- 2 December 2019- A letter was returned from the property owner confirming that the customer was still living at the property and that the customer had been responsible for the water chares at the address since February 2014.
- 9 December 2019- As no claim had been received, the company issued proceedings in the (REDACTED)). The court issued a claim form to which the customer had 14 days to respond. By 2 January 2021, no response had been received. The company requested a default judgment which meant that the balance became immediately payable. The court issued the judgment order in the sum of £1,314.55 and on 15 January 2020 the company sent a letter to the customer to advise that the judgment had not been paid.
- 11 March 2020- The next cyclical bill was sent to the customer in the total sum of £1,523.42.
- 5 June 2020- Further recovery and the transfer of the account to Court Enforcement Services was put on hold due to the Covid-19 pandemic, so this did not take place until 16 September 2020.
- In the meantime, a new occupier had taken over possession of the property on 21 August 2020 and on 17 September 2020, the company received a call from the new occupier.
- 17 September 2020- A closing account bill was sent to the customer at the property address because no forwarding address had been received. This was initially closed on a calculated reading of 1058 based on the customer's previous water consumption, however this reading was later changed to 1021, to match that taken by the new occupiers on 17 September 2020. The amount said to be owing was £1,619.51.
- Following correspondence with the Court Enforcement Service, a search provided a forwarding address. At that address, a letting agent had confirmed that the customer was responsible for (REDACTED) and the company discovered that a new third party account had been opened for that address. As the connection with the customer had not been explained on application, no Social Tariff had been applied.
- Following further correspondence with the Court Enforcement Service and in the absence of any contact from the customer, the company asked the Court

Enforcement Services to continue with normal recovery for vulnerable customers.

- 24 November 2020- A Stage 1 complaint email was received by the company from the customer, complaining about the CCJ.
- On 25 November 2020, an outbound call attempt was made by the company's resolution team, without success.
- 26 November 2020- A copy email was received from the customer following contact made with her by the Welfare Officer . This email was sent to the Enforcement Service with the company copied in.
- Following certain internal actions and preparations, an email response was sent on 3 December 2020 by the company explaining that the correct process had been followed, along with the attempts made to contact the customer. The company declined to set aside the CCJ.
- On the following day, the company asked the Court Enforcement Service to suspend enforcement for a 30-day period to allow resolution of the complaint.
- 16 December 2020- the customer sent a further email about her circumstances.
- 23 December 2020- An email response was sent to the customer by the company further clarifying that the company's position remained the same.
- On 24 December 2020, the customer wrote to the court requested the setting aside of the judgment, raising the issue of her vulnerabilities and her difficult circumstances.
- The company on 7 January 2021 extended the hold on enforcement action pending the resolution of the complaint.
- 8 January 2021- the customer called and spoke to the company's Credit Control department and emailed indicating that she intended to apply to the court to set aside the default judgment. Although the company thanked the customer for sending a copy of Form N244 (the setting aside application), this had not in fact been sent to the company by the customer, so the acknowledgement was an error for which the company later apologised.
- The customer again emailed to explain her current circumstances and reiterated how she does not think that the company has acted fairly.
- After certain other steps, on 20 January 2021, an email was sent to the customer in response to her stage 2 complaint.
- Certain communications also followed with CCWater and on 9 February 2021 and email was sent by the company to Court Enforcement Services requesting a further 30 day hold on the account pending resolution.
- Further correspondence followed including attempts by the customer to contact the company's Customer Services Director.
- 24 February 2021- An email signed by the Customer Services Director was sent by the company to the customer. This explained that a goodwill payment of the social tariff would be backdated to February 2020, even though the company had not been informed of the situation and a third party account had been opened. A

credit to the customer's account was in due course applied.

- On 9 March 2021, the hold with Court Enforcement Services expired, however due to the customer's ongoing complaint the company asked that her case should be withdrawn from enforcement. The company decided, however, that the judgement debt will remain in place, subject to the customer's own application to the Court to set this aside.

5. Against this lengthy history, the question that I have to consider is whether the company has supplied its services to the standard that would reasonably be expected,

6. It is material to take into account that the customer has limited financial resources, has been the victim of very distressing circumstances and is suffering from health issues

7. Nonetheless, I also take into account that the company is empowered to charge customers for its services and it publishes a Charges Scheme stating that it will do so. Customers of the company will therefore expect that the company will raise charges in accordance with its Charges Scheme and will take enforcement action in respect of unpaid bills.

8. It follows from the history set out above that over a very lengthy period of time, notwithstanding that the customer explained her difficulties to the company in 2017 and 2019, the customer has not made payments of her water bills, has not set up a payment plan when invited to, has on very many occasions not responded to emails and telephone calls including when directly asked to do so, did not respond to a letter before claim, did not submit a defence to the court proceedings and has moved address without informing the company,

9. I find that the company would not, in the absence of reasonably regular updating information from the customer, reasonably be expected simply to ignore the

customer's liability for a mounting unpaid bill. In particular, although the customer says that the company could have obtained a deduction from her benefits, the company's attempts to obtain payments via the customer's benefits failed due to difficulties about the address and the customer did not respond to the company's requests for her to contact the company. In these circumstances, I find that it would reasonably be expected by an average customer that the company would seek authorisation of its right to claim payment by issuing proceedings in Court.

10. The company has, however, placed her on its Social Tariff from the time of her initial application, which was some months after the start of her account. (For the avoidance of doubt, I do not take into account that the customer is said to have lived in the property for some years prior to the date when her account commenced: the company does not make a claim for unpaid bills in respect of this period and there is no evidence that the information about the earlier occupation is correct.). The only period for which it is now not applied is the period before she requested this tariff. The company says that it is its policy to apply the tariff from the date of application and there is no evidence to the contrary. Liability for the full amount of the bills about which the customer raises her complaint has, in any event, been determined by the Court and I have no jurisdiction to consider this.

11. I note, however, that the company agreed, as a consequence of the customer's engagement with the company during the period of the complaint, that it would not at that time take enforcement action. I find that, in so doing, the company has supplied its services in a way that would reasonably be expected: the company has taken into account the hardships that the customer is presently enduring and is not adding to the pressure on her at the moment by compelling her to pay. This, in all the circumstances, is action that I find would be considered by an average customer to be a reasonable adjustment of the company's normal processes to reflect the customer's particular circumstances. In reaching this conclusion, however, I recognise that the company is entitled to change its mind about the appropriateness of enforcement action, particularly if the customer does not provide forwarding information following her most recent move in February 2021.

12. Although, therefore, I note that the customer says that the existence of the CCJ is causing further obstacles for her, I find that against the history described above that an average customer would not expect that the company should agree to set the judgment aside, nor would there be a rational basis for the company to do so, because the sums in question have been adjudged by the court to be due and payable.

13. Taking all these factors into account, I find that the customer has not proved that the company failed to provide its services to the standard that would reasonably be expected and, accordingly, I do not direct the company to take any further action.

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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Claire Andrews
Adjudicator