

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

**Adjudication Reference:** WAT-X478

**Date of Decision:** 26/07/2021

#### Party Details

**Customer:**

**Company:**

#### Complaint

The customer stopped paying his water bill in May 2013 and three years later, in February 2016, the company registered a default against him. He accepts that the debt was incurred, but complains about the company registering the default outside of the three to six month guidance window. The customer wants the company to remove the default from his credit file, or adjust it to show an end date of no later than 1 August 2019, and provide him with a formal apology.

#### Response

The customer's account was first passed to a debt collection agency on 18 September 2012, but all efforts made to recover the balance were unsuccessful and the company registered a default on 9 February 2016. There is no time limit for registering a default and the company is satisfied that the status of the customer's account was reported correctly to credit reference agencies. In view of this, the company denies responsibility to amend or remove the default and/or apologise to the customer.

The company has not made an offer of settlement.

#### Findings

The customer complains that the default on his credit report was registered three years after he started to miss payments, however, I find that the delay was due to the company's unsuccessful efforts to contact the customer before it registered the default and, therefore, it was not unreasonable. In any event, I accept that there is no time limit for registering defaults and, consequently, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer by registering the default on 9 February 2016.

Therefore, the customer's claim does not succeed.



The company does not need to take any further action.

The customer must reply by 23/08/2021 to accept or reject this decision.

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## Case Outline

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

• He stopped paying his water bill in May 2013, moved out of the property on 15 March 2015, and had no further contact with the company until 2021. • In February 2016, three years after he stopped making payments, the company registered a default in relation to the debt incurred after May 2013. He accepts that the debt was incurred, but complains that the company registered the default outside of the three to six month guidance window. • Registering the default three years late means that it will affect his credit score for a total of nine years from the first date of the missed payment. It also gives a false impression of his current ability to manage his bills and debt. • The company accepts this but says it has the right to register defaults whenever it likes. He challenged this with multiple credit reference agencies and they all said that only the company can remove or amend the default, but the company states that the information is correct and it will not amend or remove it. • Section 5 of the Limitation Act 1980 states "an action founded on simple contract shall not be brought after the expiration of six years from the date on which the cause of action accrued." This means that after six years the debt should be removed, yet the company seeks to keep it on his credit report for a further three years. • No payment or acknowledgement of this debt has been made within the last six years and, therefore, the company can no longer take any court action against him to recover the amount owing. Also, the FCA Consumer Credit Sourcebook states at section 7.15 that "notwithstanding that a debt may be recoverable, a firm must not attempt to recover a statute barred debt in England, Wales or Northern Ireland if the lender or owner has not been in contact with the customer during the limitation period", and "a firm must not continue to demand payment from a customer after the customer has stated that he will not be paying the debt because it is statute barred." • Despite this, after informing the company that he would like the date of the default amended or the default removed, it said that this would only be possible if he cleared the debt, even though the debt has already been written off and is of no concern legally. Failing to change the default date is an abuse of the company's responsibility and power. • He has asked the company to provide the legal authority it used to register the default three years late, but it has not done so. He wants to understand whether or not the company is legally entitled to add a default no matter how old the debt is. • He wants the company to remove the default from his credit file or adjust it to show the end date as no later than 1 August 2019. • He would also like an apology as the company's actions have had a negative impact on his life

during these difficult times.

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

• The customer's account was opened on 2 September 2010 and fell into arrears. Bills and letters were sent to the property to tell the customer that the balance on his account was overdue, but no contact or payment was received. • The account was passed to debt collection agencies on 18 September 2012. All efforts made to recover the balance were unsuccessful, so it issued an Intention to Default Letter on 9 January 2016 and asked for payment to be made by 6 February 2016. Again, there was no response, so a default was registered on 9 February 2016. The full balance was written off on 25 August 2016 and the company is no longer actively chasing the customer for the debt. • The customer claims that the default should have been registered earlier; however, it only began reporting to credit reference agencies in September 2015 and issued the default five months later. • The customer states that it has refused to adjust the date of the default and will not do so until the debt is cleared. In a response to the customer dated 2 March 2021, it explained that the balance of £1,756.01 had been written off the account in August 2016 as it was considered uncollectable. It further explained that it would continue to report the default for six years, as the customer has not settled his account. • The customer suggests that the debt is statute barred and references the FCA Handbook. However, sections 7.15.2 and 7.15.4 confirm that a statute barred debt may still be recoverable. • Considerable effort was made to contact the customer to discuss the outstanding balance and reach an arrangement to pay; therefore, it complied with FCA guidance requiring it to give the customer reasonable time and opportunity to repay the debt. • In any event, there is no time limit for registering a default and it is satisfied that the customer's credit report accurately reflects the payment status of the customer's accounts. In view of this, it denies responsibility to amend or remove the default and/or apologise to the customer.

**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. Having considered the evidence, I accept that, since 2010, water companies have been permitted by the Information Commissioners Office and Ofwat to share data with credit reference agencies and that, since September 2015, the company has shared information regarding the status of its customers' accounts with credit reference agencies.
2. When sharing data, the company must comply with the rules of the Steering Committee on Reciprocity and accurately report payment activity. The evidence demonstrates that the company correctly shared information with credit reference agencies that no payment had been made towards the outstanding balance of £1,764.80 on the customer's account, and a default was accurately registered on 9 February 2016.
3. The customer complains that the default was registered three years after he started to miss payments, however, the company was obliged to make efforts to contact the customer before registering the default and the evidence shows that it made considerable efforts to do so, right up to the point the default was registered. In view of this, I do not find the delay unreasonable but, in any event, I accept that there is no time limit for registering defaults and the company was entitled to register it on 9 February 2016.
4. The customer claims that the company has breached the provisions of the Limitations Act 1980; however, I have considered this legislation and do not find that it prevents a company from reporting a default to credit reference agencies more than six years after payments are missed, and the evidence demonstrates that the company is not actively pursuing the customer for the debt.
5. It therefore follows that I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer. I understand that the customer will be disappointed by my decision, but the customer's claim cannot succeed.
6. The customer has made comments on the preliminary decision. Some of the comments concern issues that I have already considered and, therefore, I shall not consider them further. However, the customer raises two points that I wish to clarify; firstly, he states that the decision sets a precedent and, secondly, he states that the purpose of the his credit report is to demonstrate his current ability to pay his bills and, due to the late recording of the default, his does not accurately do

this. In response to these points, I state that decisions made by the WATRS do not set legal precedents, and the purpose of a credit report is to demonstrate both past and present payment patterns.

### 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**