

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X670

Date of Final Decision: 8 December 2021

Party Details

Customer: The Customer

Company: The Company

Complaint

The customer's payment plan covers his current charges and his arrears, and he has never missed a payment or paid late. Despite this, the company has reported seven late payments to credit reference agencies. The company did not tell the customer that the payment plan would damage his credit score, so he wants the negative markers removed from his credit file, and he would like the company to offer a manageable additional payment plan to cover his arrears.

Response

The company is entitled to share the customer's data with credit reference agencies and, as the customer has not paid the company's charges in accordance with its payment terms, the company reported that the customer's account was in arrears. The information provided to the credit reference agencies was correct and the company has not failed to provide its services to the expected standard. Therefore, the negative markers on the customer's credit file should not be removed.

The company has not made an offer of settlement.

Findings

The evidence shows that the company is entitled to share information about the status of the customer's account with credit reference agencies and the information shared was correct. Therefore, the company has not failed to provide its service to the standard reasonably expected by the average person and the customer's claim does not succeed.

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Outcome

The company does not need to take any further action.

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ADJUDICATOR'S FINAL DECISION

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Case Outline

The customer's complaint is that:

- His payment plan of £60.00 per month covers his current payments and his arrears and he has never missed a payment or paid late.
- Despite this, in September 2020, October 2020, November 2020, December 2020, February 2021, March 2021 and April 2021, the company reported late payments on his account to credit reference agencies, and this is seriously affecting his credit rating.
- On 1 June 2021, he contacted the company and was told that his payment plan does not cover what he owes so the company reports this to credit reference agencies.
- On 7 June 2021, he received a telephone call from the company's Resolution Team confirming that his payment plan does not cover the amount he owes and that this had been reported to credit reference agencies and late payment markers had been put on his credit file.
- The company then sent an email saying that he needed to pay £135.00 per month to cover his current bill and the arrears, but this amount is not affordable.
- He is very angry and questions how the company can justify reporting late payments when he has a payment plan, has not missed a payment and has not made any late payments.
- The company states that it has correctly reported the arrears on his account and it has no control over how this data is shown on his credit file, but he does not accept that credit reference agencies can put what they want on a customer's credit file.
- The company also states that there is no evidence to show that it has breached its duty toward him, but he was not told that the payment arrangement was not sufficient to cover the balance on his account, or that it would result in negative markers on his credit file.
- The company has not shown any empathy towards him during this complaint. Its actions have caused him and his family great distress and the negative markers on his credit report are making it very difficult to get credit.
- In view of the above, he wants the company to remove the negative information from his credit file and set up a manageable additional payment plan for the arrears at his old address as his current bill is up to date.

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The company's response is that:

- Following discussions between the Information Commissioner's Office (ICO), water companies and OFWAT in 2010, approval was given for sharing data between water companies and credit reference agencies, but the Data Protection Act 1998 (DPA 1998) and the General Data Protection Regulations (GDPR) must be complied with.
- In order to comply with the DPA 1998 and GDPR, it has a Privacy Policy which is available online or by calling customer services. The Privacy Policy tells customers what it does with their personal data, including when it shares information with third parties. All customer invoices include a shortened version of its Privacy Policy.
- It has a legal obligation to ensure that no undue preference or discrimination is shown to any customer, so it reports on all its customers.
- The customer's charges are raised on a volumetric basis in accordance with the amount of water used as measured by the meter. In accordance with its Charges Scheme, measured charges are due and payable on receipt of the invoice, and it offers two types of payment arrangements.
- The first is a Payment Scheme (PS) which means that the customer pays for the services as they are using them. Metered customers who are on a payment scheme, which is set to clear arrears and on-going charges, will be reported positively on their credit report.
- The second is an Instalment Plan (IP). This is a non-standard payment arrangement set at a lower amount to spread the cost of invoices over a longer period of time. The payments usually increase annually in line with the cost of living, rather than the amount required to clear the balance within the financial year. As an instalment plan does not cover the balance and on-going charges, this is reported negatively.
- It reports to Experian and the age of the oldest debt outstanding is shown on a customer's credit file. This is accompanied by the letter 'A' to show that an active arrangement is in place and that payments are being made each month, but they are outside of its payment terms.
- On or around 14 June 2019, the customer was placed on an instalment plan of £60.00 per month. The customer has remained on an instalment plan ever since.
- The customer's usage was estimated at £31.00 per month and in light of the arrears on the account from his previous properties, the customer agreed to pay £60.00 per month; £31.00 per month for the on-going charges and the remainder for the arrears.
- The customer was advised that the instalment amount was not enough to pay the charges and arrears in time for the next invoice to be raised and that this would be reported to CRAs as arrears with a payment arrangement in place.

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- On 29 October 2019, the customer made contact as he had received a letter from a debt collection agency regarding the arrears on his account. The instalment plan was re-set and the customer was again made aware of data sharing.
- On 15 May 2020, following receipt of correspondence regarding missed payments, the customer made contact and re-set his instalment plan again. The customer was again informed of the implications on data sharing with CRAs.
- On 11 November 2020, the customer was advised that the instalments were not clearing the invoices and that this would have an impact on his credit rating.
- Although it has reported the status of the customer's account to credit reference agencies, it has not reported missed payments. Instead, it has reported how many months the outstanding balance on the account is overdue; since July 2019, the customer has had arrears on his account with a status 6 as the debt was over six months old. It has also reported the arrangement flag 'A' to represent the instalment plan.
- It has correctly reported that there have been arrears on the customer's account and has no control over how this data is represented by credit reference agencies.
- There is no evidence to suggest that it has breached its duty to the customer. The customer was made aware on numerous occasions of the data sharing scheme, that his payment arrangement was not sufficient to cover the balance on his account, and that this may result in negative markers on his credit file.
- In view of the above, the negative credit markers should not be removed.

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.

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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 reviewed the evidence provided by the parties, I find that the customer's claim to have the late payment markers removed from his credit file can only succeed if the evidence demonstrates on the balance of probabilities that the company was not entitled to report the status of the customer's account to credit reference agencies, or the information the company reported was incorrect.
2. The customer accepts that his account fell into arrears when he was living at previous properties. However, he states that he was not told that his payment plan was not enough to cover his arrears, or that it would have a negative impact on his credit file.
3. The company states that the customer is on an instalment plan, which is a payment arrangement that spreads the cost of the customer's bills and arrears to make payments affordable. The company explains that as the customer is on an instalment plan, it reports the overall account balance, how many months the balance is overdue, and an 'A flag' to show that payments towards the balance are being made, to credit reference agencies. The company explains that it cannot report the customer's account as being up-to-date as it is in arrears and, therefore, this would be inaccurate.
4. After considering the evidence provided in the company's response, I accept that the customer is on an instalment plan and pays towards his current charges and his arrears, but the customer still has considerable arrears on his account. I also accept that the company must report the status of a customer's account accurately to credit reference agencies and that the information shared by the company has been correct to date.
5. The customer states that the company failed to inform him that the instalment plan would damage his credit report but, having reviewed the evidence provided by the company including the letters sent to the customer, I am satisfied that the company informed the customer that the instalment plan would not clear his charges and information regarding the status of his account would be reported to credit reference agencies.

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6. As the company is obliged to share information about the customer's account with credit reference agencies and the information it has shared was correct, I do not find that the company has failed to provide its service to the standard reasonably expected by the average customer.
7. Therefore, while I appreciate that the customer will be disappointed by my decision, the customer's claim to have the negative markers removed from his account cannot succeed.
8. The customer has also asked for an affordable payment plan to clear his arrears. I note from the evidence that the company offered to increase the customer's monthly payments in accordance with its Charges Scheme, but the customer declined the offer as the amount was not affordable. In view of this, I find that the company has met the expected standards of service and I make no direction to the company in this regard.

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 22 December 2021 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.

K S Wilks

Katharine Wilks

Adjudicator

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