

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT X770

Date of Final Decision: 4 February 2022

#### Party Details

Customer: The Customer

Company: The Company

#### Complaint

The customer moved into rented accommodation in November 2018. In 2019, bills were issued for water services and addressed to the customer's property. These were not in the name of the customer. In early 2021, the customer received bills in his name for water services.

The customer says that charges for water services are included with the rent for the property. He also says that there have been other tenants in the property and he cannot be liable for their water use. He is therefore not responsible for payment. The customer says that the company should address the bills to the landlord.

The outstanding charges for water services currently exceed £1,600.00.

The customer seeks compensation from the company for the time spent in dealing with this matter. The customer also asks that the company remove his details from its system.

#### Response

The company says that the customer has occupied the property since November 2018. The occupier is responsible for the payment of charges for water services unless another person has agreed with the company that he or she will be responsible.

The company has no confirmation from the landlord that he or she will pay the charges for water services. The company also has no confirmation that the property has multiple tenants.

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The customer is responsible for payment of charges for water services provided to the customer. The company will review that position if it receives confirmation from the landlord that the landlord accepts responsibility for payment of charges.

The company acknowledges there have been failings under its customer guarantee scheme in relation to responses to the customer. It has made payments to the customer totalling £40.00.

The company disputes the customer's claim for compensation.

### Preliminary Findings

The Water Industry Act 1991 and the company's charges scheme entitle the company to charge the occupier of a property for water services used by the occupier. The customer is an occupier of the property.

No evidence has been provided to show that the property landlord has agreed with the company that he or she will be responsible for payment of charges. No evidence has been provided to show other tenants are responsible for payment of charges.

The company has acted in accordance with the Water Industry Act 1991 and its charges scheme.

### Preliminary 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:**

- The customer has been living in a property rented from a landlord since November 2018. In 2019, he received bills from the company for water services. These bills were not in his name and did not apply as he was not the person paying the bills. In early 2021, the customer started to receive letters and bills from the company in his name. The amount currently outstanding exceeds £1,600.00.
- The customer's agreement with the landlord is that the landlord pays the bills to the company. He says that water bills are included in the rent paid for the property.
- The property had other tenants living in it but they have now moved away.
- The customer says that he is not responsible for payments to the company. He says that his rent for the property includes payments to the company. He says that the company should send bills to the landlord.
- The customer seeks compensation for the time taken in dealing with bills that are not his responsibility.
- The customer wants the company to remove his contact details from the bills.
- The customer has submitted comments on my preliminary decision. I have addressed these at the end of this decision.

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

- The customer is the occupier of the property and has been since November 2018. The occupier of the property is responsible for charges for water services.
- The company has had no confirmation from the landlord that he or she will pay the water services charges. The company has had no confirmation that the property is a house of multiple occupation ("HMO"). Billing will therefore remain in the customer's name as the occupier of the property and user of services.

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- The company will review its position if it receives written confirmation from the property landlord that he or she will pay the bills.
- The company has made two payments to the customer totalling £40.00 for failure to meet the standards required under its customer guarantee scheme (CGS).
- The company disputes the application.
- The company does not accept that any compensation is due to the customer.
- Separately to this matter, the company has noted that the water consumption at the property is high. The company says this may be an indication of a leak and requires investigation.
- The company has responded to the customer's comments on my preliminary decision. I have addressed its response at the end of this decision.

### **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.

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. The customer's position is that he is a tenant in a house that also has or had other tenants. He says that his agreement with the landlord is that the rent paid for the property includes all water service charges. The customer says that the landlord is responsible for payment of water service charges to the company. The customer therefore believes that he is not liable to the company for

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water service charges. He says that the company should address its bills to the landlord of the property.

2. The customer has questioned how the company established his contact details. The company explained that the account was opened in the customer's name following third party checks that verified the customer occupied the property. The customer says that he had not consented to the use of his personal data for this purpose and is concerned about data protection. Any issues related to an alleged breach of data protection legislation are outside the scope of this adjudication. I therefore have not considered this matter. It is noted that the customer has been in correspondence with the Information Commissioner's Office who would address such matters.
3. The customer says that he has not signed any contract with the company for supply of services. The customer maintains that he is not liable for water service charges.
4. The company's position is that it is entitled to charge the occupier of a property for water services used by that occupier. This entitlement is covered by legislation rather than a contract. The company refers to the Water Industry Act 1991 (the "Act") and to its charges scheme. The company refers in particular to section 143 of the Act and sections 4.1.1, 4.1.2 and 4.1.3 of its charges scheme. Reference is made to these sections in the company's communication sent 30 December 2021. The company says that the Act and the charges scheme require the occupier of a property to pay its charges unless another person agrees to pay the charges for the property. The company says that it is entitled to charge the customer as the customer is the occupier of the property.
5. The company says that if the landlord confirms to the company that he or she will pay the charges for the property, it will review the position. The company says that any agreement between the customer and landlord is a matter for the customer and landlord. The company will not become involved in matters between the customer and landlord. The company says that unless it receives written confirmation from the landlord that he or she will be responsible for charges, the customer remains liable for the charges.
6. The company notes that it sent a bill to the customer in October 2021 in the amount of £1,670.43. This included outstanding payments from previous bills. A copy of the bill provided with the documents shows previous overdue charges of £1,172.68. The company says that if the matter is not resolved by the end of January 2022, this could impact the customer's credit rating.

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7. I have examined the evidence provided together with the references to the Act and the charges scheme and have set out my conclusions below.
8. Section 142(1) of the Act gives water companies the power to fix charges for services and to demand payment from any person using those services. As this power is granted under the law, it is not necessary for a person using those services to agree a contract with a water company. A person using services provided by a water company has a legal obligation to pay for those services. A person using water services in a property need not be the owner of that property. It may be anyone occupying that property and making use of the services.
9. The customer is an occupier of the property and is a person using the services provided by the company. I conclude that the company is therefore entitled under the Act to demand payment from the customer for services provided.
10. Section 143 of the Act requires water companies to prepare charges schemes for provision of services. The company has provided a copy of its charges scheme. Under Rule 3.5 of the Water Redress Scheme (“WATRS”) Rules, a WATRS adjudicator does not have authority to evaluate the fairness of contract terms and/or commercial practices operated by a water supply company. This includes the charges scheme published by the company. I have therefore only considered whether or not the company has correctly applied its published terms in relation to the customer’s situation.
11. Section 4.1.1 of the charges scheme published by the company states, in respect of responsibility for payment:

*“The occupier of a property will be responsible for paying the charges, unless another person agrees with us that they will be responsible for paying the charges for the property.”*

Applying this to the customer’s situation, I conclude that the customer, as the occupier of the property, is responsible for paying the charges. The liability would only rest with the landlord if the landlord had agreed directly with the company that he or she would be responsible for paying the charges.

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12. Section 4.1.2 of the charges scheme states:

*“Where two or more people are occupying a property, then each occupier will be jointly and severally responsible for paying the charges – in other words, we can recover all the charges for the property from all or any one of the occupiers.”*

The company says that sections 4.1.1 and 4.1.2 of its charges scheme show that the company can create an account in the name of the occupier of the property.

13. I have seen no evidence that the customer’s landlord has agreed with the company that he or she will be responsible for charges. Under section 4.1.1 of the company’s charges scheme, I conclude that the company is entitled to issue bills to the customer. I also conclude that under section 4.1.2 of the charges scheme the company is entitled to recover charges from the customer.

14. I have also examined section 4.1.3 of the charges scheme. This states:

*“Where a property is divided into bed-sitting rooms with communal facilities, we may decide that the owner of the property is responsible for the charges, unless some other person has paid the charges or has agreed with us that they are responsible for doing so.”*

A reasonable conclusion from this is that where a property is designated as an HMO, the company may decide to seek payment from the landlord. However, the company would need to be aware that the property is an HMO. The company says that it is not aware that the property had multiple tenants. The company stated in its communication sent 30 December 2021 that it was not aware prior to that date that the property was an HMO. It says that as far as it can determine the property is not registered as an HMO with the company or the local authority. I have seen no evidence that the company has been advised that the property is an HMO. I therefore conclude that the company had no reason to regard the property as an HMO or consider charging the landlord in accordance with section 4.1.3.

15. The company has stated that if the customer can show the property is an HMO and provide contact details for the landlord it may review its position in line with section 4.1.3. However, it says that if it does not receive this information, it will continue with the current method of billing.

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16. The customer has advised that he is not able to pass on details of the landlord without authorisation from the landlord. The customer says that he is not happy to do so in case this creates further issues. It is open to the company to obtain details of the property owner from official sources, as it appears to have done with the customer. However, the Act places no obligation on a water undertaker to establish property ownership.
17. I appreciate that the customer may be reluctant to pass on details of the landlord without consent. However, the company is entitled under the Act and the charges scheme to demand payment from the customer for the provision of services. If the customer believes that his agreement with the landlord makes the landlord responsible, that is a matter between the customer and the landlord. The company is not involved in any agreement between tenant and landlord. However, the company has advised that it will review the position if it receives confirmation from the landlord that he or she will take responsibility for the charges. I find this to be a reasonable position for the company to take.
18. The customer seeks compensation for the time spent in dealing with this matter. The customer has not stated the amount sought. The customer has also asked that his details are removed from bills. I have seen no evidence to support the customer's position that another person is responsible for charges. The company is therefore entitled to continue to demand payment from the occupier of the property, in this case, the customer.
19. I find that the company is entitled under the Act and the charges scheme to demand payment from the customer for the services the company provides. I therefore make no direction for the company to remove the customer's details from its billing system. I also find that the customer's claim for compensation in relation to this matter fails.
20. I have also considered the company's performance in relation to the Guaranteed Standards Scheme ("GSS"). The GSS sets out the minimum standards of service customers are entitled to expect from water or sewerage undertakers. Under the GSS, a company is required to respond to written complaints from customers within ten working days. Where a company fails to provide a substantive reply to a customer's written complaint within the required period, the company must make an automatic payment to the customer.
21. The company has identified and acknowledged two instances where it failed to take the correct action or failed to reply within the required timescales. These relate to communications from the

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customer on 12 October 2021 and 25 October 2021. The company says that it has made two payments each in the amount of £20.00 in respect of these failures. These payments are in line with the GSS and the company's CGS.

22. I have found no further instances where the company has failed to meet the standards set out in the GSS. Since the company has already addressed the failures identified, I make no further direction.
23. Regarding the company's comment that water usage is high, this is not directly related to the matter in dispute. However, it may significantly impact the size of the bills. It may also indicate the presence of a leak, which results in wastage of water. It would be in the customer's interests to cooperate with the company in investigating this matter.
24. The customer has submitted comments on my preliminary decision. The company has submitted a response to those comments. I have addressed these matters below.
25. The customer says that he has been in contact with the property owner. He says that the owner has been in communication with the company but that the company would not discuss the matter with the owner. The customer says that the company has not responded to the owner and is refusing to contact him or her. The customer also refers to a letter from the company dated 6 December 2021 and has provided a copy of that letter as new evidence.
26. The letter is addressed to a person who is not the customer. The account number is different to the account number for the customer. The account number on the letter ends in xxx. The account number for the customer ends in xx. The letter refers to an outstanding balance on the account ending xxx of £27.00.
27. Following receipt of the customer's comments and the copy of the letter, the company was asked to comment on and clarify matters in relation to the letter dated 6 December 2021.
28. The company has confirmed that the letter dated 6 December 2021 was addressed to a named person who occupied the property prior to the customer. The company says that this relates to billing prior to November 2019. It says that that occupier was paying for services at the property but there remained an outstanding balance on the account. The company says that it had no forwarding address for the previous occupier and the letter had been generated by its computer

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system and sent to the supply address. The company suggests that the customer should have returned the letter, marking the envelope “Not known at this address”.

29. The letter dated 6 December 2021 relates to a previous occupier and is for billing prior to the time the customer moved into the property. It is not relevant to the matter in dispute.
30. In relation to the customer’s comments concerning the owner’s communications, the company says that it has not received anything from the owner. It also says that as far as it is aware, no payments have been received on the account.
31. I have already stated the company’s position earlier in this decision. The company has advised that to be able to review its position it requires written confirmation from the landlord that he or she will be responsible for the water charges. Whilst I note the customer’s comments say that the landlord has been in contact with the company, there is nothing supporting that statement or indicating what the landlord may have said to the company.
32. I appreciate the customer’s position. However, under the Act, a person using the services of a water undertaker is liable for the charges imposed by that undertaker. The company’s charges scheme says the same but adds, *“unless another person agrees with us that they will be responsible for paying the charges for the property”*. There is nothing in the evidence provided that shows any other person has an agreement with the company to pay the water service charges.
33. If the position is that the customer’s rent includes water service charges, that is, as stated earlier, a matter between the customer and landlord. The company says that it would require the landlord to write directly to the company and confirm that he or she will pay all water service charges for the property. The customer may wish to ask the landlord to do this.
34. Having reviewed the comments made on my preliminary decision by the customer and company, I make no changes to my decision.

#### **Outcome**

The company does not need to take any further action.

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## What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 4 March 2022 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.

*I H Raine*

**Ian Raine**, CEng, MIMechE, FCI Arb, MCIBSE

**Adjudicator**

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