



ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/X804

Date of Decision: 22 March 2022

Party Details

Customer:

Company:

Complaint

The customer has a dispute with the company regarding its refusal to remove negative markers wrongly retained on her credit history file. The customer says that the company registered a default on her credit file in May 2014 and that it should have been removed after six years, but the company has not done so. The customer says she has been making regular monthly payments to the company, but the amount of the outstanding account balance has only slightly reduced. The customer says she has requested the company to remove the markers, but it refuses to do so. The customer claims that despite ongoing discussions with the company and the involvement of CCWater the dispute is unresolved and therefore she has brought the claim to the WATRS Scheme and asks that the company be directed to remove the markers from her credit history file.

Response

The company denies any liability to the customer to remove the markers, and says it followed all the required procedures of its debt recovery process. The company says the monthly amount paid by the customer goes mainly to pay her ongoing current usage charges and thus only a small portion goes to reduce the outstanding balance. The company did not make any formal offer of settlement to the customer and declines to remove the markers.

Findings

I find that the evidence does not support that the company wrongly retains a default on the customer's credit history file. I am satisfied that the evidence shows that the company has correctly followed its debt recovery process as approved by OFWAT. I find that the evidence shows that the company has not failed to provide its services to a reasonable level nor has failed to manage the customer's account to the level to be reasonably expected by the average person.

Outcome

The company does not need to take any further action.

The customer must reply by 20 April 2022 to accept or reject this decision.

ADJUDICATOR'S DECISION
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Case Outline

The customer's complaint is that:

- She has experienced an ongoing dispute with the company concerning issues with it refusing to remove negative markers placed on her credit history file. Despite the customer's recent communications with the company, and the involvement of CCWater, the dispute has not been settled.
- In July 2021 she contacted the company to complain that she is unhappy at the way it was reporting arrears on her credit history file.
- She has a payment agreement with the company and has been paying the amount of £30.00 per month into her account but the arrears do not appear to be reducing in any significant way.
- The original default was placed on her account in May 2014, and she understood the default should be removed after six years had elapsed. The customer says the default is still showing on her credit history file.
- She has spoken to the company and was advised that as she still has arrears on her account a new default was registered after May 2020. The customer says she did not receive any notification in May 2020 of a new default being raised,
- Her credit file shows more than one entry has been placed by the company.
- She has contacted the company on numerous occasions but finds its responses to be confusing and unclear. The customer asserts that the company refused to remove the markers.
- Believing the company had not properly addressed her concerns she, on or around 12 August 2021, escalated her complaint to CCWater who took up the dispute with the company on her behalf.
- The records show that CCWater contacted the company on 22 October 2021 and requested more detailed information from it and that it review the customer service provided.
- On 04 January 2022 the company submitted a detailed response to CCWater, explaining its position and the basis for its operation of the ongoing default situation, and confirmed that the default would not be removed.

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- CCWater advised her on 11 January 2022 that it believed the company had not acted incorrectly when raising the default notice. It explained that it agreed with the company's management of her account.
- CCWater concluded that it could not take any further measures to have the company change its position and was thus closing her case.
- Continuing to be dissatisfied with the response of the company she has, on 04 February 2022, referred the matter to the WATRS Scheme where she requests that the company be directed to remove the default markers from her credit history file.

The company's response is that:

- It provided its response to the claim in its submission dated 16 February 2022.
- The customer was the occupier of her property and thus liable for charges.
- It confirms the company has a data sharing agreement with credit reference agencies, as is approved by OFWAT.
- The customer was making payments on an Instalment Plan but had an outstanding balance on her account and was sent a default notice and request to pay.
- As no funds were received from the customer a default was registered on 27 May 2014.
- Once a default is registered any further charges raised but not paid within 90 days are added to the balance owing under the default notice. It confirms that any debt over six years old drops off the default and the balance is amended.
- A customer may only have one running default at a property at any one time. Thus, on 27 August 2015 the default was updated and had an outstanding balance owing of £3,555.21.
- Similarly, the default was updated again on 02 September 2020. The company asserts that in compliance with its debt recovery process it is not obliged to inform the customer of any change in the date or balance of a default.
- All reports to the credit reference agency were correct and were an accurate report of the payment history of the customer's account.
- In summary, it believes it has provided its services to a reasonable standard and has acted in accordance with its data sharing policy. It says the charges raised against the customer were in accordance with its Charges Scheme and thus payable, and that the reports to the credit reference agency were accurate. Thus, it declines to remove the default marker.

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The customer's comments on the company's response are that:

- On 17 February 2022, the customer submitted comments on the company's Response paper. I shall not repeat word for word the customer's comments and in accordance with Rule 5.4.3 of the Rules of the WATRS Scheme I shall disregard any new matters or evidence introduced.
- The customer says that she believes the company has amended the default date but not the default balance. The customer reiterates her position that she understands that a default should automatically be removed after a period of six years, and confirms that she did not receive any notification when the default date was changed. The customer believes the company has treated her unfairly and unjustly.

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 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 dispute relates to the customer's dissatisfaction that the company has incorrectly retained negative markers on her credit history file and refuses to remove them. The company contends that the markers are correct and declines to recall them.

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2. I note that the WATRS adjudication scheme is an evidence-based process, and that for the customer's claim to be successful, the evidence should show that the company has not provided its services to the standard that would reasonably be expected of it.
3. I accept from the evidence submitted by the company that it has established its authority to render charges to the customer for the water services supplied to her property, and to provide information to credit reference agencies.
4. I am satisfied that the parties agree that the company first placed a default marker on the customer's credit history file in May 2014.
5. I can see that the customer contends that the default should have a maximum duration of six years and then be removed from the credit history file.
6. I can also see that the company has explained to the customer that the system of default markers is somewhat different in the water industry because the water companies have a statutory duty to provide water and sewerage services at all times. This means that companies cannot stop providing these services to customers because of debt.
7. To ensure customers remain committed to making water payments, OFWAT has granted water companies the ability to add ongoing debts to a default as long as it is already in place.
8. I note that on 04 January 2022 the company advised the customer and CCWater that after six years the default will expire but that customers who are not up to date with payments will, in effect, have a running default created to which ongoing unpaid amounts are added.
9. The company has explained that it has only ever applied one default to the customer's credit file, but it is continuously updated with unpaid bills at least 90 days overdue.
10. The customer contends that she was making a monthly payment to the company in the amount of £30.00, but says this did not significantly reduce the outstanding balance. I can see that the company explained to the customer that the great majority of this monthly amount covered her ongoing usage and thus only a very small amount was paid off the outstanding balance.
11. The company has also explained to the customer that her monthly payment is part of an agreed Instalment Plan, but the Plan is outside of the company's payment terms and thus will be reported negatively to the credit reference agencies.
12. The company has confirmed that it has fully complied with its own OFWAT approved *Code of Practice and Procedure on Debt Recovery*.
13. I am satisfied from my study of the evidence that the company followed the debt recovery process as set down in its *Core Customer Information* document. This document is available in hard copy and on the company's website.

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14. The evidence also shows that the entries of the company on the credit history file are an accurate record of the customer's payment history.
15. It thus follows that I find that the default marker was correctly registered with credit reference agencies and remains on the file until such time the outstanding balance is removed. I shall not direct that the company remove the marker from the customer's credit history file.
16. My conclusion on the main issues is that the company has not failed to provide its services to the standard to be reasonably expected by the average person.
17. My decision is that the customer's claim does not succeed.

The Preliminary Decision

- The Preliminary Decision was issued to the parties on 08 March 2022.
- The customer has, on 11 March 2022, submitted detailed comments on the Preliminary Decision.
- The customer has reiterated the status of her credit history file, and maintains her belief that the company is not showing that she continues to make regular monthly payments into her company account.
- The customer also states that the company's reporting methods are confusing and make her credit score look worse than it actually is.
- The customer has submitted a copy of a recent Credit Report.
- The company has, on 15 March 2022, confirmed receipt of the Preliminary Decision.
- Overall, I find the facts upon which the Preliminary Decision was made remain unchanged.
- Having read the response of the parties I am satisfied that no amendments are required to the Preliminary Decision.

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 20 April 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.
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Peter R Sansom
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Member, CI Arb Business Arbitration Panel.
Member, CI Arb Pandemic Business Dispute Resolution Arbitration Panel.
Member, CEDR Arbitration Panel.
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Adjudicator

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