

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X857

Date of Final Decision: 28 April 2022

#### Party Details

**Customer:** The Customer

**Company:** The Company

#### Complaint

The customer complains that he made an enquiry to the company in February 2015 about a Scheme for which those on Guaranteed Pension Credit were eligible, following having read an article in the daily Mail in the preceding autumn. In 2021, he was sent an application form for the Redacted Scheme by The Company Trust Fund and he was found to be eligible. The customer says that he should be paid £1,200.00 because, due to the company's correspondence in 2015, he was unaware of the Scheme.

#### Response

The company says that the Scheme was originally introduced on 1 April 2015 for customers whose income was insufficient to enable them to keep up with current charges and who were making payments of arrears via a payment plan. The company's staff would not have been aware of the Scheme in February 2015 and the Scheme was not intended for a person in the customer's position. It was a scheme of last resort, and the customer was keeping up with and exceeding payments until 2021. The company has not failed to supply its services to the correct standard.

#### Findings

I find that the company's staff would not reasonably have been expected to tell the customer about the Scheme at a stage where this could not be applied for. Although the customer gave details of his Pension Credit status in July 2015, as the company did not intend the Scheme otherwise than as a last resort and the customer could have qualified for WaterSure if he agreed to a water meter, there was no need for him to be told specifically about Scheme. He was advised of other financial advice that he could access to assist him. Moreover, the customer was not in arrears from 2015 to 2021 and it was open to the customer to look into the Scheme of Charges on the company's website. The company has not failed to supply its services to the correct standard.

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Outcome

The company does not need to take further action.

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## Case Outline

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

- The customer complains of maladministration, in that he made an inquiry for a discount on his bills on 16 February 2015. The customer had highlighted in letters dated 16 February 2015 and 5 July 2015 that a new simple discount was to be offered to those people in receipt of guaranteed pension credit. This followed an article in the Daily Mail.
- He was not directed to the Scheme, which was introduced by the company on 1 April 2015. He says that the Scheme of Charges for the year 2022 to 2023 is published by February so it is likely that this was also available in February 2015 for a scheme to be introduced that year. He argues that the company's explanation that the Scheme was in formulation but had not been cascaded down to the company's personnel is an unsatisfactory reason for not backdating his eligibility.
- The customer says that he was in due course able to go onto this tariff when he was awarded £238.00 in July 2021 following completion of an application form which was forwarded out of the blue to the customer by The Company Trust Fund. On 7 September 2021 and 13 September 2021, he asked for the discount to be back dated to his first inquiry in 2015 or to 20 May 2016.
- The company has refused to backdate this, but the customer says that the reasons for refusal are erroneous. He asks for compensation of £1,200.00 to reflect the loss of access to the Scheme since 2015.

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

- The customer contacted the company by letter received on 19 February 2015 about a discount on future water bills. The company replied on 26 February 2015 advising the customer to go to the Citizens Advice Bureau (CAB) for any other schemes which may help him. This was because at that time the CAB was responsible for directing customers towards hardship funds.

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- A new social tariff, the Scheme, was introduced on 1 April 2015. This information had been available on the company's website since 17 March 2015 in the company's Scheme of Charges.
- The Scheme was initially managed by the CAB and is now administered by the The Company Trust Fund. Applications are completed by the customer and then the relevant organisation makes a decision about eligibility.
- The information about the Scheme has been available on the company's website in each subsequent year. The CAB promote the Scheme to customers who are struggling financially. It is a Scheme which is made available to customers only after other available payment options have been exhausted. For example: payment plans, WaterSure, The Company Trust Fund, Water Direct or a water meter.
- Until 2017 / 2018, the customer had a standard monthly payment plan. After this time, because he had built a credit balance on his account, he then just made payments when he could. The company has been receiving regular payments from the customer. For much of the period, the customer has been paying larger amounts than requested so he can pay his bill off sooner and build a credit towards his account.
- The company has no records of receiving communication from the customer requesting information about the Scheme or letting it know that he was struggling to make payment. The company also has no records of contacting The Company Trust Fund requesting that a Scheme application form should be sent to the customer. The Company Trust Fund cannot say who requested a Scheme form to be sent to the customer for completion in 2021.
- The Company Trust Fund have confirmed that they received the completed application form at the beginning of July 2021. The customer has been accepted onto the scheme and is eligible for a reduction on his water charges from 12 July 2021.
- The Scheme is designed to lower the annual charges and payment plan so that customers can manage their finances better. This Scheme will also help a customer with payment towards arrears.
- The customer is only eligible for the Scheme from the date of application. This is fair and consistent policy across all of the company's customers.
- The company had sent information to the customer offering additional services namely a free meter option and the WaterSure Scheme. The customer completed the WaterSure application form but the company advised that he wasn't eligible because he has to have a water meter installed.

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## 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.

I have also considered carefully the comments made by the customer in response to my Preliminary Decision.

## How was this decision reached?

1. The customer asks for backdating of the discount to his water bills that has been applied in July 2021. He says that he is eligible for a Scheme, but that, because when he first applied for this discount in 2015 he was not told that this Scheme would be introduced on 1 April 2015, he has missed out on many years' discount. The company says that it is not liable, and that the customer's enquiry occurred at a time when staff would not have been aware of the Scheme. The company referred the customer to the Citizen's Advice Bureau.
2. The evidence submitted by the parties shows that the customer wrote to the company on 16 February 2015 following a news item in the Daily Mail informing readers that water companies were to issue customers receiving Guaranteed Pension Credit with a discount on future water bills. The article said that the discount was not means tested and customers needed only to apply to their respective providers. The customer said that he had written about water bills in previous years and always been referred to The Company Trust Fund for applications which had always been means tested. He asked to be considered for the qualifying benefit when the company

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forwarded his next water bill. He said that this would be sometime in March. The company replied stating that it was unsure what the article in the Daily Mail was referring to and inviting the customer to consider its WaterSure scheme. This had particular criteria, including that a water meter might need to be installed. The company invited the customer to consider going to CAB. On 5 March 2015 the customer was issued with a bill.

3. On 5 July 2015, the customer contacted the company saying that he may qualify for WaterSure because he had a medical condition. He enclosed the forms for WaterSure. He also said that he was in receipt of Guarantee Pension Credit and provided a copy of a communication from the Pension Service.
4. The company responded on 9 July 2015 saying that the customer was not eligible for WaterSure as he did not have a meter fitted. This letter included text asking if he was having trouble paying and indicating that if he was having financial problems The Company Trust Fund might be able to help; that free debt counselling advice was available from CAB; and that the company's website had lots of information about the services provided by the company. No reference was made to The Scheme.
5. There is no evidence that the customer asked for further help from The Scheme or CAB at this point. then followed a period of years in which the customer paid more than was required and when the annual bill was issued, the customer was in credit. The bills provided to the customer made no reference to the The Scheme and only advised customers to contact the company where they were struggling to pay.
6. The customer then says that he was sent an application form for the The Scheme unexpectedly in 2021 and on completing and submitting this, the company determined that he was eligible for the benefit
7. The customer has raised a large number of arguments and objections to the approach taken by the company. I deferred issuing my Final Decision on this matter so that the customer could provide a copy of his letter to WATRS dated 6 February 2022 which, as it had arrived with WATRS before the application form in this matter, had not previously been linked to the case file. The customer stated in response to my Preliminary Decision that this letter identified "numerous inaccuracies provided by the company" in its correspondence with him. I have now

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taken this letter into account, although I note that his arguments have largely been repeated elsewhere in the documentation that had been linked to the case file.

8. Taking into account the letter of 6 February 2022, my conclusions remain as follows:
  - a. When the customer wrote to the company in February 2015, this was before the Scheme had come into existence. I note that the company did refer the customer to the Citizen's Advice Bureau (which might have been able to give better advice) but the letter does not suggest that the CAB would be able to offer any specific relief associated with the water company. I find that the advice given to the customer in February 2015 was insufficient to direct him towards making a claim for acceptance into the Scheme or to understand its qualification requirements.
  - b. However, the Scheme was not then in force and no information about it was available on the company's website until the following month. I am not persuaded that the company's staff should necessarily have been able to field questions about the Scheme before it could be applied for. While I accept that it is probable that the Scheme was under discussion at higher management level within the company and it is likely that plans for its implementation from 1 April 2015 were well advanced in February 2015, I am not satisfied that this meant that the company had or should have "cascaded" its future intentions to its customer-facing staff in mid - February 2015. The customer, moreover, referred to this as a scheme that was linked to receiving Guaranteed Pension Credit, whereas I note that it is a scheme that is for persons on a low income, whether they are pensioners or not and the company has indicated that it was intended at that time for customers who could not meet their bills even on a payment plan. Although the customer has set out, including in his letter of 6 February 2022, his view that this was not the company's position, I find that this view comprises mainly arguments and not factual information. I find that there is no evidence that the company did not, at its inception, intend this scheme as a matter of policy to be for people who were struggling to meet payments and not merely people who were on a low income, such as those in receipt of Guaranteed Pension Credit.
  - c. The customer also did not provide the company with a copy of the article that he referred to or the date of its publication. It is understandable that the customer was not able to pinpoint exactly what it was that he wanted, but I find that it is fair to note that

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the customer gave the company insufficient information to make it reasonable that the company's staff should investigate further. It is also notable that when the company indicated that it was unaware of the customer's allusion to the Daily Mail, the customer did not, also understandably as the article was published in the preceding autumn, provide further information.

- d. Overall, I am not satisfied that the company failed to provide its services to the expected standard in respect of the customer's letter to it in February 2015 and the company's reply in which no reference was made to the Scheme.
9. The customer raises the question in response to my Preliminary Decision that the customer could have reviewed the position when the next bill was issued, as he had asked in the letter. Notably, however, the immediate next bill was issued in March 2015 before the Scheme went live on 1 April 2015. Moreover, before any effect could be reflected in a bill, an application would have had to be made. I find that an average customer would not reasonably expect a company to be able to check each customer's previously answered correspondence before a bill is issued.
10. The customer's next correspondence in July 2015 raised specifically the question of his eligibility for the WaterSure Scheme. He also enclosed a copy of his Guaranteed Pension Credit entitlement letter, which would have indicated to the company that the customer was on a low income.
11. Although I note that the customer puts forward extensive argument, including in his letter of 6 February 2022 that the Scheme was a standard tariff and not a social benefit, I am not satisfied that he has put forward factual information that enables me to decide that the company's policy was not to make this scheme available for persons struggling to pay water or sewerage charges. Indeed, the customer's reference to the Scheme of Charges, as explained in his letter of 6 February 2022, would appear to support that this was, indeed, a hardship fund. The argument as to whether Scheme was a "tariff" or social benefit, therefore does not assist as to whether the customer was eligible for this between 2015 to 2021. On balance and taking into account the company's evidence that Scheme was a social benefit of last resort, and that other cost reduction measures were expected to be tried first, I find that even though the company did not point the customer in the direction of the Scheme in July 2015, the company did

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not fail to provide its services to the expected standard. I find this in particular for the following reasons:

- a. The company appears to have taken on board that the customer was on a low income and to have identified that its response refusing access to the WaterSure scheme nonetheless needed to give the customer further advice. The company's letter referred to Pension Credit, indicating that a person could apply to have the water payments deducted at source. The customer was also told that The Company Trust Fund "may" be able to help, and the customer was directed to CAB for debt collection advice. Reference was additionally made to the company's website for further information although, in context it was not clear that this was not merely for water-saving considerations.
- b. The customer has made the point that being on a low income and being in financial hardship or debt are not the same considerations. I also agree that this is relevant. The customer was meeting his bills and was not in debt. There was thus no reason for the company to have considered that the customer would be eligible for The Scheme.
- c. I have reflected on whether the company should have told the customer about the Scheme at this stage in any event. I find that this is a strategic argument. I note that, from the company's point of view, the customer had not exhausted all other avenues to reduce his liability because he had not agreed to a water meter. I can understand, although the company has not stated this in terms, that it may be more constructive and beneficial to invite customers to take other steps to reduce their costs, before the question of the Scheme can arise. On the one hand, customers in difficulty might be comforted to know that if all else fails, they may become eligible for the Scheme.
- d. On balance, I find that the company did not fall short of expected standards in not informing the customer about the Scheme, particularly as it was at that point at least possible that the customer could have reduced his liability in other ways. I find that it is clear from the correspondence that the reason that the customer could not benefit from the company's other hardship scheme was because he had no water meter fitted. The customer could have qualified for the WaterSure scheme therefore, if he had agreed to receive a measured supply of water. I find, therefore that the customer's continuing bills were affected, and probably maintained at a higher level than necessary, as a result of this decision.

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- e. Additionally, in the period from 2015 to 2021, the customer made no further application or enquiry about hardship funding. While I note that he says that he did not know of the Scheme and therefore was unaware that he could be benefited by making an application, he was on notice because of the Daily Mail article that such a scheme might at some point be introduced and therefore he had reason to look at the Scheme of Charges in each year to see whether there were any savings to be made. The customer says in his response to my Preliminary Decision that he did not have internet access until three years ago and was thus not “on notice”. Nonetheless, he had been directed to CAB who might have been able to assist.
- f. I find that this is all the more significant because the customer had (the correspondence reveals) previously asked for discounts due to his pension credit status. I am not satisfied that the lack of reference in the company’s correspondence in 2015 to the Scheme was wholly causative of the customer’s lack of awareness of the existence of his Scheme and as the customer was not in arrears, the company had no reason at that time to draw the Scheme to his attention.
- g. On balance, therefore, I do not find that the company failed to supply its services to the expected standard during this period.

12. While I note that the customer argues in his letter of 6 February 2022 that the fact that the The Company Trust Fund identified the customer as eligible in 2021 and he was not required then to exhaust all other financial help scheme was a reason indicating that he would have been eligible from the outset, is, I find, not proven. The company has indicated in its submissions that over time, its approach to this scheme has changed although the Charges Scheme for 2021/2022, I observe, continues to state that it is for households which are on a low income and struggling to pay bills.

13. As for whether the company should have backdated the claim, the company says that it is its policy not to do so and this is supported by its Scheme of Charges. The customer denies this. However, the Scheme of Charges states in terms:

*Customers may apply for the tariff at any time during the charging year and where their application is successful the recommended tariff band as set out in Table 8 will apply from the date of application.*

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I accept the company's submission that this explains the date when any change to the Scheme would take effect and I find that an average customer would reasonably expect that the company would apply its Scheme of Charges.

14. Overall, therefore, I find that the evidence does not support that the company failed to supply its services to the correct standard. It follows that I find that the customer is not able to succeed in his claim for a remedy.

#### **Outcome**

The company does not need to take further action.

#### **What happens next?**

- This adjudication decision is final and cannot be appealed or amended.
- 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.

*Claire Andrews*

**Claire Andrews, Barrister, FCI Arb.**

**Adjudicator**

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