

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT X008

Date of Final Decision: 25 July 2022

Party Details

Customer: M

Purported informally appointed Representative ("Representative"):

Company:

Complaint

The customer, who is said to suffer from mental impairment and is therefore vulnerable, complains (via an informal representative) that the company has been told annually that the property in question (REDACTED) is unoccupied and unfurnished, yet the company has opened an account in the customer's name and backdated the bill for 4 years. The customer says that he is not liable for this and that he requires the company to cancel the bill.

Response

The company says that, although it recognises that the customer has special needs, it has been trying since 2013 to find out whether the property is occupied or not. The company has no records of annual contacts, and in any event, the representative has been stating that he is both the customer and the customer's carer and has additionally said also that he is the tenant at the property from January 2022. The company has obtained evidence that the customer is in occupation of the property since 2018 and has given him the opportunity in accordance with its policy of requiring proof of alternative occupation, to prove that he was either in hospital (as stated at one point) or living at his godfather's address (as stated subsequently). This evidence has not been forthcoming but if the customer proves that he was living elsewhere, the company will revise the bill.

Findings

I find that the company was aware that the customer is a vulnerable person. I further find that the company now knows that the customer's carer has made certain misrepresentations to the company as to his identity. However, there is evidence that the customer has had a long-standing relationship with the property, the full details of which have not been made transparent to the company. Although the customer says that he has not been resident, his communications (whether through his carer or otherwise) have not all been to the same effect, and the company has received information that the customer

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has lived there and been financially active. The company has followed its policy and asked for supporting evidence that the customer was non-resident, but no persuasive evidence has been provided. The company has acted in accordance with its practice in asking for supporting evidence and an average customer would reasonably expect this. Accordingly, while it is possible that there is another interpretation of the evidence, it is probable that the customer was in occupation of the property for the duration of the period billed. The company informed the customer that it would cancel the bill but then changed its mind, which would have led to distress on the part of the customer. The company should make a compensatory payment of £20.00 for this, but in other ways, the company has met expected standards and the customer is not entitled to the remedy that he seeks.

Outcome

The company shall pay £20.00 to the customer.

ADJUDICATOR'S FINAL DECISION

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Case Outline

The customer's complaint is that:

- The bill for the property at REDACTED was put in the customer's name without his knowledge and he does not live there. The representative states that he had called repeatedly to inform the company that the property was empty and unfurnished but that he told the company that it was the customer calling because the customer could not have appointed him to speak to the company.
- The representative says that he spoke to an agent of the company in the debt recovery section who wrote back by email informing the customer in writing that the debt was cancelled. Some weeks later the debt was reinstated.
- The representative also states that the calls the company states were received from the customer on 19, 27 and 28 February 2027 and 9 March 2017 did not happen and the company is mistaken or falsifying this.
- The customer would like the customer's bill(s) to be written off.

The company's response is that:

- After receiving information from a Credit Reference Agency, the company used its powers under Section 142 of the Act to open an account for REDACTED in the customer's name with effect from 23 April 2018. The available information showed he had occupied the property since at least that time. The company has had contacts from the customer relating to REDACTED since 2009. At that time, it billed REDACTED Council (the customer's Landlord) for its services, and they recharged the customer via his rent. In 2012, the customer asked the company to bill him directly and requested that it survey his home for a water meter which it subsequently did, but found it wasn't possible to install one. Therefore, since 23 February 2012 (the date the company surveyed the property for a water meter) the tariff for the property has been switched to the Assessed Household Charge.

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- The occupier of a property is liable to pay for the services the company is providing. The company's information states that the customer has occupied the property since at least 23 April 2018.
- The company is entitled to bill for its services up to six years after these were provided in line with the Limitation Act 1980. Therefore, the charges raised on 22 January 2022 backdated to 23 April 2018, are within this limit. However, to clarify, there is nothing in law that prevents the company from pursuing a customer for charges which are over six years old even if these could not be recovered in a court of law.
- The company agrees that it has a policy that it will not charge for services if a customer informs the company that the property is unoccupied and unfurnished. However, it is the company's practice to request evidence. Despite informing the customer on numerous occasions both verbally and in writing what type of evidence it would accept, this has not been provided by him.
- As REDACTED is owned by the local authority, the best form of evidence the customer can provide which would show he doesn't occupy the property, is a letter from his Local Authority (REDACTED Council) because the property is owned by them and if they are renting it to the customer they would have to be satisfied that he occupies it full time and if he doesn't, they would take the property back and rent it to another person.
- Additionally, as well as information that is freely available in the public domain such as land registry records, voters' roll records, Credit Reference Agencies the company can ask for information from local authorities who regularly share information. Local authorities and landlords have a legal duty to share occupier details under section 45 of the Flood and Water Management Act 2010. Therefore, the customer should be aware that as the company has been given information that the person it is currently billing at REDACTED, does not actually live there, this will be investigated further with the local authority. Having listened to the call from "REDACTED" who called twice on 28 January 2022 (once on behalf of the customer as his carer and another to open an account as he stated he was moving to the property) and calls from the customer, the company believes that these are one and the same person. There are recordings of the calls since 28 January 2022 (except the one with the debt recovery team who took the incorrect action closing the customer's account on 10 March 2022) and these are available if requested.
- The customer has also posted commentary on Battersea Mosque, which indicates that he has lived at REDACTED since at least 23 April 2018.

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- Although the customer has ticked the 'No' box on his WATRS application where he is asked if he requires support or additional assistance, he has provided a document from his doctor which states he has a severe mental impairment. If the customer does have a carer the company recommends that this person assists the customer because the company is actively investigating the occupancy.
- As it stands, the company is satisfied that it has billed the customer correctly between 23 April 2018 and 30 January 2022 and in addition, if its suspicions that the representative has not occupied the property since 31 January 2022, are correct, it will be closing the account in the representative's name and sending the customer a bill for the services provided from 31 January 2022 to 31 March 2023 in the coming weeks.

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.

In reaching my Final Decision, I have also taken into account the submissions made by both parties in response to my Preliminary Decision.

How was this decision reached?

1. It now appears that this dispute is one of two matters that have been taken up by the Consumer Council for Water (CCWater) in respect of the same complaint. The significance of this is referred to again below, but in response to the question raised by the customer's representative in response to my Preliminary Decision, I make clear that as between WATRS and CCWater, the

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role of WATRS is to make adjudication decisions where the parties cannot agree. CCWater does not make decisions that are binding on the company, even though it is able to raise and debate issues with water companies on behalf of customers. Where the company does not agree to the remedies that customers ask for, CCWater may help customers to apply to WATRS. This is what has happened here.

2. This dispute has arisen following the issue of a bill by the company in connection with the customer's property which contains backdated charges for approximately a 4-year period. It is said by or on behalf of the customer that he has not lived in the property, REDACTED, London SW11, since 2016 until recently and that the customer's carer (the representative) has contacted the company on a yearly basis since 2017 informing the company that the property was empty.
3. Following the issue of the bill the representative was told that it would be necessary to produce evidence that the customer was not resident in the property during the period that had been billed. The representative has argued that as he has had a conversation with the company on an annual basis, and the information given appeared to be accepted by the company, he does not need to prove anything.
4. I am mindful that under the Water Industry Act 1991, the company has power to impose charges for its services in accordance with its charges scheme on any person to whom it provides services. I find that an average customer would reasonably expect a company to try to find and raise charges against a person who receives such services, because to omit to do so is not fair to other customers who do make payment for services that they have received.
5. It is not challenged that the company provides services to the property at REDACTED, which is connected to its fresh and wastewater mains. I find that it is also apparent from the information supplied by the representative that the customer is a vulnerable person who suffers from a mental illness. The company's records from 2013 state that the customer has special needs.
6. The representative says that the customer has not lived in the property since 2016 but I find that it is clear from the company's records that it has information that the customer has had a connection with the property since 2009 but that in this period, the company has not been given clear information about who might be resident there and in what circumstances. Although the question of residence of the property in the period before the billed period is not directly relevant, indirectly, I find that it shows that the company would reasonably have been expected to have

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been curious as to what was going on in terms of occupation of the property and also I find that an average customer might reasonably entertain a suspicion that information provided by or on behalf of the customer was not reliable.

7. Taking the period prior to 2018 (the year in which the company has started to charge), the company does not have a record of an annual call about the property. It is apparent from the company's records that the following occurred:

- 9 November 2013 – An agent visited the property to try to see whether the property was occupied and to find the occupier's details, having been told that customer had moved out in August 2013. The company believed that the property was furnished. A form recording this belief was left for the occupier inviting the provision of information about the occupants so that the company could raise a bill for its services.
- 27 November 2015 – The company again sent an agent to the property to try and gain the occupier's details. There was no access through the communal entrance and the company was unable to see if the property was occupied or leave a form for the occupier to provide details.
- 16 January 2017 – Another agent was sent to the property to try and obtain the occupier's details. The company says that the property was not empty, and somebody was living there. A form was left for the occupier to provide details.
- 19 February 2017 – The company states that it received notification from the customer that he was moving into the property with effect from 18 March 2017. The representative denies that this conversation took place.
- 27 February 2017 – The company received a call from the customer who advised that he had moved into the property as of 1 February 2017. Again, the representative denies that this conversation took place.
- 28 February 2017 – The company received a call from the customer informing it that the customer would now be moving into the property with effect from 1 April 2017. This was confirmed by the customer on 9 March 2017. The representative states again that these calls could not have happened.
- 21 March 2017 – The company received notification via its website that the customer had moved out of the property.
- 29 March 2017 – the company received a call from the customer who advised he was confused as he had seen bills with two different account numbers. He also asked if he could arrange a Direct Debit to be paid on the 1st of each month.

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- 18 April 2017 – the customer contacted the company via social media to request a payment card rather than paying by Direct Debit.
 - 26 April 2017 – the customer contacted the company via its website to state he was moving out of the property with effect from the same date.
 - 27 April 2017 – The customer contacted the company via its social media channels asking why there was an open account for him at REDACTED as he claimed he had never lived at the property. This was also stated in a call on 5 May 2017, purportedly from the customer. Later that day, after carrying out a satisfaction survey regarding the call he had with the company, the customer scored the service he received as 1 out of 5. The reason he scored the company low was because he was not happy because his account had been closed incorrectly and he had received the wrong refund amount.
8. During this period it is also notable that the customer's stated email address changed to one consistent with the name of the customer from an email address beginning "REDACTED...."
9. The representative says:
- That the agent could not have seen whether the flat was furnished or not because it is a first floor flat with white-out roller blinds.
 - That the calls to the company between 19 February 2017 and 9 March 2017 could not have been made
10. While I note that the company's records state that there is a secure entry system for this communal accommodation, I find that the facts that there were roller-blinds on the windows and that on at least one of three visits by agents that access to the front door could not be obtained, do not mean that the agents could not have obtained this information, eg by asking other residents of the block or (when access was available) looking through any letter box.
11. As for the representative's statement that the customer is "mentally incapable of speaking over the telephone. The GP has already confirmed "severe mental impairments", the position remains very unclear. The customer has put forward no evidence of his medical condition other than the GP form which was requested in support of a council tax reduction in 2019. I find that severe mental impairments do not necessarily prevent a person from making a telephone call and the nature of the customer's disorder has not been explained. There is no evidence that the customer did not receive help from another. As the company has a record of the disputed calls

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in its computer system, including identifying its flagged information that the customer has special needs, I find that it is probable that such calls took place.

12. As for the period from 2018 to 2022 when the bill was raised, the company has again no record that it was contacted every year by the representative (whether stating that he was the customer or otherwise). This is consistent with there having been no such contacts. The company's evidence is that it raised a query with the Housing Association in charge of managing the property to try to find the details of the current occupier and contacted a credit reference agency. This would not have been necessary if information was being provided annually. There does not seem to have been a reply to the enquiry to the Housing Association and the credit reference agency indicated that the customer was financially active from REDACTED. The company therefore concluded that the customer was liable and responsible for the water and wastewater charges and wrote to the customer to that effect. The bill was put in the customer's name.
13. In respect of this period, the representative told the company in 2022 that the customer had been in hospital since 2016, but later (27 February 2022) told the company – seemingly at this point giving his name as the customer - that during the relevant period, the customer had lived at the address of his godfather in REDACTED. He stated that his godfather's name was REDACTED. An internal record of the company dated 11 March 2022 showed that the company could not find a record of REDACTED at the given address. It was therefore doubtful about the accuracy of the information that it had been given.
14. Meanwhile, the customer has submitted a copy of an application for a Council Tax reduction. Contrary to the representative's submission, this does not show that the customer was entitled to a complete rebate because he was not resident, but that he was entitled to a discount due to disability. This document would support that the customer was living at the property. Moreover, in 2022, the company repeatedly asked the representative / customer to provide documentary evidence as to the customer's alternative place of residence. Nothing has been provided. The company has set out the type of documentation that would be relevant, but there is no explanation as to why this information cannot be put forward. The representative / customer has raised complaints about the requests for this information, but it is difficult to see why it would be unreasonable for the customer to provide this. If in hospital, the customer would have had admission records and discharge summaries. If with his godfather, the identity and residential status of his godfather should reasonably also have been available and details of correspondence to the customer for important matters such as benefits should also have been

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obtained. It is not obvious why the benefits agency would have agreed to communicate with the customer at a place other than where he lived so copies of this correspondence could be forthcoming.

15. Furthermore, the representative states that:

I wanted to clear this matter up, so I have put the water in my name. I am in receipt of Carers Allowance which is less than £300 per month, so I applied for REDACTED which gives me 50% discount and it is on my account. REDACTED does live at the property now but at the time of the bill he was only using the address as a place to collect his mail. He was with his Godfather in REDACTED.

16. No date is given for this action, but the company has acknowledged that this occurred with effect from 31 January 2022. It would suggest that the representative is an occupier of the property and was also described to the company as “the new tenant”, to whom at one point the company was asked to stop sending correspondence about its claim that the customer lived at the property. If he is a carer, it is not obvious why he should be a tenant and still less obvious why he should have transferred his employer’s account into his own name.

17. Overall, I find that the position put forward by the customer and the representative has not been made transparent to the company. The customer has not denied his involvement with that address which he states has been used as a postal address only, and I find that in these circumstances, the company would be reasonably be expected to ask for evidence that the customer was non-resident. The documentation submitted to me shows that the company has asked for this, and the company has confirmed that it is usual practice.

18. I find that the company has provided its services in relation to its billing to the standard that would reasonably be expected by an average customer. While I am mindful that it is possible that there are other potential interpretations of these events, I find that the company’s position that the customer is primarily liable for the account until the contrary has been shown is within a range of responses that would reasonably have been expected.

19. As for the complaints raised against the company, I find that (apart from the customer /representative’s objection to providing information about the customer’s alternative residency, which I have addressed above, there are three matters that raise issues:

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- (1) on 10 March 2022, the company's representative agreed that it would close the customer's account and remove the bill and issue a credit. This followed a contact from the customer / representative. The agent who took this call received authorisation to close the account backdated to when it had been opened, thus clearing the charges raised. On 15 March 2022 (following a complaint made on 11 March 2022 (below)), the company informed the customer that it would not close the account. The documentation shows that this was because, although the representative had stated that the customer had an exemption letter from the Council for this property from 2012, he was refusing to send it. The company therefore decided that the debit should be restored to the account until proof had been received that the information provided on behalf of the customer was correct. The representative complains about this and states that it was unfair. While I find that an error was made by a staff member in that the company had without proof of the sort that it usually requires, agreed to remove the charge, I do not find that the company had supplied substandard services in restoring the bill. In relation to the incorrect information given to the customer / representative, however, I recognise that this may have resulted in a change of expectations, with subsequent distress and disappointment when the company changed its mind. I find that this did fall short of expected standards in a minor way and is the type of matter for which the company would reasonably be expected to make a goodwill credit of £20.00. I direct that this sum should be paid by way of credit to the customer's account.
- (2) The customer or representative complained on 11 March 2022 about rudeness and use of profanity during the call of 10 March 2022 and he wanted the call to be listened to. The company's records show that the company agreed to consider a further goodwill gesture due to language used by the agent and to give feedback. Later that day, however, the call was listened to and it was found that the agent had not been rude or sworn and had given the customer the correct answer and referred him to the Consumer Council for Water. I find that the company had taken the action that would reasonably be expected by listening to the call. As the call was appropriate, I find that the company would not reasonably be expected to take further action.
- (3) The company at one point failed to answer emails purportedly from the customer within the period stipulated in its service standards and made a goodwill gesture of £20.00. I find that the company initially did not supply its services to the correct standard but has remediated this as would be reasonably expected. No further compensation is, I find, due.

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20. It follows from the above that, save that I find that the company should apply a credit of £20.00 towards the customer's bill, the customer is not able to succeed in his claim for a remedy. This means that so far as this decision is concerned, the credit is limited to that amount.
21. However, as indicated above, this case is, as it has turned out, one of two references raised by CCWater on the same issue. The representative has asked, in response to my Preliminary Decision, whether my Decision means that the £600.00 discount on the bill made by CCWater has been disapplied. As indicated above, it is the company and not CCWater that can make a discount of this type. The company has, however, explained what has happened and, on the basis of the company's explanation, this would appear to have been an error. The company says that CCWater sent another referral of the same issue to the company notwithstanding the reference of this case to WATRS. The company says that its agent, misunderstanding the policy, and unaware of this case, cleared £600.00 arrears. The company says that it does not intend to reverse this but invites me to reconsider whether, in light of this, I should continue to award the £20.00 sum found to be appropriate.
22. I am mindful that I have received an explanation about this development by both parties but I have received no documentation about it and the precise circumstances were not put before me when the Preliminary Decision was made. I find that the decision about whether or not to allow the customer a credit under a different reference by CCWater is not a matter that I can consider and therefore I do not take into account.
23. It follows that my decision remains as stated above and I make no comment on the company's decision-making under the other reference, which, if further clarification is needed, must be resolved between the customer or representative and the company.

Outcome

The company needs to credit the customer's account with £20.00.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.

Claire Andrews

Claire Andrews, Barrister, FCI Arb.

Adjudicator

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