

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT-X044

Date of Decision: 31 July 2022

#### Complaint

The customer says that she has been billed incorrectly by the company and has experienced poor customer service.

She requests that the company apologise for not placing her on the Single Occupier Tariff, and correct her billing backdated to 2013.

#### Response

The company says that the customer was not entitled to be put on the Single Occupier Tariff and so has been billed correctly.

The customer was offered a goodwill gesture of £117.74, but this was declined.

#### Findings

The company failed to provide its services to the company to the standard to be reasonably expected by the average person in the handling of her complaint.

#### Outcome

The company needs to take the following further action: It must pay the customer compensation of £300.00, and must apologise to the customer in writing for its handling of her complaint.

The customer must reply by 30 August 2022 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT-X044

Date of Decision: 31 July 2022

## Party Details

Customer:

Company:

## Case Outline

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

- A meter survey was performed on the Property on 16 May 2013.
- The individual performing the survey verbally confirmed that an internal meter could not be fitted.
- She received no further contact about that survey.
- The day following the survey she noticed a leak from the external stopcock, which had been disturbed by the survey. This was resolved after 4 months and numerous phone calls.
- 8 months after the original survey, in January 2014, she received a phone call from the company.
- She denies that this call related to scheduling installation of a meter, and states that she confirmed to the company's agent on the call that she had been told that a meter could not be installed.
- After moving properties in 2021 she was placed on the Single Occupier Tariff when a meter could not be installed.
- She believes that she should have been placed on the Single Occupier Tariff at the Property after the 2013 survey.
- The company's account of these events and its explanations for its positions have changed over the course of her complaint.
- She requests that the company apologise for not placing her on the Single Occupier Tariff, and correct her billing backdated to 2013.

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

- The Single Occupier Tariff is not available to customers unless a meter survey has confirmed that a meter cannot be installed.
- A meter survey was conducted at the Property on 16 May 2013.
- The Property was determined to be on a shared supply, so an external meter could not be fitted.
- The customer has previously stated that she did not want an internal meter fitted.
- A letter was sent to the customer on 15 January 2014 to prompt contact for an internal survey.
- During the 15 January 2014 phone call, the customer asked for a contact number, which was provided.
- No subsequent response was received from the customer, so her case was closed.
- As the events underlying this case occurred over 6 years ago, any claim relating to those events is time barred.
- The company denies that the initial meter survey was incorrect, and says that it intended to install an internal meter.
- The customer was offered a goodwill gesture of £117.74, but this was declined.

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

- She was not resistant to having a meter installed, but was told by the company's agent after the 16 May 2013 meter survey that it was not possible.
- The January 2014 phone call was about arranging a second internal survey, not about installing a meter, and she questioned why a second internal survey needed to be performed.
- The company never informed her that it had determined that it was possible to install a meter internally.

### **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.

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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. As a regulated water retailer, the company is required to bill its customers in accordance with a published charges scheme and to provide its services in accordance with its licence and any applicable Ofwat guidance. The company's charges scheme must adhere to rules made by Ofwat, the Water Services Regulation Authority, the designated regulator in this sector.
2. The consequence of this is that, as specified in Rule 3.5 of the Water Redress Scheme Rules, a WATRS adjudicator does not have the authority to decide on the fairness or correctness of a company's charges scheme, as this responsibility has been given by the Water Industry Act 1991 to Ofwat.
3. Instead, with respect to the type of claim brought by the customer, a WATRS adjudicator may only examine whether the company has properly adhered to its published charges scheme and to its licence and any applicable Ofwat guidance, and whether it has fulfilled its customer service obligations to the customer.
4. In the present case, the Limitation Act 1980 requires that any claim by the customer relating to an alleged breach by the company of its duty of care must be brought within 6 years of the date on which a recoverable loss occurred. Where a claim is based on negligence, an additional 3 year period is applicable, commencing on the date on which the innocent party has or should have had knowledge of the damage they suffered. Importantly, the test in this respect requires not that the innocent party have had actual knowledge of the damage suffered, but also that they be held to have had any knowledge they might reasonably be expected to have acquired, even if it was not acquired.

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5. I find that in light of these rules, the customer's claim relating to any failure by the company to place her on the Single Occupier Tariff after the 2013 meter survey cannot succeed. The company has satisfactorily established that in order for the customer to have been eligible for the Single Occupier Tariff, it must have determined that a meter could not be fitted at the Property. While the parties disagree over whether the 2013 meter survey determined that a meter could not be fitted, the customer acknowledges that she knew as of the phone call on 15 January 2014 that the company believed a further internal meter survey was required. It is understandable that the customer might have been annoyed at this request for a second survey, but nonetheless this phone call placed the customer on notice that the company had not determined that a meter could not be installed at the Property, and thus that she would not be eligible for any tariff that required a determination that a meter could not be fitted. If the customer believed that this determination reflected a failure by the company to provide its services to the standard to be reasonably expected by the average person, she possessed as of that date the information necessary to raise a claim on this basis.
6. In her comments on the Proposed Decision in this case, the customer argued that there is "no evidence to support that the request [in January 2014] to repeat an internal survey was required because [the company] had not determined that a meter could not be installed at the property". However, the mere fact of the request being made put the customer on notice that the company had not determined that a meter could not be installed at the Property. While the request for a new meter survey may not have been explicitly connected by the company to the previous meter survey, there would have been no rationale for requesting a survey if the company had already determined that no meter could be fitted.
7. The customer's claim was not brought to WATRS until 14 June 2022, over 8 years later. As a result, this element of the customer's claim is precluded by the Limitations Act 1980.
8. Nonetheless, while this element of the customer's claim may not be able to succeed, I find that the evidence shows that after she first raised her complaint with the company on 9 June 2021, she experienced repeated failings by the company to provide its services to the standard to be reasonably expected by the average person with respect to the handling of her complaint. The evidence shows the company did not provide clear explanations to the customer, offered explanations that were not directly supported by evidence, and even altered its explanations as the complaint progressed. While it is understandable that the company experienced some level

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of difficulty understanding the facts relating to the complaint given the significant passage of time, I do not find that this uncertainty explains the problematic handling of the customer's complaint as just described.

9. The evidence makes clear that the company's handling of the customer's complaint has caused the customer significant inconvenience and distress, requiring the customer to work through substantial documentation, decipher internal company notes, and write very detailed and extensive complaint notes. While there is no evidence of the company actively opposing the customer's efforts in this respect, there is also no evidence of the company actively supporting the customer's investigations, despite the company being aware from its own investigations of the difficulties the customer would face. In consultation with the WATRS Guide to Compensation for Inconvenience and Distress, I find that the substantial failings of the company in its handling of the customer's complaint fall within Tier 2, and justify a compensation award of £300.00, as well as an apology.
10. For the reasons given above, the company must pay the customer compensation of £300.00, and must apologise to the customer in writing for its handling of her complaint.

#### **Outcome**

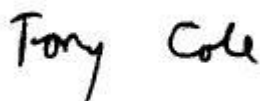
The company needs to take the following further action: It must pay the customer compensation of £300.00, and must apologise to the customer in writing for its handling of her complaint.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 30 August 2022 to accept or reject this decision.
- 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.

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- 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.
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**Tony Cole, FCI Arb**

**Adjudicator**

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