

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X081

Date of Final Decision: 25 August 2022

Party Details

Customer:

Company:

Complaint

The customer has REDACTED and REDACTED and on three occasions she asked the company to make reasonable adjustments to allow her to access its services. The company failed to make the requested reasonable adjustments and, as a result, the company failed to meet its obligations under the Equality Act 2010. The company's failings have left the customer feeling disempowered and devalued, have caused her pain and fatigue, and have had a negative impact on her REDACTED. In view of this, the customer would like the company to pay her £200.00 in compensation.

Response

The company accepts that it has made customer service errors but denies that it has discriminated directly or indirectly against the customer under the REDACTED. As the company has already paid the customer an appropriate amount of compensation for its mistakes, it denies liability to pay the customer further compensation.

The company has not made an offer of settlement.

Findings

The WATRS Scheme Rules prevent me from adjudicating on whether the company breached the REDACTED. However, I accept that the company failed to provide its service to the standard reasonably expected by the average person by failing to pre-call the customer when she had requested pre-calls for reasons connected to her REDACTED. I also accept that the company's failings caused the customer to suffer inconvenience and distress. Therefore, the customer's claim succeeds and I direct the company to pay the customer £200.00 in compensation.

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Outcome

I direct the company to pay the customer £200.00 in compensation.

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Case Outline

The customer's complaint is that:

- She is REDACTED. On three occasions, the company failed to make the reasonable adjustments required under the Equality Act 2010 to allow her to access its services; as a result, she has been discriminated against.
- Her meter needed to be exchanged and she asked the company to pre-call her half an hour before the engineer arrived.
- Pre-calls half an hour before arrival are essential because she is REDACTED and wears REDACTED. Her front doorbell and landline are connected to a ring alarm system which flashes and makes a very loud noise. If she is expecting a landline call or a visitor, she either has to sit in the same room as that system for the entire appointment window, or she has to ask the company to make a reasonable adjustment and pre-call her mobile phone about half an hour before arrival. Her mobile phone flashes and vibrates when the pre-call is received, so she is able to get downstairs to answer the door from wherever she is in her house, and she only needs to sit in the downstairs room where the alarm system is located for half an hour.
- The company failed to pre-call her and, therefore, it took three appointments, and much time and energy, to get her meter exchanged. On one occasion, the company arrived early without giving her a pre-call. She was upstairs so, even if she had been able to hear the doorbell, she would have been unable to get downstairs in time to answer the door as she needs time to use her stair lift and move on her crutches to the door.
- Indirect discrimination is where there is a rule, policy or practice seems to apply equally to all, but actually puts REDACTED at an unfair disadvantage compared with people who are not disabled.
- The company's failure to pre-call amounts to indirect discrimination as the company is obliged under the Equality Act 2010 to make reasonable adjustments for her REDACTED but it failed to do so, yet the company does not seem to understand the issues or that it has failed to meet its legal obligations.

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- The company says that its failure to call her before the engineer arrived was a simple mistake and it has paid her £70.00 for service failings. However, she believes that the company's failings reflect its normal working practices and that REDACTED like her are unable to access the company's services because of its discriminatory practices. In any event, the company's legal obligations are not optional, cannot be justified by human error, and are separate to the compensation normally paid for service errors.
- The details provided by the company in its response to her claim are not accurate; the company did not leave her an answerphone message on 28 February 2022 and she did not cancel an appointment on 15 March 2022 at 09.34.
- The company's response also says that she has failed to outline the provisions of the Equality Act 2010 that it has breached. However, this is not correct as she has already provided a full outline of her case to the company.
- The company's failure to make the requested reasonable adjustments has left her feeling disempowered and devalued, and has also caused her to suffer pain and fatigue. A person without disabilities would have only required one appointment, not the three it eventually took to get her meter exchanged. The experience has reinforced the frustration that chronic and congenital disabilities impose on disabled people on a daily basis, and this has had a negative impact on her mental health.
- In view of the above, she would like the company to pay her £200.00 in compensation.

The company's response is that:

- It denies that it has discriminated directly or indirectly against the customer under the Equality Act 2010. It accepts that it made customer service mistakes, but it has admitted to them and paid an appropriate amount of compensation to the customer to recognise them.
- The customer has not outlined the provisions of the Equality Act 2010 that she says it has breached.
- The customer must prove on the balance of probabilities that it breached the Equality Act 2010, yet the customer has not provided any evidence to substantiate her allegation that the mistakes it made amount to either direct or indirect discrimination against her.
- Therefore, it denies liability to compensate the customer further.

How is a WATRS decision reached?

In reaching my decision, I have considered two key issues. These are:

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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 complaint is that the company breached the Equality Act 2010 by failing to make reasonable adjustments for her REDACTED, and she suffered discrimination, inconvenience and distress as a result. The company accepts that it has made customer service mistakes, but denies discrimination and says that it has already adequately compensated the customer by paying her £70.00 under its Guaranteed Standards Scheme.
2. Having considered the facts of the case and the evidence provided by the parties, I find that in order to determine whether the company has breached the Equality Act 2010, I would need to determine whether the pre-calls requested by the company amount to a 'reasonable adjustment' under the Equality Act 2010, and whether the company's failure to pre-call the customer amounts to a failure to make reasonable adjustments under the Equality Act 2010.
3. In view of this, I consulted the WATRS Scheme Rules to establish whether this part of the complaint was within the scope of this Scheme.
4. Rule 3.4 of the Scheme Rules states:

"WATRS may reject all or part of an application to the Scheme where it considers that:-
3.4.1 a customer should be referred to a more appropriate forum for the resolution of the dispute; or

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3.4.2 the application should have been made against an alternative water and/or sewerage company; or

3.4.3 in exceptional circumstances, the dispute raises a complicated issue of law.”

5. As I find that the complaint raised by the customer concerns complex legal issues, specifically the company’s compliance with the Equality Act 2010, I find that Rule 3.4.3 of the Scheme Rules prevents me from adjudicating on whether the company breached the Equality Act 2010. Therefore, I cannot consider this element of the customer’s complaint.
6. However, the customer’s complaint also raises a customer service issue which I am able to adjudicate on, as the customer states that she specifically asked the company to call her before the engineer arrived on three occasions but the company failed to do this, and the company’s failings caused her to suffer distress and inconvenience.
7. Having reviewed the customer’s claim, the company’s response, the customer’s comments on the company’s response, the job notes and the company’s timeline, on the balance of probabilities, I accept that the company failed to pre-call the customer in advance of its attendance at her property, and that this amounts to a failure to provide its service to the standard reasonably expected by the average customer. I also accept that the company’s failings would have had a serious impact on the customer’s wellbeing, both in terms of her mental and physical health, and would have caused her inconvenience. Therefore, I find that the company should compensate the customer for the distress and inconvenience its failings caused.
8. The customer claims £200.00 in compensation and, having reviewed the WATRS Guide to Compensation for Inconvenience and Distress, I find that the sum claimed is justified as the customer’s claim falls within the ‘Tier 2’ category on the award scale due to the level of stress and inconvenience caused to the customer by the company failings. In view of this, I direct the company to pay the customer £200.00.

Outcome

I direct the company to pay the customer £200.00 in compensation.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 8 September 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.

K S Wilks

Katharine Wilks

Adjudicator

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