

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT X059

Date of Final Decision: 8 November 2022

Party Details

Customer:

Company:.

Complaint

The customer says that the company has incorrectly calculated his bills and not provided him with information that he has requested, namely details of the company's policies and calculations relevant to its hardship tariffs. He asks for (1) His bills to be corrected; (2) An apology for poor service and false readings; (3) Provision of the documentation referred to above so that he can choose the best tariff, and (4) Compensation for distress and inconvenience - £2,500.00 or £2,513.12.

Response

The company says that this claim is out of scope. If it is within scope; the company has raised bills in accordance with meter readings and its Charges Scheme. It has provided the customer with information about this on its website and reference is made to changes in charges in its billing. It has also provided the customer with copies of the Charges Scheme on numerous occasions and via CCWaters in February 2022. Additionally, the company would not supply detailed information about its policies and calculation of its tariffs for its hardship schemes. Information is available to customers about how these work but the company's policies and calculations are commercially sensitive. The company denies liability for this claim.

Findings

The application is within scope save that I have no jurisdiction to consider the fairness of the company's commercial practices and policies or to consider matters that fall within the jurisdiction of Ofwat. I find that the company has supplied its services to the expected standard. There is no evidence that the company has billed the customer incorrectly or failed to publish its Charges Scheme. It has supplied a copy of the Charges Scheme to the customer at least in February 2022 and in response to this application. I have seen no evidence that the Charges Scheme was not applied correctly. The company has given information about its hardship tariffs and explained this to the customer but would not reasonably be expected to provide information about tariff setting, policies or calculations.

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Outcome

The company does not need to take any further action.

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Case Outline

The customer's complaint is that:

- The customer, who suffers from depression, says that he has been billed incorrectly. He says: that the opening reading was 41 m³ on 12 April 2018. The meter was 263 m³ on 2 December 2021. He says "there are no issues as we checked together". His calculations are divided into two periods.

- First period (12 April 2018 to 28 February 2021: 1046 days. 34.87 (1046/30) months): Normal tariff. There are different tariffs in this period so he takes an average figure between the beginning and the end of the period.

Water:

Average usage charge: $(152.88 + 153) / 2 = 152.94\text{p per m}^3$.

Average daily charge: $(7.67 + 7.94) / 2 = 7.81\text{p per day}$

Usage charge: 175.4 (5.03 x 34.87) cubic meter. £268.26 (175.4 x 152.94)

Daily charge: £ 81.69 (1046 x 7.81)

Sewerage:

Average usage: $(169.52 + 155.41) / 2 = 162.47\text{p per m}^3$

Average charge: $(24.11 + 23.29) / 2 = 23.7\text{p per day}$

Usage charge: 157.86 (175.4 x 0.9) m³ £256.48 (157.86 x 162.47)

Daily charge: 247.90 (1046 x 23.7)

- Total: 854.33

- Second period (1 March 2021 to 31 December 2021: 300 days. 10 months.)

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The customer says that the company promised to place him on the Extra Care tariff. This is based on half the normal price. There are different tariffs in this period, so the customer has again taken the average figure between the beginning and the end.

Water:

Average usage charge: $(153 + 160.15) / 2 = 156.58\text{p}$ per m³

Average daily charge: $(7.94 + 8.21) / 2 = 8.08\text{p}$ per day

Usage charge: 50.3 (5.03 x 10) m³ =. £78.76 (50.3 x 156.58)

Daily charge: £24.24 (300 x 8.08)

Sewerage:

Average usage: $(155.41 + 156.55) / 2 = 155.98\text{p}$ per m³

Average charge: $(23.29 + 23.84) / 2 = 23.57\text{p}$ per day

Usage charge: 45.27 (50.3 x 0.9) cubic meter £70.61 (45.27 x 155.98)

Daily charge: £71.25 (300 x 23.75)

Total: £244.86 Extra Care: £122.43 (249.86/2)

- Total bills amount: £976.76. The customer therefore says that he has paid £285.00 and is in debt for £ 691.76 (976.76-285).
- The customer also complains that he has not been provided with four policies for REDACTED
- The customer complains that he has asked to be provided with the Household Charges Scheme from 2018 to 2021 but this has not been provided.
- The customer also complained that he had not been given sufficient time within the WATRS process to make his submissions in response to the application and that this has prejudiced his position.
- The customer asks for:
 - His bills to be corrected
 - An apology for poor service and false readings
 - Provision of the documentation referred to above so that he can choose the best tariff
 - Compensation for distress and inconvenience - £2,513.12.

The company's response is that:

- The customer is the occupier of REDACTED under account reference REDACTED from 12 April 2018 to the present.
- The company argues that this complaint is out of the scope of the Scheme because:
 - The customer's application under reference REDACTED raised the same issues.
 - The application relates to the fairness of contract terms and/or commercial practices

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- Any dispute or disputes that are considered by WATRS to be frivolous and/or vexatious.
- The customer's application is regarding the company's tariffs and charging methods and was subject to a previous application under REDACTED In which the matter was adjudicated upon and the decision was that the Company did not need to take further action.
- Furthermore, the company says that it has billed the customer in accordance with its Charges Scheme, has published its Charges Scheme and provided copies to the customer when requested and has accepted his application for the REDACTED tariff.
- The company denies that it is required to disclose how its policies are formulated or tariffs calculated and also says that it would not reasonably be expected to provide the eligibility criteria for the REDACTED Assistance Scheme, which is a discretionary scheme.
- The company denies liability for the claim.

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 the customer's observations on my Preliminary Decision. I have taken his submissions into account in relation to my Final Decision even though I have not always commented on the customer's observations. The outcome of my Final Decision is the same as that of my Preliminary Decision.

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How was this decision reached?

Appropriate adjustments

1. The customer asked for additional time to make further comments in answer to the company's response to his application, referencing his illness. He said:

REDACTED

2. I also note from the documentation that the customer has explained that his time has been taken up with a number of important court cases, but I have no further information about these.
3. As a consequence of the customer's concerns, time for replying to the company's response was therefore extended by me until 2 September 2022 for further comments to be made by the customer. Although I waited until 2 September 2022 (and some additional days in case the customer had been affected by the Royal Mail strike in early September), no comments were submitted by the customer after 9 August 2022. It was therefore necessary for me to have reached a Preliminary Decision without the benefit of any additional observations that the customer might have wished to make.
4. The customer asked for further time to respond to the Preliminary Decision, which was also afforded to him and he has made detailed submissions in response to my Preliminary Decision, indicating that he does not agree with this. The customer does not believe that he has been treated fairly, principally, he explains, because my decision was not based on the evidence that he submitted. I have considered this concern as indicated below, although I have not commented on every aspect of his submissions.

Jurisdiction

5. Although I have not summarised these points above, it is apparent from the customer's replies to the company's response that he is critical of the role that has been played by the Consumer Council for Water (CCWater), whom he does not believe to have assessed his complaint correctly and he makes further observations in his response to my Preliminary Decision about alleged complicity between the various bodies who have handled this complaint. . I make clear that I reach no findings as to this. The WATRS Scheme is for the purpose of investigating and determining

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disputes between customers and water and sewerage companies. CCWater is not a party to this dispute and, in any event, the Scheme rules make clear that I cannot investigate a complaint against CCWater.

6. The company challenges the customer's right to make this complaint to WATRS and raises a number of objections on grounds of jurisdiction. The company's first point is that this claim is out of scope.
7. The company refers to a previous decision and the preliminary decision on the objection, pointing out that a new application and new evidence has now been submitted by the customer on the same topic. The company says that rule 3.5 of the WATRS Scheme rules therefore prevents me from reaching a decision in this claim. It has submitted evidence that it made a preliminary objection to WATRS, referring to a previous application that was decided on 19 June 2019 and raised an objection. The adjudicator rejected the objection and stated:

I have reviewed the company's objection. Whilst I appreciate the comments provided, our systems show this case dates back to 2019. We no longer hold records of this time. Accordingly, should the current case be presenting duplicate issues already considered through the Scheme, the company should provide evidence to show this. At this time, I will be rejecting the objection.

8. The matter has now been re-raised in the company's response to the application and copies of the previous application and adjudication decision have been supplied to me by the company.
9. I do not find that the previous application was identical to this. While there are areas of similarity, I find that the previous decision related to:
 - a. The first bill(s) which the customer said referred to a period before he was in occupation and as to which he objected to the use of estimated readings. This was corrected by the company by the provision of a substitute bill.
 - b. The customer's submission that he should have been accepted on to a REDACTED and the determination by Citizen's Advice (who then administered applications for that tariff) that he was ineligible. This argument was not accepted by the adjudicator.

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- c. An objection to paying standing charges. This argument was also not accepted by the adjudicator.
10. Complaint was also made that the company did not supply customers with certain hardship criteria. The adjudicator found that this information was available to the customer.
11. The current application, on the other hand, relates to the calculation of the customer's bill over a period of several years on two different tariffs. While the company may be of the view that it is entitled to raise these charges for the same reasons that it was entitled previously to raise charges against the customer, I am not satisfied that the disputes are the same and I do not find this application to be barred by rule 3.5 of the Scheme rules on the basis that it has previously been the subject of adjudication by WATRS. I do, however, note that in his response to my Preliminary Decision, the customer has complained that the company's Charges Schemes does not refer to the standing charges. I find that this was the subject of the previous complaint and although the customer has repeated his concerns about this on several occasions in response to my Preliminary Decision, I make no further findings as to this aspect of the customer's complaint. As I have made clear above, this is because I cannot reconsider this matter and the customer's application as to this aspect of his claim only is out of scope.
12. Moreover, although the customer's claim is not able to succeed as explained below, I find that it is based upon a genuine concern that he has been overcharged and it is not frivolous or vexatious. Accordingly, although the company also complained that this adjudication should not proceed on this ground, I find that I have jurisdiction to consider matters that (as explained above) were not the subject of the earlier complaint.
13. In respect of the company's concern that rule 3.5 precludes determination of complaints that are the responsibility of Ofwat or which challenge the fairness of the company's commercial practices, I find that it is not part of my jurisdiction to determine whether the company's Charges Scheme is fair or compliant with the expectations of Ofwat. I am mindful that the company's right to impose charges for water and sewerage services is laid down by law and that it is obliged by law also to publish its Charges Scheme. I have no jurisdiction to find that the Charges Scheme is unfair or should not be applied as a matter of principle, but I can consider whether the company has billed the customer in accordance with the Charges Scheme and whether the company has provided the expected standard of customer service.

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The customer's calculation of charges

14. As noted above, the customer has raised his objection to his bills based upon a calculation of average amounts over two periods, one where a hardship tariff was in place and one where it was not. He says:

When I moved into this flat on 12 April 2018, I requested the company to come in for the opening meter reading. Then we recognised the opening meter reading. Please look into my emails dated 22, 31 January 2022. Then I asked the company to check the meter reading on 2 December 2021. My calculation was based on two meter readings in average value. You can see my monthly consumption 5.03 cubic meter. My monthly bill should be £11.4. However, the company asked me to pay £13 per month based on Extra Care policy. I requested them to provide calculating process. They ignored my request and threw out the so-called actual meter readings indicated in yellow colour in their email 10 January 2022. It was impossible for them to come in for so many times to obtain meter readings in a year. The CCW had confirmed that meter reading happens once a year. That means that all data (meter readings and balances on the bill) are fake as they could not provide whole calculating process. So I had to make a complaint to the CCW.

15. I understand the above to be a complaint about the use of estimated readings and an allegation that actual readings have been falsified. He states that his liability is as set out in his application. In correspondence with the company, the customer has also asserted that his bills are higher than other customers and that his use is less.
16. It is notable that although the customer alleges that readings have been falsified, I have seen all the evidence submitted on this but I find that this does not amount to evidence of falsification, although the customer has queried the number of actual readings that the company says have been made. This has led to the provision of a large quantity of documentation by the company which is intended to address the possible range of the customer's concerns. The evidence includes bills, correspondence and a helpful summary of the dates when readings were taken. This shows that between 2018 and 2022, there have been five estimated readings, twelve actual readings and one reading provided by the customer. I have not been provided with any evidence that the company has not taken readings on the dates that it states and, overall, the number of actual readings renders it improbable that any estimated readings have given rise to an overcharge. I have not been provided with any evidence that the actual readings taken were

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incorrect. I find therefore that the customer's fears are not substantiated by facts other than the calculations that the customer has advanced to the company and to CCWaters, on which I can place little weight because there is no evidence that these are accurate. An example is the calculation referred to above.

17. In consequence, my findings on this issue are as follows:

- a. The customer's calculation does not make reference to the Charges Scheme applicable from time to time. As there is no evidence that the company raises its bills based on a retrospective calculation averaging the use over time, it follows that the customer's calculation of the amount due is unlikely to be correct. Although the customer complains that in my Preliminary Decision I have ignored his calculation, this is because his calculation does not reflect the method of charging that is set out in the Charges Scheme from time to time.
- b. There is no evidence that the meter is malfunctioning and therefore the meter reading is evidence of water used.
- c. In accordance with the Charges Scheme, the company is not obliged to read the meter on every occasion before a bill is sent. I am mindful that this is also not a requirement imposed by Ofwat. It is therefore permissible sometimes to raise bills based on estimated readings. The company has stated that the estimated bills are calculated using a customer's average daily consumption, which is in turn based on previous actual readings, and I find that there is no evidence to the contrary.
- d. Moreover, a customer who is concerned about the amount of his water usage may provide his own meter reading. The company says that if this occurs, estimated readings may be adjusted subsequently if more reliable data becomes available.

16. Accordingly, I am mindful that the company, having carried out a review, says that it has complied with its Code of Practice and the Charges Scheme and has dealt with the customer's account correctly based on the information available at the time. I also find that there is no evidence of a departure from the Charges Scheme. I find that the company's position is borne out by the evidence submitted by the parties and by the Consumer Council for Water (CCWater). I find that the company has provided its services to the expected standard.

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Provision of copies of the Charges scheme

17. The customer also complains that he was not provided with copies of applicable tariffs or with information about the company's charges.
18. The company says that it is not required to inform customers individually about its tariffs or charges but in accordance with an agreement involving CCWater and Ofwat, it must publish its Charges Scheme on its website, usually in the first week of February of each year. Moreover, its invoices set out the price increase upon receipt of the customer's next invoice produced after 1 April in each year.
19. I find that if a company is asked to provide a customer with a copy of its Charges Scheme, it would reasonably be expected to supply this. The company says, however, that it has sent the customer copies of its Charges Scheme and charges leaflets on numerous occasions when requested to do so, most recently via CCWater in February 2022.
20. Having read the file of documentation submitted by CCWater, I find that at least in February 2022, the company supplied the customer with copies of the Charges Scheme as well as leaflets containing core information about the company's tariffs and these have also been provided as attachments to the company's response to the customer's application and all the documents which the company says it supplied have been made available on the PEGA platform for the customer to look at. I have noted that the customer says in response to my Preliminary Decision that he has been provided by the company only with the most recent copy of the Charges Scheme by way of hard copy documentation, but I find that this was, even if correct, remedied by the information posted on PEGA. While I note that the customer does not have a PC at home, he says that he uses a PC in a local library and, as indicated above, he has been given a long time to make comments on the Charges Scheme if any points have arisen from the provision of these documents on the online system. As also explained above, the customer has submitted no information to demonstrate that the bills provided are not in accordance with the Charges Scheme. In his response to my Preliminary Decision, the customer has raised again the point that I have explained above cannot be considered by me because it has been the subject of a previous application to WATRS, namely whether the Charges Scheme allows the imposition of standing charges. Even if the customer thinks that

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the wrong outcome was arrived at on his first application to WATRS (which is not a finding I make), I cannot now reopen this for the reasons explained.

21. I do not find that the company has failed to meet expected standards in this regard.

Hardship tariffs

22. The customer has been making payments of £10.00 per month, which he regards as appropriate. The company, however, has argued that this does not reflect his water usage, even after being placed on a low-income tariff. The correspondence passing between the company and the customer explains that in January 2022, the company stated to the customer:

With regards to how you repay your debt, the criteria of the REDACTED is that you must meet your current consumption, which as previously advised works out at £13.00 per month. As I have, as a good will gesture, placed you on our Back on Track (BOT) scheme any payment that you make will be matched pound for pound so long as you make regular payments for a minimum of the monthly amount.

23. The customer does not agree that this is the way forward and says that his usage is 5.7m³ per month and he should be paying a lower amount. The customer says that the company has not supplied him with details of all its available tariffs and therefore he cannot compare these.

24. The company says that it does offer several tariffs for measured customers; however, it applies the standard tariff until such time as the customer applies for another tariff. It confirms that the customer is now billed according to its REDACTED, which it says is the most appropriate tariff for the customer. It denies overcharging.

25. The customer in response to this asks that the company should provide him with information about how its policies are derived and its tariffs calculated. The company says that this is commercially sensitive information and it would not reasonably be expected to provide this to a customer.

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26. The company has, I find, provided the customer with relevant information about the tariffs including in the leaflets supplied via CCWater. I note that in its email to the customer dated 28 January 2022, the company has explained:

You are on our REDACTED which is billed at 50% of the standard rate and as previously mentioned, based on a yearly usage of 69M3 it works out at £13.00 per month. Of course this may change depending on your water usage. In addition to this REDACTED has placed you onto our REDACTED, as a gesture of goodwill. This means that for every payment you make, REDACTED will match it pound for pound.

27. 29 January 2022, the company has provided the web address for:

a. Aqua-Care Plus. The company has also explained about the web-page:

This page demonstrates that this tariff has a higher fixed rate than our standard tariff but charges less for water used, this benefits higher water users in keeping down the cost of their cubic meters used but they pay a higher standing charge. The costs are also clearly detailed on the website. In order to be eligible for the REDACTED the customer must be in receipt of a means tested benefit and these are listed on the website.

In addition, in January 2022, the customer was informed that this tariff was only for customers who use more than 75m³ per year and the customer's usage was less than that volume.

b. REDACTED. The company has also explained:

This section details how the REDACTED charges are calculated and is a fixed cost tariff that you qualify for if your water usage is higher and you are in receipt of a means tested benefit. As previously advised to you this is a government tariff that we offer therefore we would have no policies on the tariff as all Water companies offer this tariff. Policy/criteria can be found on the Ofwat website: <https://www.ofwat.gov.uk/households/customer-assistance/REDACTED/>

This is a tariff for low-income eligible households, in order to have this tariff you must complete REDACTEDs Extra Care Assessment which determines if you are eligible.

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We will not disclose the thresholds for this tariff as it is commercially sensitive data. We are not obligated to disclose the information to our customers, Ofwat as our regulator are aware of our thresholds. Every customer is assessed against the same criteria in order to ensure everyone has a fair assessment. The REDACTED is our social tariff and is cross subsidised by other customers, this means that we may need to manage our criteria in order to keep the tariff open and available to new customers.

- c. In respect of the REDACTED, the company said

The REDACTED is awarded through the Extra Care Assessment based on how much of a percentage the water bill is of the customers disposable income. We use Ministry Of Justice average expenditure to account for expenditure in line with occupancy and age. We consider this fairer as personal expenditure can differ widely and we are not a financial authority.

I can see from your previous emails you keep referring to “Extra Care “ and being entitled to it, I would like to make things clearer for you. “Extra Care” is a team within the business that is responsible for the Extra Care Assessment and helping our vulnerable customers or customers with debt. There is no policy for this as it is a department.

28. The documentation supplied by CCWater also reveals that the customer could not have been eligible for Aqua Care Plus or REDACTED because he has refused to apply for relevant benefits.
29. In the application form, the customer additionally asks the adjudicator to direct that the company should provide its criteria for the REDACTED. The company says, however, that this is a discretionary fund and it is its policy not to publish this.
30. I find against this background that there is no persuasive evidence that the customer is on an incorrect tariff or that the company has failed to provide relevant information. Although the company has not supplied the customer with information about the way in which tariffs and policies are formulated, I find that this is information that is internal to the company’s business operations. I find that an average customer would not reasonably be expected to be provided

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with this. Moreover, there are a number of reasons why I could not make a direction for the provision of this. These include:

- a. That the customer has already been referred to the Information Commissioner's Office in respect of this complaint, both by the company and by CCWater. This complaint is therefore more appropriately addressed within that forum. Rule 3.5 of the Scheme rules applies.
- b. In any event, the question of the fairness of the company's policies and tariffs cannot, by reason of rule 3.5 of the Scheme rules, fall within my jurisdiction as explained above. I find that the making of a direction that the company should take practical action, the purpose of which is to enable the customer to carry out an analysis that could not be brought to this Scheme, is a matter that should only be considered in exceptional circumstances. As there is no evidence that the customer has been unfairly billed or unfairly treated, I do not find that exceptional circumstances arise.
- c. Moreover, I accept the company's point that this information is commercially sensitive. I find that an average customer would not reasonably expect this information to be provided.

31. I find that the company has supplied the customer with the information that would be made available to other consumers and he has not been treated unfairly. The company has therefore not failed to meet the expected standard of transparency because it has declined to make this information available to the customer.

32. It follows from the above that, although I recognise that the customer is struggling with financial hardship and would wish to reduce his outgoings and although he believes, as he explains in his comments on my Preliminary Decision that he is the victim of discrimination by the company, CCWater, WATRS and by me, I find that he is not able to succeed in his claim for a remedy against the company.

Outcome

The company does not need to take further action.

This decision is final and binding on the parties involved in the adjudication unless this is necessary in order to enforce the decision.

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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