

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X250

Date of Final Decision: 16 December 2022

#### Party Details

Customer:

Company:

#### Complaint

The customer owns a flat above a former shop and even though the shop has not traded for ten years and has no water fittings, the company charges him on a non-household basis for the entire property. The customer also experienced flooding at his property but the company refused to grant him a leakage allowance. The customer complained and asked the company to deregister his property from the non-household market. However, the customer service provided by the company during the complaints procedure was very poor and, therefore, he would like the company to apologise and pay him a gesture of goodwill.

#### Response

The customer has not authorised the company to ask the wholesaler, REDACTED to check the supply arrangements at his property, and the customer has not provided evidence to show that there are no water fittings at the shop. Therefore, the company cannot request the wholesaler to transfer the account to the household market. As the customer's retailer, the company is not obliged to pay him a leakage allowance and it has correctly advised the customer of the wholesalers' leak allowance policy. The company has replied to the customer's correspondence in a timely manner and has provided the customer with detailed information at all times. In view of the above, the company denies responsibility to apologise to the customer and pay him a goodwill gesture.

#### Findings

I accept that the company is not responsible for deregistering properties from the non-household market and providing leakage allowances to non-household customers, and the evidence does not show that the company has failed to provide its service to the standard reasonably expected by the average customer. In view of this, I cannot direct the company to apologise to the

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customer and pay him a goodwill gesture; therefore, the customer's claim does not succeed.

Outcome

The company does not need to take any further action.

# ADJUDICATOR'S FINAL DECISION

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## Case Outline

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

- He owns a flat above a former shop and although the shop has not traded for ten years and has no water fittings, the company charges him on a non-household basis, which is more expensive.
- He raised a complaint about his high charges to the company and asked it to deregister his property from the non-household market, and he also complained that the company had refused to provide a leakage allowance following a leak on his toilet.
- The customer service he received from the company during the complaints procedure was very poor.
- In view of this, he would like company to review the customer service it provided to him, apologise for its failings and pay him a gesture of goodwill.

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

- It is a retailer and classification of a property as household or non-household is decided and set by the wholesaler, REDACTED ("REDACTED").
- In order to address this complaint, it is first necessary to address the issue of the wholesaler retailer split that occurred on 1 April 2017 and how this affected the responsibility of the water networks.
- Prior to this date, there was no division between household ("HH") customers and non-household ("NHH") customers and the customer's water undertaker was REDACTED, who was responsible for providing the customer with water services and recovering the costs of doing so directly from the customer.
- In April 2017 this changed and the market was split, separating the industry into 'wholesalers' who supply clean water and take wastewater away, and 'retailers' from whom NHH customers buy these services. The wholesaler now bills the retailer in bulk for the water used by its customers, with the retailer then passes these costs on to their customers.
- Wholesalers are responsible for classifying properties as either HH or NHH depending on whether properties appear in the business rates or council tax registers.

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- The customer's property appears in the business rates register and is therefore correctly in the non-household market.
- Wholesalers are responsible for creating policies on leakage allowances. There is no legislation obligating a wholesaler to provide a leak allowance, but REDACTED's policy follows the best practice guide and provides allowances for underground external supply pipe leaks only.
- It first received contact from the customer on 1 March 2021 when a voicemail message was left requesting a call back. It called the customer on 2 March 2021 but received no answer, so a voicemail was left for the customer.
- The customer called on 3 March 2021 to advise that he had received a high bill. The customer was advised that the January meter reading looked to be higher than historic readings, and the customer was advised to check for leaks.
- It then sent the customer an email explaining how to complete a stop tap test and confirming that should a leak be found on the underground external supply pipe and be repaired within 30 days, the customer may be entitled to a leak allowance.
- The customer called on 5 March 2021 to confirm that he had located and repaired a leak on the toilet cistern overflow. A high consumption case was opened to await a repair reading from the customer. On 22 March 2021, the customer provided this.
- A further email was sent to the customer confirming the constraints of REDACTED's leak allowance policy and providing the application form to request an allowance. A hold was placed on the customer's account to prevent reminder letters being sent while an application was considered by REDACTED.
- On 29 March 2021, it received the customer's application for a leak allowance which stated that the leak was located on the toilet. On 12 April 2021, it called to advise the customer that no allowance would be granted due to the location of the leak on the customer's toilet cistern. The customer advised that he still wished for his application to be submitted to REDACTED despite the leak not qualifying for an allowance under the policy, so a leak allowance request was submitted. The allowance request was rejected by REDACTED as the leak did not meet the allowance policy criteria due to its internal location.
- The next contact from the customer was over three months later on 23 August 2021 when the customer received a further high bill. At that time, the customer also advised that he was unhappy that bills were sent to the supply address as he was unable to pick them up.
- A new high consumption case was opened for the customer and an email was sent with copies of bills, stop tap test instructions, and details on how the customer could set up an online account to ensure bills would be received more quickly.

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- The customer made contact again on 3 September 2021. During this call he advised that the meter readings seemed to fluctuate, he believed the property should be classed as domestic, and he may cut the water off to stop any further charges.
- It advised the customer about how to request a meter accuracy test should he believe the meter to be faulty, and provided information about the deregistration process and the disconnection process.
- On 11 October 2021, the customer made a formal complaint about various issues including his high bills, being refused a leakage allowance, and being classed as a business customer. On 12 October 2021, it responded to the points raised by the customer.
- On 2 November 2021, it advised the customer that deregistration could be investigated should he provide evidence of why he believed the property to be incorrectly classified despite its appearance in the business rates register. The customer failed to provide information to support an application.
- On 22 February 2022, it received correspondence from CCW asking for the property to be deregistered. It advised that the customer needed to submit a formal request as the wholesaler would charge the customer should deregistration not be possible.
- To date, no application for deregistration has been received.
- As there is no requirement for a retailer to provide a leakage allowance and it correctly advised the customer of the wholesalers' leak allowance policy, it denies liability to pay a leak allowance to the customer.
- As the customer has not provided authorisation to request the wholesaler to check the supply arrangements at the property, and he has not provided evidence to show that there are no water fittings in the shop, it cannot request the wholesaler to transfer the account to the household market.
- As it has replied to the customer's correspondence in a timely manner and has provided the customer with detailed information at every stage, no GSS or goodwill gesture is due to the customer.
- In view of the above, it denies responsibility to apologise to the customer and pay him a goodwill gesture.

### 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.

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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. Having reviewed the evidence provided by both parties, I find that the company is the customer's retail provider and is responsible for billing, accounting and customer services. REDACTED is the customer's wholesaler and, as such, is responsible for the maintenance and repair of the water and sewerage assets and, amongst other things, the calculation and authorisation of leakage allowances and classifying properties as household or non-household for billing purposes. Therefore, REDACTED, not the company, is responsible for assessing the customer's eligibility for a leakage allowance and whether the customer's property can be deregistered from the non-household market.
2. In order to make a decision in this matter I must clearly distinguish between actions taken by the wholesaler and the duty owed by the retailer (the company) to its customers. Since the water market in England opened up to retailers in April 2017, all non-household customers have been moved to a wholesale/retail split service. As a result, a non-household customer now only has a relationship with the retailer. In turn, an adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, as the party to the case, has responsibility, and not those things for which the wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between the wholesaler and the customer.
3. The customer complains that the company's customer service was poor when dealing with his complaint about the high charges on his account, his property being registered as non-household, and being refused a leakage allowance. For clarity, I must explain that because the

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wholesaler is not a party in this case, I am unable to adjudicate on the conduct, or liability, of the wholesaler. This means that I am unable to make any determination regarding the wholesaler's refusal to grant a leakage allowance to the customer or its decision to charge the customer's property on a non-household basis. However, I am able to consider whether the company provided its services to the expected standard when dealing with the customer's complaint and when acting as an intermediary between the customer and the wholesaler.

4. The email evidence provided by the company demonstrates that the company sent the customer's leak allowance application form to the wholesaler, and the wholesaler refused the customer's application as the leak was on an internal fitting for which it is not responsible. The evidence shows that the company then accurately explained why the application had been unsuccessful to the customer.
5. The evidence also shows that the company asked the customer to provide information to show why he believes his property should be deregistered from the non-household market, and asked him to give authority to allow the wholesaler access to the shop to survey the supply arrangements.
6. The evidence does not show that the company failed to respond to the customer's correspondence in a timely manner as all the customer's queries and complaints were answered within the expected timeframes, and there is no evidence of any other customer service failings.
7. In view of this, I am unable to conclude that the company has failed to effectively operate as an intermediary between the wholesaler and the customer, or that the company has failed to provide its service to the standard reasonably expected by the average customer.
8. I appreciate that the customer will be extremely disappointed by my decision but, as I have found no failing on the company's part, I cannot direct the company to apologise to the customer or pay him a gesture of goodwill; therefore, the customer's claim does not succeed.

#### **Outcome**

The company does not need to take any further action.

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## What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 30 December 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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