

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT/XX/X340

Date of Final Decision: 30 January 2023

#### Party Details

Customer:

Company:

#### Complaint

The customer states he is entitled to a further sewage water drainage rebate dating back to when he moved into the property in 2009. He disputes the company's claim that it was unaware his property and those in his block and on his Close were not connected to its sewer network. The customer requests that the company provide a further rebate of his sewage water drainage charges, apologise to members of his Close and pay him compensation (unspecified amount).

#### Response

The company says it accepted the customer's application for a sewage water drainage rebate and in accordance with its Charges Scheme, backdated this to 1 March 2017. It denies it is responsible to backdate the rebate further as it did not know the customer's surface water did not drain into its drainage network. The company made no offer to settle the claim.

#### Findings

The company has provided a surface water rebate to the customer which is in line with its Charges Scheme. There is insufficient evidence to show the company is responsible to provide the customer with a further rebate backdated to when he moved into the property in 2009. The company also confirms that either it has already or will ensure surface water rebates are applied to properties within the customer's block. This is also in line with its Charges Scheme. Therefore, I do not find that the company has failed to provide its service to the standard reasonably expected.

**Outcome**

The company does not need to take any further action.

The customer has until 27 February 2023 to accept or reject this decision.

# **ADJUDICATOR'S FINAL DECISION**

**Adjudication Reference: WAT/XX/X340**

**Date of Final Decision: 30 January 2023**

## **Case Outline**

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

- He lives in one of the 16 flats within a block. On this estate sharing the same drainage system, there are a total of 143 flats all within his Close. 43 of these properties are either council tenants or part rent / part buy why do not have proof of drainage as the lease is held by a Housing Association.
- He became aware that he had been charged for removal of surface water and applied for a rebate which he received and was backdated for six years. He was asked to provide information showing that the surface water was being drained into a local river and not into the company's sewer. He provided evidence of his lease map to the company.
- He then asked the company why had he been charged in the first place and the company stated it was unaware that this estate of 143 houses had drainage into the local river.
- The customer disputes this and says he has a Land Registry document dated 11 January 2007 that states that permission licences for the soak-away must be sought from the company.
- Therefore, the company was fully aware that this estate was being built with waste water drainage going into the river but chose not to apply the rebate until someone applied. He moved into the property in 2009 so it should be backdated until then as the company has knowingly not applied it.
- He was told verbally told that the drains were adopted in April 2014.
- The Consumer Council for Water (CCW) asked the company why the other residents in his block and on the estate did not get the rebate automatically backdated and had to apply individually.
- CCW also asked the company to review its records and provide evidence to show the first contact made by any residents within his block since it started billing residents, including those

living on the Close. The company answered the first part but not regarding those living on his Close.

- The customer requests that the company:
  - Do something about his bill; backdate SWD rebate to 2009.
  - Provide an apology to the members of his Close.
  - Pay him compensation (unspecified amount).

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

- In summary, it received information from the customer that the rainwater which falls on to the roof of his building and other areas within the curtilage where he lives does not make its way into a surface water sewer; rather it runs into the local river.
- The customer feels it ought to have known this from when the property was built and he wants a refund for the payment of surface water drainage (SWD) back to the date he moved into the property in 2009. It explained that it did not know private arrangements for customer's properties and because of this, it advertises on all its bills that customers must apply if they believe there is no SW connection. Furthermore, if the property is a new development, it needs the developers to advise it if they have not made any surface water connections.
- Once an application for a rebate is made, it can investigate and the customer will also be required to provide the evidence of no connection. It can then provide a refund for a maximum of six years, if eligible. This is clearly set out in its Charges Schemes, which has been approved by Ofwat, and in its policies.
- Its mapping confirms that when developers put in the surface water arrangements all pipework below ground makes its way from the customer's Close, under the main "B" road to the river.
- In 2008 it set up an account for water and full wastewater charges in the name of the developer who built the property and who were responsible for the charges before the occupier moved in. The developer did not inform it that they had not connected their SWD system to its network and there was no surface water connection made by them and therefore the full wastewater charges remained against the property.
- On 25 March 2009, it was informed that the customer had moved in to the property and it opened an account for him. Bills were sent for water and full wastewater charges.
- On 14 July 2022, the customer submitted a webform applying for a rebate to be considered.
- On 20 July 2022, a rebate dating back to 1 March 2017 for waste water charges was granted.

- The customer contacted it by social media on 25 July 2022 and on 27 July 2022, it received an email from the customer. Under its Customer Guarantee Scheme (CGS), it must reply to all written complaints within 10 working days. If it fails to do so, £20.00 is credited to a customer's account. As such the company states it credited £20.00 to the customer's account on 22 August 2022.
- It had contacted with the customer via social media between 15 to 23 August 2022 and between 1 and 9 September and received an email from him on 5 September 2022 regarding the rebate.
- Its case manager spoke to the customer on 5 September 2022 and as he remained dissatisfied, it escalate his complaint to stage 2 of its complaint procedure and spoke to him on 14 September 2022. It wrote to the customer on 27 September 2022 explaining it was unable to store copies of bills for more than six years therefore it attached his bills from March 2016.
- It called the customer on 3 October and 10 October 2022 regarding the points he had raised including in relation to updating residents in other flats. It advised that its position remained unchanged and no further refund would be given.
- It wrote to the customer on 18 October 2022 providing its Charges policy.
- It responded to contact from CCW on 23 November 2022 (sent directly to the customer).
- On 12 December 2022, its Case Manager went through all accounts for each flat and found that it had never received an application for a rebate from any customer prior to the application made by the customer.
- Therefore, it was entirely happy that it had not failed in being proactive and the customer's rebate was correct and in line with its Charges Schemes and policies.
- On 13 December 2022, it replied to contact from CCW advising it had checked the accounts for each property (within the customer's block of flats) and with the exception of a few, the SWD discount has been applied. It confirmed it would be ensuring those properties that were missed will have the SW discount applied to their billing and backdated to the correct date.
- On 14 December 2022, it received a further email from the customer which it has not yet replied to.
- The company states it has taken the following steps to resolve the customer's complaint:
  - Ensured all water services bills sent to the customer have included the fixed messaging about claiming a surface water rebate.
  - Processed the customer's application for a surface water rebate in line with its Charges Schemes and policies.

- Been proactive in ensuring others in the flats have been contacted to invite them to apply.
- Checked that it received no applications for a rebate from any other customers in the same postcode as the customer prior to 2017.
- Been consistent with its replies to the customer.
- Signposted the customer to CCW and engaged with them
- Ensured the customer has received all CGS payments he's entitled to.
- Regarding the customer's request for compensation, it has seen no service failures in this matter which would warrant any compensation. It has been consistent with its decisions and explained its position throughout.

### **Reply**

- The customer states it seems that the company has all the transcripts (of conversations it had with him on social media) and can state (but not evidence) what was on his bill in 2009. He says this is a minor point and he is willing to let this drop even though in these transcripts, the company indicate it did not know about the surface water pipe, but after he provided evidence it admitted it did.
- He is the chairman of a residents property management company so therefore represents the 143 flat owners.
- He feels for these residents who are experiencing difficulty in obtaining a rebate from the company as they have no means to put in a claim as they do not have the evidence for example deeds. The customer seeks Ofwat to change its policy so that residents sharing the same area automatically get SW discount.

### **Comments on Preliminary Decision**

- The customer reiterates that the company was aware of surface water draining into the river as it was a condition of the building estate and it inspected the drains in 2004.
- He states that residents in blocks in the same vicinity whose surface water drains into the local river should automatically receive the rebate. He provides the name of a block.
- The company comments that it will look proactively at the additional block the customer has advised of.

### **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.

#### How was this decision reached?

1. The customer requests in his Reply that Ofwat change its policy so that customers in the same area automatically get SWD discounts. I remind the parties that in accordance with Scheme Rule 1.1, WATRS provides an independent process for adjudicating unresolved disputes between participating water companies, water and sewerage companies and water supply and/or sewerage licensees and their "customers". Therefore, I find that WATRS has no jurisdiction or powers to direct the regulator to change its policy as such, I am unable to address this request further.
2. The customer's claim concerns the level of SWD rebate received from the company. He seeks a rebate of SWD charges from the date he moved into the property in 2009.
3. The company states that it handled the customer's application for a SWD rebate in accordance with its policies and Ofwat guidance and it denies it is responsible for backdating the customer's rebate to when he moved into the property in 2009.
4. I find that section 9.5 of the company's Charges Scheme states that where it is proven that no surface water from a property drains into a public sewer, it will rebate the SWD charge.

Further, I find it makes clear that it will backdate the rebate to a maximum of six years; “the current financial year plus a further five”.

5. I note that on receipt of the customer’s application to the company for a SWD rebate dated 14 July 2022 which included information showing no connection to its surface water sewer, the company processed a SWD rebate of £142.95. On balance, I am satisfied from the information provided in the Response including the SWD charge table showing current and previous SWD charges, that the rebate provided equals the customer’s total SWD charges dating back to 1 March 2017. Therefore, I find that by providing the customer with a rebate of the SW element of charges dating back six years, the company acted reasonably and in accordance with its policy.
6. Regarding the customer’s request for a SWD rebate dating back to 2009, being the date he moved into the property, the company has refused this request which the customer disputes. I find that guidance on Ofwat’s website states customers who qualify for a SWD rebate may be refunded some of the amount they previously paid. Further, it states where a company knows or might reasonably be expected to have known that a property is not connected to its sewerage system for SWD, it would expect it to apply the rebate from the date at which it knew or might reasonably be expected to have known the property was not connected.
7. The company says it does not know private arrangements for customer’s properties until it is told. In the customer’s case, it says that the developer who built the property did not inform it that they had not connected their SWD system to its network and therefore the full wastewater charges remained against the property. Furthermore, in its response to CCW dated 13 December 2022, the company said it has reviewed all of the accounts for the customer’s block and there is no evidence it received an application for the SWD rebate prior to the application made by the customer. In the absence of any evidence showing otherwise, on balance, I accept the accuracy of company’s above submissions. Whilst I have carefully considered the customer’s comments on the Preliminary Decision, as there is no new evidence, I find that they do not affect my above finding.
8. I note that in its Response, the company indicates that its mapping does show that the customer’s property building is not connected to the sewer for surface water drainage. However, on balance, I do not find it reasonable to expect the company to survey its extensive



mapping system to specifically find properties that may be entitled to an exemption from the surface water drainage charge.

9. Therefore, after a careful consideration of the evidence, I do not accept that the company knew or ought to have known that the customer was entitled to an exemption before he applied for a SWD rebate on 14 July 2022. As such, there is insufficient evidence to establish that the company failed to provide its service to the standard to be reasonably expected by refusing to backdate the SWD rebate to 2009. Therefore, the customer's claim for a further rebate is unable to succeed.
10. Regarding the customer's request for the company to apply the rebate to residents within his block, I note that section 9.5.6 of the company's Charges Scheme states: "If your property is part of a block of flats or maisonettes and you successfully apply for a rebate, we will automatically apply the rebate to all the properties within the block of flats or maisonettes and their rebate will apply from the date you made the application".
11. I find that in its response to CCW dated 13 December 2022, the company confirmed it had reviewed the accounts for each property (within the customer's block) and said that with the exception of a few, the SWD discount has been applied. The company provided an assurance that it would apply the SWD discount and backdate it to the correct date to those properties that were missed. Therefore, on balance I am satisfied that the company has acted in accordance with its Charges Scheme in this regard.
12. The customer also requests that the company apply the SWD discount to all of the properties in his Close on the basis they also do not connect to the company's sewer network. As this request relates third parties whom are not part of these adjudication proceedings, I find that this remedy falls outside of the scope of WATRS. I acknowledge the customer's comment in his Reply that as the Chairman of a residents property management company, he is a representative for these residents. However, I do not accept this as no such authority is clear from his application to WATRS, in accordance with Scheme Rule 2.2. Nonetheless, it is noted the company has provided an assurance in its Comments on Preliminary Decision that it will look proactively at the additional block the customer advised of in his Comments on Preliminary Decision. However, this is an issue for the parties to discuss outside of this process.

13. I find that the remedy requested by the customer for the company to provide an apology to members of his Close, also falls outside of the scope of WATRS on the same basis.
14. I note from the Response that the company did not provide a response to the customer's written complaint dated within the 10 working day timescale stated in its CGS. However, as the company has shown its applied a credit of £20.00 to the customer account in recognition of this, I am satisfied it has already provided reasonable redress for this instance of its service provided not reaching the expected standard. I find that there is a lack of evidence to demonstrate any further customer failure by the company when handling the customer's concerns raised.
15. Therefore, I am satisfied that overall the company has provided its services to the standard to be reasonably expected when handling the customer's request for a SWD rebate and related concerns raised through its complaint process and via CCW.

#### **Outcome**

The company does not need to take any further action.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 27 February 2023 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.

A handwritten signature in black ink, appearing to read 'A. Jennings-Mitchell', written on a light-colored background.

**A. Jennings-Mitchell**, Ba (Hons), DipLaw, PgDip (Legal Practice)

**Adjudicator**