

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X507

Date of Final Decision: 4 June 2023

Party Details

Customer: XX

Company: XX

Complaint

The customer says that she has been billed incorrectly for a number of years, and the company's approach to billing and billing information is unfair and non-transparent.

She requests that the company pay compensation of £6,802.12.

Response

The company says that the customer has been billed correctly, that it is transparent regarding its approach to billing, and that questions of the fairness of its approach to billing do not fall within the scope of WATRS.

No offer of settlement has been made.

Findings

The company provided its services to the customer to the standard to be reasonably expected by the average person.

Outcome

The company does not need to take any further action.

The customer must reply by 30 June 2023 to accept or reject this decision.

ADJUDICATOR'S FINAL DECISION

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Case Outline

The customer's complaint is that:

- During the first few years after moving into the Property, she requested that a meter be installed.
- She was told at that time that a meter could not be installed, due to access problems in the road.
- The company did not at that time suggest that she apply online for a meter, and she did not have an online account, so no determination was made that she should be charged differently.
- The language in the bills regarding meters is vague and non-transparent, and does not make clear if her bills would go up or down if it was determined that a meter could not be installed.
- She is unaware of any clear guidance regarding this issue in the company's literature.
- She believes that she is victimised by the company's use of the rateable value of the Property as the basis for her bills, as although there are three bedrooms in the Property, only two people live there.
- She believes that the company has put profits above customer care and that as a result she has not been fairly charged.
- She requests that the company pay compensation of £6,802.12.

The company's response is that:

- The customer has not explained the basis for the amount of compensation claimed, or provided sufficient supporting evidence.
- The customer moved into the Property approximately 22 years ago.
- Until recently, billing for the Property has been based on its rateable value.
- The company has no evidence of the customer making contact after moving into the Property to request a meter, although it does have records covering the entire relevant period.
- The earliest record of the customer contacting the company about installation of a meter is 24 January 2020.
- After this contact, a meter survey was completed on 3 March 2020, and it was determined that a meter could not reasonably be installed.
- As a meter could not be installed, the customer was placed on an Assessed Charge, based on the number of occupiers in the Property.

- An Assessed Charge is only available once it has been determined that a meter cannot be installed.
- The company says that the customer has been billed correctly, and that it provides appropriate information about its charges.
- The customer's claim is limited by the Limitation Act 1980.
- The company denies liability for the customer's claim.

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

- The compensation claimed reflects the excess she has been charged since moving into the Property, due to the improper use of rateable value as the basis of her billing
- She reiterates that prior to 2010, an agent of the company visited the Property to explore installation of a meter. When it was determined that a meter could not be installed, no alternative solutions were offered.
- As she did not have internet access, due to the Property's rural location, she could not apply for a meter online and so could not be moved to the Assessed Charge earlier.

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. In many disputes, the evidence as to precisely what happened will be to some degree unclear, and the law addresses this uncertainty through what has come to be known as the “balance of probabilities” test. Under this test, the decision-maker must look at the evidence provided by the parties, and decide what is most likely to have happened based on that evidence. Importantly, this decision is only based on the evidence provided by the parties, and so is made with full knowledge that the evidence provided may in some way be misleading, or that there may be additional evidence that would justify a different conclusion. However, as a decision must be made, it must be made based on the evidence actually provided, not on the decision-maker’s unsupported speculations regarding what may or may not have happened.
2. In addition, the law requires that disputes be decided in accordance with “burdens”, with the customer having the “burden” of producing evidence to support the claim. This means that if the evidence provided by the parties is evenly balanced between the accounts of the two parties, or is otherwise insufficient to justify a conclusion that the customer’s account is more likely than not correct, then the customer has not met the burden and the claim cannot succeed. Again, this evaluation must be made based on the evidence actually provided by the parties, not based on unsupported speculation by the decision-maker regarding what may or may not have happened.
3. In the present case, the customer states that she contacted the company shortly after moving into the Property, to ask about a meter being installed, and was told by one of the company’s engineers that it could not be done. However, the company denies having evidence of such a contact, and no such contact is shown in the detailed contact record produced by the company, which extends back to 14 May 2023. The customer has produced no evidence of her own to support her statement that this request was made at that time, and that she received the guidance she says was given.
4. In her comments on the Proposed Decision in this case, the customer notes, entirely reasonably, that “We are not in the habit of filming or recording exchanges with energy company operators and their employees”. However, the customer’s obligation is only to provide evidence sufficient to make it “more likely than not” that the exchange she describes occurred, and so direct evidence of this nature is not required. Alternative evidence might, for example, consist of communications with a third party at the time of the exchange in which the exchange was mentioned, or similar but later communications prior to the customer’s current dispute with the company in which reference was made to the customer being told by the company that a water meter could not be fitted. However, no evidence of this nature has been provided.

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5. As explained above, the customer has the burden of producing evidence to support her claim, and given the absence of any positive evidence that a meter was requested prior to 24 January 2020, I must find that she has not met this burden. To be clear, this does not mean that I find that the customer's description is untrue, but a decision must be made on the basis of the evidence actually produced, rather than on unsupported speculation by the adjudicator.
 6. In her comments on the Proposed Decision in this case, the customer also reiterated her concern that an application via the internet is the "exclusive, discriminatory way of applying for water meters and adjusting costs". However, the customer has produced no evidence of contacting the company and explaining that she was unable to apply through the internet, but being told by the company that there was no alternative even if she lacked internet access.
 7. I find, therefore, that the customer was not entitled to be moved to an Assessed Charge prior to 2020, as there is insufficient evidence to justify a conclusion that the customer requested a meter prior to 14 January 2020.
 8. The customer has also challenged the company's use of the rateable value of the Property as the basis for her bills, as she believes this has resulted in her charges being higher than her actual water usage would justify.
 9. 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.
 10. 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.
 11. In the present case, the customer's challenge is not to the specific manner in which the company has applied its charges scheme to the Property, but to the content of the charges scheme. As just explained, such a complaint cannot be resolved by a WATRS adjudicator, as issues of the fairness or correctness of the company's charges scheme must be addressed by Ofwat.

12. As a result, while I understand the customer's concern that the company's use of the rateable value of the Property may have resulted in her paying more than justified by her actual water usage, whether this is an unfairness that must be addressed, or just an unfortunate consequence of an overall fair billing approach, is not a question that can be addressed in this decision. If the customer believes she has valid arguments to make in this respect, those arguments must be raised to Ofwat.

13. The customer also argues that the company's literature is not transparent regarding the potential savings from unsuccessfully applying for a water meter and being moved to an Assessed Charge. However, the bills provided to the customer expressly note that installation of a water meter may result in lower charges, and the Assessed Charge is based on an estimate of the amount that would be charged if a water meter was installed. I find, therefore, that by advising the customer that installation of a water meter could result in lower charges, the company fulfilled its duty of care to the customer.


14. For the reasons given above, the customer's claim does not succeed.

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 30 June 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.



Tony Cole

Tony Cole FCI Arb

Adjudicator