

WATRS

Water Redress Scheme

ADJUDICATOR'S FINAL DECISION SUMMARY

Adjudication Reference: WAT-X577

Date of Final Decision: 20 July 2023

Party Details

Customer: XX

Company: XX

Complaint

The customer claims that due to a “cyber incident” at the company’s servers, the customer’s personal information was released onto the dark web, including the customer’s name, address, bank details and other personal data. Furthermore, the company did not notify her of the “cyber incident” until several months later and failed to provide specifics of what was breached. The customer seeks the company to explain precisely what other personal data had been breached and pay £100.00 for the poor customer service.

Response

The company says the customer’s complaint is about a “cyber incident”, which is outside the scope of the types of disputes that WATRS can deal with. The company has stated that the matter would be more appropriately referred to the Information Commissioner’s Office (ICO). The company understands the customer’s frustration with the time taken to notify her of the data breach. However, investigations like this are very complex, and it takes time to understand what happened and then to analyse the data that could have been impacted. As soon as the company was aware that it needed to notify its customers in compliance with its legal obligations, it began to do so. The company has not made any offers of settlement.

Findings

I am satisfied the evidence points to the fact that the company did not provide its services to the customer to the standard reasonably expected by the average person concerning customer service.

Outcome

The company shall pay the customer £100.00.

The customer has until 17 August 2023 to accept or reject this decision.

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Case Outline

The customer's complaint is that:

- Due to a “cyber incident” at the company’s servers, the customer’s personal information was released onto the dark web, including the customer’s name, address, bank details and other personal data.
- Furthermore, the company did not notify her of the “cyber incident” until several months later and failed to provide specifics of what was breached.
- The customer seeks the company to explain precisely what other personal data had been breached and pay £100.00 for the poor customer service.

The company's response is that:

- The customer’s complaint is about a “cyber incident”, which is outside the scope of the types of disputes that WATRS can deal with.
- The company has stated that the matter would be more appropriately referred to the Information Commissioner’s Office (ICO).
- The company understands the customer’s frustration with the time taken to notify her of the data breach.
- However, investigations like this are very complex, and it takes time to understand what happened and then to analyse the data that could have been impacted.
- As soon as the company was aware that it needed to notify its customers in compliance with its legal obligations, it began to do so.
- In response to the customer’s request for compensation, this has now been passed to the company’s external legal team, who will be in direct contact with the customer regarding her 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 another disadvantage as a result of a failure 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 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. I note the company's statement that the Preliminary Decision is not accepted by company and its request that no further action is taken in relation to the complaint until WATRS have liaised directly with the company's legal team. However, no substantive comments on the content of the Preliminary Decision have been put forward by the company, and a case cannot be put on hold as it has requested.
2. The dispute centres on whether the company provided poor customer service following a "cyber incident" at the company's servers in which the customer's personal information was released onto the dark web, including the customer's name, address, bank details and other personal data.
3. WATRS Rule 3.4.1 states that WATRS may reject all or part of an application to the Scheme where "*a customer should be referred to a more appropriate forum for the resolution of the dispute*".
4. Having reviewed the customer's application to WATRS, I note that much of the dispute is indeed related to a data protection breach involving the customer's personal data being leaked. Such matters are best referred to the ICO, as WATRS does not have the expertise or jurisdiction to deal with data protection issues. Therefore, I believe that any matters regarding the "cyber incident" itself are out of scope.
5. However, notwithstanding the above, I also note that the customer's application says that the customer was unhappy that she was not notified of the "cyber incident" until several months later and had to ask several times about the specifics of what was breached. These are allegations of

poor customer service that are not in and of themselves about the “cyber breach” but relate to how the company corresponded with the customer. The company has certain obligations regarding its customer services as set out in the OFWAT Guaranteed Standards Scheme and its Guaranteed Service Scheme, and I find that how the company corresponded with the customer falls within the scope of this adjudication.

6. From the evidence the customer and the company put forward, I understand that in August 2022, the company contacted the customer to advise that the customer’s personal information had been released to unknown third parties in a “cyber incident”. It is not clear from the evidence exactly when the data breach took place.
7. In December 2022, the customer contacted the company to ask about the specifics of what data was breached and to ask for compensation for the distress and inconvenience incurred. The company responded by advising the customer that it would not be offering compensation as it has no evidence that the customer has suffered financial loss because of the incident. Furthermore, data breach investigations are very complex, and it takes time to understand what happened and then to analyse the data that could have been impacted.
8. The customer was unhappy with this outcome, and on 16 December 2022, the customer progressed the matter to CCWater to resolve without success.
9. The company has certain obligations in respect of its customer services. From the evidence provided, I am satisfied that by the end of the company’s dialogue with the customer, the company had adequately explained the reasons why it took a considerable period of time from the date of the data breach to the date it informed the customer of the data breach. However, the evidence shows that the company provided poor communication throughout the dispute and incorrectly informed the customer that it would not deal with the customer service aspect of the customer’s claim as it was related to the data breach.
10. I note that the company says the customer’s request for compensation has now been passed to the company’s external legal team, who will be in direct contact with the customer regarding her claim. Having carefully considered the various correspondence put forward in evidence, I am not satisfied the company has offered sufficient recompense for poor communication throughout the dispute and incorrectly informed the customer that it would not deal with the customer service aspect of the customer’s claim. On a careful review of the evidence and considering the length of time this dispute has been ongoing, I am satisfied compensation is due for inconvenience and distress and that this falls within Tier 1 of the WATRS Guide to Compensation for Inconvenience

and Distress. Accordingly, I direct the company to pay the customer £100.00 for this aspect of her claim.

11. Considering the above, I find the evidence proves that the company did not provide its services to the customer to the standard reasonably expected by the average person concerning customer service. Accordingly, I have directed the company to pay the customer £100.00.

Outcome

The company shall pay the customer £100.00.



Mark Ledger FCI Arb
Adjudicator