

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0561

Date of Decision: 25 August 2017

#### Complaint

The customer complains that he was not informed by the company that if his premises were unsuitable for a water meter, the company would apply an assessed household charge. Because he was told by the chairman of the management services committee in his block that no meter could be fitted, he did not apply and did not learn of the alternative tariff. He was therefore overcharged between 2001 and 2016.

#### Defence

The company argues that the assessed household charge is only available where the customer applies for a water meter. Information about water meters is given on the back of each bill. Moreover, information about the assessed household charge is available in its scheme of charges and in its charges schedule. Both of these can now be found on its website and there is an enquiry number for customers to use regarding bills. The customer made no application for a water meter until 2016.

#### Findings

The customer was misled by his conversation with a third party, rather than seeking authoritative information from the company. The company publishes information in its scheme of charges regarding the assessed household charge and information is available on its website and on its billing telephone number. Even in 2001 it is likely that this information was available in its scheme of charges which was then approved by Ofwat and is now drawn up in accordance with Ofwat charging rules. There is no evidence supporting the proposition that the company has failed to supply its services to the standard that would reasonably be expected.

#### Outcome

The company does not need to take any further action.

**The customer must reply by 23 September 2017 to accept or reject this decision.**

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ 0561

Date of Decision: 25 August 2017

## Party Details

Customer: ██████████

Company: ██████████

## Case Outline

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

- When the customer moved into his current flat in 2001, the chairman of the management services committee advised him not to bother applying for a water meter because the design of the building was such that there was no space for a meter.
- Because the company had not made customers aware that an alternative charging system applied if a meter could not be installed, the customer did not apply.
- When an energy watchdog suggested that the customer should apply for a meter, he did so. Although he was then told by the company that there was insufficient space for a meter, he was said to be eligible for the assessed household charge. His charge was recalculated for 2016-2017 and he was allowed a rebate of more than £122.00.
- He says that the company should have made information about the assessed household charge available and, because it was not, he has been overcharged.
- The customer seeks:
  - A direction that the company should make its customers aware of its alternative charge for water if a meter cannot be fitted;
  - Compensation in excess of £1,000.00.
- No claim has been made for Interest.

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

- The company states that although the customer moved into his flat in 2011, no application was made for a water meter until October 2016.

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- The customer's current rate (the assessed household charge) is only available where an application has been made for a water meter but the company is unable to install a meter. It is not available if no application for a meter is made.
- It is not set out on the back of the water bill although the opportunities to apply for a water meter are set out there.
- Information on the assessed household charge is explained on the company's website and in its charges scheme and the schedule which contains the prices for the year ahead. It is also mentioned on the metering application form that if metering is not possible, an alternative tariff may be available. A telephone number is given for billing inquiries.
- The company did not advise the customer not to apply for a meter and as no application was made, the customer was not eligible for the assessed charge at any point prior to October 2016.
- The company gives full information about the availability of water metering.

### 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.

If the evidence provided by the parties does not prove both of these issues, the company will not be directed to do anything.

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. Although the company has said in its defence that the customer moved into his flat in 2011, I find that he moved into it in 2001 and it is likely, having regard to the documents provided by the Consumer Council for Water (CCWater), that the reference to 2011 is a typing error. It is common ground that the customer did not apply for a water meter until October 2016.

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2. The customer gives as his reason for this that he was given incomplete information by the chairman of the management committee who stated that the customer would not be eligible for a water meter and so “there was no point” in applying for it. If this is what the customer was told, I find that the customer was given misleading advice in this respect, no matter how well-meaning this might have been, because the consequence of being told that “there was no point” was that he did not become eligible for the assessed household charge.
3. The customer expressed the circumstances somewhat differently in his letter to the company dated 5 May 2017 in that in this correspondence he said:

“Occupants in this building had advised me that their applications for a water meter had been rejected so it seemed a pointless exercise to request one”.

If this is the case, it would appear that it was the customer who concluded that there was no point in applying, but the customer does not appear to have investigated the circumstances further, with the consequence that he was unaware of the assessed household charge. This remained the position for some 15 years, notwithstanding that on each of his bills the company would have raised the possibility of applying for a water meter.
4. The company comments that this is a matter of surprise because most of the flats in the customer’s block have assessed household charges. In its correspondence with CCWater, the company has explained that following a selective metering programme at the block in 1998, 12 of the 16 flats in the block were the subject of the average household charge (the predecessor until 2008 of the assessed household charge) and by 2016, this had risen to 15 of the 16 flats.
5. The company makes clear in its defence that the purpose of the assessed charge is to make sure that customers are not unreasonably disadvantaged because they cannot have a meter. The charge is not available to customers if the company can fit a meter at their property. The company argues that this applies across the industry and to deviate from this would put other customers at a disadvantage.
6. I find that the company is a statutory undertaker and must supply its services in accordance with legislation. Under section 143 of the Water Industry Act 1991 it has power to make a charges scheme, which in 2001 was required to be approved by the regulator (referred to as Ofwat), and now must abide by rules published by Ofwat. The company has explained that the Ofwat charging rules state:

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*Charges schemes must allow a customer to choose to pay an assessed charge determined in accordance with this rule in the specified circumstances:*

*(b) The specified circumstances for the purposes of this rule are where a water undertaker has received a measured charges notice in accordance with section 144A of the Water Industry Act 1991 but was not obliged to give effect to it because:*

*(i) it is not reasonably practicable to fix charges in respect of the premises by reference to the volume of water supplied; or*

*(ii) to do so would involve the incurring by the undertaker of unreasonable expense.*

7. I find therefore that in providing that the assessed charge would apply only where a water meter was not available, the company acted in accordance with the standards that would reasonably be expected of a water company. The company has not, I find, misled the customer as to the availability of this assessed charge: rather I find that the customer has concluded without further inquiry that no further assistance would be available for him if a water meter could not be supplied. I find that it is likely that if the customer had consulted the company's charging scheme in any year, the possibility of receiving an assessed (or previously, average) household charge would have been explained. It is likely that this would alternatively have been explained if the customer had contacted the company to talk about the possibility of a water meter or to query whether the information supplied to him by his neighbour was correct. Instead of seeking authoritative information about his situation, therefore, I find that the customer has relied upon an incomplete belief prompted by an informal conversation with a third party.
8. I further find that for many of the last years, it is also highly likely that information about the assessed household charge has been available on the company's website. I note that the company does not appear to refer to this charge in its "Annual Billing Leaflet", which is perhaps a matter of surprise, but I note that information about water meters is provided. In the absence of information that other water companies make reference to the possibility of an assessed household charge in either their summary leaflet (such as the Annual Billing Leaflet) or on their water bills, I find on balance that the absence of information about a secondary service (that is one arising only when another service – the water meter - cannot be supplied) does not amount to a failure on the part of the company to supply its services to the standard that would reasonably be expected of it.
9. It follows from the above that I find that the customer is not able to succeed in his claim against the company and therefore he does not succeed in his claim for redress.

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### 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 23 September 2017 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.
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Claire Andrews, Barrister, FCI Arb

**Adjudicator**

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