

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0573

Date of Decision: 8 September 2017

#### Complaint

The customer complains that the company applied all the payments he made to his account between 2010 and 2014 to the oldest debts first (that preceded 2010) whereas it should have allocated a proportion of the payments to the more recent charges. The company failed to inform him of its practice in this regard; therefore, its processes lack fairness and transparency. The customer requests that the company deduct the full amount he paid it between 2010 and 2014 (£533.00) from his current outstanding balance.

#### Defence

The company asserts that unpaid bills accrue as a whole; therefore, all of the payments made by the customer from 2010 to 2014 were deducted from the overall outstanding balance on the account (with money received paid to the oldest debt first). It provided bills to the customer from 2010 to 2014 which showed the current billed amount, the previous charges due, as well as the full balance owed on the account. It also set up payment plans with the customer and it has a limitation policy to write off debts over 6 years old. As it correctly allocated all the payments to the account which were deducted from the balance that was outstanding at the time, no further payments should be deducted from the customer's current outstanding balance.

#### Findings

The company's decision to allocate all of the customer's payments between 2010 and 2014 to historical debts on his account, rather than apportion some of the payment to the current year's charges, is not in itself contrary to any law, code or industry guidance. However, there is a lack of evidence that the company informed the customer, at the time, about how it dealt with arrears or made it clear to the customer that all payments received from him would be offset against historical debt rather than the current year's charges. I am satisfied that the company did not adhere to OFWAT guidance in this respect therefore 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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**Outcome**

The company shall apply a credit against the customer's current outstanding balance in the amount of £200.00.

**The customer must reply by 6 October 2017 to accept or reject this decision.**

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# ADJUDICATOR'S DECISION

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## Party Details

Customer: ██████████

Company: ██████████

## Case Outline

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

- The customer alleges that the company applied all the payments he made to his account between 2010 and 2014 to the oldest debts first. i.e. those that preceded 2010.
- It is apparent from his and the Consumer Council for Water's (CCW) correspondence with the company that no policy existed regarding how it allocated payments received between historical debts and more recently issued bills. Its processes lack transparency and fairness in this regard.
- It was unreasonable for the company to allocate his payments made between 2010 and 2014 to the oldest historical debt and nothing towards the current bills without making its position clear to him at that time. His payments should have been apportioned between the historical (pre 2010) debts on his account and the recent billing (2010 to 2014). The total payments he made for the period 2010 to 2014 were £533.00.
- The customer requests for the company to deduct the full amount he paid to the company between 2010 and 2014, being £533.00, from the alleged outstanding balance.

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

- The customer's payments made between 2010 and 2014 were allocated to the account and off-set against the balance as it was at the time when the payments were received.
- Its billing system is not a sales/purchase ledger, therefore the unpaid bills accrue as a whole and customers are advised of the outstanding balance each time a bill is produced. It is not possible for the customer's payments made between 2010 and 2014 to be off-set against his most recent bills as quite simply; these bills did not exist at the time the payments were received.

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- The customer was advised on 16 March 2010 that his balance was £2488.68 when a payment arrangement was set up for £26.00 per month. He was also advised on 14 December 2012 that his balance was £2590.00 when a payment arrangement was set up for £60.00 per month. A further payment arrangement for £275.00 per month was set up on 3 May 2017 when his balance was £2745.32 and confirmation was sent to the customer.
- In addition to these payment arrangements, it also sent bills every 6 months for normal usage and these bills will have confirmed the payments received since the last bill, the consumption used and the outstanding balance at the time.
- It has a policy to write off any debt that has been unpaid and remains outstanding for longer than 6 years, as it cannot claim monies that are over six years old at the time of issue.
- Under the circumstances, its position is that the payments were correctly allocated to the account and deducted from the balance that was outstanding at the time the payments were received. It is not appropriate for a further reduction to be made from the current balance for payments that have already been allocated and correctly applied to the customer's account.

### 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. I remind the parties that adjudication is an evidence-based process and it is for the customer to show that the company has not provided its services to the standard that would reasonably be expected of it.

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2. The dispute relates to the way the company allocated the customer's payments made between 2010 and 2014. The customer asserts that all of his payments were deducted from the oldest debts on his account (pre-2010) and not allocated against more recent bills (2010 to 2014). The customer complains this was unfair as his payments should have been off-set against the current year's charges and the company did not inform him about this at the time.
3. The company denies that it did anything wrong by treating the outstanding debt on the customer's account and current payments due as one balance, during the disputed period from 2010 to 2014, and confirms that it has a policy which writes off debt that has been unpaid and remains outstanding for more than 6 years.
4. In light of the evidence including the company's own submissions, it is clear that the company had no policy to apportion payments received from customers between any historical debts on the account and the current year's or more recent charges, rather it treated all unpaid bills as one balance. Therefore I accept that all of the customer's payments made between 2010 and 2014 were deducted from the overall balance on the account (with any money paid to the oldest debt first).
5. It is up to the company to determine how they deal with historical debt on a customer's account and whether payments received should be used to pay off arrears rather than the current year's charges. Therefore, I find that the company's lack of a policy to apportion some of the debt to the current year's charges and its decision to allocate all of the customer's payments to historical debts on his account, are not in themselves evidence of the company failing to provide its services to the customer to the standard to be reasonably expected by the average person.
6. However, I find that in accordance with OFWAT guidance, water companies should have a code of practice with regards to matters of debt which reflect their current operating practices in relation to dealing with customers who fall into debt. Further, industry guidance states that wherever possible, water companies should try to avoid allowing the debt to get progressively worse on a customer's account and they should also make it clear to its customers whether payments received are being allocated to arrears on their account or to the current year's or

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more recent charges. I consider that the above practices reflect the standard to be reasonably expected of a water company.

7. I acknowledge that in the customer's case, the company provided the customer with bills from 2010 to 2014 which showed the current billed amount, the previous charges due as well as the full balance owed on the account. It also set up payment plans with the customer in April 2010 (for £26.00 per month), on 3 January 2013 (for £60.00 per month) and on 22 February 2014 (for £275.00 per month) although I note that, as they were not adhered to by the customer, they were all subsequently withdrawn. Further, I acknowledge receipt of the company's document titled Regulatory Annual Performance Report which I find states that the company writes off customers' debts which are over 6 years old.
8. In light of the company's policy to write off debts on customers' accounts which are over 6 years old and the evidence supplied at Appendix 7 of the Defence, I accept that the company wrote off a number of charges on the customer's account when they were over 6 years old. I find this to be in accordance with its own policy on limitation and the law more generally. I also consider this shows, together with the payment plans it set up with the customer, that the company sought to avoid allowing the customer's debt to get progressively worse on his account.
9. However, I am not satisfied that it was clear from the customer's bills as to whether the payments received were being used to pay off arrears based on the oldest debt first rather than the current year's charges (neither did the bills show that debts over 6 years were being written off). I have not been provided with the company's code of practice on debt or any other evidence which sets out how the company deals with customers who fall into debt, including how it allocates payments received. Therefore I am not satisfied that the company made it clear to the customer, at the time, that all payments received from him would be off-set against historical debt rather than the current year's charges. I am satisfied that the company failed to provide its services to the customer to the standard to be reasonably expected by the average person in this regard.
10. The customer requests that the company deduct the full amount he paid to the company between 2010 and 2014 (£533.00) from his current outstanding balance. As I am satisfied, on a balance of the evidence, that all of the payments made by the customer were correctly allocated to his account, I do not find that the customer has substantiated his request for the

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total amount of his payments made during the disputed period to be deducted from his current account balance. However, in view of the company's failure to provide its services to the customer to the standard to be reasonably expected to the effect that it did not inform the customer, at the time, about how it dealt with arrears or make it clear that all his payments would be off-set against historical debt rather than the current year's charges in breach of OFWAT guidance, I find it fair and reasonable for the company to apply a credit against the customer's current outstanding balance in the amount of £200.00, for the stress and inconvenience caused. I am satisfied this amount is proportionate to the proven failings by the company and takes into account the value of the total payments made by the customer (£533.00) and the four-year timeframe over which the company's failure occurred.

#### **Outcome**

The company shall apply a credit against the customer's current outstanding balance in the amount of £200.00.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply 6 October 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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**A. Jennings-Mitchell**, Ba (Hons), DipLaw, PgDip (Legal Practice), MCI Arb

**Adjudicator**

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