

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0789

Date of Decision: 24 July 2018

#### Complaint

The customer states that she is being charged too much by the company for Surface Water Drainage and Highway Drainage. She requests that her bill be reduced to no more than £100.00 per year.

#### Defence

The company states that the customer has been billed correctly. No offer of settlement has been made.

#### Findings

Under the terms of its charges scheme, the company may not include in the calculation of the customer's chargeable area portions of any common area that she has no right to use. However, the customer has not provided satisfactory evidence that she has no right to use the common areas in question. As a result, I find that the company has 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 21 August 2018 to accept or reject this decision.

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*



- The customer is charged on an annual basis as she is only charged for SWD and HD.
- The customer's next invoice was not due until 1 April 2018.
- The next contact it received from the customer was on 1 February 2018, when it received a complaint via the Consumer Council for Water.
- At this time it explained to the customer how SWD and HD banding works for multi-occupied sites, and clarified the calculation of her banding.
- The customer responded that she does not use the common areas or parking facilities, which are included in the calculation for the chargeable area of her unit.
- The company clarified that its policy is to evenly distribute the area of common areas amongst all customers of a site for the purposes of SWD and HD billing.
- The customer's unit is situated in a multi-occupied site that is connected to the mains water via a bulk meter which the landlord pays. It is the landlord's decision whether or not to pay for the full SWD and HD charge as one site or to have the tenants pay individually. If the customer is not happy with the landlord's decision in this respect she must address it with the landlord.
- The company maintains that the customer has been billed correctly.

### 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?

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

1. As a regulated water retailer, the company is required to bill its customers in accordance with a published charges scheme. This scheme must adhere to rules adopted by Ofwat, the Water Services Regulation Authority, the designated regulator in this sector.
2. 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 evaluate the fairness or correctness of a company's charges scheme, as this responsibility has been statutorily allocated to Ofwat.
3. Instead, with respect to the type of claim brought by the customer, a WATRS adjudicator may only examine whether the company has properly adhered to its published charges scheme.
4. As a result, the customer's overall objection to the amount that she has been charged by the company does not succeed, as this represents a challenge to the company's charges scheme, rather than to the application of that scheme to the customer's specific situation.
5. However, the customer also objects specifically to the inclusion in the calculation of the area of her unit for the purposes of SWD and HD charges, of a portion of common areas at the site to which she argues she has no access.
6. The company responds that "It is stated in our policy is that any common areas, i.e. car parks, loading bays are evenly distributed amongst all the customers who received the benefit of the drainage charge."
7. Under Section B2.3.1 of the company's charges scheme, "Where there is a common area (internal or external) belonging to a number of separately occupied premises or buildings in multiple occupation, the sewerage undertaker will determine each chargeable area for each site."
8. I find that the inclusion within Section B2.3.1 of the phrase "belonging to" entails that only those units within a multi-occupied site that have ownership rights over a common area, including through leasing, can be held responsible for SWD and HD charges relating to that common area. Indeed, this is inherent in the very notion of a "common" area, as an area cannot be "common" to an individual that has no rights over it.

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

9. As a result, I find that under the company's charges scheme, it may not include in the calculation of the customer's chargeable area any portion of a "common area" of which the customer does not have use. Importantly, the relevant question is not whether, as a matter of fact, the customer actually uses those common areas, but whether the customer has the right to use those areas should she choose to do so.
10. The customer has argued that she has no right to use the common areas or parking facilities, which are included in the calculation for the chargeable area of her unit, and if this is correct, then I find that the company has not calculated the customer's charges in accordance with its charges scheme.
11. However, I also find that it would be unreasonable to require the company merely to accept the customer's word that she does not have access to the common areas in question, and thereby shift the cost of those common areas to other residents at the site – who might in turn challenge the customer's statements.
12. As a result, I find that the burden is on the customer to produce evidence supporting her statement that she does not have access to the common areas in question, such as by presenting a supporting statement from her landlord. The customer has, however, not yet produced such evidence to the company.
13. As a result, I find that the company has acted reasonably in refusing to recalculate the customer's bill in the absence of independent confirmation that she does not have access to the common areas in question, and thus has provided its services to the customer to the standard to be reasonably expected by the average person.
14. It must, however, be emphasised that this decision does not preclude the customer subsequently presenting such evidence to the company, at which time the company, in accordance with its stated policy, can be requested to recalculate the area of the customer's unit to reflect the evidence presented.

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

### 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 21 August 2018 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, FCI Arb

Adjudicator

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*