

WATRS

Water Redress Scheme

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DECISION

by A. Jennings-Mitchell BA (Hons), DipLaw, PgDip (Legal Practice), MCI Arb

An adjudicator appointed by WATRS

under the Water Redress Scheme

Decision date: 29 February 2016

Adjudication Reference: WAT/ /0171

Between ██████¹ and ██████²

- The claim is made by the customer, ██████ against a water and sewerage company, ██████
 - The claim dated 31 January 2016 is for the company to:
 - Take the following action: “follow instructions given by government; provide the additional essential information on customer’s bills; no longer mislead customers into thinking that meters are fitted free of charge; put customers’ care before profit and; be stopped from putting misleading comments into the company accounts”.
 - Pay him £6000.00 in compensation.
 - The position of the company is explained in its 12 February 2016 defence which has been disputed by the customer in his undated and 24 February 2016 replies.
 - The customer’s main claim is that the company failed to sufficiently alert him to the financial benefits of having a water meter fitted.
 - The company’s position is that it denies liability to the customer.
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Decision

1. The claim succeeds in part.
2. I direct that the company re-issue the customer with a cheque for £25.00 in compensation.

Main issues

3. I consider that the main issues in this adjudication are:

¹ Customer’s address for correspondence:

² Company’s address for correspondence:.

- a. Whether the company has failed to provide its services to the standard to be reasonably expected.
- b. Whether the reasons given by the customer are sufficient to justify the remedies sought.

Background information

4. In order to succeed in a claim against the company the customer must prove 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 proved, the company will not be liable.
5. The customer and the company are aware of the facts of this case. I do not propose to recount all the facts in the same manner and order as the parties have done in their documents except where it is necessary for the purposes of this decision. I have carefully considered all of the documents submitted by the parties in support of their submissions and presented to me. The parties should also be reassured that if I have not referred to a particular document or matter specifically, this should not be taken to mean that I have not considered it in reaching my decision.

Customer's and company's positions

6. The customer submits that he and his wife have lived at their address since 1976 and have always paid their water bill based on the rateable value which for 2012 was £1581.00. Around September 2012, a BBC news item stated that the average water bill for the UK was £384.00. The company had never declared this type of information on any of its bills. Without such information it was impossible for him to make an informed decision about whether to apply for a water meter. Obtaining figures from the company proved to be difficult, however eventually he was given this information on 10 February 2014 (£431.00 was the average by rateable value and £368.00 was the average by meter). He applied for a meter and their first bill for the year was £358.81 and the second year was £383.56. The 2013 difference was a staggering £1223.00 per year. As the company operates in a stress-free water area there is no mandatory requirement for it to fit meters. The customer submits that the company is abusing the situation. Rateable value customers have to pay in advance, meter customers pay in arrears. Metering boosts the company's annual operating profits by £126 million so it is against the company's interests to provide this information on bills. The company was instructed by government (Environment Secretary Owen Paterson) to ensure that: "customers get the best possible deal" and to "keep water bills affordable to help hard working families". It is still ignoring this instruction. Paperwork provided with the bill states in small print "you may be better off by fitting a meter". However this is not sufficient information to make an informed decision. The company knows the average water bill was £368.00 but continued to charge him £1581.00 per year without alerting him to the possibility that a water meter would save him money. The company should be transparent by including more information in its bills; there is plenty of blank space on

a domestic bill to show the average cost of a water bill. The company incorrectly states that it fits water meters for free when it recovers the cost over a 15-year period. In its letter dated 2 June 2015, the company admitted it recovers the cost and sent him a compensation payment of £25.00 however he returned this to the company as it is still misinforming customers.

7. The company submits that the customer was being charged on the rateable value of his property until he applied for a water meter on 7 September 2012. Until then it had not received any advice regarding the number of occupiers living at the property and it was unaware of the customer's personal circumstances. As the customer's charges were based on rateable value and not on the consumption used, it could not accurately advise as to how metered charges would affect his bills. In order to allow customers to make an informed decision it makes information available to its customers through various means including, information on bills, in leaflets supplied annually and on its website. The majority of its unmetered customers would have a much lower rateable value than the customer and not all of its customers would benefit from having a meter fitted. It does not currently have a compulsory metering programme for household customers although it does have a duty to promote the efficient use of water and will inform customers if they ask whether they could save money by having a water meter installed. Its Free Meter Option scheme was made available in 2000 to all unmetered customers free of charge and it included information in leaflets sent with bills and on its website. From 2007, it promoted its Free Meter Option on customers' bills however it accepts that the information was not prominent. However from 2008 this option along with rateable values was given more prominence in bills detailing a customer's options if they were paying charges based on the high rateable value of their property. The bill also provides a link to its website which provides more details of metering information, including a water meter calculator which enables customers to compare metered and unmetered charges so they can make an informed decision. The company submits that it has followed all of its policies, processes and legal and regulatory requirements whilst dealing with the issue the customer has raised. All of his rateable value charges have been correctly raised on his account, in accordance with its Charges Scheme. Therefore it does not believe that it has failed to provide a service to the standard to be reasonably expected.

8. The customer in his reply reiterates the main points of his claim and asserts that the company should have been more proactive in asking him the number of occupiers in his property. He has been a customer for over 40 years and his sons are 48 and 50. The company should have reasonably known they would not still live at home.

Adjudicator's findings and reasons

9. I find that:
 - a. I accept that the company does not have a compulsory metering programme for household customers and that the company installed a water meter at the customer's

property in accordance with the customer's request. The parties have not stated when exactly the installation took place however based on the evidence I find it was at some point in 2012. The parties agree that prior to this the customer's bills were being calculated using the Rateable Value System; the rateable value being the value of the premises shown in the official valuation list (for the purposes of the General Rate Act 1967) on 31 March 1990.

- b. There is no dispute between the parties concerning the accuracy of the calculations used to raise the customer's charges whilst on the Ratable Value System, however the customer claims that due to the company's failure to alert him to the positive cost implications of switching to a water meter, he has been overcharged by approximately £16,000. I acknowledge the customer's submission that there is a lack of information provided in his bills about the average (metered) water bill in his region and that the company has therefore not acted in accordance with Environment Secretary Owen Paterson's instruction for water companies to ensure that: "customers get the best possible deal" and "keep water bills affordable to help hard working families".
- c. I have not been provided with any evidence that the company is under a duty, legal or otherwise, to notify customers of any potential financial savings from having a water meter installed. However, the company states it does have a duty to promote the efficient use of water and that it will inform customers when asked whether they could save money by having a water meter installed.
- d. It is not disputed by the company that in the two years following the installation of the water meter at the customer's property, his annual water and sewerage bills dropped from £1581.00 in 2012 to £358.81 in 2013 and £383.56 in 2014. However, the company claims that, as it had no knowledge of the number of occupants in the customer's property prior to the customer advising it via his application for a water meter in September 2012, it therefore could not have advised correctly how metered charges would affect his bills.
- e. The company has provided evidence of the customer's bills from 2006 to 2012 which shows that bills issued from 2008 included the following text on page 3:

Can I change the way my charges are calculated?

You can choose to have a water meter fitted. If you do, you'll be charged for the water you use rather than be charged based upon the rateable value of your home. If you live alone, have a small family or live in a home with a high rateable value, you could save money.

- f. Whilst I find no mention of the water meter option in the customer's bills dated 2006 and 2007, the customer has provided leaflets supplied in 2006 and 2007 which I find do contain such information. The submitted screenshots of the company's website includes information on possible savings with a water meter for properties with between 1 and 4 occupiers and a water meter calculator which I accept enables customers to compare metered and unmetered charges. I also note that the company publishes figures pertaining to the average water bill annually on its website.
- g. I accept the customer's submission that his bills did not contain information on the average UK bill or the average bill in the customer's region and that he was unaware of the fact that he was paying far in excess of the average UK bill until he saw a BBC news item which alerted him to this. Further I acknowledge that the company did not make enquiries with the customer regarding the number of occupants residing at the property. However in light of the evidence, I am satisfied that the company did provide information through various means which sufficiently notified the customer that measured charges may be cheaper for him. As I find that the company reasonably sought to inform the customer of the financial benefits of a water meter for properties with a smaller household and/or those with a high rateable value, I am satisfied that it has acted reasonably and I do not accept that its failure to actively check with the customer how many occupants resided in the customer's property is evidence of any failure by the company. Further I accept that without knowing the number of occupants residing in the customer's property, the company could not have reasonably been expected to accurately predict the customer's usage of water or have known he would have been better off with a water meter.
- h. The customer has not claimed that he sought the installation of a water meter at any point prior to September 2012 or that he made any enquiries with the company regarding changing to a water meter any sooner than he did. Therefore, in light of this and as I am satisfied the company had taken reasonable steps to notify the customer of the financial benefits of having a water meter installed, I find a lack of evidence that the company failed to provide its services to the standard to be reasonably expected. On the same basis, I consider there to be a lack of evidence that the company failed to follow instructions from government, as claimed.
- i. The customer submits that obtaining figures from the company regarding the average bill in his region proved to be difficult although he was eventually given this information on 10 February 2014. Based on the correspondence provided by the customer, I find that in his complaint letter to the company dated 20 December 2013, the customer asked the company what its average domestic water bill was and the company responded in its letter dated 10 January 2014 advising that the average household bill for 2012/13 (based

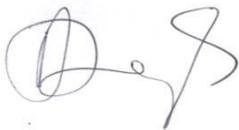
on usage of 90 cubic metres) was £395.00; the average unmeasured bill based on rateable value was £431.00 and; the average measured bill was £368.00. It also explained that the average costs are published (annually) on its website and that Ofwat publishes all the water companies' average bills on its website. This was reiterated to the customer in its letter of 10 February 2014. In light of my above observations and as I have not been provided with any evidence showing the contrary, I am satisfied that the company adequately responded to the customer's request for details regarding the average water bill. Therefore I find a lack of evidence that the company failed to provide its services to the standard to be reasonably expected in this regard.

- j. The customer submits that although the company claims to supply and fit water meters free of charge it has admitted that it adds this cost into the metered standing charge and recovers it over 15 years. The company in its defence submits that a water meter is provided and fitted free of charge to any household who applies under its Free Meter Options scheme. However, it explains that whilst the initial provision and installation costs are not recovered through its metered standing charges, the meter standing charge recovers the on-going costs of serving the meter such as reading, billing, maintenance plus the depreciation cost of the meter recovered over the life of the asset. The company admits that in its letters to the customer dated 10 February 2014 and 27 May 2015, it incorrectly advised that "the cost of buying, fitting and maintaining the meter is recovered in the standing charge that all measured customers pay". Therefore, I am satisfied that this is evidence of the company failing to provide its services to the standard to be reasonably expected.
- k. However, I acknowledge that the company admitted the error in its letter to the customer date 16 June 2015 and sent the customer a cheque for £25.00 in compensation under the Guaranteed Standards Scheme ('GSS'). Therefore I am satisfied that the company has adequately addressed this aspect of the claim and I find there is a lack of evidence to support the customer's claim that the company is still misinforming customers in regards to it supplying and fitting water meters free of charge. However it is evident that the customer returned the cheque for £25.00 to the company. In the circumstances I find it fair and appropriate to direct that the company re-issue the customer the cheque for £25.00 being a GSS payment for the incorrect information provided to him regarding the recovery of the costs associated with the supply and fitting of water meters.
- l. The customer has requested for the company to "be stopped from putting misleading comments into the company accounts". The customer has not provided evidence in support of his claim, and has therefore not shown that the company failed to provide its services to the standard to be reasonably expected in this respect.

- m. The customer has requested that the company provide the following remedies: “follow instructions by government”; “provide the additional essential information on customers’ bills”; “no longer mislead customers into thinking that meters are fitted free of charge” and; “put customers’ care before profit”. However as I am only able to make directions in relation to the parties to the current dispute, I cannot make directions to the company which are aimed at non-parties. Therefore, I am unable to provide any of the remedies in this paragraph and these aspects of the claim cannot succeed for this reason.
- n. The customer has requested for the company to pay him £6000.00 in compensation. As no failure by the company has been established save for it providing incorrect information in regards to which cost is recovered through the standard meter charge as discussed above, I find that the company is not required to pay the customer any further compensation save for that ordered above at paragraph 9 (k).

Conclusion

- 10. My conclusion on the main issues is that:
 - a. There is evidence that the company has failed to provide its services to the standard to be reasonably expected.
 - b. The reasons given by the customer are sufficient to justify his claim in part.
- 11. Therefore, the claim succeeds in part and I direct that the company re-issue the customer with a cheque for £25.00 in compensation.



A. Jennings-Mitchell, BA (Hons), DipLaw, PgDip (Legal Practice), MCI Arb
Adjudicator