

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0745

Date of Decision: 12 November 2018

#### Complaint

The customer applied to the company for a rebate of surface water drainage charges in January 2018 and was granted a rebate from 1 April 2012. The customer claims that the rebate should have been applied from 2000 and seeks an unspecified sum of compensation as a rebate of charges paid for surface water drainage during this period (the amount is unspecified as he does not know how much he has been charged). The customer also claims an unspecified sum for the distress, inconvenience and time taken to prove his case. He asks the company to provide details of the charges wrongfully made on his account since the introduction of the surface water drainage charge and for the company to show all separate charges on billing, especially surface water drainage charges.

#### Defence

The customer applied for a rebate of surface water drainage charges in January 2018 and the company granted the request and backdated the rebate to 1 April 2012, in accordance with its policy. The company states that it is not obliged to provide any further rebate and charges made prior to 1 April 2012 were not wrongful. The company denies liability to pay compensation for the distress, inconvenience and time involved in making the application, stating that the onus is on the customer to apply for a rebate and, although this may have been time consuming and inconvenient, it was necessary in order to obtain the rebate. The company provides details of charges made to the customer's account for surface water drainage from 1 April 2001 to 1 April 2002. The company states that whilst it provides the customer's waste water services, [ ] bill on their behalf and, therefore, any request for changes to the billing format should be addressed to [ ] Water.

The company has not made an offer of settlement.

#### Findings

The company has acted in accordance with its policies and the relevant OFWAT guidelines by providing the customer with a rebate from 1 April 2012. The customer has not shown that he is entitled to a further rebate or that the company has failed to supply its services to the standard that would reasonably be expected of it. The customer has not shown that he has spent time, suffered distress or has been inconvenienced by having to prove his case beyond that which would naturally be associated with making an application for, and proving his entitlement to, a rebate. The company does not provide the

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customer's bills and, therefore, cannot alter the format of the bills to itemise charges. The company has not provided the customer with a full outline of charges made to his account for surface water drainage since 1 April 2002. Whilst I accept that the company does not send bills to the customer and therefore did not previously fall below the standard expected of it by failing to provide this information to the customer before his application for a rebate was made, the customer requested a full outline of charges made to his account as part of this claim and the company has failed to provide it. I find that the company's failure to supply this information falls below the reasonable standard that can be expected by the customer and the company should either provide this information to the customer or explain why this is not possible.

**Outcome**

The company should provide the customer with a full outline of charges applied to his account for surface water drainage since 1 April 2002 or explain why this information cannot be provided.

The customer must reply by 10 December 2018 to accept or reject this decision.

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- He requests that the company provides details of the charges “wrongfully made” on his account since the introduction of the surface water drainage charge.
- He requests that the company show all separate charges on bills, especially the surface water drainage charge.

**The company’s response is that:**

- It disputes the claim for compensation for charges made for surface water drainage from 2000 to 1 April 2012 on the basis that the correct rebate has already been applied to the customer’s account.
- It explains that prior to 2001 surface water charges were a component part of the wastewater charge that applied in full to any property connected to a foul water sewer, irrespective of the individual surface water drainage arrangements. However, in 2001 OFWAT asked companies to rebate surface water drainage charges where customers were not connected to a mains sewer.
- It states that the 2001 OFWAT guidelines make it clear that the onus is on the customer to request a rebate and any rebate granted should be applied from the beginning of the billing period or the start of the financial year in which the claim is received, whichever is earlier.
- It further explains that in 2007, OFWAT introduced best practice guidelines, which included a recommendation that when an existing customer applies for a rebate of surface water drainage charges, companies should also consider whether properties in the vicinity may also be eligible for a rebate.
- When it was considering the customer’s application, it discovered that a neighbouring property had received a surface water drainage rebate in 2016 which was backdated to 2011. Therefore, in view of OFWAT’s best practice guidelines, it applied the rebate for the maximum period of five years plus the current year under its rebate policy and backdated the customer’s rebate to 1 April 2012. Therefore, it disputes the customer’s claim for compensation for surface water drainage charges from 2000 to 1 April 2012.
- It denies liability to compensate the customer for distress, inconvenience and time spent in proving his case stating that, as the OFWAT guidelines place the onus on the customer to apply for and prove entitlement to a rebate, the time spent completing an application is a necessary part of applying for a rebate. It accepts that the customer’s application for a rebate was rejected initially but states that the customer was invited to supply further information to support his application and, once it had considered the further information provided, the rebate was granted. It states that it is difficult to see how stress and inconvenience was caused and the claim has not been substantiated.

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- It also states that a £30.00 payment has already been made to the customer as it failed to comply with its Customer Guarantee Scheme to reply to the complaint within ten working days.
- With regard to the customer's request that it provides information about the amount he has been wrongfully charged for surface water drainage, it states that the charge from 1 April 2001 to 1 April 2002 was £15.50 but before this the charge for surface water drainage was a component part of the wastewater charge. However, it states that the charges were not wrongfully applied to the account as the customer did not apply for abatement until January 2018, even though information on the availability of rebates and how to apply had been provided on the customer's bills for many years.
- It explains that although it provides the customer's wastewater services, the customer is billed by [ ] Water. It has provided copies of [ ] Water bills in evidence showing that they include information about how to apply for a rebate of surface water charges and, although bills prior to 2012 could not be obtained from [ ] Water, it states that [ ] Water have confirmed that this information has been provided on bills for many years.
- With regard to the customer's request for the company to outline all the separate charges on future bills, it has provided extracts from its bills showing that the company does state the amount of reduction that could be applied to a customer's account if surface water does not flow from a customer's property into the main drainage system. However, it accepts that the customer's bills, supplied by [ ] Water, do not show the amount that could be saved on their bills, although they do give information on how to apply for a rebate. It states that the customer should raise this issue directly with [ ] Water who decide what information is included on their bills.

### 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.

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

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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 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. Having read the evidence provided by the Consumer Council for Water and the defence statement from the company, I find that the customer applied for a surface water drainage rebate from the company on 22 January 2018, shortly after he discovered he was being charged for the drainage of surface water from his property into the main drainage system. The customer applied for the rebate on the basis that no surface water flows from his property into the main drainage system.
2. The company initially rejected the customer's application but, after reviewing the property developer's plans and photographs of the drainage arrangements at the property supplied by the customer, the company accepted that no surface water flows from the customer's property into the main drainage system and the customer was entitled to a rebate.
3. Whilst considering the customer's application, the company discovered that a neighbouring property had been granted a rebate in 2016. The company has provided a copy of best practice guidelines to the water industry on surface water drainage rebates issued in July 2007 by OFWAT, the statutory regulator, which state "when an existing customer applies for a SWD rebate, companies should look at other properties in the vicinity to determine whether they might also be eligible, and carry out further investigations as required." The company states that, as a consequence of discovering that the customer's neighbour had been granted a rebate in 2016, it backdated the customer's rebate to 1 April 2012 in accordance with its policy to backdate rebates by a maximum of five years plus the current billing year.
4. The company refers me to its website on which its policy regarding the backdating of rebates for surface water drainage can be found. The policy states that "In the case of homes with a metered water supply, built before 1 April 2001, the rebate will be given from the date of your last metered bill that spans the beginning of the financial year (1 April) in which you have

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applied.” The company also cites the OFWAT guidelines which state that “rebates take effect from 1 April in the charging year in which the rebate application is made”. I note that the OFWAT guidelines also state that rebates should not be applied retrospectively as this would require retrospective increases to bills of connected customers. Therefore, I find that the strict application of the company policy and the OFWAT guidelines would have resulted in the customer receiving a rebate from 1 April 2017.

5. I have looked through all the evidence provided to me by the company and the information on the website that I am referred to in the defence document, but I cannot find an outline of the policy to backdate rebates for five years plus the current billing year, which is the level of rebate applied to the customer’s account. However, having read the defence document and OFWAT guidelines in detail, I conclude that on the balance of probabilities the company has applied a more favourable internal policy to the customer’s rebate because it provided a rebate to the customer’s neighbour in 2016 but did not investigate the customer’s eligibility for a rebate at that time.
6. The OFWAT guidelines demonstrate that the company was entitled to levy a full sewerage charge until the customer applied for a rebate and proved that surface water from his property does not discharge into the mains drainage system.
7. The OFWAT guidelines also state that water companies should provide information about the availability of a surface water discharge rebate and how to apply. The company states that despite a request to [ ] Water, it was unable to obtain copies of the customer’s bills apart from a bill dated 1 April 2015 and an example bill from 2012. Having reviewed these bills and the defence assertion that [ ] Water state that this information has been included on its bills for many years, I accept that information regarding the surface water drainage charge and how to apply for a rebate is likely to have been provided on the customer’s bills for several years. I also note that the customer does not dispute that this information has been included on his bills but, even if this is not the case, I do not find that this would amount to a failing on behalf of the company as the bills are produced by [ ] Water.
8. In view of the above, I do not find that the company has failed to provide its service to the standard the customer can reasonably expect by charging a full sewerage charge before 1 April 2012 and failing to provide a rebate from 2000. Therefore, the customer’s claim for a further rebate does not succeed.

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9. The customer claims an unspecified amount for distress, inconvenience and the time taken to prove his case. The company acknowledges that the process of applying for a rebate must have taken the customer some time, but states that the OFWAT guidelines firmly place the onus on the customer to apply for the rebate and show that no surface water from his property flows into the main drainage system. The company also states that no substantive evidence of the customer suffering distress has been provided by the customer. I have carefully reviewed the OFWAT guidelines supplied in evidence and accept that they place the onus on the customer to apply for a rebate. Whilst I accept that the process of applying for a rebate and making this claim will have been stressful and time-consuming for the customer, I also accept the company's position that this is an inevitable part of making an application.
10. Furthermore, having reviewed the time-line of events provided by the company, I note that the company did not comply with its customer service guarantee to deal with the complaint in a ten working day timeframe and paid £30.00 in compensation to the customer for its failing. Whilst I find that the company failed to meet the standard the customer is reasonably entitled to expect by failing to comply with its customer service guarantee, the company has sufficiently addressed this failing by providing the customer with compensation in the amount of £30.00.
11. Therefore, I find that the company has not failed to provide its service to the standard the customer is reasonably entitled to expect and the customer's claim of compensation for distress, inconvenience and time spent making the application cannot succeed.
12. The customer also requests information from the company with regard to the amount that he has wrongfully been charged for surface water drainage since 2000, complaining that his bills have not itemised the charge. The company states that the charge between 1 April 2001 and 1 April 2002 was £15.50, but has not provided a full outline of charges paid by the customer since 2000.
13. As above, I do not accept that the charges made by the company to the customer for surface water drainage before 1 April 2012 were wrongfully made, but I note that the OFWAT guidelines state that "OFWAT encourages companies to show charges separately on sewerage bills". I accept that the customer does not know how much he has been charged as the bills from [ ]Water do not itemise the charges. The company has been able to provide the relevant information for the billing year of 1 April 2001 to 1 April 2002 and, although it explains that

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previous to 2001 the surface water drainage charge was a component part of the wastewater charge, no explanation has been given as to why they have not provided a full outline of charges made from 1 April 2002, as sought.

14. As the customer asked for this information as part of the complaints process, and the company has not supplied it or explained why it is unable to, I find that the company has failed to provide its service to the standard that the customer can reasonably expect. Therefore, I direct the company to fully disclose the charges paid by the customer for surface water drainage from 1 April 2002 or explain why it is not possible to supply the customer with this information.
15. The customer requests that the company itemises charges on future bills, especially the surface water drainage charge. The company has provided copies of its bills that do outline the amount of saving that can be made by customers that are granted the surface water drainage rebate, but states that [ ] Water do not provide this information on their bills despite encouragement from OFWAT and previous requests. However, the company states that as [ ] Water provides the customer with bills, it is ultimately their decision what information they include on the customer's bills. Having reviewed the evidence provided, I accept that the company does not provide bills for the customer and, more likely than not, they have no control over what is included on bills produced by [ ] Water. Therefore, I cannot direct the company to comply with the customer's request to provide itemised bills. Further, and in any event, even if the company did have control over the information provided on the customer's bills, I would not be able to direct the company to change the information provided on the bills as this would be considered a commercial practice and, as such, it is out of the scope of this scheme, as I am only able to direct remedies in respect of the customer himself.

#### **Outcome**

The company needs to take the following actions: The company must supply the customer with an outline of charges applied to his account for surface water drainage since 1 April 2002 or explain why this is not possible.

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

- This adjudication decision is final and cannot be appealed or amended.

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- The customer must reply by 10 December 2018 to accept or reject this decision.
- If you choose to accept this decision, the company will have to do what I have directed within 20 working days of the date on which WATRS notifies the company that you have accepted my decision. If the company does not do what I have directed within this time limit, you should let WATRS know.
- If you choose to reject this decision, WATRS will close the case and the company will not have to do what I have directed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision. WATRS will therefore close the case and the company will not have to do what I have directed.

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*KS Wilks*

Katharine Wilks

**Adjudicator**

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