

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0771

Date of Decision: 18 December 2018

#### Complaint

The company has reinstated surface water drainage charges. The customer has not seen evidence that the developer has advised that the property is connected, nor received a clear explanation of the change. The charge should reflect the type of property. The customer is the leaseholder, not the freeholder of the block; he expects to be eligible to a rebate of the surface water drainage charge.

#### Defence

The surface water drainage rebate was applied to the customer's account in error. The company removed the rebate after the developer confirmed that the building was connected for surface water drainage. The charge is payable by all customers and is a fixed charge. The company did not provide the email confirmation to the customer as it contained third party data. The company denies that the customer is entitled to the remedies requested.

#### Findings

The customer's property was demonstrated to be connected to the company's sewer for surface water drainage and the charge had therefore been properly reinstated. The charge had not been backdated despite the rebate being applied in error. The charge is set in the company's charges scheme; this is agreed with Ofwat and I have no power to review it. There was no reason to remove the surface water charges. The company had acted reasonably in protecting third party data and it had explained the situation to the customer.

#### Outcome

The company does not need to take any further action.

The customer must reply by 21 January 2019 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0771

Date of Decision: 18 December 2018

## Party Details

Customer: [ ]

Company: [ ].

## Case Outline

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

- The customer has not paid for surface water drainage since June 2014 as the property developers advised the company that the property was not connected for this service. The company has now started charging for surface water drainage, stating it has discovered that the building is connected to this service. The customer states that he has not seen evidence that the developer has informed the company that the property is connected, nor received a clear explanation of the change. The company has not provided details of the property drains connecting to the public sewer, nor proof that they do exist. The charge is not levied with regard to the size of the property; the customer submits that this would be a more reasonable way of calculating the charge. The customer is a leaseholder of a flat in a high-rise block, not the freeholder. The customer expects to be eligible to a rebate of the surface water drainage charge going forward.
- The customer requests an apology, removal of the surface water drainage charges and a refund of the charges already paid, provision of technical evidence that the property drains into the public sewer, and for the company to review how surface water drainage charges are levied.

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

- The company states that the customer applied for a surface water drainage rebate on 12 August 2014. The company approved this based on its mapping of the public sewers in the customer's road. On 9 November 2017, a technical manager at [ ], the developer of the customer's home,

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confirmed that there are no soakaways and that surface water drains into the company's sewer. The company reviewed the surface water rebate and confirmed that these would be applied to the customer's account with effect from 28 July 2017, the date of the previous meter reading. When the customer applied for the surface water rebate, the mapping showed that there was not a surface water sewer in the direct vicinity of the customer's home. However, after checks, the company found that there is a surface water sewer down the road from the customer's home and that drainage from the customer's building runs into a combined foul and surface water sewer. The mapping labels of a combined sewer and a foul water sewer are very similar; the agent that handled the customer's request in 2014 misread the mapping and approved the surface water rebate in error. Surface water drainage is chargeable under the company's Charges Scheme. All customers that benefit from surface water drainage pay the same for it within the wastewater fixed charges. The customer benefits from surface water drainage just the same as all other residents due to flood prevention in his area and the treatment of surface water. Prior to 28 July 2017, no surface water drainage charges were levied. The company denies that it has been 'negligent' by not disclosing 'critical information' to the customer; it is not normal practice to disclose documents to customers that include third party data. The company will not refund any surface water drainage charges paid by the customer, nor will it remove future surface water drainage charges from 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.

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 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.

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### How was this decision reached?

1. The customer was in receipt of a surface water drainage rebate from June 2014 until 28 July 2017. At this time, the company removed the rebate from the customer's account on the basis that the surface water from the customer's building drains into the company's sewers.
2. In reviewing the evidence, I note that the developer has confirmed that the surface water from the customer's development of flats "runs into [ ] Water combined sewers". The company has also provided the sewer map outside the customer's address. This shows the combined foul and surface water sewer near to the customer's property. I am satisfied from the evidence that the block of flats in which the customer's property is located receives the benefit of surface water drainage.
3. The customer has requested that the surface water drainage charges are removed and that he receives a refund for those charges already paid. I find that, as the property benefits from surface water drainage, the charges have been correctly applied. Notwithstanding this, I acknowledge the customer's frustration that the rebate was initially granted, only to now be withdrawn. I note that the company has not backdated the surface water drainage charges, although the rebate was applied in error.
4. I acknowledge that the customer is a leaseholder, however I find that this makes no difference to the application of the surface water drainage charges. The customer is liable for water services as occupier of his property and he also obtains the benefit of the surface water drainage as a resident. I therefore find no basis for any surface water drainage charges to be removed from the customer's account.
5. The customer has also requested that the company review how the surface water drainage charge is calculated. I acknowledge that the customer lives in a flat within a block of flats, and that the amount of surface water falling on his property will be less than an individual house. However, I also note that the surface water drainage charge is a fixed charge reflecting that customers benefit from this water being collected through flood prevention measures and the water being treated and returned into the system as clean water.

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6. I am also mindful that the company must set a charges scheme for charges and this must be approved by Ofwat. I am only able to determine if the company has charged the customer correctly in accordance with the charges scheme; I have no power to determine if the charges scheme itself is fair or reasonable, this being within the sole remit of Ofwat.
7. In view of this, I make no direction to the company that it reconsider how the surface water drainage charges are calculated.
8. The customer has requested that technical evidence of the property's drain connection to the public sewer is provided. I find that the company has provided technical evidence of this connection within its defence. I therefore make no direction in respect of this.
9. Finally, the customer has requested an apology for the "negligent approach taken in disclosing critical information" and for the company's "lack of transparency". I find that the company contacted the customer and advised that his property did benefit from surface water drainage on 25 January 2018. I am also mindful that the drainage situation of each property within the company's area may not be known to it, with soakaways being built as part of each property without reference to the company. The company applied the surface water drainage rebate in error after mis-reading its sewer plans. I note that the customer benefitted from this error and that the company has not looked to backdate the surface water drainage charges. The company removed the surface water drainage rebate after receiving confirmation from the developer that the surface water drains into the company's sewers. I accept that the company acted reasonably in not sending this confirmation to the customer until its defence submission as it involved independent third parties and their data.
10. I note that the company has apologised for any lack of transparency felt by the customer during the process. I am not persuaded that any further apology is warranted as I have found that the company acted reasonably in how it handled the reinstatement of the surface water drainage charges. For these reasons, the customer's claim is unable to succeed.

#### **Outcome**

The company does not need to take any further action.

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### What happens next?

- This adjudication decision is final and cannot be appealed or amended.
  - The customer must reply by 21 January 2019 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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**Alison Dablin**, LLM, MSc, MCI Arb

**Adjudicator**

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