

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0885

Date of Decision: 03 October 2018

#### Complaint

The customer states the company has charged her for surface water drainage ("SWD") since 1989 despite her property benefitting from soak-aways. The company has only provided a refund from 1 April 2008. She seeks a further refund of £1081.00 for sums paid since 1989.

#### Defence

The customer sought a rebate in 2017 and the company refunded charges incurred from 1 April 2008 in accordance with its policy. The company states that it is not obliged to provide any further rebate.

#### Findings

The company acted in accordance with its legal obligations in providing the customer with a rebate back to 1 April 2008.

#### Outcome

The company does not need to take any further action.

The customer must reply by 31 October 2018 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /0885

Date of Decision: 03 October 2018

## Party Details

Customer: [ ]

Company: [ ]

## Case Outline

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

- The company charged her for surface water drainage ("SWD") from the date she moved into her property, on 28 November 1989, but it never provided this service. The company has provided a refund for charges from 1 April 2008 only. The company should have known her property was not connected for SWD because her neighbour claimed a rebate in 1987. The customer thinks the company should have checked each property to see if it was connected. She was unaware she could claim a rebate until recently.
- The customer seeks a refund of £1081.00, for charges incurred from 1989.

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

- It does not know the private drainage arrangements of each customer and so it is up to each customer to claim a rebate for SWD services not provided. It provides details of its refund policy in literature alongside bills and on its website. In 2007 Ofwat issued guidance to say companies should investigate neighbouring properties where one was found to be not connected for SWD. Therefore, in 2007 the company introduced a policy whereby it would investigate the connections of households on any road where 20% or more of the properties were not connected for SWD (its "cluster policy"). Following the customer's complaint the company found that more than 20% of properties on her road were not connected for SWD in 2008. It accepts it should have investigated the customer's connection then, but did not do so. It has therefore provided the customer with a refund for SWD charges incurred since 1 April 2008. It denies it

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has to provide a further refund. It accepts there were failings in its handling of the customer's complaint and therefore offers a further credit of £150 as a goodwill gesture.

### 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.

### How was this decision reached?

1. It is not in dispute that the company charged the customer for SWD, even though she did not use this service.
2. The CCWater documents refer to Ofwat guidance issued in 2000 that required companies to refund SWD charges if they knew or should have known a customer was not connected for SWD. However Ofwat did not require companies to provide refunds for charges incurred prior to 2000.
3. The company has referred to Ofwat guidance issued in 2007 and its own cluster policy dating from 2007. The company says it would investigate connections on a street where more than 20% of properties were found to be not connected for SWD.

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4. Neither party has provided copies of the guidance or policies referenced but the customer does not dispute they apply. Further, the customer has not suggested that any other law or policy applies to this matter.
5. The customer has not shown the company is obliged to investigate each customer's drainage arrangements or that it had information about the drainage arrangements of her property at the time it was built.
6. The customer has provided evidence to show the company knew another household on her road was not connected in 1987. However, this does not mean the company knew the customer's own property was not connected.
7. The company accepts it should have investigated the customer's connection in 2008, in line with its "cluster policy". Had it done so it would have found the customer was not connected for SWD and provided a refund from the start of the financial year. The company has therefore provided the customer with a refund on SWD charges incurred from 1 April 2008. I consider it acted reasonably in doing so.
8. The company states it provides information on its SWD refund policy alongside bills. It is unable to provide historic evidence but it has provided a copy of such information dating from 2004 which tells customers they can claim a SWD rebate.
9. The customer says she did not know she could claim a refund on SWD until she saw a newspaper article. However, she does not deny the information may have been provided alongside bills and she has no evidence to show that it was not.
10. In consideration of the parties' submissions and evidence, I accept on a balance of probabilities that the company provided information about its SWD refund policy to customers.
11. I must make a decision in line with the law. Therefore, while I appreciate the customer feels the company has acted unfairly, I am unable to find the company failed to follow any relevant law or policy. Therefore, the customer's claim is unable to succeed.

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12. I note the company has offered the customer a credit in light of customer service failings. However, this was not part of the customer's claim and therefore I have not commented on this matter.

#### **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 31 October 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.

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**Justine Mensa-Bonsu**, LLB (Hons), PGDL (BVC)

**Adjudicator**

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