

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0897

Date of Decision: 11 September 2018

#### Complaint

The customer says that she has been overcharged for water over 11 years. Only in 2018 was she told that she was eligible for a single occupancy rate. She complains of lack of transparency and suggests that the company should charge customers on the basis of the number of occupants, the size of the property and the water-consuming appliances within their households. The customer seeks an apology for inconvenience, a breakdown of the rebate that she has received and interest at 8% per annum (compounded) in respect of the rebate.

#### Defence

The company levied its charges in accordance with its Charges Scheme. The single person household rate is a means of applying the Assessed Volume Charge, for which a customer is only eligible if a water meter is requested. Despite information given annually that customers living alone would benefit from a water meter, the customer did not apply until 5 February 2018. The company has given a goodwill rebate backdated to 2007 only in consequence of CCWater's intervention and has supplied a breakdown directly to CCWater and in the defence. There is no entitlement to interest.

#### Findings

The company charged the customer in accordance with its published Charges Scheme and it is for the company to decide how those charges should be calculated. The charges and the fact that the customer would benefit from a water meter was explained in a leaflet provided annually with her bill. Consequently, I am satisfied that there was no lack of transparency. Although the WATRS Scheme Rules permit the payment of interest, this is only where the customer has been incorrectly billed -as I find the customer was not incorrectly billed I am not satisfied that interest should be applied.

#### Outcome

The company does not need to take any further action.

- **The customer must reply by 9 October 2018 to accept or reject this decision.**

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# ADJUDICATOR'S DECISION

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Date of Decision: 11 September 2018

## Party Details

Customer: [ ]

Company: [ ].

## Case Outline

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

- She has been overcharged for 11 years.
- Only when she complained to the company in 2018 about a price increase, was she told that she was eligible for a single occupancy rate. She had not previously been informed of this, despite having contacted the company in 2007.
- The company is not transparent in relation to its charging. She suggests that the company should charge customers on the basis of the number of occupants, the size of the property and the water-consuming appliances within their households.
- The customer seeks:
  - An apology for all the inconvenience that she has been caused;
  - A breakdown of the rebate that she has received; and
  - Interest at 8% per annum (compounded) in respect of the rebate.

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

- It has supplied its services in a manner that would reasonably be expected of it.
- Sections 142 to 144 of the Water Industry Act 1991 permit the company to impose charges and publish its charging scheme. OFWAT makes charging rules that suppliers must follow. The company has a legal duty to certify to OFWAT that it has complied with the charging rules. The company has complied with this duty.
- The company is permitted by reason of the Water Industry Act 1999 to fix charges by reference to "rateable values". These are assessments of the historical value of properties for

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- rating purposes, carried out by the District Valuer's Office of the Inland Revenue between 1967 and 1990 before domestic rating was replaced by the community charge.
- Section 144A of the Act confirms that the customer has the right to apply for charges to be fixed by reference to volume (that is, using a water meter). The company promotes the use of water meters and all homes built after 1990 have water meters installed. A customer does not have to apply for the installation of a meter and the company is not obliged to install a water meter if it is not reasonably practicable. This is determined by a survey of the property.
  - Where a water meter is not installed because it is not reasonably practicable to do so at a reasonable cost, a customer is charged on the basis of an Assessed Volume Charge for water services. This is not dependent on the rateable value, but it is a rate that can only apply where the customer has asked for a meter and the company has not provided one. The single occupancy rate, introduced in 2009, is applicable only to those who are charged for water by reference to the Assessed Volume Charge.
  - The basis of charging is explained in a customer information leaflet that is supplied to all customers with their annual bill. As a customer cannot simply choose to have an Assessed Volume Charge, this is not as widely advertised as metering. Information about these tariffs is, however, available in the Charges Scheme which can be seen by customers on the company's website.
  - The customer's account, which was opened in 2002, was changed from another name to the customer's name following contact with the company on 8 October 2007. The customer did not request a water meter until 5 February 2018.
  - On 14 February 2018, the company carried out a survey and confirmed that the external supply was not shared but that due to the configuration of the internal supply there was insufficient space to fit a meter at the internal stop tap. The customer was therefore placed on an Assessed Volume Charge for a single person household from 14 February 2018.
  - The company says that the customer had previously been charged correctly because she had not requested a water meter and there were no grounds to recalculate any previous charges. However, on 3 May 2018, the company received a telephone call from the Consumer Council for Water (CCWater) who asked for a recalculation of the charges as a gesture of goodwill. The company considered her account and took into account the fact that she had contacted the company on 8 October 2007. It agreed to recalculate the charges on an Assessed Volume Charge from 8 October 2007. This was not in accordance with the Charges Scheme because backdating was not an entitlement but was a matter of goodwill only.

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- The company has carried out a recalculation of the goodwill allowance that has been given to the customer. In doing so, it made an arithmetical error of £28.97. This sum has now been credited to the customer's accounts together with an additional compensation payment of £25.00 in respect of this error.

### 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?

1. The customer in her comments in reply to the company's defence refers to the legal provisions relied on by the company and states:

*As a .... customer I expect to be able to trust that I will receive a fair price for the product and service I receive. This would include recognising that single occupancy also equates to single income. When I telephoned to enquire about single occupancy this year it was because I genuinely believed I was reaching a point where I couldn't afford to pay for water as wages are not increasing at a rate of the rising cost of living ([the company] had evidence I was a single occupant since 2007). I was informed there was no such thing as a single occupancy tariff. I don't believe there is a bill or law that explicitly, or implicitly, encourages such blatant dishonesty.*

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### The transparency of the company's charges

2. The company has submitted evidence relating the law that permits it to make a Charges Scheme in order to set the tariffs that it asks customers to pay for the company's water (and sewerage) services. The company states that it has prepared its Charges Scheme in accordance with the requirements of OFWAT and has taken the formal step of certifying that its Scheme is compliant. There is no evidence to the contrary and therefore I accept that this is the case. I find that it is reasonable to look at the company's published document to assess whether the Charges Scheme has been appropriately set out in it.
3. The company has submitted a copy of its Charges Scheme for 2018/19 and has referred to its website where the most recent of its previous Charge Schemes can be found. I have referred to the Charges Scheme for 2017/2018, because this would have been in force in February 2018, that is, at the time that the customer contacted the company about her water charges.
4. The Charges Scheme explains the rateable value as a basis of charge. Having considered the underlying legal provisions I am satisfied that this has been a lawful point of reference for setting water charges since 2000. I am also aware that applying a multiplier to the rateable value for the assessment of unmeasured water supply is an industry norm.
5. The charge for measured (metered) supply is also explained in the Charges Scheme and at paragraph 3.5.5, the Assessed Volume Charge is also explained.

*Where a water meter has not been installed because:*

- *one or more of the reasons in 3.5.2 apply (except that relating to non-compliance with the Fittings Regulations); and*
- *a shared water meter cannot be installed (see 3.5.12).*

*You will be charged based on an assessed charge for water services instead of a charge based on the charging value of your premises....*

It is apparent from the Charges Scheme that the assessed charge (the Assessed Volume Charge) takes account of a single occupancy household where that is relevant.

6. I find that there is nothing unsatisfactory or misleading about this: if the customer has unmeasured water, the charge is that associated with the land occupied. If the customer wishes to be charged only for the volume of water used, then the route to this is to seek the installation of a meter. The Assessed Volume Charge only arises where a customer has asked to pay only for the water used, but measurement of this is impracticable for reasons that are not within the

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customer's reasonable control. The single person household adjustment to that assessment was, the papers indicate, introduced only in 2009.

7. The customer complains that when she contacted the company this year, she was told that there "was no such thing as a single occupancy tariff". I find that in one sense, that is true: the customer was at that point only entitled to ask for a water meter, and she was advised about this. The company made an appointment to survey her property in a matter of a few days. Her right to an Assessed Volume Charge, which took into account her single occupancy, only arose because a meter could not be fitted. I am therefore not satisfied that the customer has proved that there was "blatant dishonesty" associated with the company's explanation to her in 2018.
8. Although the customer further states that she would like the charges to be imposed on the basis of the number of occupants, the size of the property and the water-consuming appliances, I find that the Water Industry Act 1991 gives discretion to the company about how the charges scheme will work. I find that this is a matter for the company to set and not for the customer to determine. I find, overall, that a customer would reasonably expect that the company would impose charges in accordance with its published Charging Scheme. It follows that I find that, in applying its Charges Scheme in the customer's case, the company has not acted otherwise than would reasonably be expected of it.
9. The company additionally states that it has actively promoted its Free Meter Option since 2000 by sending an information leaflet each year with its bills, so that, throughout the period of the account, the customer has been invited to apply for a meter. The company has submitted copies of these leaflets. That for 2006 and 2007 stated that the charging basis was that of the rateable value unless a water meter had been fitted. It invited customers to apply for a water meter by text under a heading "Are you paying more than you need to for your water?" One of those for whom a water meter was said to be of benefit was "if you live on your own". The leaflet for the subsequent year was in the same terms. In the leaflets for the year 2009-2010 and 2010-2011, the text included an explanation about the single person occupancy rate. It stated:

*If we can't fit a meter, you may choose to pay an assessed charge. That charge will be based on your property type unless you live alone, in which case you can apply for the single person households assisted charge.*

The leaflet for 2011-2012 again asked the question "Could I reduce my water charges if I switch to a meter?" to which a part of the answer was that it would benefit a person on their own. The position was similar in 2012-2013 and the leaflets for 2013-2014 to 2017-2018 explained the

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position in yet more detail but still explained that an assessed charge could be made if a water meter was not fitted. It again said that a water meter would be beneficial for a person living alone and that an assessed charge would, if this applied, be based on single person occupancy.

10. In the light of these leaflets, I find that the company has given adequate information to the customer about charging over a number of years and has frequently repeated that a benefit would be gained if the customer were to apply for a water meter. It made clear that this benefit would particularly apply to a person living alone and the leaflets from 2013 onwards stated specifically that the Assessed Volume Charge would take account of single person occupancy. The company has stated that these leaflets were supplied to the customer each year with her bill and there is no evidence to the contrary. I am therefore satisfied that the company sent this information to the customer.
11. Following the intervention by CCWater, the company has given the customer a rebate back-dated to 2007. I am conscious that in 2007, the company could not have advised her of the single occupancy assessment because this had not then come into force. While I accept that the company could have stated that she would be better off with a meter, I find that any failure in 2007 was outweighed by the written information supplied to the customer in every year.
12. In the light of the above matters, therefore, I am satisfied that the company has over the years given to the customer sufficient information to let her know that she would be better off if she applied for a water meter. I find that there was no lack of transparency. As the customer did not apply for a water meter, it follows that I find that she has not shown that she was incorrectly charged. Overall, therefore, I find that the company has supplied its services in a way that would reasonably be expected of it.

#### Interest

13. The customer complains that she should have been provided with compound interest calculated at 8% per annum. The analogy, she explained to CCWater, was that this would compare with compensation given for PPI mis-selling.
14. The company makes clear in its submissions that the rebate made was a matter of goodwill, not entitlement, and it has set out in the documentation submitted a breakdown of how this has been calculated, in addition to information that had previously been supplied to CCWater. As I

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have found above that the customer was charged in accordance with the Charges Scheme and the company was not under an obligation to make a rebate to the customer, I am therefore satisfied that the payment was made to the customer as a matter of goodwill and not because she had a right to repayment.

15. The company states that I have no jurisdiction to award interest on the rebate. Rule 6.7 of the WATRS Scheme Rules states:

*6.7 Subject to the limits set out in Rule 6.4 where in a dispute relating to incorrectly levied charges a customer requests a payment of interest, the adjudicator shall award interest at a rate equivalent to the rate applicable under section 69 of the County Court Act 1984 from the date when payment of the incorrect sum was made until the date of the decision.*

16. This rule would therefore permit the payment of simple (not compound) interest at a rate of 8% per annum, but only where I have found that the customer has been charged an incorrect sum. As I have found above that the customer has not shown that she was charged an incorrect sum I therefore also find that she is not entitled to the payment of interest.

### Conclusion

17. Accordingly, I find that the customer has not shown that the company has failed to supply its services to the standard that an average person would reasonably expect. The company has now provided (in addition to information provided to the customer via CCWater) a breakdown of the calculation of the rebate that she has received and so I am satisfied that no further direction is needed in relation to this. It follows that I find that the customer has not proved that she is entitled to further redress.

### **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.

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- The customer must reply by 9 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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Claire Andrews, Barrister, FCI Arb

**Adjudicator**

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