

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0945

Date of Decision: 16 October 2018

#### Complaint

The customer objects to the company's decision to install a compulsory meter at his property as part of its compulsory metering programme. The customer also raises complaints about the company's charges and the level of customer service provided by the company when dealing with his complaint. The customer requests that the company provide a service, specifically that the company should be open and transparent about the government, its dealings with [ ], the revenue it generates and how it spends this revenue. The customer also requests that the company "revert to a 'flat rate' of unmeasured charges i.e. rateable value," and pay compensation in the total sum of £10,000.00.

#### Defence

The company submits that the customer's water meter has been installed as part of its Customer Metering Programme. The company states that water companies can compulsorily charge by reference to volume, and meter premises for that purpose when the premises are located in an area that has been determined by the Secretary of State to be an area of serious water stress. The entire area it supplies was designated as an area of serious water stress and its water resources management plan, which includes a metering programme to cover its whole supply area, was approved by the Secretary of State. Once the scheme is complete, charging by reference to rateable value will no longer be valid. The correct procedures were followed in terms of the meter installation; however, with understanding of the customer's concerns about having a water meter installed, an offer to waive the first three months of the customer's metered bill was made as a gesture of goodwill.

#### Findings

The evidence confirms that the company was legally entitled to meter the customer's property and charge the customer on a metered basis without his consent. There is also no evidence to show that any charges billed to the customer by the company on the metered basis have been incorrect. No evidence has been submitted to this adjudication to show that the company acted discourteously towards the customer during the parties' contact. However, I note the company does itself admit in correspondence that the customer was not kept up to date with the metering process and that the customer's case could have been managed better. The company therefore failed to provide its services to the customer to the standard to be reasonably

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expected in this regard. The company should pay the customer compensation in the sum of £75.00 for this failing. The remainder of the customer's requests for redress do not succeed.

**Outcome**

The company needs to take the following further action:

I direct that the company pay the customer compensation in the sum of £75.00.

The customer must reply by 13 November 2018 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

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## Party Details

Customer: [ ]

Company: [ ]

## Case Outline

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

- He objects to the company's decision to install a compulsory meter at his property as part of its compulsory metering programme. He believes that it was not appropriate for the company to do so.
- He believes that the company's charges will double annually.
- He believes that the company is using government legislation to suit its own agenda. It has adopted a pricing scheme which is unfair, biased and over the threshold. The company are wasting millions of litres of water daily due to damaged pipes, which costs millions to repair and which customers have to pay for.
- Telephone contact with the company was lengthy and heated, and staff were rude and arrogant.
- The company also threatened to take him to court, and acted like it was the government.
- The customer requests that the company provide a service specifically that the company should be open and transparent about the government, its dealings with [ ], the revenue it generates and how it spends this revenue. The customer also requests that the company "revert to a 'flat rate' of unmeasured charges i.e. rateable value." Finally, the customer requests compensation in the sum total of £10,000.00 for: distress and inconvenience; time spent dealing with third parties including his MP to forward the matter, and the stress and time off work, and loss of earnings in relation to this; a letter from the company stating that it would entered his property and the stress and fear caused to him and his family in relation to this; loss of earnings from contracts not achieved; and now not being able to work and not claiming benefits.

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

- Its charges are set out in its Charges Scheme, which is produced pursuant to sections 143 and 143A of the Water Industry Act 1991 and in accordance with rules about Charges Schemes issued by Ofwat in line with section 143B of the Act.
- The decision to implement compulsory metering is made by water companies as part of their statutory water resources management plans. Water resources management plans are prepared by water companies in accordance with their statutory obligations and following a process that ensures public consultation and scrutiny of the plan by Defra and, where required, public inquiry. Its water resources management plan has followed this process of consultation and, in addition, was approved following a public inquiry.
- Water companies are also allowed under the Act to meter and charge by reference to volume when certain conditions are satisfied. Water companies can compulsorily charge by reference to volume, and meter premises for that purpose when the premises are located in an area that has been determined by the Secretary of State to be an area of serious water stress.
- The entire area supplied by [ ] Water was designated as an area of serious water stress and its water resources management plan, which includes a metering programme to cover its whole supply area, was approved by the Secretary of State following extensive consultation with all stakeholders, including customers.
- The premises occupied by the customer are included in its water resources management plan. The water meter was installed on 29 June 2018. Now supplied by meter, charges will be raised by reference to volume of water supplied.
- It also has a statutory power under section 162 of the Act to carry out metering works and section 172 of the Act grants specific powers of entry to any premises for the purposes of carrying out metering works, and for any inspection or testing, examination or reading of a meter.
- It appreciates and understands the customer's concerns and dispute against having a water meter installed; however, the water meter has been installed as part of its Customer Metering Programme. Its customer metering programme has been undertaken throughout its area and is scheduled to be complete next year. Once the scheme is complete, charging by reference to rateable value will no longer be valid. It is unable to agree to the customer's request to revert the charges back to an un-metered basis.
- The correct procedures were followed in terms of the meter installation. Nonetheless, with understanding of the customer's concerns about having a water meter installed, an offer to

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waive the first three months of the customer's metered bill was made as a gesture of goodwill. This offer still applies should the customer wish to accept it.

### 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. I must remind the parties that adjudication is an evidence-based process.
2. 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.
3. It is almost inevitable in such adjudications that conflicts of evidence arise, and the mere fact that the adjudicator finds in favour of one party on a particular issue does not mean that the other is telling an untruth. The adjudicator's role is to balance the evidence that is presented.

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4. It is not part of the adjudicator's function to carry out an independent investigation of the facts, or for instance, contact witnesses. If evidence is said to be relevant, it should have been submitted to WATRS.
5. The customer has made a number of submissions about the parties' communications. The customer does not give dates and times of these calls. The company has submitted contemporaneous account notes in evidence giving information about calls and correspondence between the parties. I acknowledge the customer's submissions, in his Comments on the Defence, that these notes have been tampered with. However, no evidence has been submitted to this adjudication to support this. Consequently, in the absence of any evidence showing otherwise, I accept the company's contemporaneous account notes on a balance of probabilities.

### ***Compulsory metering***

6. I accept the company's submissions that under the Water Industry 1991 Act and the Water Industry (Prescribed Conditions) Regulations 1999 as amended in 2007, a water company can compulsorily charge by reference to volume, and meter a premises for that purpose, where a property is in an area of serious water stress and are subject to a metering programme set out in a water company's water resources management plan.
7. The evidence supports the company's submission that the customer's property is located in an area designated as an area of serious water stress, and is covered by the company's water resources management plan.
8. I also accept the company's submissions that, under Section 143 of the Water Industry 1991 Act, the company is also entitled to make a Charges Scheme that fixes the charges for any services provided by the company in the course of carrying out its functions.
9. The evidence shows that information about compulsory metering and the company's charges have been set out in the company's Charges Scheme. A company's Charges Scheme must be approved by OFWAT. There is no evidence to show that the company's Charges Schemes have not been approved by OFWAT.

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10. There is also no evidence to show that any charges billed to the customer by the company on the metered basis have been incorrect.
11. The evidence therefore confirms that the company was entitled to meter the customer's property and charge the customer on a metered basis without his consent. Consequently, and in the absence of any evidence to show that the company has billed the customer incorrectly on this basis, the customer has not shown that the company has failed to provide its services to the customer to the standard to be reasonably expected in this regard.
12. For the avoidance of doubt, I note the customer's concerns about the fairness of the company's compulsory metering policy, and its current and future charges. However, I must remind the parties that the scope of the Scheme is set out under WATRS Rule 3.3. Under WATRS Rule 3.4.1, I am not satisfied that WATRS is the appropriate forum to determine any complaints regarding the fairness of the company's metering policy and level of charges. I also acknowledge the customer's submissions the company is wasting millions of litres of water daily due to damaged pipes. However, it falls outside of my remit to review this complaint and determine whether or not the company breached any obligations in this regard. I acknowledge the customer's concerns and appreciate that the customer will be disappointed that I am not in a position to consider these complaints. However, my remit is limited to determining whether the company has acted in accordance with its Charges Scheme, and the evidence confirms that the company has acted in accordance with its obligations in these regards.

### ***Customer service***

13. The customer also submits that the company failed to provide a reasonable level of customer service when dealing with his complaint.
14. The customer states that telephone contact with the company was lengthy and heated, and staff were rude and arrogant. No evidence has been submitted to this adjudication to show that the company acted discourteously towards the customer during the parties' contact. However, I note the company itself does admit in correspondence that the customer's case could have been managed better and that the customer should have been kept up to date with the metering process. I therefore find that the company has failed to provide its services to the customer to the standard to be reasonably expected in this regard.

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15. In respect of the customer's submission that the company threatened to issue court summons, as discussed above, the evidence confirms that the company was entitled to meter the customer's property without his consent. I also accept the company's submissions that it has a statutory power under the Act to carry out metering works and enter any premises for the purposes of carrying out metering works, and for any inspection or testing, examination or reading of a meter. I therefore find no failing on the company's part in this regard.

### **Redress**

16. The customer requests that the company should be open and transparent about the government, its dealings with [ ], the revenue it generates and how it spends this revenue. I also note the customer's submissions in his application about the Freedom of Information Act. However, I find that these issues fall outside the scope of adjudications under the Scheme. It is not within my remit to review these complaints and determine whether or not the company breached any obligations in these regards. Further, these issues do not flow as a remedy from the failing shown above. Consequently, the customer's request cannot be considered.

17. In respect of the customer's request that the company "revert to a 'flat rate' of unmeasured charges i.e. rateable value," as discussed above, the company was entitled to meter the customer's property and charge the customer on a metered basis. There is no evidence to show that the company is obliged to revert to charging the customer on a rateable value basis. This request can also not be considered.

18. The customer also requests that the company provide compensation in the sum total of £10,000.00. In light of my findings that the company has failed to provide its services to the customer to the standard to be reasonably expected by failing to keep the customer up to date with the metering process, I find that the customer is entitled to a measure of compensation for the stress and inconvenience caused. However, I find that the sum claimed by the customer is disproportionate to the failing shown. In addition, the customer has not provided any evidence to substantiate his claim for losses such as invoices, receipts or bank statements. Further, the customer has not shown that the company is liable to compensate him for loss of earnings or business related losses, nor has the customer shown that the losses claimed were reasonably foreseeable. Having carefully considered the matter, I consider the sum of £75.00 to be fair and reasonable in the circumstances. No evidence has been submitted to this adjudication to

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support a larger sum of compensation. I therefore direct that the company pay the customer compensation in the sum of £75.00.

#### **Outcome**

The company needs to take the following further action:

I therefore direct that the company pay the customer compensation in the sum of £75.00.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 13 November 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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**U Obi LLB (Hons) MCI Arb**  
**Adjudicator**

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