

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /0954

Date of Decision: 26 October 2018

Complaint

The customer submits that the dispute concerns the company's decision to share his information with Credit Reference Agencies (CRAs), and the company's billing process. The customer raises complaints that customers have no say in the sharing of their data with CRAs and have no alternative water supplier to choose from. The customer also states that the company only notified him of a bill by email at its discretion. The customer requests that changes be made to the company's billing system and its policy of sharing data with credit reference agencies. The customer states that the company should withdraw all data shared with CRAs and get explicit permission from its customers before sharing the data again.

Defence

The appropriate legal and regulatory requirements for this data protection complaint are serviced and governed by Data Protection legislation and the UK Information Commissioner Office's regulatory function. The customer should be referred to a more appropriate forum for the resolution of the dispute in accordance with the Scheme Rules. Under the Water Industry Act 1991, the government has determined that there will only be one water supplier for domestic customers. It holds a license as the only water supplier within the North West area for domestic customers. The customer chose not to set up the paperless bills option and has always paid his bills upon receipt. The customer confirms that he was out of the country between 17 January 2017 and 14 May 2017. This prevented him from seeing or paying the bills it sent. It has no record that the customer contacted it to notify it he was away. On 21 January 2017 it issued a bill for £197.46 which was posted to the customer. On 14 May 2017, full payment was received. It shared negative data with the CRA of non-payment for a single bill over 3 months. It is obliged to accurately represent the customer's payment history. No offer of settlement was made.

Findings

Data protection issues do not fall within the scope of WATRS. WATRS is not the appropriate forum for issues concerning data protection and data protection legislation. The customer's complaint that customers have no choice in who their water supplier will be is not an issue that can be reviewed by WATRS. Under the company's Charges Scheme, where a customer opts to receive paperless billing, the company will send the customer an email notifying them that their bill is available to view in their online account on the company's

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website. For customers who do not opt-in for paperless billing, there is no evidence to show that the company is also under an obligation to notify customers by email that their bills have been sent by post. The company's email notification policy is a business matter for the company alone to determine. 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 fulfilled its obligations.

Outcome

The company does not need to take any further action.

The customer must reply by 22 November 2018 to accept or reject this decision.

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ADJUDICATOR'S DECISION

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Date of Decision: 26 October 2018

Party Details

Customer: []

Company: []

Case Outline

The customer's complaint is that:

- The dispute concerns the company's decision to share his information with Credit Reference Agencies (CRAs), and the company's billing process. The customer raises complaints that customers have no say in the sharing of their data with CRAs and have no alternative water supplier to choose from.
- The customer also states that the company only notifies him by email about paper bills at its discretion.
- The customer requests that changes be made to the company's billing system and its policy of sharing data with credit reference agencies. The customer states that the company should withdraw all data shared with CRAs and get explicit permission from its customers before sharing the data again.

The company's response is that:

- Its shares its customer data with CRAs whether positive or negative. This activity is not just about debt collection/tracing. Both negative and positive information is shared.
- Data Protection laws do not stop the sharing of personal data between organisations. In order to meet the lawfulness of processing criteria it relies on the "legitimate interests" condition which permits such processing, and where customer consent is not necessary.

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- In line with the “fair processing” obligations since 2011 it has notified all its customers of its intention to share their data with CRAs. This notification is on the back of all bills, in annual billing leaflets and extensively on its website.
- This is set out in its Charges Scheme which is approved by Ofwat.
- In January 2015 it sent the first bill for water charges to the customer, and the data share statement was included on that bill and every bill sent thereafter notifying the customer that it shares payment performance information with CRAs.
- This data protection matter does not fall within those eligible categories for consideration under the WATRS Scheme.
- The appropriate legal and regulatory requirements for this data protection complaint are serviced and governed by Data Protection Legislation (under the Data Protection Act 1998 and as of 25th May 2018, the General Data Protection Regulation (“GDPR”) and the Data Protection Act 2018), and the UK Information Commissioner Office’s regulatory function.
- The customer should be referred to a more appropriate forum for the resolution of the dispute in accordance with the Scheme Rules.
- Under the Water Industry Act 1991, the government has determined that for domestic customers there will only be one water supplier who is licensed by them to carry out this work. It holds a license as the only water supplier within the [] area for domestic customers. It would need a change in law to allow competition in the domestic sector.
- The customer has had an account at this property since 21 November 2014. He registered to gain online access to his water services account on 30 January 2012. However, he chose not to set up the paperless bills option and has always paid his bills upon receipt.
- Due to the issue of internet security, it does not send customer bills via email, as this discloses their personal information which could be misused. If a paperless billing option is applied for, an email is sent to advise the customer that their bill is ready to view.
- The customer confirms that he was out of the country between 17 January 2017 and 14 May 2017. This prevented him from seeing or paying the bills it sent. It has no record that the customer contacted it to notify it he was away.
- On 21 January 2017 it issued a bill for £197.46 which was posted to the customer. As this remained unpaid, it issued a reminder on 16 February 2017 and a further legal reminder was sent on 5 March 2017.
- It has an agreement with Royal Mail that any undelivered mail should be returned. There is no record on the customer’s account to suggest this has happened.
- On 14 May 2017, full payment of £197.46 was received through the customer’s online account.

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- It first shared negative data with the CRA on 14 March 2017, and subsequently on 4 April 2017 and on 13 May 2017. The record shared with a CRA is of non-payment for a single bill over 3 months. When the customer settled his account, the record was updated to show that all his payments were now up to date. However, the period of non-payment will remain visible as it is obliged to reflect an accurate representation of the customer's payment history.

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?

Data Protection

1. I note both parties' submissions about data protection and data protection legislation. The customer submits that the company shares his information with CRAs without his consent and requests that changes be made to this policy. However, I must remind the parties that the matters which can be adjudicated under WATRS are set out in Section 3.3 of the WATRS Rules. Data protection issues do not fall within the scope of WATRS. WATRS is not the

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appropriate forum for issues concerning data protection and data protection legislation. It is therefore not within my remit to consider the customer's complaint in this respect.

Alternative water supplier

2. I also note the customer's concerns that customers have no choice in who their water supplier will be. However, I accept the company's submissions that under the Water Industry Act 1991, the government has determined that there will only be one water supplier for domestic customers in each part of the country. This is not an issue that can be reviewed by WATRS. This aspect of the customer's complaint can therefore also not be considered.

Notification of Bills by email

3. I remind the parties that adjudication is an evidence-based process. 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.
4. Under Section 143 of the Water Industry 1991 Act, the company is entitled to make a Charges Scheme that fixes the charges for any services provided by the undertaker in the course of carrying out its functions.
5. There is no evidence to show that the company's Charges Schemes have not been approved by OFWAT or do not comply with OFWAT's charging rules.
6. I note that under the company's Charges Scheme, where a customer opts to receive paperless billing, the company will send the customer an email notifying them that their bill is available to view in their online account on the company's website.
7. For customers who do not opt-in for paperless billing, there is no evidence to show that the company is also under an obligation to notify customers by email that their bills have been sent by post.
8. It is not disputed that the customer did not opt-in for paperless billing between 17 January 2017 and 14 May 2017; the four month period in which he was abroad. It is also not disputed that the customer did not notify the company that he would be away.

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9. The company's account notes show that the company issued the customer's bill on 21 January 2017 and reminders were sent on 16 February 2017 and 5 March 2017. I note the customer's submissions that the company should ensure that customers have actually received bills/reminders. However, I accept the company's submissions that it would not be economically viable to do this, nor is it under an obligation to demonstrate proof of delivery of a bill. The evidence submitted by the customer with his WATRS application indicates that he made payment to his account immediately on his return to the UK, indicating that the customer received the company's correspondence. I am inclined to accept, on a balance of probabilities, the company's submissions that the customer's bills/reminders were correctly sent.
10. Having carefully considered the parties' submissions and all of the evidence submitted to support these submissions, I accept the company's submissions that it correctly notified the customer by post when his payment was due, and reported correctly late payment activity on the customer's account. The customer has not shown that the company failed to provide its services to the standard to be reasonably expected by the average person in this regard.
11. I acknowledge the customer's concerns about the company's email notification policy and requests that changes be made to this system. However, the company's email notification policy is a business matter for the company alone to determine. 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 fulfilled its obligations.
12. Consequently, in view of all of the above, the customer's claim is unable to succeed.

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 22 November 2018 to accept or reject this decision.

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- 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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U Obi LLB (Hons) MCI Arb
Adjudicator

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