

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1016

Date of Decision: 8 October 2018

Complaint

The customer submits that the company overcharged him for waste water services for 16 years and has refused to reimburse the charges for the full 16 years. The customer requests that the company provide full reimbursement for the full period of overcharging.

Defence

The company submits that the customer's Surface Water Drainage (SWD) rebate has been applied correctly in line with its policy and OFWAT guidelines. The customer was granted a SWD rebate from 1 April 2012, as its policy for properties built after 2001 is that it will backdate a SWD rebate for a maximum of six years (five years plus the current billing year). The option to apply for a SWD rebate has been advertised on the reverse of all its bills. However, in 2007, OFWAT introduced best practice guidelines. This included a recommendation that when an existing customer applied for a SWD rebate, companies should look at other properties in the vicinity to determine whether they might also be eligible. Following a review, it acknowledged that a neighbouring property had received a SWD rebate in March 2017, but it had not sent letters to other residents inviting them to apply for a rebate until January 2018. It therefore credited a further £21.00 to the customer's water services account to cover SWD charge for 2011/2012.

Findings

Under the company's Charges Scheme any SWD rebate is subject to a maximum six year period for properties built after 2001. There is no evidence to show that the company is under a duty, legal or otherwise, to backdate the customer's rebate to 2002. I accept that the option to apply for a SWD rebate was advertised on all the bills sent to the customer. In 2007, OFWAT recommended that companies take a more proactive approach to inviting customers to apply for SWD rebates. The company itself submits that a neighbouring property had received a SWD rebate in March 2017, but that it did not send letters to other residents inviting them to apply for a rebate until January 2018; some 10 months later. The company has not shown that 10 months was a fair and reasonable time within which to send invitations to neighbouring properties. I find that company failed to provide its services to the customer to the standard to be reasonably expected by the average person in this regard. However, I note that the company acknowledged this failing and offered the customer a further £21.00 to cover the SWD charge for 2011/2012.

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I am satisfied that this offer was appropriate. No evidence has been submitted to this adjudication showing that the company was aware or should have been aware that the customer's property did not drain into its surface water sewer prior to March 2017.

Outcome

The company does not need to take any further action.

The customer must reply by 5 November 2018 to accept or reject this decision.

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- On 29 January 2018, the customer was granted a SWD rebate from 1 April 2012, as its policy for properties built after 2001 is that it will backdate a SWD rebate for a maximum of six years (five years plus the current billing year). The rebate was in the sum total of £148.19.
- The customer made a complaint to the Consumer Council for Water (CCW) and CCW's requested that it review the case. Following its review it acknowledged that it had found that a neighbouring property had received a SWD rebate in March 2017, but it had not sent invitation letters to other residents inviting them to apply for a rebate until January 2018. It therefore credited a further £21.00 to the customer's water services account. This represented the SWD charge for 2011/2012, as if the customer had been granted an allowance in March 2017 his SWD rebate would have been backdated to 1 April 2011.
- It also reviewed the service it had provided to the customer, and found that one of his points, in his letter received on 8 February 2018 had not been addressed; it therefore credited an additional £40.00 to the customer's water services 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?

Complaints about CCW and WATRS

1. I note the customer's complaints about the services provided by CCW and the WATRS process, in particular the timescales of the Scheme. However, for the purposes of this decision my remit is limited to an adjudication of the issues between the customer and the company. Any complaints against CCW and WATRS cannot be considered.

SWD Rebate

2. 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.
3. 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.
4. It is not disputed that the customer's property was built after 2001. I accept the company's submission that under its Charges Scheme any rebate will be subject to a maximum six year period for properties built after 2001.
5. I acknowledge the customer's request for a rebate to cover the 16 years in which he has occupied the property. However, there is no evidence to show that the company is under a duty, legal or otherwise, to backdate his rebate to 2002.
6. I note the customer's concerns about the fairness of the company's rebate policy. 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, WATRS is not the appropriate forum to determine any complaints regarding the fairness of the company's rebate policy. I acknowledge the customer's concerns and appreciate that the customer will be disappointed that I am not in a position to consider his complaint. 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 fulfilled its obligations.

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Notification of the option to apply for a rebate

7. In light of the both parties' submissions, I accept the company's submissions that the option to apply for a SWD rebate has been advertised on all the bills sent to the customer.
8. The company has submitted evidence to support its submissions that, prior to 2007, the onus was on customers to claim the rebate. However, the company accepts that in 2007, OFWAT recommended that companies take a more proactive approach and when an existing customer applied for a SWD rebate, companies should look at other properties in the vicinity to determine whether they might also be eligible.
9. The company itself submits that a neighbouring property had received a SWD rebate in March 2017, but that it did not send letters to other residents inviting them to apply for a rebate until January 2018; some 10 months later. The company has not shown that 10 months was a fair and reasonable time within which to send invitations to neighbouring properties. In the absence of which, I find that company failed to provide its services to the customer to the standard to be reasonably expected by the average person in this regard.
10. However, I note that the company acknowledged this failing and offered the customer a further £21.00 to cover the SWD charge for 2011/2012. I am satisfied that this offer was appropriate.
11. No evidence has been submitted to this adjudication to show that the company was aware or should have been aware that the customer's property did not drain into its surface water sewer prior to March 2017.

Application of compensatory payments to the customer's account

12. As discussed above, the company offered the customer a further £21.00 due to the delay in sending out an invitation to apply for an SWD rebate. The evidence shows that this offer was made via CCW in a letter dated 11 June 2018. In the same letter, following the review of the case requested by CCW, the company also submits that it failed to fully address correspondence received on 8 February 2018 sent from the customer and the company offered £40.00 for this failing. Having carefully considered the evidence, I am satisfied that this offer of £40.00 was appropriate in the circumstances. In its letter the company requests that CCW confirm with the customer how he would like to proceed with the payments.

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13. In light of the company's submissions in its Defence that it has applied these payments to his account, the customer has raised a complaint in his Comments stating that he expressly rejected the company's offers. The customer refers to an email dated 15 June 2018 sent to CCW, which he submitted in evidence with his WATRS Application, to support his submissions. The customer submits that the company's crediting of these sums to his account is unacceptable. However, CCW's response to the customer's email, and further correspondence between CCW and the company has not been submitted in evidence to this adjudication. As discussed above, complaints against CCW cannot be considered. More importantly, under WATRS Rule 5.4.3, the customer cannot introduce new matters or evidence in their comments on the company's response; the adjudicator must disregard any such material if submitted. Again I acknowledge the customer's complaint and appreciate that the customer will be disappointed that I am not in a position to consider his complaint. However, having carefully considered the matter, as this issue was not raised in the customer's Application, it falls outside of my remit to consider it.

14. 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 5 November 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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**U Obi LLB (Hons) MCI Arb
Adjudicator**

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