

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1039

Date of Decision: 12 November 2018

#### Complaint

Despite concerns being raised in 2017, the company delayed in investigating why the customer was receiving very high bills. A faulty meter was replaced in May 2018. Accurate readings were obtained straight after that and the bills returned to normal. There has been poor customer service throughout. There is no evidence of a leak at the property and it is distressing for the company to suggest that there might be. The company changed its position after a case manager left the business. The customer would like (1) £652.05 to be credited to his account; (2) compensation of £300.00 for the stress, inconvenience and delay and (3) £10.00 additional compensation due to the company's failure to pay a £35.00 amount that they previously said was going to be provided, making a total of £45.00 now claimed.

#### Defence

There was no operable Inside Stop Valve ("ISV") at the customer's home. This meant that a leak could not conclusively be ruled out. With no ISV, it has taken all the actions it reasonably can to help the customer investigate the cause of his high bills. The faulty meter was tested and was found to be under-recording, which has been to the customer's benefit. There is no justification for crediting historic charges. It is accepted that the customer is due a Customer Guarantee Scheme payment of £40.00.

No offer of settlement has been made.

#### Findings

In the absence of any ISV, the actions taken by the company constituted all the assistance that it would reasonably be expected to provide. The old meter was under-recording consumption. As such, a refund of historic charges cannot be justified. The company's previous case manager did give the customer misleading or inconsistent assurances, which amounted to a service failure.

#### Outcome

The company needs to take the following further action:

I direct the company to pay the customer the sum of £50.00 in compensation and record formally that, in addition, the company has agreed to pay the customer £40.00 pursuant to its Customer Guarantee Scheme obligations.

The customer must reply by 10 December 2018 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1039

Date of Decision: 12 November 2018

## Party Details

Customer: [ ]

Customer's representative: [ ]

Company: [ ].

## Case Outline

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

- He became concerned after receiving extremely high bills from the company. There have only ever been two people residing at the property. These concerns were raised numerous times in 2017 but the company did not investigate properly until a formal complaint was lodged in March 2018. This shortcoming in the company's systems (i.e. in failing to pick up the inaccuracy of the billing sooner) led to further overcharging in 2018.
- Following the making of the complaint in March 2018, the company sent three or four representatives to conduct an investigation at the property. The company said that it was unable to determine if there was a leak at the property as there was no Inside Stop Valve ("ISV").
- A meter test was undertaken and the meter failed. The meter was supposedly found to be under-recording. On this basis, the company would not refund any charges to the customer (as the under-recording meant that the customer would have historically been undercharged for water that passed through the meter).
- There was a delay before the fault with the original meter was identified and the meter was replaced.
- The customer told the company that he wanted to have an independent report undertaken on the faulty meter but the company ended up destroying the unit. The customer's position has been prejudiced because of this. A second opinion cannot now be obtained as to the meter

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fault.

- Due to the location of the meter, it is understood that it would cost several thousands of pounds to have an ISV installed. The customer has queried with the company whether this is actually required by any legislation (or at all). His questioning on this issue has, however, been ignored by the company.
- Following the original meter being changed, the bills are now at a correct level. This can only mean that the original meter and/or the water supply was indeed faulty and consequently, the customer should not be responsible for the company's previous high charges.
- The company says that there is a leak in the property but this is unfounded and the suggestion is extremely distressing to the customer.
- Throughout the process, there has been poor customer service from the company. The company acknowledged the poor service and indicated that the customer would be provided with £35.00 or thereabouts to reflect this ("the £35.00 Amount").
- As to the response to the complaint itself, there was a representative of the company, [ ("John"), who seemed to understand the position correctly. His approach was to propose that a refund should be provided in respect of the overbilling. After John left the company, however, a completely different approach was taken to the matter. The company is now saying that the previous high bills were correctly charged and that no refund will be made.
- In its conclusions or findings about the complaint, none of the various telephone conversations with John - throughout the complaints process - has been referred to by the company. This is regarded as very concerning.
- The company has only focused on one bill, specifically the bill dated 8 March 2018 for £652.05 ("8 March 2018 Bill"). That, however, is not the approach that John had suggested would be taken. John had explained that, on finding the fault, the bill would be credited in full and then historic charges would be looked at and credits would be applied accordingly.
- Prior to the very large bill in question being received, the company had no system measures in place to detect that high charges were being levied.
- The company's conduct has fallen below what is reasonable and adequate. They have failed to be transparent in their dealings regarding:
  - the changing of the faulty meter; and
  - the inspections of the property on at least 4 occasions. None of the inspections resulted in any leak being at the property but this was never confirmed in writing.
- No copies of any reports (i.e. resulting from the inspections) were provided by the company to the customer. These are crucial to the findings and important to this adjudication, it is

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submitted.

- The customer and his wife are an elderly couple. They have had sleepless nights and have suffered stress, inconvenience and anxiety as a result of the company's:
  - protracted complaints procedure; and
  - their inadequate and delayed investigations (for example, their delay in investigating the high bills, despite being informed of the issue on several occasions in 2017); and
  - their change in stance as to how the complaint would be dealt with.
- In view of all of this, the customer would like:
  - the sum of £652.05 (at a minimum) to be credited to his account. This is clearly appropriate because accurate readings were obtained straight after the faulty meter was replaced; plus
  - compensation of £300.00 for the stress and inconvenience, the delay, the misconceived conclusion reached in relation to his complaint and for the company's failure to properly address his concerns; plus
  - an additional £10.00 of compensation due to the company's failure to pay the £35.00 Amount that they said was going to be provided, making a total of £45.00 now claimed.

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

- It has done the best it can:
  - to help the customer investigate the cause of his bills being higher than he believes they should be; and
  - to explain what the company, for its part, could do if the customer could (first) provide evidence of a leak having been repaired at his home.
- When, on 8 September 2017, the customer initially called to question his bills, an appointment was made for a technician to visit on 22 September 2017 to check for possible leakage. On the occasion of that visit, however, it was found that there was no ISV at the customer's home. The customer was informed that he would need to have an ISV fitted before a leak at the property could be ruled out entirely.
- A working ISV is important for leakage investigations because it enables a determination to be made on whether a leak is inside a property (past the point of the ISV) or outside of a property (prior to the point of the ISV).
- <sup>SEP</sup>It has compiled a table listing every reading taken from the meter at the customer's home since 2004 ("Evidence 3"). Evidence 3 also shows the Average Daily Usage ("ADU") at the property. The following results from Evidence 3 are highlighted and relied on:

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- between 16 September 2004 and 1 September 2017, the ADU rises and falls (rather than being steady). This is consistent with the confirmation previously given, i.e. that the customer and his wife were spending up to six months of the year abroad;
  - at the point when the customer began to question his bills, in September 2017, the consumption being recorded on the meter was in fact in line with historic usage and trends;
  - the meter reading taken on the occasion of the technician's 22 September 2017 visit, showed that the ADU - at that time - was at a level higher than it had ever been before;
  - at the next scheduled billing reading, on 6 March 2018, the ADU was certainly higher than would be expected of a household with only two occupiers;
  - when another meter reading was taken on 20 March 2018, the usage was by that point lower and nearer previous trends.
- It is submitted that Evidence 3 therefore indicates that:
    - whatever the issue was at the customer's home, it had, by 20 March 2018, been resolved; and
    - if there had been a leak at the customer's property then it was probably ongoing between 1 September 2017 and 6 March 2018, as the consumption during that particular period was at a higher rate than at any other time.
  - During his second call made to the company on 16 March 2018, the customer said that his plumber had identified and repaired a leak that day. The customer was asked to send in a copy of his plumber's report to show that the leak had been repaired – but the report asked for was never provided. If the report had been sent in (to show that a leak has been repaired during this period), the company could have applied a leakage allowance to the customer's account to adjust the higher than normal bill. This would have involved doing the following:
    - applying the 'Non-Leak ADU' over the period of higher than normal consumption (1 September 2017 to 6 March 2018); and
    - the difference between the two amounts (amount billed and amount that would have been billed using Non-Leak ADU) would be the allowance, i.e. credit, that would be applied to the customer's account; and
    - effectively, after this has been done, the customer would only be charged the amount that he would have ordinarily been billed, had there been no leak.
  - If the customer has not had a leak repaired - as the consumption is now in line with previous historic consumption (showing that any issue/fault has been resolved) - any negligence, a tap left running for example, would be the customer's responsibility.

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- On 15 May 2018, the meter at the customer's home (which had been manufactured in 1997) was removed and replaced. It was sent for independent testing by a company called Abacus Ltd ("Abacus"). Abacus are UKAS Calibration Accredited. The outcome of this test was that the meter had in fact been under-recording the consumption of water at the customer's home. This, of course, would have benefitted the customer. It is quite common for water meters over time to slow down and eventually cease to register as they become clogged up with lime scale. Therefore, the test result showing that the meter was under-recording was what the company would have expected to find due to the meter's age.
- <sup>[SEP]</sup>As is shown by Evidence 3, the consumption recorded on the meter at the customer's home - during 2017 - was in line with previous consumption. The bills sent to the customer since September 2014 (detailing the relevant usage period in each case) were as follows:
  - 8 September 2014: 5 March 2014 to 7 September 2014 - £186.42
  - 10 March 2015: 7 September 2014 to 9 March 2015 - £145.36
  - 3 September 2015: 9 March 2015 to 2 September 2015 - £207.86
  - 7 March 2016: 2 September 2015 to 4 March 2016 - £271.25
  - 5 September 2016: 4 March 2016 to 2 September 2016 - £229.43
  - 3 March 2017: 2 September 2016 to 2 March 2017 - £169.01
  - 4 September 2017: 2 March 2017 to 1 September 2017 - £207.10
  - 8 March 2018: 1 September 2017 to 6 March 2018 - £652.05
  - 31 August 2018: 6 March 2018 to 30 August 2018 - £168.62
- It is accepted that the 8 March 2018 Bill was higher than any other bill ever sent to the customer. However, the company has to deem the 8 March 2018 Bill to be correct and a true reflection of the water used at the customer's home between 1 September 2017 and 6 March 2018. This is because the company:
  - has not been (fully) able to identify a leak at the customer's home; and
  - has never been sent any evidence that a leak has ever been repaired.
- As to the alleged delay in 2017, in investigating the accuracy of the customer's bills, the company replies that:
  - the customer first questioned his bills on 8 September 2017. On 22 September 2017, a technician visited his home to check for possible leakage. The technician's visit took place, therefore, within ten working days after the customer's first call; and
  - it is the customer who is accountable for water that passes through the meter connected to his private supply of water. This is a 'private' pipework issue and in such circumstances, it is for the customer to investigate why his consumption is higher than he

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believes it ought to be. That said, the company has tried to help in this investigation by sending a technician to check for possible leakage. As the customer does/did not have an operable ISV at his home, the company was unable to rule out (or prove) possible leakage. Until the customer fits an operable ISV at his home, there would be nothing further that the company could do to help him. [REDACTED]

- As to alleged delay in 2018, in conducting investigations at the property and deciding that the meter needed to be replaced, the company lists the visits to the customer's home (and the reasons for each of those visits) as follows:
  - 6 March 2018: scheduled billing cycle meter reading taken;
  - 20 March 2018: out of scheduled billing cycle meter reading taken;
  - 15 May 2018: meter exchanged by metering technician;
  - 13 June 2018: out of scheduled billing cycle meter reading taken;
  - 30 August 2018: scheduled billing cycle meter reading taken;
  - 11 October 2018: out of scheduled billing cycle meter reading taken.
- The company disputes the customer's contention that the bills have dropped significantly since the meter was exchanged in May 2018 because:
  - a reading was taken from the new meter on 13 June 2018 and this showed that there had been no water used at the property. The only bill that has been sent to the customer, since the meter was exchanged, used the reading taken on 30 August 2018 (for the billing period 6 March 2018 to 30 August 2018); and
  - in June 2018, the company was informed that the customer and his wife were away from the property. This explains the zero consumption recorded between 15 May 2018 and 13 June 2018. The fact that the property was empty during part of the billing period in question also explains why the only bill sent to the customer after the meter was replaced (using the reading taken on 30 August 2018) was lower than previously.
- As to the customer's assertion that he should not be held responsible for the previous high billing (and that there is no evidence of a leak at the property), the company argues that:
  - the meter reading that the company has taken on 11 October 2018 shows that the current ADU is in line with that from the meter previously at the customer's home. Although that original meter failed the test carried out on it, it failed due to under-recording consumption. This clearly benefitted the customer in terms of billing; and
  - without evidence to show a leak has been repaired at the customer's home, which would cause the consumption to fall back to its normal level (as it now has), there is no justification to adjust the disputed 8 March 2018 Bill; and

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- if the customer is happy that there are no leaks at the property, it has to be concluded that the higher-than-normal 8 March 2018 Bill resulted from the negligent use of the private water supply (for which the company is not responsible).
- As to the customer being prejudiced by his not being able to obtain a second opinion on the fault with the meter, the company replies that:
  - by the time that the customer's letter of 21 July 2018 (mentioning that he would like to have an independent test carried out) was received, the company no longer had the meter; and
  - the meter is the company's property; and
  - Abacus were used to carry out the testing of the meter, who are accredited, and the company has no reason to doubt Abacus's independent findings. [REDACTED]
- As to the customer's query on whether an ISV is necessary under any legislation, the company points to Schedule 2 of The Water Supply (Water Fittings) Regulations 1999, which it is submitted lays down a legal requirement for a property in England and Wales to have a working ISV.
- As to the level of customer service provided, the company submits that it has always responded to the customer's requests in a timely fashion. By way of exception, however, the customer's email of 22 June 2018 was not responded to until 10 July 2018 (which was outside the company's regulated ten working day timescale). In that respect, it is accepted that the customer is entitled to a payment under the terms of the company's Customer Guarantee Scheme ("CGS"). The payment due is £30.00 for not replying within ten working days plus a further £10.00 for not making the initial payment of £30.00 within ten working days. The company says that it has instructed its CGS team to contact the customer under separate cover to deal with the £40.00 payment due.
- As to the points that the customer makes about his exchanges with John, the company responds that:
  - there appears to have been some miscommunication; and
  - it is true to say that if the Abacus testing had revealed that the meter was over-recording consumption (which is rare) then the company would have adjusted the previous billing in a manner similar to the way that a leak allowance would be calculated. However, as the meter was found to have been under-recording consumption, it is submitted that there is no valid reason to adjust previous billing. It has now been proven that the water used has not been fully accounted for. Ultimately, the customer has not been charged for this; and

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- the company, therefore, has not overbilled the customer and the 8 March 2018 Bill is correct; and
- the customer's claim that John offered to amend the previous charges, regardless of the outcome of the meter testing, is contested.
- The company maintains that it has been transparent in its actions and in its handling of this matter for the customer. The pipework at the customer's home past the point of the meter is private. As such, it is for the customer and his family to investigate the cause of consumption that they do not agree with. The company submits that it has nevertheless done the best it can to assist in the circumstances. It has been consistent in its response both on the phone and in writing:
  - after its technician was unable to conclusively rule out possible leakage on 22 September 2017 (because there was no operable ISV at the customer's home), the company repeatedly advised the customer to arrange to have an ISV fitted. Having an ISV fitted would have enabled any leakage investigation to be completed for him;
  - in the absence of an ISV being fitted, the company was left with only two options to try to provide assistance:
    - taking more regular meter readings in order to monitor ADU; or
    - offering to send the meter that was in situ for testing;
  - Both of those actions have been taken in this matter.
- Therefore, in this case, the company submits that it should not be required to give any credit in relation to the 8 March 2018 Bill or to pay any compensation.

### 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

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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. In addition to reviewing all the evidence items annexed to the customer's WATRS Application and to the company's defence, I have also had the benefit of reading through:
  - a. the detailed 'chain of events', which is set out by the company on pages 1 to 3 of its defence; and
  - b. the customer's comments, contained in an email dated 26 October 2018, in response to the company's defence ("Comments"); and
  - c. the company's response ("Response") to the Comments, contained in an email dated 29 October 2018. (I have, however, disregarded the screenshot document attached to the company's email as I consider that it is too late for this 'new' material to be introduced at the Response stage).
2. I note the company's reference to the customer's 'first' call to query the accuracy of his bills, on 8 September 2017. It seems to me that, by scheduling an appointment for its technician to visit on 22 September 2017, the company reacted reasonably promptly.
3. The company emphasises that it was the 22 September 2017 visit that revealed that there was no ISV fitted at the customer's property. In his Comments, as to this 22 September visit, I note the customer points out that: "... *in any event, the technician inspected the property and no leaks in the property were found ...*" The company gives detailed explanations about this, submitting particularly:
  - a. on pages 4 and 5 of its defence, that a working ISV has an important part to play in the conduct of leakage investigations; and
  - b. that it would be necessary to have an ISV fitted at the customer's property before a leak at the property could be ruled out entirely.

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4. I should say that I do not consider there can be any criticism of the customer for not having an ISV fitted (or for not knowing what an ISV was). Nonetheless:
  - a. I am satisfied that the processes explained by the company on pages 4 and 5 of its defence were reasonable and standard ones for it to look to follow in this case; and
  - b. I accept the company's submissions about the extent to which its investigations were hindered by the fact that there was no ISV at the property; and
  - c. given that no ISV was fitted at the property, I also accept that it was impossible (therefore) to rule out definitively the possibility of any leak.
5. In terms of the assistance that the company would be expected to provide in this context (i.e. in the absence of any ISV), the company states that its two options were to:
  - a. take more regular meter readings in order to monitor ADU; and/or
  - b. remove the meter that was in situ and have it tested.
6. I accept the company's submissions on this. It seems to me that those were indeed the two options and clearly, both actions have been carried out. In view of the particular circumstances of this case, I am satisfied (and find), therefore, that the company has done all that could reasonably be expected of it in this respect. For this reason, I do not consider that it would be appropriate to make any compensation award against the company (as the customer requests) for stress, inconvenience and/or delay.
7. The customer argues that the amount of the 8 March 2018 Bill, £652.05, should be credited to his account. His rationale for this is explained in the following way, I note:

*"... On changing the meter, there have not been any high bills whatsoever since. It is clear from this change, the meter and/or the water supply was indeed faulty and we should not be held responsible for the previous high billing ... [the company] should be held accountable ..."*
8. I further note that the customer mentions that he wanted to have the meter independently tested, so that he could obtain a second opinion on why it was faulty.
9. On this aspect, I have had regard to the Abacus 'Certificate of Calibration', a copy of which appears at pages 13 and 14 of the bundle of documents accompanying the customer's WATRS Application. I do not see that there is any real basis to doubt the test results that Abacus has

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reported. I am satisfied that the Abacus Certificate is a reliable document. I am also persuaded by the submissions that the company makes about older meters often slowing down over time. This appears plausible to me. I find, therefore, that the meter that the company removed from the customer's property on 15 May 2018 had, indeed, been under-recording consumption at the property. It seems to me that it must follow, therefore:

- a. that, as the company has submitted, the fact that the faulty meter had been under-recording the consumption of water at the property has ultimately been a benefit the customer (not a detriment); and
- b. in the circumstances, there is no reasonable justification for looking to credit the 8 March 2018 Bill; and
- c. consequently, this part of the customer's claim does not succeed.

10. A central strand to the customer's case, as I understand it, is the allegation that the company's position changed after John left its employment. I note the following point made prominently by the customer in the opening paragraph of his Comments:

*"... The claim for stress, inconvenience in the form of non-financial losses is claimed because there were several misleading representations made by your agent, John. John's representations and promises were not complied with when someone else took over the complaint and therefore the investigation was concluded erroneously. For sake of clarity, John stated that there would be a refund on the account if there was a problem with the meter (any problem) and he stated there seemed to be an overcharge for several years, given that only 2 people reside at [ ] ([ ]) ..."*

11. I note also the company's final response on this matter given by its Senior Case Manager, [ ], on 9 July 2018:

*"Without there ever being a leak, or it being proved that the old meter had over-recorded, we would not offer an allowance on any historic charges. I apologise if you feel my colleague John previously advised you this was the case. I've checked all our case notes, and I'm unable to see that John had advised that he would be adjusting the charges regardless of the outcome of the meter testing."*

12. In its Response, the company accepts that "as he has now left the business" it has been unable to listen back to John's calls with the customer.

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13. There is no very clear evidence, therefore, of what – in fact – was said to the customer during those calls with John. It is a difficult assessment to make. However, I have taken into account the emphasis that the customer attaches - in his submissions - to the representations and assurances that he says were made to him by John. On the balance of probability, I am satisfied (and find) that, on the strength of his conversations with John, the customer was given to understand “... *that there would be a refund on the account if there was a problem with the meter (any problem) ...*”, as he submits.
14. I ought to add that I consider the assurance given by John to have been a misleading and false one. Even if John had remained as the customer’s case manager, I regard it as highly unlikely that (in light of the meter being found to be under-recording) any historic charges would ultimately have been credited back to the customer. Nonetheless, as I see it, this change in the company’s stance after John left the business – and change in the representations that were being made to the customer – amounted to a service failing on the part of the company. As a reflection for this failure, I shall direct the company to make a compensation payment of £50.00 to the customer.
15. Finally, I note that the company says that it has instructed its CGS team to contact the customer, under separate cover, to deal with the £40.00 CGS payment due. I am regarding the company as having agreed the customer’s head of claim in this respect. To formalise and record this agreement between the parties, therefore, I shall make a direction observing that £40.00 is to be paid by the company to the customer on this basis.

#### **Outcome**

The company needs to take the following further action:

I direct the company to pay the customer the sum of £50.00 in compensation and record formally that, in addition, the company has agreed to pay the customer £40.00 pursuant to its Customer Guarantee Scheme obligations.

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

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- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 10 December 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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**Nik Carle**, LLB (Hons), Solicitor, DipArb, FCIArb

**Adjudicator**

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