

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1080

Date of Decision: 15 November 2018

#### Complaint

The customer complains that the company's pre-recorded information regarding the use of payment cards indicated that there would be a charge for credit cards at a time when this had been rendered unlawful. Moreover, the company wrongfully refused to permit him to make payment of the company's bill with his wife's credit card, even though she authorised its use and he paid the credit card bill. The customer also claims of poor customer service. She seeks an apology, compensation of £5,000.00 and a direction that the company shall take no action in respect of the outstanding bill.

#### Defence

The company says that despite initially having not adjusted its computerised system to remove a reference to charges for the use of payment cards, no payment card charges were in fact imposed after 13 January 2018. Its refusal to accept payment from the customer's husband using her card was in accordance with its security policies because it had no evidence of her agreement to the payment, other than the statement of the customer's husband. The company tried to find ways in which such payments could be authorised by the customer's husband declined.

#### Findings

The adjudicator finds that the company failed to supply its services to the standard reasonably to be expected of it in that its pre-recorded information stated that charges for the use of payment services would be imposed at a time when this was contrary to law. The customer is entitled to compensation for this. An average customer would expect that a company would have security procedures in relation to payment cards and would follow them. The adjudicator found no failure in customer service because it had tried to assist the customer.

#### Outcome

The company needs to take the following further action: to pay the sum of £50.00 by way of compensation to the customer.

- **The customer must reply by 13 December 2018 to accept or reject this decision.** • **If the customer accepts this decision, the company will have to do what I have directed.** • **If the customer rejects this decision, or does not respond, the company will not have to do what I have directed.**

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*



- The customer's husband also denies the company's allegations (below) that he was contacted by the Service Delivery Manager on 6 March 2018 or that the Managing Director had no time to ring the customer.
- The customer seeks the following redress, namely:
  - An apology for the following:
    - 10 months of distress and inconvenience;
    - The company's questioning of his honesty and integrity;
    - The accusation of trying to defraud his wife of 60 years;
    - The company persistently being unavailable when the customer called;
    - The company claiming that its own employee could carry out an independent review; and
    - an "empty" offer of a home visit.
  - That the company shall take no action over an outstanding bill, which will be settled when the dispute is resolved; and
  - Compensation of £5,000.00 for the "antics" of the company.

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

- The customer's complaint covers (1) incorrect information provided on the company's automated payments line and (2) the company's unwillingness to accept a payment to the customer's account by her husband using the credit card of the account holder.
- On 13 January 2018 the Payment Services Regulations 2017 became effective. From this date it was illegal for businesses to charge a fee for using a credit or debit card unless the same fee was charged for all payment methods accepted by the company.
- Whilst the company's systems were being updated, customers may have continued to hear a pre-recorded message advising them that a surcharge may be applied when using the automated payments system. No surcharges were, however, applied. The customer was given assurances by telephone and in writing on 6 June 2018 in response to a complaint that the company had applied no surcharges since the legislation was introduced.
- In respect of the use of the customer's card, whilst the practice of a third party using a payment card is not illegal, the company is aware that it is against the terms and conditions of UK banking and credit providers. The purpose of those terms and conditions is to protect consumers and businesses from fraud and unauthorised use of such cards.
- In accordance with the company's policies, customers must pass security questions to discuss account details. In the case of this complaint, the customer is a named person on

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

- the account; this means that the complainant is able to amend the account and discuss the financial statement. It did not follow that he could use his wife's card.
- During calls on 18 December 2017 and 27 February 2018, the company asked the cardholder to provide authorisation for the use of the card. This was unsuccessful and the customer asked to speak to a manager. The team manager confirmed the policy but the customer wished to escalate this to a senior manager.
  - A Service Delivery Manager made telephone contact with the customer on 6 March 2018 and further explained the position. Following this phone call the company also consulted its legal team to find a solution that would benefit the customer. The legal team advised that written consent and authorisation should be obtained to enable third party use of a debit/credit card.
  - The company then received a written complaint from the customer addressed to the Managing Director. The customer was advised that the company would like to arrange a meeting with its community engagement team who could seek written authority from the card holder that would be on the account to prevent any further problems using the payment card. The customer declined the offer and reiterated that he would like the company's position in writing so that he could escalate the complaint to the ombudsman.
  - Upon receipt of the response, the customer made further telephone contact with the Customer Experience Manager expressing anger and his perception that he was being accused of defrauding his wife of 60 years. The company apologised for this belief and reiterated that its intention was not to generate these feelings. The customer advised that he was only willing to speak with the Managing Director, and wanted a call back. There was insufficient time in the Managing Director's diary for this, although a check was made. The company's Customer Experience Manager made contact with the customer and again offered to visit the customer to obtain written consent. The customer refused and was directed to the Consumer Council for Water (CCWater) in case he could be offered further support and advice.
  - CCWater made contact with the company. A detailed response was sent to the customer again offering a visit and alternative ways to pay, such as using the online 'My Account' portal as well as payment slips, which can be used at banks, post offices or paypoint locations. The customer was also pointed to the Direct Debit facility or Standing Order.
  - The company denies that it has a responsibility to take any further steps or make a payment to the customer.

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

## 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 company has correctly identified that there are two principal issues under consideration in respect of this complaint, namely (1), the information provided in relation to payment surcharges for debit and credit card use; and (2), the company's policy regarding the use by the customer's husband of his wife's credit card. I also find that, (3), there is a third complaint relating to the customer service provided by the company. I deal with each of these complaints in turn.

### (1) Pre-recorded information regarding surcharges

2. In respect of the customer's complaint that incorrect information has been given in its pre-recorded information regarding the application of payment surcharges to card payments, I find that she has proved that the company has not supplied its services to the standard that would reasonably be expected of it. The company acknowledges that, at a time when it was prohibited by law to charge differential fees between other payment methods and the use of debit and credit cards, the company's pre-recorded information told customers that charges would be levied for the use of payment cards in this way. As the customer's husband points out, there was a lead-in time prior to the implementation of the legislation that introduced this law. I find that this lead-in commenced at the latest in July 2017 when the relevant regulations were published, and, as these reflect EU legislation, would reasonably have been known to the company from an earlier date. I accept that the company did not impose a charge for the use of a payment card

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

after 13 January 2018, but an average customer would not expect, by the time that the change in the law took place and a charge of this type had become unlawful, that a company would incorrectly state that a payment was due in respect of the use of a payment card.

3. In this case, the customer's husband has explained that the information given to him caused him to decide that he did not want to take the risk of using automated payments. This has had the consequence that he has been unable or unwilling to use his wife's credit card in that system in early 2018 to make payment under its automated systems. This has in turn led in practice to the subsequent dispute about the use of the customer's credit card. Accordingly, as the customer states that her husband was actually authorised to use her credit card to make an automated payment, I find that this has led directly to inconvenience suffered by them both.

(2) Use of the customer's data in her absence

4. As for the second issue, the customer complains that, whereas the company would not have known who was using her card in its automated system and therefore payment of the account could have been made using the customer's wife's card or data in her absence, the company has unreasonably refused to accept payment via an operator on the customer's card but has instead unreasonably insisted on her presence at the transaction. The company refers to its policies in relation to the use of payment cards and states that these also applied to the customer.
5. I find that the use of credit cards is a payment service and the holder of a credit card is a user of that payment service, whether he/she pays the bill for that service or not. I am also mindful that security in the use of payment services is an important societal issue because people, whether individuals or companies, can easily become the victim of financial loss through misuse of those services. I find that an average customer would reasonably expect a water company to have in place policies that would respect the integrity of payment card services and would, as far as possible, protect innocent people from fraud.
6. For this reason, I find that an average customer would reasonably expect that the company would have borne in mind that the terms and conditions under which a card was issued in the customer's name would probably prevent her husband from using that card without her authority. Although the customer's husband told the company that he had that authority and would have paid the bill for use of his wife's card, this, I find, would not reasonably have sufficed. When the customer's husband rang the company and asked to pay with the customer's

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

card, the company was not in a position to check whether he had authority to use that card or to verify that he was in fact the bill payer so far as the credit card company was concerned. I find, therefore, that an average customer would expect that the company would refuse payment in this way unless the company was in possession of written authority or the customer herself was present. The company has said that it has tried to obtain written authority but the customer's husband has refused. In these circumstances, I find that the customer has not proved that the company fell short of the service standards that would reasonably be expected of it.

(3) Customer service

7. The customer's husband raises a number of criticisms of the company's customer service, including that the company has questioned his honesty and integrity and has accused him of trying to defraud his wife of 60 years. I have had regard to the submissions of the company, the communications with CCWater and the correspondence with the customer. I am satisfied that the company has not accused the customer of any sort of dishonesty: rather it has stated the reasons for its policies. Although I acknowledge the customer's feelings in relation to the company's explanations, I find that it is the customer who has taken these observations in a personal way, not the company that has raised an accusation. I find that the company has not in this respect fallen short of the level of service that would reasonably have been expected of it.
8. The customer also complains of difficulties in contacting the company, although I see from the documentation submitted that there have been a number of conversations, including with managers, and correspondence has been exchanged. I do not find that the customer has shown that there has been a failure to meet a reasonable standard in this respect and I would not ordinarily expect that the Managing Director would ordinarily be expected to engage personally in a debate with an individual customer about an established payment security policy. I find that the company has not fallen short of the standards that would reasonably be expected of it in this regard.
9. Furthermore, although the customer complains that an internal review was not "independent" and that the offer of attendance at his house was "empty", I find that the documentation indicates both that the company was willing to try to arrange for a means by which the customer could make payment using his wife's card and that it took the customer's concerns to an appropriate internal level, including seeking legal advice. This did not fall short of the standards that would reasonably be expected.

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*

10. It follows that I find that the customer has proved that he is entitled to redress, but only in respect of the incorrect pre-recorded message that has caused her and her husband inconvenience. In all the circumstances of this case, including that the inconvenience has been a burden on them both, I find that a fair and reasonable level of compensation is £25.00 per person, namely £50.00 in total. It follows that I direct that the company shall make a payment of £50.00 to the customer. As I find that the remaining claims for compensation do not succeed it also follows that the customer's bill remains due to be paid by the customer.

#### **Outcome**

The company needs to take the following further action, namely to pay the sum of £50.00 by way of compensation to the customer.

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

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 13 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.

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*





Claire Andrews, Barrister, FCI Arb

**Adjudicator**

*This document is private and confidential. It must not be disclosed to any person or organisation not directly involved in the adjudication unless this is necessary in order to enforce the decision.*