

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1193

Date of Decision: 18 February 2019

#### Complaint

The customer submits that the dispute concerns meters installed by the company. He believes that meter installation was mis-sold to his elderly parents. The company confirmed that it could find no record of an application for a meter from his parents. The consequence of this is that his parents were overcharged. An unwanted meter was also installed at his own home without his knowledge or consent, and he eventually got the company to change his account back to the unmetered tariff. The company also issued inaccurate bills based on estimates during periods when there was no data available. The customer requests that the company refund the overpayment incurred from 1998 due to the water meter imposed on his parents without their consent, and pay compensation for hardship and distress caused during this period.

#### Defence

The company submits that it received an application for a water meter from the customer's father. As the application was returned over 20 years ago, it no longer has the original paper copy. However, the job having been raised, and now archived, on its systems is its record of this activity. Legally, it is only obliged to keep records for six years. In 1997/98, in line with the Water Industry Act 1991, without a measured charges notice having been served on it by the customer's father, it could not have installed a meter at the property. The customer also gave his consent to install a meter at his property when he applied for a meter on its website in 2010. However, it reverted the charge basis for that property back to the unmeasured charge basis, despite the customer not having contested the meter until 2015. During periods when the meter at 4 Green Street was disconnected from the supply, it billed the customer on estimates based on previous usage. Following reconnection and subsequent meter readings, it adjusted these estimated bills to the customer's benefit. In addition, the customer has asked for overpayments since the meter was fitted in 1998 to be refunded. However, its calculations show that metered charges have in fact benefited the customer and his parents by £147.58.

#### Findings

The evidence submitted to this adjudication does not indicate that the company mis-sold or imposed a water meter on the customer or his parents. However, the company did not inform the customer of the results of his meter application. It would have been fair and reasonable to do so. I therefore find a failing on the company's part in this regard. The evidence supports the company's submission that since the meter was fitted at 4 Green Street in 1998, there was

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no overpayment; metered charges have benefited the customer and his parents. Under OFWAT guidelines, water companies may issue bills based on estimates; however, it is a requirement that meters are read by the companies at least once every two years at a minimum. Some water companies read meters more frequently than is required by OFWAT. Customers also bear some responsibility for their accounts. Under OFWAT guidelines customers can also provide a meter reading to their water companies themselves at any time. The company did not fail to provide its service to the customer to the standard to be reasonably expected by issuing estimated bills. Meter readings were also taken by the company within the timeframe required by OFWAT. Further, adjustments made to the customer's account following meter readings benefited the customer. Meters are a company's asset and companies have the right to maintain and access them. However, in view of the fact that the customer had raised a dispute about the meter at 4 Green Street, requesting its removal; it would have been fair and reasonable for the company to have informed the customer that it would be exchanging the meter. For the avoidance of doubt, any allegations of tampering with a meter under section 175 of the Water Industry Act 1991 cannot be considered as such criminal activity does not fall within the scope of the WATRS scheme.

#### 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 18 March 2019 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1193

Date of Decision: 18 February 2019

## Party Details

Customer: [ ]

Company: [ ].

## Case Outline

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

- The dispute concerns meters installed by the company. The company imposed water meters on customers who did not request them.
- He believes that meter installation was mis-sold to his elderly parents. The company confirmed to him in an email that it could find no record of an application from his parents. The consequence of this mis-selling meant that his parents were overcharged from the date of the meter installation to the present day.
- The company also claimed that his parents had moved into the property in 1998, at which point there was already a meter at the property. He informed the company that his parents had lived at their home since the mid-1950s. The company apologised for the conflicting information and applied a goodwill gesture payment of £100.00 to his account.
- An unwanted meter was also installed at his own home without his knowledge or consent.
- He had stated many times that he wanted to apply for the Assessed Household Charge Single Occupier Tariff, and definitely did not want a water meter. However, the company informed him that to qualify for the tariff he would need to apply for a meter by completing the Optional Questionnaire. After exchanging some 24 emails and numerous calls over a year, he was left with no option but to fill out the Optional Questionnaire. He had expected to be given the results of this survey, then depending on the outcome, the opportunity to choose the Assessed Household Charge Single Occupier Tariff. However, as soon as he had completed the Optional Questionnaire, a meter was installed at his home without his knowledge or consent. He believes

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that his parents were also victims of this malpractice. He eventually got the company to change the account back to the unmetered tariff.

- The company seem happy to operate on incorrect information and issued inaccurate bills based on estimates during periods when there was no data available. He received estimated bills for excessive amounts, then bills were revised and/or cancelled. The company also states that on 22 August 2016, its engineer attempted to exchange the meter at the property. However, he had not been informed of the intended installation. There was already a dispute regarding the meter and the company was attempting to alter the state of things covertly.
- The customer requests that the company refund the overpayment incurred from 1998 due to the water meter imposed on his parents without their consent, and pay compensation for hardship and distress caused during this period.

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

- **4 Green Street:** A "free meter survey job" was raised on its computer systems on 2 March 1998. This was because it had received an application (measured charges notice) for a water meter from the customer's father, Mr A Smith. This application was returned to it as a result of a mailshot it ran in the area at that time.
- Legally, it is obliged to keep records for six years. Unfortunately, as Mr A Smith's metering application was returned to it over 20 years ago, it does not have the original paper copy anymore. However, the job having been raised, and now archived, on its systems is its record of this activity.
- To confirm, in line with the Water Industry Act 1991, without a measured charges notice having been served on it, it could not install a meter at a property for charging purposes in 1997/98. As such, it was Mr A Smith's application (consent) for a meter that resulted in a meter being installed at 4 Green Street.
- It will not consider removing the meter at 4 Green Street or reverting the charge basis to Rateable Value (RV) unmeasured charge basis.
- **2 Red Road:** It had the customer's consent to install a meter at his property at 2 Red Road, this was given when he applied for a meter on its website. The customer's submissions show that he understood the process prior to applying for a meter at his property at 2 Red Road.
- In any event, to resolve the customer's complaint with regards to the fitting of the meter at 2 Red Road, in July 2015 it reverted the charge basis for the property back to the RV. That is, despite the customer not having contested the meter having been fitted since his application for a meter in 2010, until 2015.

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- It is important to mention that in 2007 its region was designated as being an area of serious water stress by the Secretary of State for the Department for Environment, Food and Rural Affairs (DEFRA). DEFRA approved its plans to fit meters on a compulsory basis in 2012. It is now able to fit meters at domestic properties without permission from the homeowner. It began its Smart Metering Programme (SMP) in 2014 and since then, borough by borough in London, it has been fitting Smart Meters at its customers' homes. Both 4 Green Street and 2 Red Road, are in a borough where it is fitting Smart Meters on a compulsory basis now.
- With regards to the meter at 4 Green Street having periods of disconnection, the first time the meter was disconnected from the supply was as a result of its replacing the communication pipe and ATPLAS box at the address on 11 February 2013. An ATPLAS box is one that contains an Outside Stop Valve and space for a meter to be fitted to a water supply.
- Once a new meter had been fitted to the supply, two check readings were taken (of the new meter) to calculate the Average Daily Usage (ADU) as a basis for adjustment of estimated bills between 10 August 2012 and 3 November 2014. As a result of this adjustment the customer complained and it re-adjusted the account a second time using consumption that is average for three occupiers, this was done in March 2015. Later in March 2015 it ruled out any faults or leaks on the supply at 2 Red Road, which confirmed the consumption being recorded at the property was, in fact, double that of its adjustment for the period 10 August 2012 to 3 November 2015. This has benefitted the customer.
- In respect of the customer's submissions that its engineer attempted to exchange the meter on 22 August 2016, it should be borne in mind that meters are its asset and it has the right to maintain and access them.
- With regards to the second period the meter at 4 Green Street was disconnected from the supply, a technician attended the property on 26 March 2015. On this date the meter was connected to the supply and was working correctly. It visited the property again on 2 April 2015 following a complaint about low pressure, it was noted that the meter had been disconnected from the supply at 4 Green Street. Other than the visit of 26 March 2015, it did not attend to carry out any works in Green Street after 26 March 2015 and before 2 April 2015. It can only conclude that its asset had been tampered with by a third party and refers to section 175 of the Water Industry Act 1991. When it attempted to exchange the meter at 4 Green Street on 22 August 2016, the customer refused to allow it to do so. After exchanging the meter in February 2017, the customer's previous estimated bills since the meter had been disconnected were adjusted. The customer has only been charged for 4m<sup>3</sup> of water between 26 March 2015 and 15

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February 2017 when it fitted the meter that is currently in situ at the property. This has also benefitted the customer.

- The customer has asked for overpayments since the meter was fitted in 1998 to be refunded. It has calculated the RV charge since the date the meter was fitted on 21 April 1998 up to the date of the most recent meter reading of 17 August 2018. The RV charge for this period would have been £5,853.57. However, in the same period 2775m<sup>3</sup> used raises metered charges of £5,705.99. This means metered charges have benefitted the customer and his parents by £147.58.

### 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 and that as a result of this failure the customer has suffered some loss or detriment.

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### ***Meter installation at 4 Green Street***

3. The company submits that it no longer has the original copy of the customer's father's metering application as the application was made 20 years ago. No evidence has been submitted to show that the company is legally obliged to have kept a record of the application for more than six years. In the absence of which, I find no failings on the company's part in this regard.
4. The company submits that, instead, an account note of the job having been raised, archived on its systems, is its record of the application. This account note been submitted in evidence and shows that a "free meter survey job" was raised on its computer systems for 4 Green Street on 2 March 1998. The company states that this was because it had received a measured charges notice application for a water meter from the customer's father. I accept the company's submissions that prior to DEFRA's approval of its plans to fit meters on a compulsory basis in 2012, it had no legal powers to fit meters at customer's homes without their consent. I am therefore inclined to find, on a balance of probabilities, that a survey could not have been raised without the customer's father's consent.
5. Further, and importantly, there is no evidence to show that a dispute was ever raised by the customer's father about the installation of the meter or bills raised on measured charges from 1998.
6. No evidence has been submitted to this adjudication which indicates that the company imposed a water meter on the customer's parents or mis-sold the water meter to the customer's parents.
7. I accept the company's submissions that under section 144A of the Water Industry Act 1991, where a meter has been in situ for more than 12 months, it is not obliged to revert the charge basis back to unmeasured charges.
8. The company has also submitted evidence to support its submission that since the date the meter was fitted on 21 April 1998 up to the date of the most recent meter reading of 17 August 2018, metered charges have benefited the customer and his parents by £147.58.
9. In view of the above, the customer has not shown that the company has failed to provide its services to the standard one would reasonably expect in relation to the installation of the meter at 4 Green Street and that as a result of this failure loss or detriment was suffered.

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### ***Meter installation at 2 Red Road***

10. The customer applied for a meter at 2 Red Road on the company's website in 2010. The customer submits that he only wanted to apply for the Assessed Household Charge Single Occupier Tariff, and did not want a water meter.
11. As confirmed by OFWAT, the Water Industry Regulator, customers must apply for a meter before they can be considered for the Assessed Household Charge Single Occupier Tariff, but assessed charges are only available for customers who cannot have a meter installed. The charge is not available if the company can fit a meter at their property.
12. A meter can be fitted at the customer's property. There is therefore no evidence to show that the company is obliged to bill the customer on the Assessed Household Charge Single Occupier Tariff. The customer's submissions indicate that he understood this process prior to applying for a meter at his property at 21 Cedars Road. I find no failing on the company's part in this regard.
13. Further, under section 144B of the Water Industry Act 1991, where a customer applied for a meter the company may begin to fix charges for the property by reference to volume, that is; via a meter. I therefore accept the company's submission that it had the customer's consent to install a meter at his property at 2 Red Road when he applied for a meter on its website.
14. There is no evidence to show that the company was legally obliged to seek the customer's consent again to install a meter once the survey had been completed and it was found that a meter could be installed. However, I find that it would have been good customer service for the company to have informed the customer of the results of his application. The evidence shows that the company did not do so until the customer made a complaint chasing the outcome of the survey in August 2010; a month after it had fitted the meter. I am not satisfied that company provided its services to the customer to the standard to be reasonably expected by the average person in this regard.
15. As discussed above, under section 144A of the Water Industry Act 1991 a customer is entitled to revert back to unmetered charges within 12 months of the commencement of metered charges. A meter was fitted at 2 Red Road on 30 July 2010. The customer was informed of this in August 2010; a month later. Therefore the customer was aware that the meter had been

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installed and had 11 months to contest the installation of the meter. However, there is no indication that the customer did not wish to have the meter installed. Instead, the evidence shows that on 19 August 2010, the customer requested that this new metered account be backdated to 1 April 2010.

16. The evidence supports the company's submission that the customer did not contest the meter having been fitted until 2015; five years later and outside the 12 months permitted. The customer has not therefore not shown that the company was obliged to revert the charge basis for the property back to the unmeasured charges basis.
17. In view of the above, the evidence submitted to this adjudication does not indicate that the company mis-sold or imposed a water meter on the customer. Consequently, with the exception of the customer service failing discussed above, the customer has not shown that the company has failed to provide its services to the standard one would reasonably expect in relation to the installation of the meter at 2 Red Road.

### ***Estimated billing***

18. The customer submits that the company issued inaccurate bills based on estimates during periods when there was no data available. The customer states that the meter was left disconnected in 2014 until a new meter was fitted in February 2017.
19. The company has submitted a detailed chain of events in evidence. Having carefully considered all of the evidence submitted, in the absence of any evidence showing otherwise, I accept, on a balance of probabilities, that the company's account notes are an accurate reflection of the dealings between the parties.
20. For the avoidance of doubt, any allegations of tampering under section 175 of the Water Industry Act 1991 cannot be considered as such criminal activity does not fall within the scope of the WATRS scheme.
21. Finally, I accept the company's submissions that meters are its asset and it has the right to maintain and access them.

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22. The company's account notes show that a meter reading was taken at 4 Green Street on 10 August 2012, and then on 23 January 2013 the meter was found to have been not recording consumption. An ATPLAS box was subsequently fitted to the property boundary on 11 February 2013, and the evidence indicates that a new meter was not connected to the property's supply until 19 May 2014 with a reading of zero. In the interim period, the company issued three bills on 25 February 2013, 9 August 2013 and 11 February 2014 based on estimates on previous usage recorded at the property. A meter reading from the new meter was then taken on 1 October 2014, four months after the new meter was fitted.
23. Under OFWAT guidelines, water companies may issue bills based on estimates; however, it is a requirement that meters are read by the companies at least once every two years at a minimum. Some water companies read meters more frequently than is required by OFWAT. Customers also bear some responsibility for their accounts. Under OFWAT guidelines customers can also provide a meter reading to their water companies themselves at any time.
24. Accordingly, in view of OFWAT's guidelines, the company did not fail to provide its service to the customer to the standard to be reasonably expected by issuing estimated bills. A meter reading was also taken by the company within the timeframe required on 10 August 2012, 19 May 2014 and on 1 October 2014. I therefore find no failing on the company's part in this regard.
25. Two check readings were taken of the new meter on 1 October 2014 and 3 November 2014 to calculate the ADU as a basis for adjustment of the estimated bills between 10 August 2012 and 3 November 2014. The company acknowledges that the incorrect Average Daily Usage (ADU) was initially used. I therefore find that the company failed to provide its services to the customer to the standard to be reasonably expected.
26. The company submits that as a result of the adjustment the customer also complained and on 2 March 2015, it re-adjusted the account a second time using consumption that is average for three occupiers. However, some weeks later it visited the property on 26 March 2015 and it noted that there were seven occupiers at the property. The company states that this indicated that the consumption recorded on 1 October 2014 and 3 November 2014 was in fact correct, and double that of its 2 March 2015 adjustment for the period 10 August 2012 to 3 November 2015. I accept the company's submissions that this benefitted the customer.

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27. Therefore, in view of the above, although I find that the company failed to provide its services to the standard one would reasonably expect in relation to the incorrect ADU originally used, I find that any loss or detriment has been compensated for by the company only billing the customer using consumption that was average for three occupiers.
28. The company submits that the second time it noted that the meter had been disconnected from the supply at 4 Green Street was on 2 April 2015. The evidence indicates that the meter was then re-connected on or before 18 February 2016, and a meter reading was taken on 18 February 2016. However, the evidence shows that the meter was not recording after February 2016, and that the company attempted to exchange it on 22 August 2016, but the customer refused to allow it to do so. On 15 February 2017, the company attended the property and exchanged the meter. The customer states that this was done without his knowledge.
29. As discussed above, I accept the company's submissions that meters are its asset and it has the right to maintain and access them. However, in view of the fact that the customer had raised a dispute about the meter, requesting its removal; I find that it would have been fair and reasonable for the company to have informed the customer that it would be exchanging the meter. The company does not dispute that it did not do so, on either date. I therefore find that the company failed to provide its services to the customer to the standard to be reasonably expected.
30. The new meter was installed on 15 February 2017 with a reading of zero. The company then read the meter read on 20 February 2018, having billed on estimates based on previous recorded usage between February 2016 and February 2018. Again in light of OFWAT guidelines, the company did not fail to provide its service to the customer to the standard to be reasonably expected by issuing estimated bills. A meter reading was also taken by the company within the timeframe required on 18 February 2016, 15 February 2017 and 20 February 2018. I therefore also find no failing on the company's part in this regard.
31. The company submits that following the meter reading on 20 February 2018, as before, the customer's previous estimated bills since the meter had been disconnected in 2015 were adjusted. The company has submitted data of the readings used to bill the customer's account since the meter was fitted in 1998 which supports its submission that the customer has only been charged for 4m<sup>3</sup> of water between 26 March 2015 and 15 February 2017 when the new

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meter was fitted; a period of nearly two years. I accept the company's submissions that this benefitted the customer.

32. In view of the above, the customer has not shown that the company has failed to provide its services to the standard one would reasonably expect by issuing estimated bills.

### ***Incorrect information***

33. The company acknowledges that it incorrectly claimed that the customer's parents had moved into the property in 1998. I therefore find that the company failed to provide its services to the customer to the standard to be reasonably expected. However, it is not in dispute that the company apologised for the conflicting information and applied a goodwill gesture payment of £100.00 to the customer's account. I find that this was appropriate and an adequate amount of compensation.

### ***Redress***

34. In respect of the customer's requests that the company refund the overpayment incurred from 1998 due to the water meter imposed on his parents without their consent, as discussed above, the customer has not shown that the company has failed to provide its services to the standard one would reasonably expect in relation to the installation of the meter at 4 Green Street and that there was any overpayment. This aspect of the customer's claim does not succeed.

35. In respect of the customer's requests that the company pay compensation for hardship and distress, in view of my findings above that the company failed to provide a reasonable level of customer service by not informing the customer of the results of his application for a meter at 2 Red Road and by not informing the customer that it would be exchanging the meter at 4 Green Street on 22 August 2016 and 15 February 2017, I find that the customer is entitled to a measure of compensation for the distress and inconvenience caused. 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 support a higher amount of compensation. I therefore direct that the company pay the customer compensation in the sum of £75.00.

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## 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.

## What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 18 March 2019 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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