

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1213

Date of Decision: 23 April 2019

Complaint

The customer submits that the dispute concerns a surface water drainage (SWD) rebate. The company has only agreed to backdate the rebate six years. However, he believes that the company should reasonably have known that his surface water was not connected to the sewerage system since 1997. The company also admits that its mapping system shows that his property is not near a public sewer and that a neighbouring property with the same postcode had successfully applied for a SWD rebate in 2010. The company's bills did not clearly outline that it was his responsibility to question whether his property was connected to the public sewer for SWD. [] Water (RST Water) took over wastewater billing on the company's behalf from 1 April 2010. The statements on RST Water's bills are also confusing and inconsistent. The customer requests a SWD rebate backdated to 2001. The customer also requests £500.00 compensation for inconvenience.

Defence

The company submits that information about claiming a SWD was included in its bills. It has no jurisdiction over what information RST Water provides in its bills. The customer applied for a SWD rebate on 26 September 2018. The customer makes reference to a project in 1997 relating to mains drainage, but has provided no further details. It has no information regarding this project. On 8 October 2018 it was able to determine that the customer's property was not connected to its network for SWD. While it was able to see when it received the customer's SWD rebate request, that the RST Waterer was not close to his property, this is not something it would have checked prior to his application. RST Water also confirmed that a neighbouring property had been granted a rebate from 30 March 2010 and so in line with its policy, which stipulates that rebates will be applied back a maximum of six years, it granted the customer's rebate from 1 April 2013. However, after reading the customer's Comments on the Defence, it has since investigated further and discovered that the SWD rebate given to the neighbouring property was given in error. That customer had never actually applied for a SWD rebate and had in actual fact applied for a wastewater abatement. When the property was transferred to RST Water for billing either it or RST Water, in error, awarded that customer a SWD from the same date. Had this been investigated when the customer applied for his SWD rebate he would only have been awarded the rebate from 1 April 2018 and it would not have been backdated to 2013.

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Findings

Prior to 2001 every customer was required to pay SWD charges whether or not they benefitted from the service. From April 2001, OFWAT asked companies to rebate SWD charges where customers were not connected to the sewer. No evidence has been submitted to this adjudication which shows that the company was aware or should have reasonably been aware that the customer's property was not connected for SWD prior to 2018, when he applied for a SWD rebate. Under OFWAT guidelines companies are expected to publicize the availability of SWD rebates and provide details of how to make a claim. I am satisfied, from the bills submitted in evidence by the customer, that the company publicized the availability of SWD rebates and provided details of how to make a claim on its bills. However, I find that of the RST Water bills submitted in evidence, only a 2012 and 2015 bill make mention of the availability of SWD rebates and provide details of how to make a claim. I note the company's submissions that it has no jurisdiction over what information is contained on RST Water's bills. However, I am mindful that as described by the company, RST Water acts as an agent on its behalf. I am also particularly mindful that on this basis, under OFWAT guidance, to satisfy themselves that their customers are receiving the appropriate level of service, it is good practice for water companies to ensure that standard correspondence and literature conforms to the standards expected of the water companies themselves. I am therefore not satisfied that the company has shown that provided its services to the customer to the standard to be reasonably expected in this regard.

Outcome

The company needs to take the following further action:

I direct that the company provide the customer with a SWD rebate for the period from 1 April 2010 to 31 March 2013. I also direct that the company pay the customer £50.00 compensation.

The customer must reply by 22 May 2019 to accept or reject this decision.

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ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1213

Date of Decision: 23 April 2019

Party Details

Customer: []

Company: [].

Case Outline

The customer's complaint is that:

- He contacted the company and requested a surface water drainage (SWD) rebate for charges he has been paying since 1997. However, the company has only agreed to backdate the rebate six years.
- He believes that the company should reasonably have known that his surface water was not connected to the sewerage system as the company already had the details on its systems that indicated his surface water was not connected. The company admits that its mapping system shows that while a public sewer is in the area, it is not close to his property. The company also admits that a neighbouring property with the same postcode had successfully applied for a SWD rebate.
- The company's bills did not clearly outline that it was his responsibility to question whether his property was connected to the public sewer for SWD.
- [] (RST Water) took over waste water billing on the company's behalf from 1 April 2010. The statements on RST Water's bills are confusing and inconsistent. There have also been various iterations of RST Water's bills since 2010. These have been introduced without any written notice or explanation, and such sudden, unilateral changes cannot be binding on a customer.
- The customer requests a SWD rebate backdated to 2001. The customer also requests £500.00 compensation for inconvenience.

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The company's response is that:

- It has a mapping system (GIS), which shows all of the [] Water owned sewers in its area, either foul water, surface water, or combined sewers (foul and surface water). Its mapping only shows the main sewers within its area, not the private connections to them from within a property's boundary.
- In 2011 all wastewater companies took responsibility for shared drainage, but due to the amount of pipework previously under private ownership in its region, its mapping is only updated as and when it becomes aware. As such, it is not always clear when a customer claims a SWD rebate whether they are connected to a [] Water owned surface water sewer.
- The onus has always been on the customer to let it know if their surface water does not drain in to its sewer and while it was able to see when it received the customer's SWD rebate request that the sewer was not close to his property. This is not something it would have checked prior to his application.
- Information about claiming a SWD was included in its bills. This information is also available on it's and RST Water's website.
- With regards to the customer's comments about the information contained within RST WATER's bills, this will need to be addressed with RST WATER directly as while RST WATER bill on its behalf it has no jurisdiction over what information RST WATER provides in its bills.
- The customer makes reference to a project in 1997 relating to mains drainage, but has provided no further details. It has no information regarding this project, and as previously explained to the customer, there is no regulatory expectation for it to check customers' private drainage arrangements prior to 2001.
- Prior to 2001 SWD was a component part of the wastewater charge, which applied in full for any property connected to the foul sewer, irrespective of the individual SWD arrangements. From April 2001 OFWAT asked companies to rebate SWD charges where customers were not connected to the sewer. At that time OFWAT stipulated that the onus was firmly on the customer to claim the allowance, and that it was applicable from the beginning of the billing period or financial year in which the claim was received, whichever was earlier. OFWAT also advised that it would be inappropriate to apply rebates retrospectively, as this would have also required retrospective increases in bills to connected customers.
- In 2007 OFWAT recommended 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.

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- The customer applied for a SWD rebate on 26 September 2018. On 8 October 2018 it was able to determine that the customer's property was not connected to its network for surface water and so an email was sent to RST WATER to clarify if any of the customer's neighbouring properties had been granted a SWD rebate.
- RST WATER confirmed that a neighbouring property had been granted a rebate from 30 March 2010 and so in line with its policy, which stipulates that rebates will be applied back a maximum of six years, it granted the customer's rebate from 1 April 2013.
- ****On receipt of the customer's Comments on the Defence, the company also adds that it has since investigated further and the SWD rebate given to the neighbouring property was given in error. That customer had never actually applied for a SWD rebate and had in actual fact applied for a wastewater abatement. When the property was transferred to RST WATER for billing either it or RST WATER, in error, awarded the customer a SWD from the same date. Had this been investigated when the customer applied for his SWD rebate he would only have been awarded the rebate from 1 April 2018 and it would not have been backdated to 2013.*

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?

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.
3. Submissions made without supporting evidence are unlikely to be accepted as proven.
4. It is almost inevitable in such adjudications that conflicts of evidence arise, and the mere fact that the adjudicator finds in favour of one party on a particular issue does not mean that the other is telling an untruth. The adjudicator's role is to balance the evidence that is presented.

SWD Rebates

5. Prior to 2001 every customer was required to pay SWD charges whether or not they benefitted from the service.
6. From April 2001, OFWAT asked companies to rebate SWD charges where customers were not connected to the sewer.
7. I acknowledge the customer's submissions that the company was aware or should have been aware that his property was not connected for SWD from 1997. The customer states that in 1997, the company carried out a project in his area to connect properties to its mains drainage, and that the connection status of the properties would have been recorded by the company as part of the project. However, no evidence has been submitted to this adjudication to support this. The company denies the customer's submissions. In the absence of any evidence showing otherwise, I am unable to find any failings on the company's part in this regard.
8. The customer also submits that the company was aware or should have been aware that his property was not connected for SWD as its mapping system shows that while a public sewer is in the area, it is not close to his property. However, bar a 2007 OFWAT recommendation in relation to neighbouring properties discussed below, I accept that due to the size and nature of the sewerage network, a reactive system of providing SWD rebates is a reasonable approach

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for companies to adopt. Due to the size and complexity of the network, companies, currently, cannot reasonably be expected to proactively check their mapping system to determine if a property is connected for SWD. I therefore accept the company's submissions that while it was able to see when it received the customer's request for a SWD rebate that the sewer was not close to his property, this is not something it would have checked prior to his application. The company's submissions are supported by the approach to the regulation and supply of water in the UK.

9. In 2007, OFWAT recommended that companies take a more proactive approach and 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.
10. The customer also submits that the the company was aware or should have been aware that his property was not connected for SWD as it admits that a neighbouring property with the same postcode had successfully applied for a SWD rebate in 2010.
11. The company states that, on receipt of the customer's application in 2018, it contacted RST WATER and RST WATER confirmed that a neighbouring property had been granted a rebate on 30 March 2010 (*I acknowledge the company's submissions that it has now been discovered that this rebate was granted in error and that that customer had not in fact applied for an SWD rebate*). I am conscious that RST WATER only took over wastewater billing on the company's behalf from 1 April 2010. Albeit that RST WATER took over the wastewater billing only two days later, there is no evidence to show that RST WATER was required to go back retrospectively into its files to determine eligibility of the new accounts it had taken responsibility for. As discussed above, due to the size and complexity of the network, I am not satisfied that it would have been reasonable to expect RST WATER to have done so.
12. Accordingly, I acknowledge the customer's submissions; however, having carefully considered the matter, no evidence has been submitted to this adjudication which shows that the company was aware or should have reasonably been aware that his property was not connected for SWD prior to 2018, when he applied for a SWD rebate.

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Notification of the option to apply for a rebate

13. Under OFWAT guidelines companies are expected to publicize the availability of SWD rebates and provide details of how to make a claim.
14. I am satisfied, from the bills submitted in evidence by the customer, that the company publicized the availability of SWD rebates and provided details of how to make a claim on its bills.
15. I acknowledge the customer's submissions that the bills are not clear that it was his responsibility to question whether his property was connected to the public sewer for SWD. However, I am also satisfied that the information provided on company's bill, which include the potential amounts that could be saved and the request that customers contact it for further information, is reasonable and phrased in such a manner as to put customers on notice that it is their responsibility to query whether their properties are connected for SWD. I find that the company has provided its services to the standard to be reasonably expected by the average person in this regard.
16. However, I am not satisfied that the same can be said of the bills from RST WATER. Of the RST WATER bills submitted in evidence, only a 2012 bill and a 2015 bill make mention of the availability of SWD rebates and provide details of how to make a claim.
17. I note the company's submissions that it has no jurisdiction over how RST WATER lays out its bills or what information is contained on them. However, I am mindful that as described by the company, RST WATER acts as agent on its behalf, responsible for billing its customers. Therefore I am also particularly mindful that under Ofwat guidance, in circumstances such as these, to satisfy themselves that their customers are receiving the appropriate level of service, it is good practice for water companies to ensure that standard correspondence and literature conforms to the standards expected of the water companies themselves. I am therefore not wholly satisfied that the company's submissions are supported on this basis. I find that the company has not shown that provided its services to the customer to the standard to be reasonably expected by the average person in this regard.
18. For the avoidance of doubt, I note the company's submissions that information about applying for a SWD rebate is also currently available on RST WATER's website. However, no evidence has been to show the history of the website and that this has always been the case. In addition,

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in any event I find that it would have also been fair and reasonable for RST WATER to have provided SWD rebate information on the bills.

19. Finally, in relation to the customer's complaints that there have also been various unilateral changes to RST WATER's bills which have been introduced without any written notice or explanation, please note that no evidence has been submitted to this adjudication to show that water companies are required to give customers' notice or seek customers' input if/when they change the format of their bills. In the absence of which, I find no failing on the company's part in this regard.

Redress

20. The customer requests a SWD rebate backdated to 2001. As discussed above, no evidence has been submitted to this adjudication which shows that the company was aware or should have reasonably been aware that the customer's property was not connected for SWD prior to 2018. I am also satisfied that the company publicized the availability of SWD rebates and provided details of how to make a claim on its bills. However, in the absence of evidence showing that RST WATER publicized the availability of SWD rebates and provided details of how to make a claim on its bills from 2010; when it took over the customer's account, I find that it is fair and reasonable in the circumstances to direct that the company provide the customer with a SWD rebate for the period 1 April 2010 to 31 March 2013. This direction takes into account the fact that the company has already provided the customer with a rebate backdated to 2013. Although the company now states that that rebate was given in error, in light of my findings about RST WATER's bills, I find that it would fair and reasonable in the circumstances for the customer to retain the rebate already paid.

21. The customer also requests £500.00 compensation for inconvenience. I am satisfied that the customer is entitled to a measure of compensation for the stress and inconvenience caused. However, I find that the sum claimed is disproportionate to the failing shown. Having carefully considered the matter, I find that the sum of £50.00 is 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 £50.00 compensation.

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Outcome

The company needs to take the following further action(s):

I direct that the company provide the customer with a SWD rebate for the period from 1 April 2010 to 31 March 2013. I also direct that the company pay the customer £50.00 compensation.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 22 May 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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Adjudicator

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