WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1225

Date of Decision: 30 January 2019

Complaint

The customer has suffered stress due to the threat of debt recovery and bailiff action instigated by the company. The customer moved into his property in 2006 but was not contacted until 2009, when he received a large bill. The company ignored him when he tried to resolve the debt situation. The customer would like the company to provide (1) a key meter; (2) an apology; (3) a refund or credit carried over; (4) an explanation as to the lowest tariff available; (5) a 'zeroing down' of his account; (6) compensation.

Defence

The company accepts that it did not explain correctly to the customer why the back-charges in the 2009 bill had been levied in the first place. It also accepts that there was mis-information and mis-communication with regards to the meter fitted to the customer's property. However, as it has already removed charges totalling £640.32, paid all payments under its Customer Guarantee Scheme and given a goodwill gesture of £10.00, it does not believe that any further payments are justified.

No offer of settlement has been made.

Findings

The issues that the company itself acknowledges did amount to a failure to provide its services to the standard expected. There was also a failure in progressing debt recovery measures against the customer when, at the very least, there were doubts over the 2009 bill. The company should have done more to appreciate and realise how the stress of the matter was affecting the customer. Accordingly, the customer is entitled to compensation of £200.00.

Outcome

The company needs to take the following further action:

I direct the company to pay the customer the sum of £200.00 in compensation.

The customer must reply by 27th February 2019 to accept or reject this decision.

ADJUDICATOR'S DECISION

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Date of Decision: 30 January 2019

Party Details

Customer: [ ]

Customer's representative: [ ].

Company: [ ].

Case Outline

The customer's complaint is that:

- A water meter was fitted to his apartment in March 2017. With the meter having been installed, he began to question why his water bill had not shown any different tariff.
- The company replied that a water meter could not be fitted to the property due to the fact that it was a communal block. (This was despite the fact that the meter had already been fitted).
- The company gave a series of inconsistent answers. They told the customer that it would be possible to have water billed via a meter and then they claimed that the property was deemed unmeterable and that the water meter should never have been fitted.
- The customer then questioned why the company had not billed him when he first moved into the property in 2006. The property is a very small, one-bedroomed social housing apartment. He assumed that the water was being paid for inclusive with his rent (as this had always been the case with his previous property).
- The company sent out a large bill in 2009, which demanded payment of three years' historic charges ("the 2009 Bill"). The customer tried to cover this. The company, however, threatened that bailiffs would be knocking at the customer's door. When the customer tried to call the company, they refused to speak to him and said that the matter could only be discussed with their debt recovery agents.
- In March 2018, the customer's representative spoke with one of the company's managers. The manager agreed that the cheapest tariff could be used in order to go back to the very first bill

and that a recalculation could be carried out on the account. Sensitive personal issues were discussed and it was promised that the bill would be recalculated and that the customer's representative would hear back.

- Several weeks passed. It transpired that the manager in question had left the company. The customer's case had to be re-opened once again. The customer's representative has since been given two different caseworkers. They have both failed and proved inefficient on every level.
- The last contact was in July 2018. At that point, the following understanding was reached:
    - that the company had indeed made a mistake in sending out the 2009 Bill;
    - that they had looked at the account and discovered that there was a credit or overpayment showing of £314.90;
    - that it was agreed that £200.00 would be refunded by cheque;
    - that the customer wanted the remaining balance of £114.90 to be carried over onto his next bill.
- With assurances that the amount being paid by the customer could be cut in half, the company sent out [ ] ("ABP") application forms for completion. However, with the company having been so inefficient in their communications (and with such sensitive information being requested for the ABP application), the customer's representative advised him to resolve the billing issues first of all. The company assured the customer's representative that the account would be put on hold until a satisfactory conclusion could be reached.
- Nothing, however, was resolved. All that the company did was:
    - to open and close several accounts;
    - to say that they were having IT issues;
    - to say that the issues were taking longer than anticipated to resolve;
    - to fail to make call backs on time;
    - to call the customer's old landline number (which no longer exists);
    - after sending in an email (as this is what was advised), to leave several voicemails saying that they had been trying to contact the customer's representative by phone.
- Recently, the customer has received yet another bill from the company demanding £228.49. He has also received a letter, headed '*HIGH CONSUMPTION LETTER'*, claiming that the amount of water that he is using has increased. As this is the first bill sent out showing a meter reading, the customer's representative queries how this is possible.
- The customer has healthcare for his condition, outside of the property, several times a week and this also involves several overnight stays. Very little water is used in the property, therefore it is

not understood why the bills are so high. There is only one occupant in a very small one-bedroomed apartment.

- The customer has a disability and suffers with mental health. All of this stress is having a detrimental effect on his health.
- As very little water is used at the property, the customer would like to know if a key meter could be fitted.
- If a key meter cannot be put in then he would like a regular monthly lowest tariff amount to be set up.
- The customer would like an apology from the company because their caseworkers have been unreliable and patronising and have given wrong information on several issues. The company has failed to realise how the stress of this matter is affecting the customer.
- On billing, the customer would like:
    - a refund or the credit that is remaining to be carried over; and
    - an explanation of the lowest tariff showing clearly how much the customer needs to pay monthly (as opposed to sending out water bills sporadically); and
    - the balance on the account to be set to zero (from the point when this matter is resolved).
- Compensation would be welcome as only a small refund has been given on the customer's overpayment. Moreover, the account is still in credit and this needs to be addressed.

The company's response is that:

- The customer's apartment is part of a new-build block of flats on a development. Prior to the properties on this development being built, the company was asked to ensure bulk-metered supplies to provide a single, metered water supply to each block of flats. This was on the proviso that the Housing Association, who owned the blocks, would pay the company directly for all water and wastewater charges through that single, metered, bulk supply. In turn, the Housing Association would recover these charges directly from the occupiers in their rent/service charges. In these circumstances, the company would ask that the Housing Association enter into a Common Billing Agreement with it.
- Once the customer's particular block of flats was built, the company set up an account for [ ] ("PQR"). It was believed that PQR had accepted responsibility for the bills. The company, therefore, began to invoice PQR for the relevant charges from the meter readings from the bulk meter. The company had no signed agreement from PQR but it is very common for such agreements to reach the company some considerable time after the accounts had been set up

and billed.

- It is accepted that there has been mis-information and mis-communication with regards to the meter fitted to the customer's property. It has come to light that, when the meter was fitted inside the property on 21 March 2017, there was a system issue. This system issue meant that the meter installation technician was unable to amend the particular areas of the company's database to show that the property had been metered. This resulted in the company's computer screens and databases continuing to show that the property was unmetered/unmeterable. Regrettably, this system issue was not picked up by the company at the time.
- It was not until the customer's representative called on 19 February 2018 (with a meter reading) that the company was alerted to the fact that there was an issue with the database.
- The company accepts that this problem took some time for it to clarify and to confirm to the customer and to his representative. It extends its genuine and sincere apologies for the confusion and frustration that this matter has caused them. Whilst the company could not have foreseen the system issue that occurred, it is disappointed with the time that it took to clarify the situation and it is very sorry for this.
- The company has alluded to the reasons why it did not initially bill the customer directly in 2006. The developer, on behalf of the [ ] Association, requested a bulk, large metered supply to serve the entire block of flats. In these circumstances, PQR should have paid the bills for the block of flats and recouped this from the residents directly in their service charges. However, PQR failed to do this and in 2009, PQR advised the company that they were not liable for the bills and wanted the individual flats to be billed directly to their tenants, i.e. the occupiers. Under the Water Industry Act, section 144, and under its own Charges Schemes, unless the company has a written agreement for a third party to pay the bills, the occupiers are liable. Therefore on this basis, as it had no signed agreement from PQR, the company had no option but to carry out PQR's request and to bill the occupiers and recoup all the unpaid charges. PQR provided all the details of the tenants' names, the dates that they moved in and number of bedrooms.
- The company accepts that, in its dealings with the customer and his representative since November 2017, it has not correctly explained the situation as to why the customer received the 2009 Bill. Indeed, its Complaints Case Manager agreed to remove those charges because he was unable to determine why they had been raised. The company extends its sincere apologies for not providing the customer and his representative with this information, which is contained on the company's records.
- It is correct that there was a credit of £314.90 once the customer's account was adjusted. The company refunded £200.00 to the customer and the remaining amount was offset against the

balance on the customer's first metered bill, which the statements and bills, as sent to the customer, have shown.

- It is accepted that there were IT issues, which took some time to resolve. The Complaints Case Manager did contact the customer's representative on the days on which were agreed to update her but there does appear that there were issues with the telephone number provided.
- With regard to the 'high consumption letter' sent to the customer, this issue has not been raised previously. However, as the company is downloading readings from the meter on a daily basis, if it notes that there is an increase in the usage, it will let its customers know. This is the whole reason for the company's Progressive Metering Program, and to fit smart meters - so that leakage issues can be tackled as soon as they occur and customers can be notified of a potential problem developing so that they can deal with it straight away.
- As to the back charges levied to the customer in the 2009 Bill, the company's back charging policy in 2009 differed to that in force today. At that time, in 2009, the company did raise back charges up to six years when circumstances allowed. There has since been a review. On residential accounts, the company now provides back charges for one year, plus the current year only, and this is presently its policy. Therefore, as regards the 2009 Bill:
    - those charges were raised entirely correctly and in line with the company's policy in place at the time; and
    - the customer did not query the charges or the amount of the 2009 Bill. The procedures at the time would have required PQR to inform the customer that a bill was on its way from the company and the reasons why.
- The company was informed, on many occasions, that the customer was going to apply to its Trust Fund and/or its Customer Assistance Fund. However, it appears that no applications were ever actually progressed. The basis of these Funds is that - if the customer had provided all his income and expenditure - the Administrators of the Funds would look to see if all or part of the balances owing could be written off. As the customer had told the company that he was in receipt of benefits, he was given all details of the Water Direct scheme, which is run by the Benefits Office. The customer did not progress any application to the Water Direct scheme either.
- As to the company's debt recovery actions, the company always notified the customer of the actions that it might take if balances remained outstanding. Varying types of notices concerning the outstanding balances started to be sent on 18 April 2013 and up to 18 September 2017, some eighteen in all over that period. However, whilst two Debt Collection Agencies were instructed to obtain balances on the company's behalf, none of these would have presented

themselves at the customer's home because they are only contracted to write or to telephone. In addition, bailiffs can only be instructed if the company has obtained a County Court Judgment. The company has not taken the customer to Court for the outstanding balances, so there appears to be some misunderstanding with regards to this matter. Whilst the company appreciates that receiving reminders, final demands, notices of further action and debt collection agency letters were stressful for him, the customer had not taken any of the actions that he said he was going to take.

- Whilst it is accepted that there were delays experienced by the customer specifically in relation to several IT and database issues, it is submitted that these problems could not have been predicted or prevented. Systems issues such as these are extremely uncommon and certainly unique to each individual account. However, the Complaints Case Manager did let the customer's representative know of the difficulties straight away and kept her informed on the dates that he said he would. IT issues are very complex and need specialists to resolve them. From experience, the company knows that the resolution can sometimes take many 'fixes' before the issues are resolved. The company is sincerely sorry for the inconvenience and any frustration that this has caused.
- As to providing a key meter, the company confirms that it does not have any such facility. The customer's water use is completely in line with the expected use of a single occupant and all payment options are shown on the back of all his bills. On metered accounts, the company confirms that it can offer a payment plan over 12 months to repay the arrears plus a monthly contribution for the next 12 months towards the water that is going to be used. Metered bills are not sent out sporadically. They are sent out every six months on a regular cycle after the meter has been read or when the company has estimated the usage instead. The customer's meter reading cycle is every May and November and this is when he can expect to receive bills. The company has already explained the basis of metered billing to the customer's representative in its telephone conversations and correspondence with her.
- Working from its telephone and complaint case notes (and the written communications with the customer and/or his representative), it is not accepted that there is any indication whatsoever of company's staff having been "*unreliable*" or "*patronising*", as is alleged.
- As to the request for an apology (for the mistakes made and for the stress caused to the customer), the company's Complaints Case Manager dealing with the customer's representative has verbally apologised throughout. Sincere apologies were also provided in writing on 13 June 2018.
- The customer's account is not currently in credit, as the bills of 12 July 2018 and 16 November

2018 show. The customer has received his £200.00 refund and the company was asked to offset £114.90 against the bill of 12 July 2018 (which it duly did). This left a balance of £32.24 for the customer to pay on 12 July 2018. As at the date of the company's defence, the customer owes a total of £228.49 and another bill will be sent to him by the end of May 2019.

- On the issue of providing its lowest possible tariff, the company has sent its ABP Application Form for completion and return with all evidence. The company points out that (if the ABP Application is successful) the discount only takes effect from the date when the Application is received.
- The company is unable to provide the customer with a zero balance as the water services have been used and must be paid for. In addition, in goodwill, the company has already removed charges totalling £640.32 from the customer's original account because its Complaints Case Manager at the time was unable to locate the reason why the customer had been backdated.
- In response to the customer's request for compensation, it is conceded that the company provided incorrect information when it advised that the property was unmeterable and that a different tariff was needed. However, the company states that it has already:
    - removed charges totalling £640.32 in goodwill; and
    - paid all payments under its Customer Guarantee Scheme; and
    - given a goodwill gesture of £10.00 to say sorry when it did not call back the customer's representative when it said it would.
- The company does not consider that any further payments are justified but hopes that the customer and his representative find all the additional information provided in the defence helpful to bring all their concerns to a conclusion.

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 have reviewed in particular:

    a. the letter from the customer's representative, dated 10 December 2018, which is attached to the customer's WATRS Application;

    b. all the materials attached to that letter of 10 December 2018; and

    c. all of the materials and contact records supplied with the company's defence; and

    d. the detailed 'chain of events' set out on pages 1 to 11 of the company's defence.

2. The main element of the customer's complaint in this case appears to be about the stress caused by the threat of bailiff action on the part of the company. The customer's representative explains that the customer has a disability and that he suffers with his mental health. Allowing for those considerations, there is little doubt that the debt recovery steps taken would be particularly stressful for the customer. The customer's representative submits that the company 'ignored' the customer when he tried to resolve the situation. The approach that I have taken, however, has been to concentrate on how the debt recovery process came about in the first instance.

3. The focus of this case seems to me to be around the customer's receipt of the 2009 Bill. The company points out that the customer made no payments at all in 2009 or 2010 and only quite modest payments in subsequent years. The company then explains what the consequence of this was:

    "… *As the payments we received were insufficient to cover the initial outstanding and subsequent newly raised bills, we periodically sent final demands, legal notices and notices of further action, in line with our debt recovery processes where there are arrears outstanding. Mr [ ] received various debt recovery letters … These notices provided Mr [*

] with information about what action would be taken if the arrears remained unpaid. As such, Mr [ ]'s account was passed to Debt Collection Agencies, [ ] …"

4. In terms of why the company maintains that its debt recovery measures were reasonable, I note that it refers to the fact:

    a. that the customer never did progress any application to the company's Trust Fund or Customer Assistance Fund or Water Direct scheme (despite information on '*How to get help paying your bill'* being provided to him); and

    b. that no query was raised by the customer in relation to the 2009 Bill. On page 5 of its defence, the company says: "… *There is also no record of Mr [] querying why an account was opened in his name or why his bills had been backdated to 2006. Due to this, I am satisfied that Mr [ ] knew from PQR why this action had been taken and why he had received this bill from us* …"

5. I am not persuaded, however, that these factors provided an enitrely sound basis for justifying the debt recovery steps that followed. The more relevant point, as I see it, is that - at a later stage in the process - the company was unable to explain satisfactorily to the customer why he had received the 2009 Bill in the first place. In its defence, I note that the company readily concedes that:

    " … *in our dealings with Mr [ ] and Ms [ ] since November 2017, we have not correctly explained the situation why Mr [ ] received the initial high bill. Indeed, I note that our CCM agreed to remove those charges because he was unable to determine why these had been raised. I would like to take this opportunity to extend our sincere apologies for not providing Mr [ ] and Ms [ ] with this information which is contained on our records* …"

6. If the company's own staff were unable to explain the validity of the 2009 Bill, it seems to me that this probably meant that:

    a. the back charges (or some of them) became untenable; and

    b. the justification for progressing debt recovery steps against the customer largely fell away; and

    c. there is rather more seriousness around the customer's claim that he was 'ignored' by the company when he tried to resolve the situation with the 2009 Bill.

7. For these reasons, I do not attach much weight to the Complaints Case Manager's decision to remove some of the charges associated with the 2009 Bill. I do not consider that this could be viewed in any sense as a windfall for the customer, as the company appears to suggest.

8. Therefore, in the following respects, I find that the company failed to provide its services to the customer to the standard that one would reasonably expect:

    a. by progressing debt recovery measures against the customer (when, at the very least, there were doubts over the raising of the 2009 Bill);

    b. by failing, after November 2017, to explain correctly to the customer why the back charges in the 2009 Bill had been levied in the first place.

9. In its defence, I note that the company also extends its apologies to the customer for two other matters. I find that the company failed to provide its services to the customer to the standard expected in these two respects too, namely:

    a. for the "*mis-information and mis-communication with regards to the meter fitted to Mr [ ]'s property*" (and the time taken to clarify and confirm the position on this to the customer); and

    b. for the delays experienced by the customer specifically in relation to several IT and database issues.

10. In the very specific context of this case, I accept the customer's submission (and find) that the company should have done more to appreciate and acknowledge how the stress of this matter was affecting the customer.

11. On the evidence available to me, I have not however been able to find any substantiation for the customer's representative's assertions that the customer's staff have been "*unreliable*" or "*patronising*" in their behaviour.

12. I turn now to the various actions that the customer would like the company to take in response to his complaints:

    a. as to providing a key meter, the company replies that it does not have any such facility. I am satisfied, therefore, that the company should not be required to take any action on this aspect;

b. as to providing an apology, I note that - within the body of its defence - the company makes repeated apologies in writing. I regard those apologies as given both fulsomely and sincerely. Therefore, I do not consider that it would be warranted to require the company to give any further or more extensive apology;

c. as to giving a refund and/or carrying over a remaining balance, I am satisfied (based on the detailed explanation and materials referred to in the company's defence) that the customer's account does not currently stand in credit. I accept the company's submissions on this aspect;

d. as to giving an explanation of the lowest tariff, I note the detailed points made by the company (at the top of page 15 of its defence) about the ABP application. I am satisfied that these points constitute a reasonable explanation on this aspect and I do not consider, therefore, that the company needs to be put to any additional requirement;

e. as to 'zeroing down' the balance on the customer's account, I note the argument that the company makes on page 14 of its defence. It is pointed out that the water services in question have been used and must be paid for. I regard that as a reasonable stance for the company to take and I am not persuaded that I should make a direction in this case that the company reduces the customer's account balance to nil.

13. On the question of the customer's entitlement to compensation, I note the response made by the company:

> "… *as we've detailed in our telephone conversations and correspondence with Ms [ ], we have already removed charges totalling £640.32 in goodwill, we've paid all payments under our CGS and given a goodwill gesture of £10.00 to say sorry when we didn't call Ms [ ] back when we said we would. We do not believe that any further payments are justified* …"

14. Although the removal of the £640.32 charges (as a goodwill gesture) undeniably involved a significant amount of money, I do not regard that as compensatory to the customer. More generally, I am not persuaded that the payments already made are a sufficient reflection of my findings on the company's service failures in this case.

15. In assessing what would be an appropriate award of compensation, I have had regard to the impact that the company's failures have had on the customer. I do make some allowance for the fact that the customer is disabled and vulnerable. I also take into account the customer's

sense that he was 'ignored' by the company when he tried to sort out the position with the 2009 Bill (and that he was rather dismissively referred to the company's debt recovery agents). On the other side, however, I regard the company's defence as constructive and very comprehensive (and seeking to be helpful) in its explanations as to what happened in this case. As already observed, when the company has apologised, it has done so in a genuine manner as I see it.

16. Drawing these considerations together, I conclude that £200.00 would be a fair and reasonable award to make to the customer in this case and that is the sum I shall direct the company to pay.

Outcome

The company needs to take the following further action:

I direct the company to pay the customer the sum of £200.00 in compensation.

What happens next?

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 27 February 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.

Nik Carle, LLB (Hons), Solicitor, DipArb, FCIArb

Adjudicator