

# **WATRS**

## **Water Redress Scheme**

### **ADJUDICATOR'S DECISION SUMMARY**

**Adjudication Reference: WAT/ /1229**

**Date of Decision: 26 February 2019**

#### **Complaint**

The customer believed that he should be eligible for a surface water drainage (SWD) rebate and contacted the company in November 2018 with regards to this issue. Following an investigation, the company confirmed that the customer was entitled to an SWD refund. However, in line with the company's set policy (as detailed in its scheme of charges), it was only able to provide the customer with an SWD refund up to 2013. The customer is not fully satisfied with this outcome and believes that he should be entitled to an SWD refund dating back to 2001 (when he first moved into his property). The customer is therefore claiming for the company to provide him with a further SWD refund going back to 2001.

#### **Defence**

The company submits that, in accordance with its set scheme of charges, it was only able to provide the customer with an SWD rebate up to 1 April 2013. The company confirms that its policy is in line with OFWAT's requirements. The company does not accept the customer's claim that it should provide him with a rebate over and above the amount as set in its scheme of charges. The company indicates that it has correctly adhered to its scheme of charges and OFWAT's requirements in relation to this matter and does not accept that it has failed to provide its services to the standard to be reasonably expected.

#### **Findings**

I am satisfied that the company has correctly adhered to its scheme of charges in relation to the customer's SWD rebate claim. Accordingly, I am unable to conclude that the company has failed to provide its services to the standard to be reasonably expected.

#### **Outcome**

The company does not need to take any further action.

The customer must reply by 26 March 2019 to accept or reject this decision.

*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.*

# ADJUDICATOR'S DECISION

Adjudication Reference: WAT/ /1229

Date of Decision: 26 February 2019

## Party Details

**Customer:** [REDACTED].

**Company:** [REDACTED].

## Case Outline

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

- The customer believed that he should be eligible for an SWD rebate because no surface water from his property drains into the company's assets. He therefore contacted the company in November 2018 with regards to this issue.
- Following an investigation, the company confirmed that the customer was entitled to an SWD refund. However, in line with the company's set policy (as detailed in its scheme of charges), it was only able to provide the customer with an SWD refund up to 2013.
- The customer is not fully satisfied with this outcome and believes that he should be entitled to an SWD refund dating back to 2001 (when he first moved into his property).
- The customer is therefore claiming for the company to provide him with a further SWD refund going back to 2001.

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

- The company submits that, in accordance with its set scheme of charges, it was only able to provide the customer with an SWD rebate up to 1 April 2013. The company confirms that its policy is in line with OFWAT's requirements.
- The company does not accept the customer's claim that it should provide him with a rebate over and above the amount as set in its scheme of charges.
- The company indicates that it has correctly adhered to its scheme of charges and OFWAT's requirements in relation to this matter and does not accept that it has failed to provide its services to the standard to be reasonably expected.

**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. It is evident that the crux of this dispute lies with the customer's belief that he should be entitled to a further SWD rebate from the company (specifically, he is claiming an SWD rebate going back to 2001).
2. I remind the parties that adjudication is an evidence-based process and, in order for any remedy to be awarded, the evidence must show that the company has not provided its services to the standard that would reasonably be expected of it.
3. I note that the company has provided a copy of section 6.12 of its scheme of charges that illustrates that the company is only obliged to provide the customer with an SWD refund backdated to 1 April 2013. It is not in dispute that the company has already provided the customer with an SWD rebate backdated to 1 April 2013. Consequently, in light of the circumstances, I am unable to conclude that the company's action of limiting its SWD refund to 1 April 2013, in accordance with its set scheme of charges, amounts to a failure to provide its services to the standard to be reasonably expected by the average person.
4. In the interests of completeness, I draw attention to the fact that by virtue of section 142 of the Water Industry Act 1991, the company is entitled to set its own scheme of charges and charge its customers in accordance with that scheme of charges. Therefore, I am not satisfied that the company has failed to provide its services to the standard to be reasonably expected by the average person by setting its own scheme of charges and charging the customer accordingly.
5. Furthermore, I must point out that it is entirely beyond the scope of this scheme to examine/review any issues relating to the fairness/appropriateness of the company's set contract terms and/or commercial practices (WATRS Rule 3.5).

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6. Accordingly, whilst I appreciate the customer's position, following careful examination of all the evidence provided at the time of adjudication, I am unable to conclude that the company has failed to provide its services to the standard to be reasonably expected. I am only able to deduce that the company correctly adhered to its charges scheme regarding the SWD rebate and appropriately explained its position to the customer.
7. Consequently, in the absence of any substantiated failures on the part of the company, I am unable to uphold the customer's claim for redress.

**Outcome**

The company does not need to take any further action.

**What happens next?**

- This adjudication decision is final and cannot be appealed or amended.
- The customer must reply by 26 March 2019 to accept or reject this decision.
- When you tell WATRS that you accept or reject the decision, the company will be notified of this. The case will then be closed.
- If you do not tell WATRS that you accept or reject the decision, this will be taken to be a rejection of the decision.



**E. Higashi** LLB (Hons), PGDip (LPC), MCIArb.

**Adjudicator**