

# WATRS

## Water Redress Scheme

### ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1369

Date of Decision: 28 October 2019

#### Complaint

The customer's complaint relates to negative credit marks that the company applied against the customer's credit record. The customer considers that as a result, she was unable to obtain a loan that she needed in order to travel abroad for medical treatment that she urgently needed. The customer therefore claims the sum of £7,000, broken down into £2,000 for the cost of her treatment and £5,000 for the cost of travel for her and her family.

#### Defence

The company rejects the customer's claim. It considers that the negative credit marks in question were properly applied, even though it subsequently agreed to remove them on compassionate grounds. It also notes that it advised the customer to register for Online Account Management so that she could manage her bills online, even when she is out of the country, as well as advising that if she is struggling to pay her bills she could again contact the Customer Assistance Fund. It considers that it has fully reviewed the file and fully explained the position to the customer. It has also offered a goodwill payment of £150 (although the customer did not accept this). The company therefore considers that it should not be held responsible for the customer's failure to obtain a loan.

#### Findings

I do not consider that there were any service failings on the part of the company. While the customer argues that because she is on the WaterSure tariff she does not have to pay more than £30 per month for her water, this is incorrect because the WaterShare tariff is adjusted every year and because she has arrears on her account that she needs to clear. The company has carefully explained this to her, as well as regularly sending her bills and updated payment plans. The company was therefore entitled to bill the customer for more than £30 per month and was entitled to apply negative credit marks when she did not pay the amounts billed. The company is therefore not responsible for the customer's failure to obtain a loan.

#### Outcome

The company does not need to take any further action.

The customer must reply by 25<sup>th</sup> November 2019 to accept or reject this decision.

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# ADJUDICATOR'S DECISION

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## Party Details

Customer: [ ] (the "customer").

Company: [ ] (the "company").

## Case Outline

### **The customer's complaint is as follows:**

- The customer suffers from a serious medical condition, for which she is under treatment abroad. Her complaint relates to certain negative credit marks which the company placed on her credit file. She explains that she applied to her bank for a loan to pay for her treatment and for travel abroad for herself and her family, but it was refused. The customer considers that this refusal was because of the credit marks placed by the company, which she considers to be unjustified. She explains that she needs to travel abroad for her treatment because it is not available in the UK. The customer explains that she is bed-bound due to her illness and has provided various medical documents and photographs to confirm the serious nature of her illness.
- The customer states that she has been on the WaterSure scheme since February 2016. She notes that in March 2016, she received assistance to repay the arrears on her account of £1,309.58, although she underlines that she considers that this assistance came from the British Gas Energy Trust Fund and not from the company itself. She states that she was advised at that time that under the WaterSure scheme, she would only be required to pay £360 per year, that is £30 per month, no matter how much water she used.
- The customer then set up a direct debit to pay her bills. She notes that this was not set up immediately, and she had to contact the company to remind them to put it in place. She states that in December 2016, she cancelled the direct debit as she and her family were going abroad.

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She explains that this was a genuine mistake on her part, as she did not think she would have to make payments if she was not living at her property and not using water. When she received a letter from the company about the cancellation of the direct debit, she contacted the company and agreed to put in place a new direct debit for £10 per month.

- The new direct debit was cancelled, and the customer argues that this cancellation was by the company and not by herself. She produces a letter from her bank which states that the direct debit was cancelled by the originator, i.e. the company. The company had placed a negative mark on her credit file when the direct debit was cancelled, but subsequently removed it when it received the letter from the bank. The customer argues that the company is wrong to say that it removed the credit mark on compassionate grounds, as she considers that the company removed the mark because it acknowledged that it had been wrong.
- When the customer returned home from her medical treatment in June 2017, she contacted the company to complain about the size of her bills which she considered to be too high given that she had not been living in her property. The company put her account on hold while investigating the complaint. Despite this, it sent her another bill of £376.43, which stated that £201.00 needed to be paid immediately.
- In November 2017, the customer set up a standing order to pay her bills, for the amount of £30 per month. She did this because of the problems she had experienced in the past with her direct debit. She says that she understood that as a WaterSure customer, she would only have to pay a fixed amount per month and that WaterSure would contact her if there was any change. She states that she has kept up these payments of £30 per month to date, and she has provided bank statements to show that some of these payments have been made.
- Regarding her high water bills, the customer explains that an engineer from the company visited to check for leaks and did not find any. The customer complains that it is unfair that the company seems not to accept this, and that it accuses her of having "issues" with her housing association regarding the possible leak.
- In July, November and December 2018, the customer states that she made payments of £30 per month which is what she considers was due under her WaterSure agreement. Nevertheless, the company placed marks for late payment on her credit file for these months.

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- At that time, she had just returned home from medical treatment abroad. Because she was only allowed to be absent from the country for medical treatment for 6 months, she had been forced to return in the middle of her treatment. She therefore needed to apply for a bank loan to allow her to return abroad to continue her treatment. She applied for a loan but it was declined because her credit check was failed. The customer therefore checked her credit report with Equifax, and discovered that there were late payment reports by the company for March 2017 (although this was removed in November 2017), as well as July, November and December 2018.
- The customer says that even though she was very sick, she contacted the company to resolve the situation and in February 2019 the company agreed to remove the credit marks. Once again, she highlights that she does not believe that this was done on compassionate grounds. She then tried to apply for a loan again and was declined again. She considers that this was because the company had failed to remove the marks as it said it would.
- The customer therefore claims the sum of £7,000 to cover amount of the loan that she did not get, broken down into £2,000 for the cost of her treatment and £5,000 for the cost of travel for her and her family. She explains that her family needs to accompany her because her daughter is disabled and her husband is the full time carer for her and her daughter.
- In her comments on the company's defence, the customer notes that she subsequently did manage to get a loan (although it was at a higher rate of interest than it should have been) so she was able to travel and obtain her treatment. She continued to pay £30 per month, but nevertheless, in October 2019, she received a further letter from the company saying that her payments were not up to date, and the company once again reported late payments to Equifax. She considers that she has been paying what she owes under the WaterSure scheme, and is in any event surprised that the company is charging such large amounts for a period when she was not living at her property and therefore not using any water. The customer states that she is a responsible citizen and has paid what she owes every month as a special needs customer.
- The customer argues that she is now in the same position as she was previously - she is going to have to make another trip abroad for medical treatment and she is not going to be able to

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apply for a loan because there are negative marks on her credit record. She therefore maintains her claim.

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

- The company contests the customer's claim. It acknowledges that late payment marks were reported to the credit reference agency but states that this was because the customer was indeed not keeping up with her required payments. It states that these marks were subsequently removed on compassionate grounds due to the customer's ill health.
- The company agrees that the customer was placed on the WaterSure tariff as of May 2016, and that the customer was given assistance for the payment of arrears of £1,309.58 (although the company states that this was through their Customer Assistance Fund).
- The company agrees that the customer set up a direct debit of £30 per month in September 2016. It notes that this was cancelled by the customer and as a result, it sent her a bill for the full amount outstanding, being £95.75.
- In February 2017, the company agreed with the customer a new payment plan for £10 per month. However, it told the customer in its letter of 21 February 2017 that there would be a carried forward balance of £550.22 because these payments would be insufficient to cover the outstanding balance and her estimated use for the next 12 months.
- On 27 February 2017, the company received a notification from the customer's bank that the direct debit had been cancelled. The company denies that this cancellation came from itself. It notes that sometimes, where a previous direct debit has been cancelled by a customer, the bank may put a blocker on the direct debit and therefore automatically cancel a subsequent direct debit, and this may be what happened in this case.
- The company then made various attempts to contact the customer about her outstanding balance. However, the company subsequently agreed to remove the late payment marks that arose as a result of the cancellation of the customer's direct debit, given that the customer had not been aware of the cancellation.

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- The company continued, however, to send the customer bills for the amounts outstanding on her account. The company also sent a customer representative to the customer's property to investigate her levels of consumption. He confirmed that there were no external leaks at the customer's property, but took steps to follow up with the local authority regarding the investigation of possible internal leaks. The company subsequently changed the customer's water meter for a smart meter in order to better analyse the customer's usage.
- On 8 May 2018, the company sent the customer a payment plan statement showing 12 payments of £75.00 due, starting 6 June 2018. Nevertheless, the customer did not adjust her standing order, and continued to make payments of only £30 per month.
- In January 2019, the customer contacted the company to complain about negative credit marks on her file. The company spoke to the customer by telephone on several occasions, and explained to her that payment plans renew yearly and may change, that this had happened in her case, and that the negative marks had therefore been placed because she had not paid the amount that was due. However, it agreed to remove the negative marks as the customer had been unwell and out of the country. It also explained its position in an email on 7 February 2019.
- The company notes that although it removed the negative marks on the customer's credit record, the record would still have shown that the amount of £315 remained outstanding. The company points out that this correctly reflected the customer's outstanding balance, as the customer was in fact in arrears at that time. Nevertheless, because this was not what the customer might have been expecting, the company offered the customer a £150 goodwill payment in respect of this on 26 March 2019.
- Following this, the company continued to receive payments of £30 per month from the customer. However, as this was not the amount of £60 per month that the company was expecting under the customer's payment plan, the company's debt recovery process continued. It made several attempts to call the customer to discuss her outstanding debt, but also continued to send letters concerning the outstanding amounts.
- The company therefore argues that there have been no service failings towards the customer. It states that the negative credit marks were properly applied, even though it subsequently agreed to remove them on compassionate grounds. It also notes that it advised the customer to register

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for Online Account Management so that she could manage her bills online, even when she is out of the country, as well as advising her that if she is struggling to pay her bills she could again contact the Customer Assistance Fund. It considers that it has fully reviewed the file and fully explained the position to the customer. It has also offered a goodwill payment of £150 (although the customer did not accept this).

- The company therefore considers that it should not be held responsible for the customer's failure to obtain a loan. It states that it cannot be held responsible for the policies of a financial institution, nor the way they approve or decline loans. In any event, it considers that the credit marks it reported were properly applied and were correct.

### **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. The customer's complaint in essence concerns negative credit marks that the company reported to Equifax. The company argues that these marks were justified and that even if it subsequently agreed to remove them, it was not required to do so. The customer considers that the marks

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were not justified and that they have caused her loss, because they resulted in her being refused a loan that she needed in order to travel abroad for medical treatment.

2. It appears from the papers that there were three periods of negative credit marks in question. Firstly, the company reported negative credit marks in early 2017. This arose because on 27 February 2017, the company received a notification from the customer's bank that her direct debit had been cancelled, and the customer did not subsequently make the payments that she owed under her payment plan.
3. The customer argues that it was the company that cancelled the direct debit, while the company denies that this was the case. The company points out that a bank will sometimes place a blocker on a particular direct debit if it is cancelled by a customer, which will result in the direct debit being cancelled if someone tries to re-establish it in the future. It seems likely that this could have happened in this case. In any event, I note that the negative credit mark that the company had put in place was subsequently removed. This therefore cannot have been a cause of the bank's refusal of a loan to the customer in 2019. I therefore do not consider that this incident is directly relevant to the customer's complaint.
4. Secondly, the company made late payment reports for the months of July, November and December 2018. This was because the company had revised the customer's payment plan on 8 May 2018 to reflect 12 payments of £75.00 due, starting 6 June 2018, and the customer failed to make the payments required by this revised plan.
5. The customer believes that the company was not entitled to revise her payment plan because WaterSure had told her that she only had to pay £30 per month. However, the customer has misunderstood the WaterShare tariff. While the tariff places a cap on the amount that is to be paid by an eligible customer, the amount of the cap is adjusted every year. Therefore, although the customer was required to pay £30 per month in 2016 when she was first placed on the WaterShare tariff, this amount would have been adjusted each year. I consider that it is unlikely that the customer would have been told anything different by the person who advised her about the WaterShare tariff. In any event, the company regularly sent the customer bills and payment plans, so the customer should have been aware from these documents that the tariff had changed.

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6. In this case, the customer's account was also in arrears because of periods in which she had not paid the full amount due. The customer accepts that her direct debit was not set up immediately when she started on the WaterShare tariff; it only started in September 2016. The customer also accepts that as a result of a mistake, she cancelled her direct debit payments in December 2016, so there was a period in which no payments were made. She further accepts that her direct debit was cancelled again in February 2017, as set out above. Whatever the reason for the cancellation, it meant that the customer did not in fact make payments during this period. As a result of all these periods of non-payment, as well as the change in the level of the WaterShare tariff, the customer's account was in arrears. This means that the standing order of £30 that she had in place was not sufficient to meet her obligations.
  
7. The company explained its position in detail in the email it sent to the customer on 7 February 2019. This email explained that:
  - The credit marks had been placed on the customer's record because although her payments continued at £30.00 a month, this was £45.00 under the amount that the company was expecting according to the customer's new payment plan.
  - Although the company would remove the credit marks as a goodwill gesture, the customer was still in arrears.
  - The company confirmed that the customer was still on the WaterSure tariff, which capped her bills at £383.00 for the billing year of 2018/2019, however it notified the customer that the cap increases to £398.00 for the period 1 April 2019 to 31 March 2020.
  - The company would reset the customer's payment plan to £30.00 a month to match her standing order. However, this would only be for three months (March, April and May 2019) and after this her payment plan would renew again to cover all of her outstanding balance.
  
8. The customer also asserts that her water bills are too high, given that she and her family have spent long periods abroad and have therefore not been living in the property or using water. I note that when the customer made this complaint to the company, the company took various steps to investigate, including sending an engineer to the customer's property to check for leaks, attempting to resolve the problem with the housing authority, and installing a smart meter. The

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engineer did not find any external leaks at the property. It appears from the papers that there was some suspicion that there might be an internal leak, but none was ever found, and the customer herself is not arguing that her high water usage arises as a result of a leak. The company is therefore entitled to charge the customer on the basis of her water usage as shown by her water meter.

9. I therefore consider that the company was entitled to report late payments in 2018, as it did. Although the company later agreed to remove these negative marks, it did so because it recognized that the customer was in a vulnerable position due to her illness. I therefore find that the company did this as a gesture of goodwill, and not because it was accepting that it had been wrong to report the late payments.
10. The third period about which the customer complains is October 2019, as the company has continued to demand payment of the outstanding amounts on her account, and has put further negative marks on her account and has sent a final demand letter.
11. The customer argues that this is unjustified, because she has continued to pay the amount of £30 per month to the company. However, as explained above, this amount is now insufficient to cover her WaterShare tariff and her arrears. As also set out above, the company has explained the position clearly to the customer in its email of 7 February 2019, as well as in continuing correspondence and in several phone calls. The customer should therefore now be well aware of the need to adjust her payments to reflect the amount that she currently owes.
12. I do not find that there has been any service failing on the part of the company in October 2019 either. The company has been entitled to report late payments, to modify the customer's payment plan, and to demand payment of her outstanding debt. I note that it has also taken other steps to support the customer, such as informing her about its Online Account Management system so that she could manage her bills online, as well as its Customer Support Fund, if she is unable to pay her bills. However, the customer has not chosen to pursue these options.
13. I note that the customer is in a vulnerable position due to her longstanding illness, which I understand makes correspondence and discussion with the company difficult for her. The company therefore has an obligation to treat her with particular sensitivity. However, I find that it

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has done so. It has been careful to explain the position in detail to the customer and to address her concerns, both in writing and on the telephone.

14. I therefore do not consider that the company can be held responsible for the fact that the customer initially failed to get a loan in early 2019 (although she subsequently managed to do so), nor that she is having difficulty getting a further loan now. I am therefore unable to award the customer the remedy she seeks.

#### **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 25th November 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.

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Natasha Peter (Barrister, FCI Arb)

**Adjudicator**

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