

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1439

Date of Decision: 23 September 2019

Complaint

The overall land area that has been measured to determine the customer's charges for surface water and highway drainage is incorrect and places the customer in a charging band that he considers is too high. The customer is not satisfied with the way the company has handled the case. The customer seeks a reassessment of the charging band.

Defence

The company has had the wholesaler remeasure the overall area and as a result the chargeable area and map has been updated. This has not changed the charging band or the charges for which the customer is liable.

The company considers it has fulfilled its obligations to take up the customer's complaint with the wholesaler.

Findings

The company failed to provide its services to the standards expected. The company has compensated the customer in respect of its failure to meet service standards.

Outcome

The company does not need to take any further action.

The customer must reply by 23rd October 2019 to accept or reject this decision.

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occasions. The company cannot change the wholesaler's assessment as it is in line with policy.

- The company has applied a payment of £20.00 to the customer's account as a goodwill gesture.

How is a WATRS decision reached?

In arriving at my decision, I have considered the following key issues:

- a. Whether the company failed to provide services to the customer according to legislation and to standards reasonably expected by an average person.
- b. Whether or not the customer has suffered any financial loss or other disadvantage as a result of a failing of the company.

In order for the customer's claim against the company to succeed, the evidence available to the adjudicator must show on the balance of probabilities that the company has failed to provide its services to the standard which would be reasonably expected and 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 I have not considered it in reaching my decision.

How was this decision reached?

1. In order to make a decision in this matter I must clearly distinguish between actions taken by the wholesaler and the duty owed by the retailer (the company) to its customers. Since the water market in England opened up to retailers in April 2017, all non-household (NHH) customers have been moved to a wholesale/retail split service. As a result, an NHH customer now only has a relationship with the retailer. In turn, an adjudicator operating under the Water Redress Scheme may only make findings related to those things for which the retailer, as the party to the case, has responsibility, and not those things for which the wholesaler has responsibility. This includes, however, the effectiveness with which the retailer has operated as an intermediary between the wholesaler and the customer.

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2. The customer's complaint is that the total area that has been used to assess the charging band for SWHD is incorrect. This results in the charging band being applied to the customer's account as band 4. The customer considers the total area for which he has responsibility would place him in band 3 for the purposes of SWHD.
3. From the evidence provided, I can see that the dispute relates to the assessment of the communal area included in the total area assessed by the wholesaler and used to determine the charging band for SWHD for the customer.
4. The customer submits that the assessment of the communal area includes parking spaces that are used exclusively by an adjacent business. The customer has provided photographs which indicate parking areas are used exclusively by another business. The customer considers that as these spaces are used exclusively by another business, they do not form part of the communal area. The customer therefore considers the area designated as a communal area should be reduced and that this reduction should place the customer in a lower charging band.
5. The company notes that the customer first raised a challenge to the site area assessment in January 2016. This followed an assessment of the chargeable area carried out in March 2015.
6. The company states that the assessment carried out in 2015 resulted in an adjustment in the charging band for SWHD from band 3 to band 4. The company explains that the site area measurement being used to determine the charging band was previously too low. The revised area assessment resulted in a chargeable area of 707 m², an increase from the figure of 475 m² which had been used previously. This moved the customer's charges for SWHD from band 3 to band 4. The company states this amended charging band was applied from 10 September 2015.
7. The company states that it explained to the customer how the total area had been assessed and the reason that this included a proportion of a shared communal area. The company also states that in April 2016 a letter and a map was sent to the customer explaining how the chargeable area had been assessed and why the customer was liable for part of the external area.

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8. The company states that the customer queried the charging band on two further occasions in 2016. The company also states that in May 2017, the customer disputed the charging band and the customer was advised he would need to complete a site area assessment form.
9. The company states that on 20 April 2018 the customer requested a visit to carry out an assessment as the customer considered the charging band was incorrect. The company states it advised the customer to submit the site area form that had been sent to the customer.
10. The company states the site area form was received on 26 April 2018 but was incomplete. The company states that it sent an email to the customer advising the sections that needed to be completed. The company notes a telephone call was received from the customer on 14 June 2018 concerning scheduling the site assessment and correcting the post code for the site. The outcome of the call was that the site area form needed to be completed again.
11. The company states the site area form and map provided by the customer was submitted to the wholesaler on or around 27 July 2018. The company states a response was received from the wholesaler on 10 August 2018 and that this was forwarded to the customer on 3 September 2018.
12. The company states that the customer remained dissatisfied with the response and that a further request was made to the wholesaler to remeasure the site area. The company reports this was carried out on 29 October 2018 following which the wholesaler reconfirmed the chargeable area was 707 m².
13. The company states that it has referred the customer's site area queries to the wholesaler on five occasions and had challenged the wholesaler's assessment on behalf of the customer. The company notes that the area assessments are determined by the wholesaler and the company is unable to change the customer's banding charges.
14. The assessment of the site area used in setting the SWHD charging band is the responsibility of the wholesaler rather than the company. Therefore, as I have referred to above, I am unable to make any determination in relation to the assessment of the area. My determination relates only to the actions taken by the company in respect of the customer's complaint.

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15. The Guaranteed Standards Scheme (GSS) sets out the minimum standards of service customers are entitled to expect from water or sewerage undertakers. Where a customer queries in writing the correctness of a bill or submits a complaint in writing about the supply of water or sewerage services, the company must send a substantive reply to the customer within ten working days from receipt of the query or complaint.
16. The company states that it received a completed site area form from the customer on 27 July 2018 and that this was submitted to the wholesaler. The company also states that on 3 September 2018, it sent an email to the customer setting out the wholesaler's response.
17. The company's response to the customer's submission of the site area form was not within the period of ten working days required by the GSS. I find the company failed to satisfy the standard required under the GSS. I note the company has acknowledged there was a delay in processing the form and has credited the customer's account in the sum of £20.00. I am therefore satisfied that the company has made the required payment under the GSS. I make no further direction on this matter.
18. On 11 December 2018, the customer sent an email to the company advising he was still unhappy with the service and that he considered the matter had not been dealt with sufficiently. The customer requested that his complaint be taken to stage 2. The company responded to the stage 2 complaint on 9 January 2019. The response explained how the total chargeable area had been calculated.
19. The company's response to the stage 2 complaint was not within the period of ten working days required by the GSS. I find the company failed to satisfy the standard required under the GSS. I note the company acknowledged that it had failed to provide a written resolution within the required period of ten days and advised the customer that it had applied a credit to the customer's account in the sum of £20.00. I am therefore satisfied that the company has made the required payment under the GSS. I make no further direction on this matter.
20. I find the failures by the company to meet the required standards under the GSS have not materially affected the outcome of the matter and therefore the customer has not suffered any loss or disadvantage as a result of these failures. I make no direction on this matter.

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21. The company states that a telephone call was received from the customer on 24 January 2019 following the company's response to the stage 2 complaint and that the customer remained unhappy with the response. The customer referred to advice concerning parking spaces he stated he received from the wholesaler's technician who attended site.
22. The company states that the matter was again referred to the wholesaler and the wholesaler confirmed that the mapping system had been updated in accordance with the technician's visit. The company notes the wholesaler explained how the areas had been assessed. The wholesaler also confirmed that parking spaces that it had been able to confirm were exclusive to another property had been excluded from the assessment. The SWHD band remained unchanged.
23. The company states it telephoned the customer on 5 February 2019 and informed the customer that the response from the wholesaler remained unchanged. The company states it also sent an email to the customer explaining the wholesaler's response.
24. It is noted that responses from the wholesaler showed minor differences in the measured areas following the update of the site maps. However, it is noted that these minor differences had no effect on the SWHD charging band.
25. It is further noted that the customer was asked to submit his own assessment of the site measurements but that information provided by the customer made no material change to the assessed areas.
26. I note that SWHD charging band 3 applies to chargeable areas between 300 m² and 649 m² and charging band 4 applies to chargeable areas between 650 m² and 1,499 m². In order for the customer's SWHD charging band to be changed from band 4 to band 3, the customer would need to demonstrate that the total area for which he has responsibility is 649 m² or less. This would require the customer to show that the total assessed area should be reduced by at least 69m² from its current assessed level of 718 m².
27. I am satisfied that the company has adequately referred the customer's complaints to the wholesaler and acted effectively as an intermediary between the customer and the wholesaler. With the exception of the two service failures identify above, I find no other failures on the part of the company.

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Outcome

The company does not need to take any further action.

What happens next?

- This adjudication is final and cannot be appealed or amended.
- The Customer must reply by 23rd October 2019 to accept or reject this decision.
- When the Customer notifies WATRS of acceptance or rejection of the decision, the Company will be notified of this. The case will then be closed.
- If the Customer does not inform WATRS of his acceptance or rejection of the decision by the date required, this will be taken as a rejection of the decision.

Ian Raine (BSc CEng MIMechE FCI Arb MCIBSE)

Adjudicator

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