

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1448

Date of Decision: 15 July 2019

Complaint

The customer states that his charges for water and sewerage, which are unmetered and based on the Rateable Value ("RV") of his property, are too high, and are unfairly calculated. He asks for a re-assessment of his property's RV charge. He also asks for the adjudicator to rule that the company should adopt a more equitable pricing structure.

Defence

The company rejects the customer's claim. It submits that it is bound by law to apply the RV when establishing charges unless the customer applies for a water meter (which the customer has said he does not wish to do). The company also submits that the application falls outside the scope of the WATRS scheme.

Outcome

The customer has not proven any failing by the company.

Findings

The company does not need to take any further action.

The customer must reply by 12 August 2019 to accept or reject this decision.

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Party Details

Customer: []"customer".

Company: []"company".

Case Outline

The customer's complaint is that:

- The customer moved into his current property on 25 March 2019. Shortly thereafter, he was notified by the company that his charge for water and sewerage was £643.73 for the year. As the property does not have a water meter, this charge is based on the Rateable Value ("RV") of his property.
- The customer considers that this charge is too high and is unfairly calculated. He notes that his property is a two-bedroom flat - which he compares to a friend living in the same borough in a four-bedroom house who has a lower charge. He considers that the charging system is therefore unjust and unfair. He submits that the company should adopt a decent, transparent, modern and acceptable pricing structure that ensures uniformity between its customers. He considers that the use of the RV to establish charges allows RST Water to benefit unduly from its monopoly and make an undue profit.
- The customer also submits that the RV should no longer apply because of a change of use of his property, which was converted from a council office to a domestic flat. He argues that this was a substantial alteration to the property which should therefore automatically affect the way his water charges are priced.
- The customer states that he does not want to apply for a water meter.
- The customer claims a re-assessment of his property's RV charge, so as to ensure that the charges for unmetered customers are "uniform" between similar properties in the area. He also

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asks for the adjudicator to rule that the company should adopt a more equitable pricing structure.

The company's response is that:

- The company submits that the basis on which it has charged the customer is correct. It notes that its powers regarding charging derive from the Water Industry Act 1991 (the "WIA"). In accordance with the WIA, the company has established a charges scheme and charges schedule in order to fix the charges to be paid for the services it provides.
- The company's charges scheme for 2019-20 provides for the charges for the unmetered supply of water to be assessed on the basis of the rateable value of the property. This does not, however, apply where the customer has applied for a water meter but it is not reasonably practicable to fit one.
- In this case, the customer has not applied for a water meter. His charges are therefore determined on the basis of the RV, multiplied by the rates set out in the charges schedule which are applicable for his area (84.76 pence for water and 60.55 pence for wastewater), together with a standing charge. The company explains that it has set different prices for different areas, in recognition of the fact that certain areas tend to have higher RVs and certain areas have lower RVs. It considers that this scheme results in a fair charging basis for unmetered customers. It also notes that the charges scheme has been approved by the water regulator, Ofwat.
- The company further explains that it cannot change the RV of the customer's property, nor is there any mechanism for the customer to appeal the RV or arrange for it to be changed by another body. As explained on the website of Ofwat, RVs were determined by the District Valuer's Office ("DVO") between 1967 and 1990, and could be appealed at that time. However, due to a change in the way properties were taxed, the DVO is no longer in existence and it is no longer possible to appeal or change the RV of a property.
- The company notes that the RV provided to it by the DVO for the customer's property is £375. It used this RV as a basis for establishing the charges for the Local Authority which owned the property between 1 April 1992 and 19 January 2016. It continued to use this RV as the basis for establishing charges when the customer moved into the property on 25 March 2019.
- The company submits that, even if the customer's property was changed from office use to residential use, this does not allow it to change the RV of the property. It explains that it only disapplies the RV in cases where there has been a substantial alteration to the property, by

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which it means a physical alteration such as a division into smaller properties or a merger of several properties into a single one.

- The company states that it has explained the basis of its charges to the customer and also informed the customer that he can apply for a water meter, which may reduce his charges. It has also informed the customer of the WaterSure Plus Scheme, which entitles eligible customers to a discount on their bill.
- The customer wrote to his MP who wrote back to the company, and the company therefore also provided further explanations to the MP. Additional explanations were also given to the customer by CCWater.
- The company also argues that the customer's application falls outside of the scope of the WATRS scheme.

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 complains about the level of his water and sewerage charges, arguing that the company should not use the RV of his property to fix his charges.

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2. I note that the way in which the company can fix charges is governed by the law, in particular the Water Industry Act 1991. Sections 142 and 143 of this Act permit the company to establish a charges scheme. Section 8 of the Water Industry Act 1999 permits water companies to establish charges for properties based on their rateable value.
3. In this case, the company has indeed drawn up a charges scheme for 2019 - 2020. This provides that properties which do not have a water meter will be charged by reference to their rateable value. The company's charges scheme has been approved by its regulator, Ofwat and charging by this method is industry practice. I also note that as explained by the company, it company cannot use the Council Tax register as a basis for charging because legislation prohibits its use for any purpose other than local government taxation.
4. In this case, the customer does not wish to apply for a water meter, so in accordance with the charges scheme, the company used the RV to establish the customer's charges. I consider that it was entitled to do this and that in doing so, it was acting in accordance with the law.
5. Although the customer considers that this is an unfair basis for charging, it is at the moment the only basis which is open to the company to charge by reference to an established standard as to a property's value, given that it is prevented by law from using the more current valuation of properties for the purposes of council tax. The system is equitable in the sense that the same basis for charging is applied to all customers that have not applied for a water meter.
6. The customer has asked for the RV of his property to be reassessed. However, this is not possible, as RVs were fixed by the DVO of the Inland Revenue. As the DVO no longer exists, there is no mechanism for changing or appealing the RV of a premises.
7. Finally, the customer submits that the RV for his property has been invalidated because the use of his property has changed from a council office to a 2-bedroom residential property. He argues that a change of use is a "substantial alteration". However, the company submits that in order to affect the RV of property, an alteration needs to be of a certain magnitude - for example, a subdivision or consolidation of the property. It argues that a change in use from council offices to residential premises is not a "substantial alteration".
8. I note that the CCWater website contains a leaflet on rateable values, which is cited by the company. The leaflet states that "*If your property has changed in size or use from domestic to*

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commercial or vice versa, the rateable value may no longer be valid. The water company may insist that a meter is installed or apply a new fixed charge". However, the leaflet does not say that the company is required to disapply the RV if the use of the property changes. The leaflet also notes that if the company does disapply the RV, it can insist that a meter is installed, which the customer in this case does not want.

9. I therefore do not consider that the change of use of the customer's property from council office to a domestic residence requires the company to charge the customer on a different basis.
10. I do not agree with the company that these complaints, which concern the way in which the customer is billed, fall outside the scope of the WATRS scheme. However, I conclude that the basis on which the company has charged the customer is correct, as it is in accordance with the Water Industry Acts and with the company's charges scheme.
11. On the other hand, the customer's request for a ruling that the company should change its pricing structure as a whole, falls outside the scope of the WATRS scheme.
12. I consider that the company clearly explained its charging system to the customer, as well as explaining the other options open to the customer. Although the customer complains about a lack of transparency, the company has given him as much information as it is able about the basis on which he is charged. It is unable to explain in more detail how the RVs of individual properties were calculated as the information about this is simply not available. There was therefore no failure in the services that the company provided to the customer.
13. The customer's claim is therefore unable to succeed.

Outcome

The company does not need to take any further action.

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What happens next?

- This adjudication decision is final and cannot be appealed or amended.
 - The customer must reply by 12 August 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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