

WATRS

Water Redress Scheme

ADJUDICATOR'S DECISION SUMMARY

Adjudication Reference: WAT/ /1521

Date of Decision: 27 September 2019

Complaint

The customer has a dispute with the company regarding a surface water drainage [SWD] rebate. After applying for the rebate the customer states that she was granted a rebate backdated for approximately one year, but she notes that her neighbours in the same road had rebates backdated for three years. The customer does not accept the explanation provided by the company, regarding it as unfair and unreasonable. Consequently, she requests the company to backdate her rebate to 2013 and pay compensation for stress and inconvenience in the total amount of £100.00.

Defence

The company states that the opportunity to apply for such a rebate is detailed on its invoices and on its website but notes that such applications are customer driven. The company asserts that it has followed its own rebate procedure, and denies it is either unfair or unreasonable. The company has not made any offer of settlement to the customer, and believes it has acted in a fair and reasonable manner, has made the correct decision and has not identified any failings in customer service. Thus, it declines to honour either of the customer's requests.

Findings

The customer has not presented sufficient evidence to support her claim that the company acted unfairly or unreasonably. I am satisfied the company acted in accordance with its own procedures for approving SWD rebates and has correctly calculated the backdated duration per those procedures. I find the company has managed the customer's account and complaint with a reasonable level of skill and care, and I am not, on balance, satisfied that it has contributed to any stress or inconvenience the customer claims to have suffered. Thus, I find the company has not failed to provide its services to the extent to be reasonably expected by the average person.

Outcome

The company needs to take no further action

The customer must reply by 25/10/2019 to accept or reject this decision.

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- The customer further asserts that she understands that neighbours in the same road as her property have been granted SWD rebates backdated for some six years, back to 2013. She has stated that she believes there is an anomaly in the rebate system in so much that houses in the same road are granted different lengths of rebate.
- The customer states that on 02 April 2019, she received a response to her e-mail of 25 March 2019 in which the company explained the SWD rebate scheme and confirmed that it believed its decision to award her a one year rebate was correct. The company confirmed that it would not extend the rebate period beyond 01 April 2018.
- The customer, dissatisfied with her interactions with the company, escalated her dispute, on or around 06 April 2019, to CCWater who took up her case with the company on her behalf. The customer notes that CCWater reminded the company that it had previously dealt in a different manner with numerous SWD rebate claims in the same area as the customer. However, the customer records that, despite the intervention of CCWater, the dispute is ongoing and the company has not revised its standpoint and CCWater are unable to facilitate a resolution between the parties.
- The customer remains dissatisfied with the response of the company and consequently, on 16 August 2019, has referred the matter to the WATRS Scheme whereby she seeks to have the company apply her SWD rebate backdated to April 2013 and to receive £100.00 in compensation.

The company's response is that:

- The company submitted its Defence paper to the claim on 05 September 2019.
- The company confirms that it received a SWD rebate request from the customer on 09 March 2019, and that it contacted the customer on 14 March 2019 to confirm the request had been approved and the rebate would be backdated to 01 April 2018.
- The company acknowledges that it received an e-mail communication from the customer on 25 March 2019 stating that she was unhappy that the rebate was backdated for only one year considering that she had resided in the property for fifty years.
- The company records that on 02 April 2019, it responded to the customer and set out in detail how the SWD rebate process operated and the rules and regulations that must be complied with. The company asserts it advised the customer that upon receiving a SWD rebate request it checked to ascertain if other properties within the same post code had previously received

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rebates and if so the new request would be backdated to the same date up to a maximum of six years. If the new request was the first from a post code group, then the rebate would be backdated to the beginning of the financial year in which the request was submitted. The company explained to the customer that as she was the first applicant from her post code she could only receive the rebate to the beginning of the financial year, ie—01 April 2018.

- The company states that, in compliance with its established SWD rebate procedures it has contacted all other residents having the same post code as the customer advising them to apply for a rebate now that the first customer in their post code group had secured a rebate.
- The company states that subsequently, on 10 April 2019, it received contact from CCWater on behalf of the customer. The company asserts that it carried out a full investigation and review into the customer's request and into previous earlier requests in the customer's location as raised by CCWater. Subsequently, it advised CCWater that it believes it has correctly awarded the customer a rebate backdated only to 01 April 2018, and it is satisfied it was fully in accordance with its own procedures.
- The company asserts that it has followed the OFWAT guidelines on SWD rebates, both before and after 2007 when OFWAT revised the guidelines to introduce best practise principles. The company also asserts that guidelines for applying for a SWD rebate are included in the bills that would have been sent to the customer and details are also included on its website. The company notes that the customer has had an account since 1990 and thus it believes that the customer had reasonable opportunity to apply for a rebate much soon than 2019.
- In summary, the company believes it has acted reasonably and taken all possible measures to assist the customer. It has explained in detail the SWD rebate procedures and is of the opinion that it has made the correct decision in respect of the start date of the customer's rebate. Consequently, it declines the customer's request to backdate the rebate to 2013 and further declines to pay the requested compensation in the amount of £100.00.

The customer's comments on the company's response are that:

- She reiterates her belief that the company's application of the SWD rebate procedures is unfair and she is of the opinion that all residents of the same street should receive the same rebate irrespective of their post code. Consequently, the customer reaffirms her claim to have her rebate extended back to 2013 and be compensated for the inconvenience of dealing with this matter.

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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 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 dispute relates to the customer's dissatisfaction over the company giving her a SWD rebate backdated to 01 April 2018 while some of her neighbours in the same road have had rebates backdated to 2013. The customer believes the rebate system of categorizing claims according to post codes is unfair and that having resided in her property for fifty years she believes she should also receive a full rebate.
2. I note that the WATRS adjudication scheme is an evidence-based process and it is for the customer to show that the company has not provided its services to the standard that would reasonably be expected of it.
3. Based on my review of all the available information, I am satisfied that the main issue of this WATRS Application stems from whether or not the company has correctly applied its own SWD rebate procedure.
4. The company has stated that it follows the OFWAT guidelines regarding rebates for customers whose surface water drainage does not enter the public sewer system. Reference to the OFWAT website does not identify any procedures laid down by the organisation, and it makes only general reference to the water companies operating a rebate system. Thus, I am satisfied

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that the company is permitted to operate its own procedures as long as it provides a SWD rebate scheme.

5. I am further satisfied that OFWAT places the onus on customers to apply for a rebate. I am aware that OFWAT, [] (who issues bills on behalf of the company) and the company have fully made public the possibility for seeking a SWD rebate. Thus, I am satisfied that the customer was able to apply for the rebate some years before 2019 when she actually applied.
6. I am also aware that the OFWAT website notes that suitable evidence shall be supplied by an applicant to its water company, and that the company's *Charging Schemes 2019-20* state that applications must establish no surface water connection to a public sewer to "... the satisfaction of the ..." the company.
7. I note that CCWater raised with the Company the fact that it had communicated with it in 2016 regarding similar rebate issues in nearby locations to the customer's property. Reference to the company's reply to CCWater dated 07 May 2019, shows that the company was in fact applying in 2016 the same procedures that it used in assessing the customer's application in March 2019.
8. The company has included details of how each application is checked for its post code, and that should any property bearing the same post code have been granted a rebate then the new applicant has its rebate backdated to the same date as the original claimant. Should an application be the first from a post code then the rebate is set as from the beginning of the financial year and that date becomes the benchmark for any further applications from the same post code.
9. Thus, on balance, I find that the company has acted in accordance with its own procedures for calculating the backdated commencement of a SWD rebate. Thus, I shall not direct that the company backdate the customer's refund beyond 01 April 2018 as has been advised to her.
10. The customer has also requested, in her application to WATRS, to receive £100.00 in compensation for stress and inconvenience suffered in her dispute with the company. I have found earlier that the company acted in compliance with its SWD rebate scheme procedures, and I have not found any customer service failings. I find, on balance, that the company has replied promptly to the customer's complaint and has undertaken a review of her application and as such I find no duty of care failure to manage her account and complaint with a reasonable level of skill and care. Thus, I find that compensation is not appropriate.
11. In summary, I have found no failure by the company to provide its services to the standard to be reasonably expected. I find the company has dealt reasonably with the customer's SWD rebate

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application and with her appeal against the length of the backdating. I find that the customer has not provided sufficient evidence to justify the claim.

12. My conclusion on the main issues is that the company has not failed to provide its services to a standard to be reasonably expected by the average person, and therefore, my decision is that the claim does not succeed.

Outcome

The company does not need to take further action.

What happens next?

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



Peter R Sansom
MSc(Law); FCIArb; FAArb;

Adjudicator

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