

## **The complaint**

Mrs M complains that Barclays Bank UK PLC ("Barclays") breached its duty of care to her by negligently allowing a member of staff to access her personal information and distributing it to members of the public.

## **What happened**

Mrs M's personal and confidential information was mistakenly sent to a number of customers of Barclays. She was informed about this by another Barclays customer that they had received a copy of her personal details form, passport and council tax bill.

Mrs M complained to Barclays about this and the breach was reported as per Barclays processes in line with legal and statutory requirements. Mrs M also made a complaint about the breach to the Information Commissioner's Office ("ICO") who is the data regulator and has since made a ruling on this and did not require Barclays to do anything further regarding the breach.

Barclays upheld Mrs M's complaint and agreed there was a data breach. Barclays apologised for its mistake and recommended she register for a fraud protection service – which she has since done and Barclays have refunded her the fee for – and offered Mrs M £800 compensation for distress and inconvenience suffered.

Mrs M was dissatisfied with this and brought her complaint to this service. She says the information circulated was enough to steal her identity and could be used to steal from her and obtain credit in her name. Mrs M doesn't believe Barclays offer of £800 compensates her for the stress the breach has caused her is fair.

One of our investigators looked into Mrs M's concerns and reached the conclusion that the compensation Barclays had offered was fair for the distress and inconvenience suffered. They thought given the ICO had completed its investigation and that as Barclays was not required to take any further action, they didn't think Barclays was obliged to tell Mrs M how many people had received her information and as such couldn't fairly ask Barclays to do this.

Mrs M is unhappy with this as she doesn't believe Barclays has fulfilled its responsibilities under law as it hasn't provided her with an estimate of how many people have been negligently sent her information or detailed what measures it has put in place to stop this happening again.

Mrs M doesn't believe the compensation being offered reflects the fact Barclays continues to make the same mistakes or provide her with any peace of mind. She believes if she took this to Court she'd be compensated in excess of £3,000 and has asked for an ombudsman's decision.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and

reasonable in the circumstances of this complaint.

My role is to look at problems that Mrs M has experienced and see if Barclays has made a mistake or treated her unfairly. If it has, we seek to put - if possible - Mrs M back in the position she would've been in if the mistakes hadn't happened. And we may award compensation that we think is fair and reasonable.

Barclays have already accepted it made a mistake which led to Mrs M's personal data falling into the hands of other customers. So I don't need to make a finding here. What I need to do is consider whether what Barclays has offered Mrs M to put things right is enough.

I should note here that this service doesn't supervise, regulate or discipline the businesses we cover. And my role isn't to punish or penalise businesses for their performance or behaviour – that is the role of the regulator, in this case the ICO. My role is simply to decide whether Barclays offer is a fair and reasonable way to settle Mrs M's complaint.

In this case it is not possible to put Mrs M back in the position she'd be in if the mistake hadn't happened, but I think what Barclays has offered to put things right for Mrs M is fair.

Barclays has accepted that there was a breach relating to Mrs M's personal data and this has been investigated by the ICO who now considers the matter closed. To put things right:

- Mrs M took up Barclays recommendation that she register for protection against fraud with a third party organisation that helps protect against unauthorised use of her data in the future and refunded her the charge for this; and
- Offered £800 compensation for the distress and inconvenience caused by the data breach.

Mrs M doesn't believe the compensation offered is enough. She is anxious about the number of people her details were passed to and that the information may be used negatively against her in the future. Mrs M believes the severity of Barclays mistake deserves an award in excess of £3,000 as she believes that is what she would be awarded if she took her complaint to Court.

I have considered everything provided including what Mrs M has said about the impact this mistake has had on her and whether there has been any financial loss. And having done so I haven't seen that anyone has tried to use the personal information adversely – or that Mrs M has suffered any financial loss due to the data breach.

I do appreciate the exposure Mrs M felt by having her personal information released and the anxiety she must feel about someone having the ability to use this information or that a data breach could happen again in the future. But when considering a compensatory award I need to consider what has happened – not what may or may not happen in the future.

I understand the Mrs M wishes to know the exact number of people her data was sent to and what measures Barclays has put in place to stop this happening again. But as I've already explained we are not the regulator here – that is the job of the ICO – so it is not my job to say what measures Barclays have to put in my place, nor is it to determine the level of the data breach that occurred.

My role in this case is simply to determine whether the £800 compensation offered is fair for the distress and inconvenience Mrs M has suffered – and I think it is. This is a significant level of compensation to reflect the impact and serious nature of Barclays mistake and one that I think is in-line with what we'd recommend in situations such as this.

So on this basis, I think what Barclays has already offered to settle Mrs M's complaint is fair and I'm not going to ask it do anything more. It is now up to Mrs M to decide if she wants to accept Barclays offer.

### **My final decision**

For the reasons I've explained, I've decided that the £800 compensation offered by Barclays Bank UK PLC to Mrs M is a fair way to settle her complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 2 February 2024.

Caroline Davies  
**Ombudsman**