

The complaint

Miss M and Mr R complain about the way that Elderbridge Limited handled a data subject access request (DSAR).

What happened

Miss M and Mr R complain that Elderbridge handled their DSAR poorly. They said on 2 February 2022, they asked Elderbridge for a recording of a phone call – but it wasn't received until 6 December 2022, after their complaint to the Information Commissioner's Office (ICO) was upheld. Miss M and Mr R said that the delay caused them distress.

The investigator did not think the complaint should be upheld. He said Elderbridge's total offer of £350 was fair.

Miss M and Mr R's representative did not accept what the investigator said. She made a number of points, including:

- The complaint about the delay to the DSAR was made in September 2022 and Elderbridge issued its final response on 2 March 2023. It upheld the complaint and offered £300 compensation for the stress caused by its poor customer service.
- In October 2022, the ICO upheld their complaint about the delay – but it did not consider the impact of the matter on Mr R and could not award compensation for that. But it took Elderbridge another two months to resolve, when they asked it to be sent by recorded delivery.
- The investigator should not have accepted that Elderbridge responded to the DSAR three times without proof of postage.
- The complaint was about the length of time it took to receive the DSAR and the unprofessional responses from Elderbridge. The offer of compensation does not reflect the amount of stress and frustration caused.
- The DSAR was made in February 2022 but not complied with until December 2022. It should be dealt with within 28 days or two months if complex.
- Miss M and Mr R would not have complained if it could have been avoided. Elderbridge should have sent the data they requested by recorded delivery in the first place.

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.

I note Elderbridge disputes that it did not send the recording. But we have a letter from the ICO saying that there is more that it should have done to address outstanding issues with Miss M and Miss R. I don't think it necessarily follows that Elderbridge did not send the

DSARs. But it's clear it ought to have done more to resolve this issue sooner than it did .

I understand the importance of the phone recording to Miss M and Mr R. But even if I accept that there was a delay from the request being made in February 2022 until the recording was received in December 2022. I consider that Elderbridge's offer of £350 is fair and reasonable in the individual circumstances of this complaint.

I say that because I am only awarding compensation for the distress and inconvenience caused by Elderbridge not sending the recording. Miss M and Mr R said the recording was important to them because it showed that Elderbridge was ignoring the information about their income and expenditure when deciding how much they should pay to Elderbridge. They believed it demonstrated that Elderbridge appeared to be determined to repossess their home.

The repayment offers and the impact of dealing with the account were dealt with in a final response dated June 2022. That is relevant. The investigator has explained we can't consider those points as this complaint was referred to us more than six months after Elderbridge sent its final response. Looking at things as a whole, it seems to me that the upset caused to Miss M and Mr R was largely in how Elderbridge was dealing with them in respect of their loan – and I'm not persuaded that would have been different had they received the recording sooner.

In other words, it is difficult for me to say that the delay in sending the recording was the main or significant source of Miss M and Mr R distress or that it has caused them any financial loss. I accept they were caused inconvenience over the time in question and that it *added* to their stress and upset. But looking at matters as a whole, I think it is difficult for me to say that it would have made a material difference to any of that if the recording was received earlier.

I know Miss M, Mr R and their representative will find that hard to accept. But in all the circumstances, and in my view, £350 is a fair way to settle the complaint about the delay in sending the DSAR. I don't consider the amount of payments Miss M and Mr R made to the loan after the DSAR were as a result of the delay – so that is not a fair basis on which to assess compensation.

My final decision

Elderbridge has offered Miss M and Mr R £350 for any distress and inconvenience. In all the circumstances I consider that is a fair way to settle the complaint.

My final decision is that Elderbridge Limited should pay Miss M and Mr R £350.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M and Mr R to accept or reject my decision before 12 February 2024.

Ken Rose
Ombudsman