

The complaint

Mr S complains about receiving contact from a third party business acting on behalf of Yorkshire Building Society trading as Chelsea Building Society (CBS).

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. I said:

Mr S has two accounts with CBS. In 2020 Mr S received contact from a third party business (N) that was carrying out market research on behalf of CBS.

Mr S complained to CBS and asked it to ensure his information was deleted by N so no further contact was received. CBS told Mr S it had followed his instructions and resolved the issues raised.

In May 2021 N contacted Mr S again and asked him to complete a survey. Mr S contacted CBS again and raised another complaint. CBS sent Mr S a final response and apologised for the contact Mr S received. CBS advised mistakes were made when taking steps to update Mr S' communications preferences which resulted in him receiving another survey. CBS paid Mr S £40 to apologise for its mistake.

Mr S referred his complaint to this service and it was passed to an investigator. They thought CBS had dealt with Mr S' complaint fairly and didn't ask it to do anything else. Mr S didn't agree and asked to appeal. In response to the investigator, Mr S said he had raised concerns about the contact with CBS prior to December 2020, the compensation awarded wasn't fair, he remained concerned his details were still saved on both CBS' and N's systems and that the survey wasn't considered marketing. As Mr S asked to appeal, his complaint has been passed to me to make a decision.

What I've provisionally 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've looked at the application forms and associated terms Mr S accepted when he opened both accounts. I can see that the declarations Mr S accepted allow CBS to share information with associated companies, agents and services providers including market research agencies. The surveys N forwarded were for market research purposes. Mr S has pointed out that the contact preferences noted on the application form don't cover the surveys he received so he raised a direct request for his information to be removed. I agree with the way Mr S reads the application forms.

CBS has told us it's now taken steps to ensure Mr S isn't contacted again by N and asked to complete further surveys. I've seen emails between the organisations and can confirm N claims the necessary amendments have been made so Mr S shouldn't receive surveys

going forward. Mr S hasn't told us about any further contact from N since CBS issued its final response in June 2021.

Mr S has explained he wants all his information to be deleted from N's systems. But the terms of his applications say CBS can share his details with market research agencies. I agree both CBS and N should follow Mr S' clear instructions that he be opted out of surveys. As the applications allow CBS to share information with N I'm not telling it to take further steps to amend the details it holds.

CBS paid Mr S £40 after it failed to take the necessary steps to ensure no further surveys were sent to him by N but I'm not persuaded that figure is fair. It's clear it's very important to Mr S that he isn't contacted by third party businesses. And I think Mr S should've been able to rely on CBS to follow his requests after he complained. I intend to increase the award to a total of £100 in recognition of the distress and inconvenience caused to Mr S. in my view, that figure more fairly reflects the level of distress and inconvenience caused to Mr S.

I asked both parties to respond with any additional comments. Mr S responded and said he only had one account with CBS, not two as noted in the provisional decision. Mr S also said I'd failed to take information he'd provided in response to the investigator's view into account and that higher awards had been made in relation to N's contact. CBS responded to confirm it was willing to settle in line with my provisional 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.

Mr S responded to say he only had one account with CBS, not two as set out in my provisional decision. I'd like to apologise to Mr S as CBS has sent us application forms that show he had one account with CBS and another with YBS. I confirm that I've reviewed both application forms when reaching my provisional decision and took the declarations mentioned into account. Neither Mr S nor CBS has advised how many other accounts he may have with the group, but I'm satisfied the applications we have on file contain the relevant information about how the business uses information. I can see Mr S is right in that he had one CBS account at the time. But it doesn't change my view of how to resolve Mr S' complaint.

I'd like to confirm that I've read all the available information for Mr S' complaint. Mr S sent us further evidence in January 2022, including some files that were password protected. Our investigator responded in January 2022 and confirmed Mr S hadn't sent passwords to open the files submitted, as promised. The investigator requested passwords but they weren't subsequently supplied. The investigator gave Mr S a further two weeks to respond and provide any further information he wanted us to consider before his case was passed to an ombudsman.

The investigator went on to send Mr S emails chasing a response and the password requested in February and March 2022 but no further contact from Mr S was received. As we didn't get a response with the passwords and Mr S had asked to appeal, his case was passed to me. The information available shows the investigator sent several requests to Mr S for passwords and any further supporting evidence and that the case was reasonably referred to me after no response was received.

I also note the investigator told Mr S we couldn't consider more recent contact from YBS that wasn't covered by his original complaint.

Mr S said there have been previous complaints about contact from N that had received higher levels of compensation. But I considered the specific circumstances of Mr S' complaint when reaching my provisional decision and increased the award based on the information available. The level of compensation focused on the impact of the issues raised on Mr S and the levels distress and inconvenience experienced.

I understand Mr S feels an award of at least £150 or more would've been fairer, but I haven't been persuaded to increase the settlement I reached in the provisional decision. I still think £100 reflects the level of distress and inconvenience caused to Mr S and is a fair way to resolve his complaint, for the same reasons.

My final decision

My decision is that I uphold Mr S' complaint and direct Yorkshire Building Society trading as Chelsea Building Society to pay him a total of £100 (less any compensation already paid).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 July 2022.

Marco Manente
Ombudsman