

The complaint

Miss G complains about H.P.A.S Limited, trading as Safestyle (U.K) (HPAS) and the data breach that saw some of her personal information sent to another customer in error.

What happened

In February 2022, Miss G was contacted by another customer of HPAS unknown to her, who made her aware that they had received correspondence from HPAS that included her personal information. Miss G was unhappy about this, so she raised a complaint.

Miss G was unhappy that her information had been shared with another customer in error. She explained this had caused her significant stress and anxiety, made worse by anonymous sales calls she then received which she felt were related to the breach. So, Miss G wanted to be compensated for the day of work she felt she needed to take, confirmation her details had been removed from HPAS' system as well as compensation for the upset she'd been caused.

HPAS looked into the complaint and upheld it. They accepted there had been a data breach, and that some of Miss G's information had been sent to another customer in error. But they didn't think this was a significant breach, due to the nature of the information that was shared. So, HPAS apologised for this and explained they had taken steps internally to understand how the breach occurred and to ensure a similar breach didn't happen again, which they felt fell in line with the Information Commissioner's Office (ICO) guidance. So, they didn't offer to do anything more. Miss G remained unhappy with this response, so she referred her complaint to us.

Our investigator looked into the complaint and upheld it. They didn't think the apology provided by HPAS was enough to recognise the worry and upset the data breach caused Miss G, especially when she was contacted by another customer unknown to her. So, they thought HPAS should pay Miss G £200 to compensate her for this upset, as well as remove her details from their system.

HPAS agreed with this recommendation and issued a cheque for this amount, whilst also confirming Miss G's data had been removed. But Miss G didn't agree. She thought the £200 was only enough to cover the financial loss she suffered when needing to take a day off work due to the stress she was caused.

She explained she'd spoken to a solicitor who had suggested she should be compensated around £2,000, due to her dealing with an ongoing harassment court case where she was the victim at this time.

Our investigator recognised this, but thought the £200 payment was a fair one, that fell in line with our service's approach. So, they didn't think this payment should be increased. Miss G remained unhappy, so the complaint has been passed to me for a 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.

Having done so, I'm upholding the complaint, and awarding Miss G the same amount already recommended, for broadly the same reasons as the investigator. I've focused my comments on what I think is relevant. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

Before I explain why I've reached my decision, I think it would be useful to explain exactly what I've been able to consider. I recognise Miss G has raised concerns about the service provided by HPAS, regarding the delays in a surveyor attending her property and the problems she had arranging the installation, as well as the sales techniques used at the point of sale. These are issues that would need to be raised with FENSA, who regulate installers of windows and doors. This is because HPAS are regulated by the Financial Conduct Authority (FCA) purely in their role as a credit broker only. So, our service is only able to consider the service HPAS provided when arranging finance to cover the costs of the product being installed.

While HPAS didn't arrange finance in this case, I can see Miss G did pay a deposit. So, I'm satisfied Miss G was a customer of HPAS from a finance point of view. And to arrange this finance, Miss G would've need to provide HPAS with certain information. So, I think HPAS had a duty to ensure this data was protected, in line with the ICO's guidelines.

But I'm also aware that part of Miss G's complaint about this breach relates to her belief that HPAS passed her information onto another company, who then cold-called her touting for business. As this complaint relates to Miss G's belief that HPAS sold, or passed on, her information to another company willingly, this aspect of the complaint would fall under the remit of the ICO, and not ourselves to investigate.

What I have been able to consider is Miss G's complaint about the data breach which saw her personal information sent in error to another customer of HPAS. And it's not in dispute that this error occurred with HPAS already issuing an apology and taken steps to avoid similar situations in the future. I've seen the email sent in error, which contains Miss G's full name, mobile number, home address and e-mail address. This is information I would expect HPAS to ensure is kept protected and by sending this to another customer, I think HPAS have acted both unfairly and unreasonably. As I think HPAS have made an error here, I've then thought about what I think they should do to put things right.

Putting things right

When considering what I think HPAs should do to put things right, any award or direction I make is intended to place Miss G back in the position she would've been, had HPAS acted fairly in the first instance.

Had HPAS acted fairly, then Miss G's information wouldn't have been sent to another customer. And this would've prevented Miss G from receiving several calls from a person unknown to her, which I don't dispute would've been stressful and worrying. I also recognise Miss G would then question the security of all the data HPAS held on her behalf, which included her bank details and important information. Had HPAS not made the breach in the first instance, I don't think Miss G would've experienced this worry and anxiety. So, I think Miss G should be compensated for this.

But I don't think HPAS should reimburse Miss G for a day's work she says she missed due

to the upset she felt. While I don't dispute the emotional impact Miss G suffered, I think it was Miss G's own decision to take a day off work. That's not to say I don't understand why she did, but I don't think HPAS actions meant Miss G had no way of working on the day she says she missed. So, I haven't considered this when thinking about what HPAS should do to put things right.

I also recognise Miss G has sought independent legal advice, and she believes she should be compensated up to £2,000 for the upset she's been caused, due to her personal circumstances and the harassment case she had ongoing at the time. While I've seen no evidence of this, I have no reason to dispute Miss G's testimony. So, I accept there was an ongoing court case at the time, in which Miss G was a victim. And I can appreciate how receiving calls from an unknown number would've caused Miss G more anxiety than others, due to the allegations contained within the court case.

But crucially, Miss G doesn't dispute she spoke to the customer who received her information. So, Miss G would've been reasonably aware that the calls she received weren't from the person accused in her court case. And I've seen e-mails between Miss G and the customer who received her information, which show a very amicable and reasonable exchange. So, while I appreciate the immediate anxiety and upset these calls would've caused, I don't think this justifies such a significant compensation payment that Miss G has suggested.

So, I've considered the upset Miss G would've felt initially when she received calls from an unknown number. And I've also considered the worry Miss G would've felt after learning about the data breach, as I think it would be natural for her to have concerns about other information HPAS held. I've then thought about this against the fact that the actual information included in the e-mail, which while personal, wasn't what the ICO would class as high-risk personal information. This means Miss G wasn't exposed to potentially significant fraudulent activity due to the breach. Having thought about all of this together, I think the £200 already recommended about our investigator is a fair one that falls in line with our services approach and what I would've recommended, had it not already been made. So, I think HPAS should pay Miss G £200.

I understand this isn't the amount Miss G was hoping for. And I appreciate this doesn't fall in line with legal advice she's sought. But it's important to note our service is an alternative to the courts. And we don't make determinations on whether laws have been broken. Miss G still has the option to pursue her complaint through legal channels if she wishes to do so although any acceptance of this decision would be legally binding on HPAS and may impact this course of action moving forwards.

My final decision

For the reasons outlined above, I uphold Miss G's complaint about H.P.A.S. Limited trading as Safestyle (U.K.) and I direct them to take the following action:

- Pay Miss G £200 to recognise the upset she's been caused if this hasn't already been completed.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 14 September 2022.

Josh Haskey
Ombudsman