

The complaint

Ms W complains that Vitality Life Limited trading as Vitality Life breached her data to a third party and caused her significant distress and inconvenience.

What happened

The third party is not a party to this complaint and will be referred to as Mr X.

Ms W took out a joint life policy in July 2015 with her ex-husband who has since sadly passed away. Mr X called Vitality on 9 December 2021 and again on 10 December 2021. During the initial call, Vitality's call handler confirmed some details about the policy which involved discussing Ms W's personal information.

Ms W was unhappy about this and complained to Vitality.

Vitality considered the complaint and upheld it. In summary, it apologised for the errors it made, whilst it maintained that it hadn't committed a data breach it did acknowledge the distress its errors caused Ms W. To put things right it offered £500 compensation and a hamper, however Ms W didn't accept this and referred her complaint to our service.

One of our investigator's looked into the complaint, he explained that the complaint about the possible data breach wasn't something our service could consider, and it was best placed for the Information Commissioner's Office (ICO) to investigate. However, he did look at the impact Vitality's error had on Ms W and concluded that its offer of £500 compensation along with a hamper was fair.

Ms W disagreed and is seeking an increased amount of compensation. In short, she said our investigator hadn't considered the amount of time and distress Vitality's errors had caused along with the legal fees she has paid.

As an agreement couldn't be reached 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 Ms W the same amount already recommended, for broadly the same reasons as the investigator. 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 Ms W has raised concerns about the possible data breach caused by Vitality's errors, but these issues fall within the ICO's remit. I am aware that Ms W has already referred her complaint about this, so I won't comment on it further. But what I can, and have considered is the impact Vitality's error has had on Ms W.

Ms W has said she is unhappy that her information had been shared with Mr X in error. She's explained this has caused her significant stress and inconvenience in trying to sort the matter out.

As Vitality has made an offer to resolve Ms W's complaint, it falls to me to decide whether that offer is fair. And in doing so I've taken careful note of what Ms W has said about the wider impact this has had on her. I think Vitality has made an error here so I've thought about what I think it should do to put things right.

Putting things right

I do understand that Ms W wanted a higher award than Vitality has offered but I must also bear in mind that Vitality accepts fault and has made an offer of compensation. What I must now think about is whether or not this should be increased and include, as Ms W suggests, an amount to cover her legal fees.

I've looked at the evidence Ms W has provided, including an invoice from her solicitor billing for legal fees. I appreciate Ms W has said she's had to instruct a solicitor to sort out Vitality's mistake, but I'm not persuaded by this. I'm satisfied that Vitality has made a fair and reasonable compensation offer which I think fairly reflects the level of inconvenience caused. I also think the issue was resolved within a reasonable amount of time, further the invoice is issued to the executors of the estate and so I think there would have been work incurred by solicitors in any event in dealing with the estate.

I've considered the distress Ms W would've felt after learning about the data breach, as I think it would be natural for her to have concerns about other information Vitality held and this reoccurring in the future. I've thought about this against the fact that the actual information disclosed during the phone calls, which while personal, wasn't what the ICO would class as high-risk personal information.

This means Ms W wasn't exposed to potentially significant fraudulent activity due to the breach. Having thought about this all together, I think the £500 and hamper already offered by Vitality is a fair one that falls in line with our services approach and what I would've recommended, had it not already been made. Whilst I know Ms W had dietary requirements, she doesn't need to accept the hamper, but I think the £500 on its own is sufficient to compensate her for the mistakes Vitality made.

My final decision

For the reasons outlined above, my final decision is that the offer made by Vitality Life Limited trading as Vitality Life is fair and reasonable.

As I said above, Ms W can decide whether she still wishes to accept the hamper and the money, but I'm satisfied what it has offered is fair and reasonable. So, I order Vitality Life Limited trading as Vitality Life to pay Ms W £500 and a hamper.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 11 January 2023.

Rajvinder Pnaiser

Ombudsman