

## The complaint

Miss S complains about Leeds Building Society's online banking system having a security fault. Also, their failure to consider her disability.

## What happened

Miss S explains she has a disability and is susceptible to becoming distressed.

Miss S accesses her Leeds bank account online and, when she didn't log out, she expected her session to automatically expire. Her complaint is about what happened when she discovered that this didn't happen, and she remained logged into her account for a couple of hours.

There are 2 strands to Miss S's complaint. These are:

### Strand 1

Miss S believes there is a fault with Leeds' system and is concerned about the security of her bank account. Also, she considers there's been a breach of data security.

### Strand 2

Strand 1 is causing Miss S distress and she feels Leeds haven't considered her disability.

### Complaints to Leeds

Miss S complained twice to Leeds, but they didn't uphold her complaints.

### Complaint to our Service

Miss S brought her complaint to our service as she feels she's suffered unnecessary distress as a result of Leeds' 'serious failings to make their system compatible with a popular browser'. She says Leeds are refusing to accept responsibility and she now has the inconvenience of having to access her Leeds account using a browser on someone else's computer. Miss S is also concerned over the security of Leeds' entire system and is seeking £1,000 compensation.

Our investigator said that as Leeds didn't give clear information or raise the issue with their technology department, they should pay Miss S £150 compensation.

As Miss S remains dissatisfied and Leeds can't see they've done anything wrong, this complaint has been referred to me to look at.

I issued a provisional decision on 11 April 2024, and this is what I said:

*I've considered the relevant information about this complaint.*

*Before I issue my final decision, I wanted to give everyone a chance to reply.*

*I'll look at any more comments and evidence that I get by 25 April 2024. But unless the information changes my mind, my final decision is likely to be along the following lines.*

*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.*

*Having done so, I'm also partially upholding this complaint and I'll explain why. I'll focus on what I think are the important points to reach a final decision. But I've carefully considered all the points Miss S has made, even if I don't specifically address them all.*

*I should first explain:*

- *Our service can't instruct a business to modify its systems. This is because we aren't the regulator of the financial services industry. Whilst there is a requirement for businesses to have reasonable systems and controls in place, the regulator doesn't suggest which specific software they should use as this would be a commercial decision.*
- *Our role is to consider each individual case and, where we think a business hasn't acted fairly and / or reasonably in the circumstances, to decide what should be done to put right any financial, or non-financial losses that a consumer has experienced.*
- *Our approach is to consider the information provided by both parties and use an inquisitorial rather than an adversarial approach. When making an assessment we're unable to interrogate either the systems of the business or consumer. And, where information is incomplete, inconsistent or contradictory, we must reach a decision on the balance of probabilities – in other words, what we consider most likely to have happened in light of the available information.*
- *The relevant law in this matter is the Equality Act 2010. Under the Equality Act 2010, businesses must take reasonable steps to remove barriers people face as a result of their disability so that, as far as possible, people with disabilities receive the same service as people who don't have a disability and are therefore not placed at a substantial disadvantage. However, it's not for this service to judge whether Leeds have breached the Equality Act 2010, as that's an issue for the courts.*

### *Strand 1*

*I understand Miss S's point that the impact of her data remaining on her screen longer than 15 minutes and potentially exposing her to risk has a specific impact upon her because of her disability.*

*Although Leeds don't appear to have been aware of the technical issue Miss S was experiencing, perhaps because other customers regularly log off, their testing suggests that the issue isn't isolated to Miss S.*

*The issue appears to be Browser A's compatibility and / or settings, and although I understand Leeds can't control browsers, I'm pleased to see they are looking at this. As stated above, there are limitations to how our service can help, and I can't instruct Leeds to modify their system so it's compatible with Browser A.*

*Regarding the question of whether Leeds have put the accounts of Miss S and any other customers, who have the same Browser A issue, at risk and should communicate that it isn't safe, I can't see any evidence of this. It's Miss S's prerogative to escalate this to the regulator. But from reviewing the file, I think it more likely than not that the following apply:*

- *Accounts are automatically logged out 15 minutes after last use*
- *Accounts are subsequently closed in the background*
- *If customers attempt to either take an action on the page left open or scroll back, they*

*will be taken back to the sign on page*

*With regards to whether this technical issue has or can cause a data breach, I've not seen any evidence to show that Miss S's data has been breached. I understand Miss S's concerns about her data being frozen on a page and thinks the visible data is susceptible, so the appropriate step is for her to refer this matter to the Information Commissioner's Office (ICO) and they can determine whether Leeds are in breach of regulations.*

## Strand 2

*From reviewing the file, I don't doubt that strand 1 has caused Miss S distress. And I'm very sorry to hear this.*

*I can't see that Leeds were aware of Miss S's disability, but I think it more likely than not that Miss S made them aware of this when she first contacted them. I appreciate Leeds can't control browsers, they initially gave Miss S some guidance and subsequently scrutinised her concern; however, I also think they should've done more to understand and alleviate her concern when she first approached them.*

*Although I think she would've remained concerned, if they'd escalated the issue to their technology department to assess, test and offer reassurance sooner, this may have reduced some of Miss S's distress at an earlier stage.*

*For this reason, I'm upholding this strand of Miss S's complaint.*

## Summary

*Having considered the above and all the information on file, I'm:*

- *Not upholding strand 1*
- *Upholding strand 2*

*Assessing compensation isn't an exact science and, as mentioned by our investigator, our approach when making awards for non-financial loss is detailed on our website and tends to be modest. Although I appreciate Miss S is seeking a much higher amount of compensation, considering all the above, I think the £150 proposed by our investigator is a fair and reasonable amount when partially upholding this complaint against Leeds Building Society.*

## *My provisional decision*

*For the reasons I've given above, it's my provisional decision to partially uphold this complaint against Leeds Building Society.*

*I require Leeds Building Society to pay Miss S £150 compensation.*

*I'll look at anything else anyone wants to give me – so long as I get it before 25 April 2024.*

*Unless that information changes my mind, my final decision is likely to be as I've set out above.*

## **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 would like to thank both parties for responding to my provisional decision.

Leeds said they had nothing further to add.

Miss S expressed dissatisfaction and made a number of points about the evidence she submitted saying:

- *'The provisional decision does not mention all the facts that are stated in my complaint' unless these facts are included the decision is fundamentally flawed and not impartial'.*

Her other points included the following:

- It might be *'a commercial decision for the Leeds to choose their own software but surely there is a requirement for it to be fit for purpose'.*
- There is *'no mention that these problems have been going on for nearly a year and the compensation awarded does not reflect that the distress caused by having these issues going on for this length of time'.*
- *'The Ombudsman mentions this issue could have been rectified sooner it took Leeds from May to December to change their systems so I could log out and the time out function worked'.*
- Miss S expects *'the business to carefully consider the impact and to make reasonable adjustments once they are told about the issues'.* And she doesn't understand *'Why is this case different why were the Leeds who were advised of the problems in May then allowed to take to December to rectify them with no penalty?'*
- The former chief Ombudsman had said *'organisations are obliged to anticipate and put in place reasonable adjustments to avoid people with disabilities being put at a disadvantage. Therefore in line with the Ombudsman's policies the Leeds should have taken appropriate steps to ensure it considered the impact of their process on vulnerable customers in line with the Equality Act 2010 given the type of issue and length of time this matter has been ongoing as mentioned in strand 1 the Leeds have made no attempt to consider the impact on me'.*

So, I looked at everything again.

I should first say our free service provides quick and informal independent dispute resolution service and I've carefully considered all file submissions prior and post my provisional decision. As Miss S's submissions are voluminous, I'll focus on what I think are the important points to reach a final decision. But I've carefully considered all the points Miss S has made, even if I don't specifically address them all.

There is a dispute here over technical matters, with Miss S:

- Believing that Leeds' system isn't fit for purpose and they've been covering up their failings.
- Frustrated that *'no independent investigation into auditing their (Leeds') systems has been done'.*
- Appearing to have expectations that such an investigation would be done by our service.
- Feeling she's submitted more than enough evidence to prove her points

As previously mentioned:

- Our service isn't the regulator for financial service businesses or responsible for data protection, so we don't have the power or capabilities to interrogate business or consumer systems. And it isn't for our service to determine if a business's system has or had a fault or is fit for purpose.
- Our role is to consider each individual case and, where we think a business hasn't acted fairly and / or reasonably in the circumstances, to decide what should be done to put

- right any financial, or non-financial losses that a consumer has experienced.
- Where we decide something should be done to put things right, as we aren't the regulator of financial services, we're unable to penalise a business.
- Our approach is to consider the information provided by both parties and use an inquisitorial approach.
- The relevant law in this matter is the Equality Act 2010. Under the Equality Act 2010, businesses must take reasonable steps to remove barriers people face as a result of their disability so that, as far as possible, people with disabilities receive the same service as people who don't have a disability and are therefore not placed at a substantial disadvantage. However, it's not for this service to judge whether Leeds have breached the Equality Act 2010, as that's an issue for the courts.

I appreciate Miss S considers she provided evidence of system faults and admissions. I'm sorry to disappoint her, but I'm not persuaded that this is the case. And, in the absence of a systems investigation and a determination, I'm not upholding this part of her complaint

Miss S thinks Leeds *'did agree that my computer did not auto log off from their system'*. But having looked again at Leeds' correspondence comments, although some lack clarity, I think they've consistently stat their system logs off and closes in the background after 15 minutes.

Miss S has provided a script which says, *'log out rejected'*. Although I can understand this is evidence the system didn't log out, the same script also says *'error'* and *'invalid session'* and Leeds say *'it's difficult to comment on other messages you've received – it might be because it was trying to log you out of an already idle session'*. So, I'm not persuaded that this disproves what Leeds have said.

Miss S was concerned about the account information on her last session and, as Leeds said:

- *'to make it clear that the system has been timed out I've put a suggestion forward for it to be defaulted to the sign on page when this happens'*

I understand Miss S considers this, and the subsequent change, to be an admission of a fault. Also, she is suspicious of the timing as it coincided with her escalating her complaint to our service.

Leeds moved the greyed / timed out screen, which I appreciate Miss S wasn't able to see on her computer, because it could cause customers concern. But, from reviewing the file, I think this:

- Was an enhancement for all their customers
- Wasn't an admission of an error

And I'm not persuaded that this was a fix to cover up a regulatory and / or a legal failing including breach of either the data protection or equality acts. I've also viewed the email Miss S refers to and I don't interpret it as an admission of a failing, causing her unnecessary stress.

Miss S couldn't see the screen image illustration Leeds sent her, so the technical issue she complained about (where she can see her account information frozen on screen) appears to be different.

But, having considered the technical issues again, although there is a lack of clarity on the browser issue and frozen page that Miss S complained about, I'm still not persuaded that Leeds' system has a security fault and it didn't close in the background. As previously mentioned, concerns about a data breach due to personal data being frozen on a page (whether greyed out or not) should be referred to the ICO.

So, based on the available information, it isn't possible for me to conclude that Leeds:

- Is responsible for Miss S's technical issues
- System has breached their regulatory and / or legal obligations
- Only resolved the technical issue after her complaint was escalated to our service
- Put Miss S's data at risk

However, I'm satisfied Miss S flagged her concerns to Leeds. And I do think:

- A. It more likely than not that Miss S made them aware she was a vulnerable customer when she contacted them to complain
- B. Leeds should've done more, at an earlier stage of her complaint, to try to alleviate her concern when she first approached them

So, I'm partially upholding this complaint and I think Leeds should compensate Miss S for point B and I again considered compensation alongside our guidance.

I recognise Miss S has experienced technical issues for a long period including further issues in March 2024 and these have caused her stress. There is evidence that Leeds have been giving Miss S support and, although I think this should've started when she first complained, this appears to have been hampered by the dispute. Also, it isn't possible to say that Leeds are responsible for the technical issues she has experienced or have breached regulations, data protection or equalities legislation.

Regarding Leeds' system enhancement, I'm pleased to see they've put this in place. I appreciate Miss S's concerns and the time it has taken, but I'm conscious that system changes can be complex and timely to implement.

I'm very sorry to hear of Miss S's distress and, as she feels a reasonable amount of compensation here is £1,000, I appreciate she will be disappointed in my final decision. But considering the information on file and all the above, I agree with our investigator that £150 is a fair and reasonable amount of compensation for this partially upheld complaint.

### **My final decision**

My final decision is that I'm partially upholding this complaint against Leeds Building Society and I require Leeds Building Society to pay Miss S £150 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 31 May 2024.

Paul Douglas  
**Ombudsman**