

## **The complaint**

Mr and Mrs D – in their capacity as Directors of a limited company (which I'll call E Ltd) complain about the service received from Metro Bank PLC.

For ease of reading, I'll refer to Mr D and E Ltd throughout this decision as Mr D is the primary contact.

## **What happened**

The circumstances of this complaint are well known to all the parties involved. So, I won't repeat everything in detail.

Briefly, Mr D - on E Ltd's behalf, contacted Metro to open a Business Fixed Term Deposit Account. This involved also opening a Business Instant Access Account. However, due to Metro providing forms noting an incorrect address, there was a delay of around five days in opening the bond.

In addition, the account opening letters were sent to the wrong address and a password wasn't received to open an encrypted email enclosing the certificate of deposit.

Having been a victim of identity theft previously, Mr D was concerned about what might happen as E Ltd's details had been compromised. He was also unhappy with the overall service he had received. So, Mr D complained to Metro.

Metro acknowledged the errors it had made and amended the address on the accounts. It apologised for the poor service and credited E Ltd's account with £200 in recognition of the inconvenience caused. Unhappy with the outcome, E Ltd's complaint was referred to this service. At this point Metro increased its compensation offer by a further £100 (£300 total).

Mr D didn't accept the offer, so our investigator went on to look into the circumstances of the complaint. Having done so, she thought the total £300 compensation offer was fair. She acknowledged the problems encountered may have caused Mr D some distress. But she said that as E Ltd was a limited company, it was the eligible complainant and that a limited company can't experience distress.

She also noted that Mr D had concerns about Metro breaching the Data Protection rules, but she thought these concerns should be referred to the Information Commissioner's Office (ICO).

Mr D didn't accept this outcome. In summary, he said that E Ltd is a company run by him as an individual, so what happened is as detrimental as a personal account being compromised. And he did not feel that £300 fairly recognised Metro's mistakes. He added that the compensation payment didn't consider what might have happened had the account information fallen into the wrong hands and that he'd lost trust in Metro.

The investigator provided information relating to Metro's privacy policy and this service's compensation awards for limited companies. But she remained of the view that £300

compensation was fair. She also said we can only consider awards for what had happened not what might have happened.

Mr D asked for an ombudsman to review E Ltd's complaint. So, it's been passed to me to decide.

### **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'm aware I've summarised the events surrounding this complaint in less detail than Mr D. No discourtesy is intended by my approach which reflects the informal nature of this service. But I want to assure Mr D that I've read and considered everything he's said and provided. And I'm satisfied I don't need to comment on every point raised to fairly reach my decision. So, if I don't comment on something, it's not because I haven't considered it. It's because I've focused on what I think are the key issues in line with the rules we operate.

Having done so, I've reached the same overall conclusion as the investigator for largely the same reasons. I appreciate Mr D will be disappointed as his strength of feeling on this matter is clear. So, I'll explain why.

I want to assure Mr D that I don't underestimate the distress this matter may have caused him – particularly, as he's told us he has been a victim of identity theft in the past. But this service can only make awards to eligible complainants. And the eligible complainant here is E Ltd. It's E Ltd that has the relationship with Metro in the circumstances of this complaint and, as a limited company, E Ltd is a separate legal entity in its own right. We don't make awards to directors or shareholders.

Furthermore, as the investigator has made Mr D aware, where an eligible complainant is a limited company, we can only make awards for any inconvenience caused, as a limited company itself can't be 'distressed'.

Metro hasn't disputed the mistakes it made which caused the accounts to be opened later than they should have been, or that it sent the account opening letters to the wrong address. It has apologised and the address on the accounts has been changed. So, what I must decide is whether £300 is fair compensation given all the circumstances of what has happened here. Or, if Metro should do more.

It's important to explain that this service's role isn't to decide if a business has breached data protection laws. This is for the Information Commissioner's Office (ICO) to decide. But where a business has acknowledged it sent some letters to the wrong address – as Metro has done here, I can consider what impact its duty to keep information confidential has had on the eligible complainant – in this case E Ltd.

I acknowledge Mr D's concerns about what might have happened because of details about E Ltd's account being sent to the wrong address – particularly, as a third party opened them. While I do understand those concerns, I can only consider the impact of what actually happened, not what might have happened. I understand the letters were handed to Mr D by the third party and I've not seen anything to persuade me that Metro's mistake has caused any further problems.

Overall, I agree that Metro could have handled the account opening process better than it did. And I find that compensation for the inconvenience E Ltd was caused is appropriate. But, taking everything into account, I'm satisfied the £300 total compensation Metro has

offered (£200 already paid) fairly recognises the mistakes it made, and the inconvenience caused to E Ltd.

### **Putting things right**

Metro Bank PLC has already paid E Ltd £200. It has since offered to pay a further £100. I find this offer fair in all the circumstances of this complaint.

### **My final decision**

My final decision is that I uphold this complaint. Metro Bank PLC should now pay E Ltd a further £100 (making the compensation payment £300 in total) if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask E Ltd to accept or reject my decision before 18 September 2024.

Sandra Greene  
**Ombudsman**