

The complaint

Miss D complains that she has suffered severe emotional distress – as well as concerns about the security of her own personal data - in relation to her receiving personal information relating to another customer in an email sent to her by Moneybarn. Miss D also complains about inadequate communication from Moneybarn throughout the process.

In addition, Miss D complains about Moneybarn's delay in acknowledging and responding to her complaint. This matter has been addressed in a separate decision, as this concerns our Service's jurisdiction to consider the complaint.

What happened

On 16 July 2024, whilst going through the process of voluntarily ending her agreement with Moneybarn, Miss D received an email with an attachment containing personal information about another customer.

Miss D immediately notified Moneybarn of the data breach. Moneybarn attempted to recall the email, but Miss D had already viewed the contents. Moneybarn apologised to Miss D for the error and sent the correct documents to her.

Miss D was expecting to receive further instructions or confirmation that the breach had been handled in accordance with data protection regulations. However, no such information was forthcoming.

On 13 August 2024 Miss D raised a complaint about this issue with Moneybarn. On the same day, Moneybarn responded by asking for some information to confirm Miss D's identity. Miss D responded to this request almost immediately. Miss D did not hear anything further and, as a result, chased Moneybarn for an update several times over the following weeks.

Moneybarn did not acknowledge the complaint until 25 September 2024 and, unhappy with how matters were progressing, Miss D referred her complaint to our service on 8 October 2024.

After the complaint was accepted by our service, Moneybarn issued its final response on 29 October 2024. In short, Moneybarn apologised for sending data relating to another customer and for the delay in acknowledging and responding to Miss D's complaint. It offered £100 compensation for the distress and inconvenience caused.

It is worth noting that Moneybarn address a couple of additional complaint points concerning the need for the vehicle to be taxed and insured prior to collection within its final response letter. However, these issues do not appear to form part of the complaint referred to our service. Therefore, I will not comment on these issues any further.

As Miss D remained unhappy following receipt of Moneybarn's final response one of our investigators looked into matters and, on 22 November 2024, issued their findings. In short, our investigator said:

- The data breach was a result of human error and, upon being notified of the error by Miss D, it attempted to resolve matters the same day; and
- Moneybarn's offer of £100 compensation is fair in the circumstances; and
- Our service did not have jurisdiction to consider a complaint about how Moneybarn handled Miss D's complaint.

Miss D did not agree with our investigator's findings. In summary, Miss D:

- Reiterated the significant impact this situation has had on her, in particular with relation to her mental health; and
- Explained Moneybarn's handling of her concerns – including poor communication – worsened her mental health and amplified her distress; and
- Said the amount of compensation offered by Moneybarn fails to reflect the severity of emotional, mental and practical impact she has experienced; and
- Noted that our service has previously awarded more compensation in similar cases of distress caused by breaches and mishandling of complaints.

As an agreement could not be reached, the complaint has 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.

Having done so, I've reached the same conclusion as our investigator, in that I think Moneybarn's offer of compensation is fair in the circumstances. I appreciate Miss D's strength of feeling on this matter and I understand this will come as a disappointment, but I'll explain why I think this is a fair outcome in the circumstances.

However, before I do that, I would like to acknowledge that Miss D has provided detailed submissions in relation to this matter, and I thank her for taking the time to do that. In particular, I thank Miss D for being open and honest about the impact this issue has on her mental health and emotional wellbeing, which I imagine was not easy to do. I was sorry to read about the difficulties Miss D has been having and I hope she is on the road to recovery now.

I would like to reassure both parties that I have carefully reviewed all the information provided. However, I'm only commenting on those issues I consider to be key to determining this complaint. My intention isn't to be discourteous or curt but reflects the informal nature of our service.

The data breach

Our service isn't the lead body on data protection law. That's the role of the Information Commissioner's Office (the ICO). And, as our investigator noted, the ICO provides guidance on what a firm needs to do in the event of a data breach.

The ICO defines a personal data breach as *a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.*

The guidance goes on to say that *if a breach is likely to result in a high risk to the rights and freedoms of individuals, you must inform those concerned directly without due delay.*

The guidance sets out what information needs to be shared with those affected. This includes *a description of the measures you have taken, or propose to take, to deal with the personal data breach and, where appropriate, of the measures you have taken to mitigate any possible adverse effects.*

On my reading of the ICO guidance, it is the customer whose data was unauthorisedly disclosed who is the subject of the personal data breach, rather than the recipient of the disclosure. And, therefore, the guidance that follows also relates to the customer whose data has been breached.

Applying that guidance in this case, once Moneybarn was made aware of the data breach, it had a duty to share information about the data breach, including the measures it has taken (or proposed to take) to deal with the data breach, with the other customer, not Miss D.

Once it had been made aware of the data breach by Miss D, Moneybarn attempted to recall the email and apologised for the error on the same day. It also provided Miss D with the correct information about her voluntarily termination. I think Moneybarn has done what it ought to have done in terms of its communication with Miss D about the data breach.

So, whilst I understand Miss D was expecting further communication about the breach and what Moneybarn was doing about it, I do not think Moneybarn were required to do this. I think it provided a reasonable and timely response to Miss D having been notified of the breach.

I understand Miss D has experienced a great deal of worry about the security of her own personal information since the data breach occurred. I can understand why she feels this way. Moneybarn has said this was an isolated incident and it says it has taken steps to prevent errors like this recurring again – including providing feedback to the relevant area and raising the matter with their Data Protection Team. I think this action is proportionate to the seriousness of the breach and is reasonable given the incident itself. Moneybarn has also said that Miss D's data has not been compromised. In the absence of any information to suggest otherwise, there is no reason to think that Miss D's data was breached in the same or any other way.

I do not doubt or disbelieve Miss D's testimony about the impact this matter has had on her. However, having thought about everything that has happened, I think Moneybarn's offer of compensation is a fair way to recognise the impact this has had. It is in-line with what I would have recommended had no such offer been made. There's further information on our website about how we assess suitable compensation.

Miss D points to greater awards made by our service in similar cases. Ultimately, I'm required to consider the facts of a case and reach my own independent conclusion on the matter – which is what I've done here.

In summary, I think Moneybarn communicated with Miss D in an appropriate and timely manner once it became aware of the data breach. And I think its offer of compensation (£100) is fair and reasonable in the circumstances, so I will not be recommending this be increased.

Putting things right

In order to put things right Moneybarn should, if it hasn't already done so, pay Miss D the £100 compensation it offered in its final response letter.

My final decision

My final decision is that I uphold this complaint and direct Moneybarn, if it hasn't already done so, to pay Miss D £100 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 21 February 2025.

Ross Phillips
Ombudsman