

complaint

Ms S has complained Lloyds Bank PLC ('Lloyds') disclosed sensitive personal information about her to third parties.

background

In 2013, Ms S re-assigned her gender and asked Lloyds to change her name and gender marker on all her accounts. She'd also changed her name by deed poll.

Soon after requesting the change, she received a new credit card in the wrong name. She also found she couldn't log on to the internet banking service using her new name.

She told Lloyds about the problems.

It turned out it'd changed her forename but kept her original middle name. Consequently, its computer systems generated four different variations of her names: male and female names and a combination of both.

It apologised for the error and promised to amend its records.

But, in 2014, Ms S said she received marketing post from a business linked with Avios, in the wrong name.

She complained a second time to Lloyds. She found out that its systems had sent all the different names it held for her to:

- the credit reference agencies, who registered them as aliases on her credit files;
- insurance companies; and
- Avios, since the information was linked to her credit card account. Avios, in turn, had shared the information with its business partners.

Lloyds accepted it'd made mistakes and acknowledged the distress it'd caused her. But it said it hadn't act with any malicious intent. It offered her £10, 250 for distress and inconvenience.

It also agreed to improve its services for trans people.

Ms S wasn't happy with this offer. She brought her complaint to this service, saying Lloyds had shared sensitive personal data with third parties in breach of the laws protecting her privacy.

Our adjudicator agreed Lloyds' actions breached Ms S's privacy, causing her considerable anguish and distress. She also thought it was slow in fixing the problems. But she didn't think it intended any harm. She thought its compensation offer was generous.

Ms S disagreed. She said Lloyds 'outed' her to third parties with severe consequences for her.

She's asked for £300,000 for distress and inconvenience.

This complaint has now come to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Lloyds has admitted it made mistakes so the only dispute between it and Ms S is the amount of compensation it should pay her. That's the only issue I need to consider.

For this reason, I won't consider what went wrong or why, and I'll only refer to the factual details where I think they're relevant to the issue of compensation.

To help me reach my decision, I've looked at how Lloyds' actions have affected Ms S.

I've also looked at the VENTO guidelines. The courts and tribunals use these guidelines to help them decide how much compensation to pay victims of discrimination for hurt feelings. They're relevant because discrimination laws also protect trans people.

Ms S has said Lloyds' actions have affected her in the following ways.

emotional upset

Ms S said transitioning is an emotional and difficult process without having to deal with the additional fear of being 'outed'.

I realise some trans people choose not to tell others about their past and so being 'outed' is a gross violation of their privacy. This is one reason why the law gives enhanced privacy rights to trans people.

Ms S said Lloyds 'outed' her. She said it did this by sending the different names it held for her to the credit reference agencies. This error meant creditors checking her files could see she had male and female aliases.

It also sent the names to two insurance companies and to Avios, who shared them with its partners.

And Ms S said the postal workers, who delivered her post, would've guessed her gender history when they saw the different names.

She also said she was compelled to explain her personal circumstances to her car insurer, because Lloyds didn't contact it with the correct information. She said the insurer told her it could tell from the names that she was a trans person.

She said she's worried the information is now freely available on the internet.

She was also upset by Lloyds' internal emails. Most of them weren't marked as sensitive or confidential, even though some of them contained private information about her and were shared with several staff members.

The emails also included legal advice on the merits of her complaint.

She said they show Lloyds didn't treat her seriously as a trans person.

Understandably, Ms S considers Lloyds has invaded her privacy and undermined her dignity. She found this deeply upsetting and offensive.

delay

Even though Lloyds had been trying to change her name since 2013, it still took over two years to correct its mistakes. And, it still sent her post in the wrong name in early 2016.

Again, she said this shows it wasn't treating her complaint as seriously as it should've done.

stress and inconvenience

Ms S said Lloyds' treatment of her caused her emotional and physical distress. She suffers from a serious long-term illness and she said it's been made worse by the stress of dealing with this complaint.

Ms S had to chase Lloyds for over two years to fix the problems whilst also coping with her illness.

In particular, she's had to sort out her credit card, which was issued in the wrong name. And she's had to get Lloyds to restore her access to internet banking, which is important to her because her health condition restricts her ability to go out.

She said Lloyds also left it to her to explain her situation to those creditors who might've checked her credit files.

She believes that compensation of £300,000 would reflect the gravity of the situation.

compensation

I now have to decide whether Lloyds' offer is commensurate with the harm she said she's suffered. I can see she's been hurt and offended by Lloyds' actions and appreciate her unhappiness with its offer. But I have to reach a decision which is fair and reasonable to her and Lloyds.

As our adjudicator's explained, the maximum money award this service can make is £150,000. So, I'm afraid I can't make a higher award.

But, even under the VENTO guidelines, the maximum money award for hurt feelings is £30,000. A court or tribunal will only make this award in the most serious cases, for example, where there's been a long campaign of discrimination or harassment.

Unfortunately, I don't think Ms S's complaint falls into the most serious category because based on the evidence:

- Lloyds wasn't pursuing a campaign of abuse or harassment, even though Ms S might've felt it was;
- Lloyds didn't act maliciously. And I don't think it meant to cause her any harm;
- she wasn't publicly embarrassed and there was no damage to her personal relationships. Lloyds didn't 'out' her to a partner, employer, colleagues or friends;
- her credit file wasn't affected negatively and there's no evidence she couldn't get credit, even though the aliases might've looked suspicious;

- Ms S didn't suffer any financial loss or from anxieties associated with money problems.

I realise it can seem unfair saying 'it could've been worse', especially where the hurt and upset feels as bad. And it's not my intention to diminish the hurt and injustice which I know she feels but it wouldn't be reasonable for me to ignore the factors which distinguish one complaint from another.

I agree the repercussions for Ms S were potentially more serious than for a non-trans person with a similar problem: but that's why I think Lloyds made a generous offer. I'm afraid this service wouldn't have made as high an award.

For these reasons, I'm afraid I don't think it would be fair and reasonable to uphold Ms S's complaint about the amount of compensation.

I appreciate Ms S will be disappointed by this decision but I hope I've explained my reasons clearly.

I understand Lloyds has taken steps to improve its services to trans people. I hope Ms S can take some comfort from that.

my final decision

My final decision is I won't be asking Lloyds Bank PLC to increase its offer of compensation for distress and inconvenience.

Its offer of £10,250 remains open for Ms S to accept.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 18 August 2016.

Razia Karim
ombudsman