

The complaint

Mr W complains that HSBC UK Bank Plc didn't send him important confidential data by secure e-mail as it said it would.

What happened

Mr W says HSBC sent him a large amount of confidential personal information via e-mail. He says HSBC told him it would be sent by secure e-mail but when he received it was not in that format and was not encrypted or restricted. Mr W says that was a serious breach of General Data Protection Regulation (GDPR) and that shortly afterwards his e-mail account was blocked by his e-mail provider following a hacking attempt. He says there must be a link between the two events and would like £5,000 compensation for what took place and the stress and anxiety he was caused.

HSBC says it sent the e-mail containing the information by secure e-mail. It says when the secure e-mail system has been previously used or downloaded then the e-mail may not require additional information such as a password and may appear unencrypted.

Mr W says he can't say if he has used secure e-mail in the past but says HSBC ought to know that and in any event, he didn't need to do anything to read the e-mails. He brought his complaint to us and our investigator didn't uphold it. The investigator thought that Mr W couldn't be sure if he had set up the secure e-mail in the past and thought HSBC had provided evidence the e-mail was restricted. The investigator didn't think it possible to conclude the account hacking attempt was due to HSBC.

Mr W doesn't accept that view and in summary says HSBC ought to provide an audit trail which includes the registration of secure e-mail. And says the HSBC e-mail he has seen just says the e-mail should be encrypted not that it was. Mr W maintains HSBC has breached GDPR rules and should pay him compensation and apologise.

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 have come to the overall view that HSBC has dealt fairly with this complaint. I appreciate Mr W will be disappointed by my decision, and I also appreciate how strongly he feels about it.

I make clear to Mr W that it's up to the Information Commissioner's Office (ICO) to decide if there has been a GDPR breach. It follows that I can't fairly conclude that there has been a GDPR breach here.

I have looked at HSBC's records and can see the e-mail's it sent to Mr W clearly say they are restricted or encrypted. I appreciate that Mr W says they simply say they ought to be rather than they are. But I think on balance it's more likely the e-mails were restricted, and I can see that Mr W can't rule out the possibility that he may have previously downloaded the

secure e-mail facility which may explain why he was able to open them without restriction. I appreciate Mr W would like HSBC to provide evidence of that previous use, but I don't think the secure e-mail facility is provided by HSBC but by a different business.

I don't think in any event there was any impact on Mr W regardless of how the information was sent. I don't think it possible to say the later problems Mr W experienced had anything to do with how the information was sent to him by HSBC.

Overall, I don't think HSBC has acted unfairly or made a mistake, but in any event, I don't find there was any real impact on Mr W regardless of how the information was sent. I hope Mr W understands that I can't fairly comment on the main part of his complaint which is if HSBC breached GDPR. For those reasons I can't fairly order HSBC to pay Mr W the £5,000 compensation he would like.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 3 December 2020.

David Singh
Ombudsman