

The complaint

A limited company, which I'll refer to as "G", complains that HSBC UK Bank Plc mis-used the personal data of its Director.

Ms O, G's Director, represents G in bringing its complaint.

What happened

Ms O, in her capacity as Director, is linked to G's account with HSBC. The bank had previously enrolled her for its voice identification software, that's so she could pass security checks when dealing with G's account. But Ms O wasn't happy with the bank using her data in such a way, especially without her explicit consent. So, she – on behalf of G – complained.

That complaint was referred to our service and HSBC ultimately paid G £150 in compensation to resolve it, an amount deemed fair and reasonable in the circumstances.

Unfortunately, after the conclusion of that previous complaint, Ms O was mistakenly re-enrolled for voice identification. She's told us how she's never given permission for the bank to identify her using her voice, and that she considers HSBC's actions to constitute repeated breaches of her personal data and General Data Protection Regulation (GDPR).

G complained to HSBC again, and the bank accepted something had gone wrong. It paid G £50 in compensation for the inconvenience. G remained unhappy, so brought this complaint to our service for an independent review.

An investigator here looked at what had happened. He saw that, following its final response, HSBC had told our service that it wanted to increase its offer of compensation. The bank referenced G's previous complaint, in which £150 compensation had been paid, and said it would match that offer again here given that amount had been accepted as fair and reasonable for the same problem.

Our investigator acknowledged how a repeated error would be frustrating for Ms O personally, but he felt – given that the impact on G, the complainant here, was largely the same as the last time this happened – that HSBC's £150 offer was reasonable.

To summarise Ms O's response, she said, on G's behalf, that:

- The previous award of £150 clearly wasn't sufficient in impact on the bank given the issue reoccurred.
- A figure of £8,000 is more appropriate given repeated breaches of personal data and associated data protection regulations.

- G wanted to pay Ms O compensation for the personal distress caused as its employee. So, HSBC should cover that cost.

Our investigator reconsidered, but he didn't change his mind. He reiterated his view that £150 was an appropriate level of compensation for G in the circumstances. He also said that HSBC had explained how the error reoccurred, and it had also shown that it had taken steps to ensure it didn't happen again.

G, though, maintained that HSBC hadn't done enough to put things right. So, as no agreement has been 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.

I'll say at the outset that I can certainly understand Ms O's frustration at what's happened here. This is, clearly, a significant issue for her and I'm aware of just how seriously she takes data privacy.

With that said, it's very important to remember that this is G's complaint – not Ms O's. What happened here did affect her directly, but the matter is linked to banking services which HSBC is providing to G, not Ms O as an individual. So, while I can surely appreciate how unhappy she is, I can't consider her personal distress, or inconvenience, as part of this complaint. Instead, I can only consider the impact HSBC's mistake had on G.

It's also important, I think, for me to stress that our service isn't here to punish a financial business. We're not the regulator, we don't "police" internal processes or how a business might operate generally. That's the job of the regulator, the Financial Conduct Authority (FCA). I'm aware that Ms O is following things up with them directly.

Similarly, it isn't the place of our service to determine whether a breach of GDPR has occurred. That's for a court or the Information Commissioner's Office (ICO) to decide. Again, I know Ms O is exploring that separately.

What I'm looking at here is solely the circumstances of this complaint. And thinking about what happened, I've not seen that G has been caused a specific financial loss as a consequence of what happened. From the information I have, it appears that the inconvenience caused to G is broadly the same as it was the last time this matter occurred. That being its Director, Ms O, was enrolled for a service she didn't consent to or want, and some time would consequently need to be spent sorting things out.

That would, of course, have been troublesome – particularly given this isn't the first time it's happened. But the bank has since explained the steps it's taken to prevent Ms O from being enrolled for voice identification again, I'm also pleased to note that it's identified how the error reoccurred and has demonstrated what's been done to rectify it.

That's what I'd expect it to do. And while I know Ms O thinks more compensation is deserved for a repeated error, to be more impactful on the bank, I must refer back to what I've said about the remit of our service. Specifically, increasing a compensation award to act like a fine or punishment isn't within my power and nor, indeed, appropriate. So, while it's far from ideal that the error was repeated, I don't think that in itself is reasonable basis to consider awarding more compensation, particularly if the overall impact to G was largely the same. Which, from what I've seen, I think it was.

I'll say here that I've no doubt Ms O, in both her personal capacity and as G's Director, has considerably less faith in the bank given what's happened previously – that's certainly understandable. But I've no reason to doubt that HSBC hasn't done what it's said it has, taking the necessary steps to prevent Ms O from being enrolled for voice identification yet again. The internal screenshots it's provided to me support that.

Ms O has said that G itself is prepared to pay her compensation for what's happened here. She perceives that as a direct financial loss to her business and, as such, considers there an argument for HSBC to reimburse G. But I don't see things in quite the same way.

In my view, if G wishes to compensate Ms O, that's a totally separate matter between those two parties – one that is, although linked, a step removed from the bank's error. Simply put, while HSBC's mistake may be a factor in G's choice to offer its employee some compensation, I think that's an altogether separate conclusion for G to reach. So, on balance, I'm not persuaded by Ms O's view that HSBC should reimburse G for any compensation it might decide to pay her.

To sum up then, I can surely appreciate the frustration at what's happened. Ms O's trust in HSBC is understandably damaged, so I certainly hope this issue doesn't reoccur given how clear she's made her position. Overall, though, for the reasons I've explained above, I find that the bank has offered a reasonable amount of compensation for the inconvenience caused to G on this occasion.

As I understand it, HSBC has already paid G £50. So, I now require it to pay G a further £100 – bringing the total amount of compensation to £150.

My final decision

My final decision is that HSBC Bank UK Plc has made an offer that is fair and reasonable in the circumstances of this complaint. HSBC Bank UK Plc should now pay G £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask G to accept or reject my decision before 29 August 2023.

Simon Louth
Ombudsman