

The complaint

Mrs S complains that HSBC UK Bank PLC has failed to comply fully with her DSAR (data subject access request) for recordings of telephone calls she had had with it.

What happened

Mrs S says that in August 2023 she made a DSAR for all calls from February 2023 to August 2023. She says this request was ignored.

She submitted another DSAR request in October to include all calls up until then and was asked for ID verification, which she supplied. The response was not sent to her until December. Mrs S says this response did not include the calls she required from February to October 2023. She has said she was sent calls from October 2023 onwards and the calls were only concerning her credit card complaint. She felt that she shouldn't have been asked to provide ID verification as HSBC already had this, this just caused further delays.

HSBC says it has no record of any request sent in August 2023. It has sent 58 calls to Mrs S across 11 emails. It has looked for any missing calls that may not have been included and found no further calls.

Our Investigator said that as she could see no evidence of the DSAR in August 2023, HSBC was not responsible for any delay in that respect. With regard to the October request, she said that HSBC did delay in providing its response and should pay compensation of £100.

Mrs S disagreed. She said that we should listen to all the phone calls concerned before deciding on compensation. She said that HSBC has still not complied with the DSAR.

The matter has been passed to me for an Ombudsman's consideration.

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.

To be clear, I'm concerned here only with Mrs S's complaint about HSBC's delay in providing her with the response to her DSAR and her allegation that HSBC has still not complied with that DSAR. I'm not concerned with the underlying reasons as to why she requested the DSAR, as they are being or have been dealt with as separate complaints through this service or directly with HSBC. For those reasons I don't consider it necessary for me to listen to such phone call recordings as may have been supplied to us in relation to those other complaints.

Firstly Mrs S says that she made a DSAR in August 2023 which HSBC ignored. HSBC has told us that it has no record of receiving such a request. Having considered the documents supplied to us by HSBC and by Mrs S I can't see any documentary evidence that she made the DSAR in August 2023. So I can't find that there was any failure on the part of HSBC in respect of this.

In relation to the October DSAR, Mrs S objected to providing evidence of her ID in order for HSBC to process it. She said that HSBC already had evidence of this on its file. However a DSAR is a specific application under the data protection rules. And in order to comply with those rules, it is reasonable for HSBC to ask for evidence of ID so it could be sure that it was providing what could be highly confidential information to the right person. I think HSBC acted reasonably in this respect.

With regard to the delay, Mrs S made her request on 6 October 2023, and following the ID procedure, HSBC could have started processing that request after 21 October. It didn't provide the response to the DSAR until 19 December. It's usually expected that the DSAR should be processed within one month. HSBC has acknowledged there was a delay and advised that it was caused by resourcing issues and it did update Mrs S on 6 December. Our Investigator proposed that HSBC pay £100 compensation for its delay and I note that it agreed this. I think that is reasonable.

Mrs S says that she still has not received her DSAR, as she alleges that the calls that she has received are from October 2023 onwards and relate to a credit card complaint. She says that she wanted the calls from February to August 2023 and that these have not been supplied. HSBC has said it has sent 58 calls to Mrs S across 11 emails. It has looked for any missing calls that may not have been included and found no further calls.

For me to find that HSBC should take further action, I would need to be persuaded that there are further calls available which it has not supplied. HSBC has told us that it has checked with its data processing team who have confirmed that there are no further missing calls. It did say to our Investigator that if Mrs S can provide more details and narrow down what she thinks is missing, it can certainly check further. For example, a call may not have been logged correctly and was therefore missed during the request but could be located by doing a standalone search with further information. Our Investigator explained this to Mrs S but she hasn't supplied any further details of specific calls.

So I can't find that HSBC has failed to supply the requested calls to Mrs S. I don't discount the fact that the calls may simply not be available anymore, but unless Mrs S is able to explain further what calls she needs and not just a range of calls, I can't require HSBC to take any further action.

To further clarify, it is not our function to make findings of non-compliance with the data protection rules. That is the function of the Information Commissioner's Office (ICO). If Mrs S wants to pursue a complaint of breach of those rules then she can make a complaint to the ICO.

Putting things right

HSBC pay Mrs S £100 compensation.

My final decision

I uphold the complaint in part and require HSBC Bank UK PLC to provide the remedy set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 25 July 2024.

Ray Lawley
Ombudsman