

complaint

Mr W complains, in summary, about the customer service provided to him by HSBC Bank plc. He also believes that HSBC didn't do proper checks when it sold an account to a debt purchaser ("T"), and as a result he's been pursued for a debt which isn't his.

background

Mr W was unhappy to receive debt collection contact from T and T's debt collection agents, ("D"), about a credit card originally provided by HSBC to a third party, ("C"). The credit card was in the same name as his, and the cardholder had the same date of birth, but all other details were different. HSBC had sold C's account to D in December 2006.

Mr W said that he had tried on numerous occasions to call HSBC about the matter but the phone wasn't answered. He was then told to contact an HSBC branch and he took the day off work on 9 July 2016 to do this. But, the branch told him it couldn't help as he wasn't C. HSBC then wrote to Mr W on 14 July 2016 to say it was investigating the matter. It then wrote to Mr W on 4 August 2016 to say that Mr W's address had been obtained by the debt purchaser via a trace using C's name and date of birth. It said that it would ask its debt sale team to contact T and D and ask them to remove Mr W's details. It would also tell them not to make contact with Mr W. Notwithstanding this, Mr W received more contact from D. He phoned HSBC and was told it was HSBC's error. HSBC offered Mr W £100 compensation, but he is seeking £650 for expenses and compensation for the five to six hours spent on the matter (including 15 – 20 phone calls) and the day taken off work to go to HSBC's branch where he had spent around an hour. He is also unhappy as he believes that HSBC didn't do proper checks when choosing its debt purchasers for its debt sale, especially as he didn't think that D had followed data protection requirements. He was considering taking the matter to court.

The investigator concluded that HSBC should pay Mr W £100 compensation. She had looked at what HSBC did when Mr W contacted it about the issue. She hadn't seen anything to suggest that HSBC wrote to Mr W or even chased him for the debt. The issue arose because Mr W's details had been merged following a trace search conducted by T. There was nothing to suggest that HSBC had intentionally given Mr W's address details to T or D in relation to the debt. When Mr W complained to HSBC, it agreed that he wasn't C and said it would contact T and D to tell them this. Whilst Mr W received letters intended for C after this, the investigator didn't feel that this was the fault of HSBC. But she could see that HSBC had provided incorrect information to him about his complaint and this had caused Mr W confusion.

Mr W disagreed and asked for an ombudsman to review his complaint.

my findings

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

I appreciate that Mr W is extremely concerned about the receipt of debt collection correspondence for a debt that wasn't his, especially as his own financial situation is very healthy. I can also see that he was very frustrated at the lengths he had to go to in order to resolve the issue.

I've listened to recordings of the calls between Mr W and HSBC which have been provided to this service by HSBC. I can see that there were two different issues discussed between them regarding firstly the credit card debt which didn't belong to Mr W and secondly transactions on Mr W's own account. Whilst HSBC's agent said on the calls that HSBC had made an error, I can see that it wasn't necessarily clear as to which issue HSBC accepted it had made an error on, and I can see that this would have caused Mr W confusion.

I can also see that Mr W has spent considerable time trying to resolve the credit card debt issue. The calls I've listened to between Mr W and HSBC total around 68 minutes and I note there were other calls which HSBC were unable to supply to us. I asked the investigator to ask Mr W if he could provide an itemised phone bill to show his calls to the bank, but he hasn't supplied this. I also note that Mr W said that he wasted an hour in HSBC's branch trying to resolve the matter. He also said in the phone call on 31 August 2016 that he'd visited other branches although it's not clear which of the issues he was seeking to address on his visits, and he hasn't supplied details about this pursuant to my request for these.

I asked the investigator to ask HSBC what address it had supplied to T on the debt sale to check this was correct. It appears that it supplied the correct address for the cardholder.

I'd also asked the investigator to ask HSBC to supply confirmation that it follows the requirements for debt sales. HSBC said that it complies with the appropriate regulations and requirements and contractually requires its debt purchasers to do similarly. It also monitors debt purchasers for at least two years after a debt sale. So, I'm unable to say that HSBC has acted inappropriately here.

I can see that Mr W has asked for £650 for expenses and compensation. I asked the investigator to ask Mr W to provide details of this including evidence of expenses. I note that the investigator had also asked him previously for this. But, Mr W hasn't supplied this. Nevertheless, I can see that Mr W has spent a substantial period of time on the matter. I note that Mr W has spent time trying to get through to HSBC without success. He has also spoken to HSBC on numerous occasions for over an hour in total. I accept that he visited at least one HSBC branch to try to discuss the matter, where he spent an hour, and he also spent time travelling there. I can also see that the bank caused him confusion. So, I think it would be reasonable for it to pay Mr W £200 compensation. I asked the investigator to ask the bank for its comments on this and it said that it didn't accept that confusion had been caused because Mr W had raised the separate issue and it had offered £100 to cover call costs and inconvenience. Nevertheless it agreed to my proposal to increase the compensation to £200.

I also note that Mr W has data protection concerns. I suggest that he contact the Information Commissioner's Office if he wishes to pursue these.

I appreciate Mr W's strength of feeling and recognise that he is unlikely to accept this decision. I also note that he has considered court action. A court may take a different view of the situation. Should Mr W not accept my final decision, then any rights he may have to take action in the courts against HSBC are unaffected and he will be free to pursue his arguments in any court action that may arise, if he so wishes.

my final decision

My decision is that I uphold this complaint in part. In full and final settlement of this complaint, I order HSBC Bank plc to pay Mr W £200 compensation.

HSBC must pay the compensation within 28 days of the date on which we tell it Mr W accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of my final decision to the date of payment at 8% a year simple.

If HSBC considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr W how much it's taken off. It should also give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 26 June 2017.

Roslyn Rawson
ombudsman