

The complaint

Mr C has complained about calls he's receiving from HSBC UK Bank Plc about his jointly held mortgage account.

The relationship broke down and Mr C says he left the mortgaged property, with his ex-partner (who I'll refer to as Ms R) continuing to reside in it. Mr C has said that whilst legal work is ongoing to arrange to separate their finances he continued to pay the mortgage, firstly in full and then he reduced to just paying half, and latterly he stopped paying entirely.

He's complained that despite having a direct contact at HSBC who he is speaking to on a regular basis by arrangement, he is getting calls asking to speak to Ms R. He says the calls are impacting his mental health, and he feels harassed with it affecting his work and studies.

This complaint has just been brought by Mr C as it relates to how HSBC has treated him specifically.

What happened

Mr C and Ms R hold a joint mortgage with HSBC and when they separated Ms R remained in the property. I understand from Mr C that he has looked into potentially selling the property and also whether he can be removed from the mortgage and title, with them being transferred into Ms R's sole name.

Mr C originally made the monthly payments in full, but when he struggled to maintain those he reduced his payments to half the contractual monthly payment from February 2023. He then spoke to HSBC in July 2023 and from August 2023 he stopped making the payments entirely. He says that the staff member he spoke to in July agreed that Mr C paying half the payments was prolonging the inevitable repossession of the property. Mr C agreed to provide his contact numbers to HSBC so that staff member could contact him going forward to discuss what was happening. Since then Mr C says he has been in regular contact with the member of staff he spoke to in July 2023.

I understand the calls from HSBC started the day after that call in July 2023, initially with calls to both Mr C's home phone and his mobile. He said the callers would ask for Ms R despite them being his contact numbers. Mr C raised a complaint with HSBC, and as part of that the home phone number was removed from HSBC's systems as he didn't want the person he was living with to answer the calls.

HSBC upheld Mr C's complaint, offered him £80 compensation and said no further calls would be made of such a nature. Mr C accepted that resolution and the complaint was closed.

The following day a further call was made to Mr C asking for Ms R and so he requested the complaint be reopened. HSBC offered a further £50 compensation, but this time said that due to the way its caller system worked it couldn't stop the issue happening in the future.

Unhappy with this Mr C referred his complaint to the Financial Ombudsman Service where it was looked at by one of our Investigators. Our Investigator upheld the complaint, saying that whilst he understands HSBC said it was a system issue he didn't think it was reasonable for it to continue to contact Mr C and ask to speak to Ms R as they are no longer together. He said the pre-arranged weekly update call between Mr C and the specific staff member should be enough as Mr C is keeping HSBC updated. Our Investigator said that the compensation of £130 should be increased to £250, and that HSBC should ensure that no further calls are made to Mr C asking to speak to Ms R.

HSBC didn't agree. It said its outbound dialler system is automated and Mr C had been advised on a number of occasions how it worked, and that HSBC has a legal responsibility to call all parties associated with the mortgage.

As an agreement couldn't be reached the case was 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.

Mr C's jointly held mortgage is in arrears so it isn't unreasonable for HSBC to want to speak to him about the situation. However, I don't think it is reasonable for HSBC to call Mr C and ask to speak to Ms R when he has told HSBC that it is his number and that such calls are causing him distress and inconvenience.

I can see why HSBC's actions caused Mr C distress; he'd separated from Ms R and was struggling with resolving their financial and family situation through the courts. It also caused him inconvenience as calls were made to him whilst he was working and studying, but upon answering the caller would ask to speak to Ms R.

HSBC's system is set up to use an automated dialler to call customers where mortgage payments have not been made on the due date, as was the case here. I don't have any power to tell HSBC what systems it should have in place overall, and if it chooses to use an automated system, that's a matter for its own commercial judgment. However, I do have the power to consider how HSBC's decision to use such a system impacts on an individual customer, such as it has here with Mr C.

Mr C asked HSBC to stop calling him and asking for Ms R, and despite initially being told the calls would stop, he was later told it wasn't possible. HSBC was aware that Mr C had already asked that calls asking for Ms R be stopped, and it was aware of what he had said about how those calls were impacting him.

Mr C had already told HSBC that he wouldn't be paying the mortgage as he wanted the property to be sold if he couldn't be removed from the mortgage and title, and calls asking for Ms R and wanting to discuss the arrears weren't going to change that. Mr C had been discussing matters with a particular member of staff and he says he'd been told a note had been added to his account setting everything out.

HSBC says this is how its system works, but that isn't good enough. HSBC needs to stop calling Mr C's numbers and asking for Ms R. How it achieves that is something it will need to work out internally, but it can't just continue making those calls when it has been told to stop.

Whilst the account remains in arrears and the property unsold, HSBC will need to keep in contact with Mr C. However, that level of contact should be proportionate bearing in mind the very specific circumstances here that HSBC is aware of. If Mr C continues to speak fully to

HSBC on a weekly basis, then no further calls should be made to Mr C. If, at any time, he doesn't speak to HSBC on a weekly basis then outgoing calls can be made to him, but those calls should be to speak to him, the callers can't ask to speak to Ms R.

In addition, I don't think the payment of £130 offered by HSBC is adequate. I think the Investigator's recommendation of an additional £120 – so £250 in total – is fair and reasonable in all the circumstances, and proportionate to the impact on Mr C.

My final decision

I uphold this complaint and order HSBC UK Bank Plc to:

- Pay £250 compensation to Mr C (less any amounts already paid).
- Make no further calls to Mr C asking to speak to Ms R.
- Not call Mr C as long as he has a full conversation with HSBC on a weekly basis.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 15 April 2024.

Julia Meadows
Ombudsman