

## **The complaint**

This complaint is about a mortgage Mr and Mrs W hold with HSBC UK Bank Plc, and their attempts to borrow more money from HSBC to consolidate consumer credit debts.

The essence of the complaint is that HSBC's mortgage advisor told Mr and Mrs W she didn't think they'd be able to borrow the amount they wanted (£50,000) so they took a secured loan from another lender instead and used it to clear their unsecured debts.

After they'd done this, a different HSBC advisor then succeeded in getting a further advance approved for £49,600 to repay the secured loan, which Mr and Mrs W accepted. However, the cost of repaying the secured loan was around £57,000, which Mr and Mrs W paid from their own resources. They seek redress for the financial loss and stress this has caused.

## **What happened**

By way of a provisional decision dated 5 February 2024, I set out my provisional conclusions on this complaint. The following is an extract from the provisional decision.

"In what follows, I have set out events in rather less detail than they have been presented. No discourtesy's intended by that. It's a reflection of the informal service we provide, and if I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint. This approach is consistent with what our enabling legislation requires of me.

It allows me to focus on the issues on which I consider a fair outcome will turn, and not be side-tracked by matters which, although presented as material, are, in my opinion peripheral or, in some instances, have little or no impact on the broader outcome.

Our decisions are published and it's important that I don't include any information that might result in Mr and Mrs W being identified. Instead I'll give a summary in my own words (and rounding the figures where appropriate) and then focus on giving the reasons for my decision.

Mr and Mrs W's original request for a consolidation loan from HSBC started in February 2023; the first stage in the process was a decision in principle (DIP) which indicated that HSBC might be willing to lend more than the £50,000 they were seeking. But in the formal application phone call on 1 March 2023, the advisor explained that the DIP didn't take account of existing debt outgoings, the application assessment would, and it was unlikely they'd be approved for the full amount, but more likely in the region of £28,000.

Mr and Mrs W had already applied separately for a secured loan of £50,000 from a lender I'll call T. They went ahead with the loan from T, and used the money to repay their existing unsecured debts. They also complained about how they'd been treated by HSBC. HSBC rejected the complaint about how the first application had

been handled, but approved a second application to lend them £49,600 to repay the loan from T.

Mr and Mrs W went ahead with the HSBC secured loan, and referred their complaint to this service. They said HSBC should refund them the additional £7,000 of fees and charges they were having to pay to repay the loan from T.

Whilst we were considering this complaint, Mr and Mrs W made a second complaint to HSBC about it not having told them about the legal costs they'd incur for taking out the secured loan to repay T. HSBC upheld that complaint and paid Mr and Mrs T compensation.

Meanwhile, our investigation concluded his investigation into the complaint about the first application. He didn't think it had been unfairly rejected, but did think HSBC had misled Mr and Mrs W when it issued the DIP giving them a false expectation. For this, he recommended HSBC pay Mr and Mrs W £200 compensation. HSBC agreed to do this, but Mr and Mrs W have asked for the complaint to be reviewed by an ombudsman.

### **What I've provisionally decided – and why**

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

So there's no ambiguity, I'm not considering anything to do with the loan from T, and the fairness of how much Mr and Mrs W had to pay to clear it. That is a matter for them to take up with T, if they wish to. To be clear, I imply nothing favourable or unfavourable about T and nothing should be inferred either way. I'm also not considering the fairness or otherwise of HSBC's final response dated 3 August 2023 to the second complaint. If Mr and Mrs W had wanted us to look into that, they had until 3 February 2024 to refer it to us.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. That includes listening to recordings of phone calls between Mr and Mrs W and HSBC.

As a starting point, it's important to keep in mind that no one is entitled to borrow money. Even where someone has borrowed before, whether or not they can borrow more is a matter for the lender's commercial judgement. It's not my role to second guess a lender's judgement and substitute my own in its place. Rather it is to ensure that the judgement has been exercised fairly and in accordance with the lender's criteria.

As far as the first application is concerned, it's important to keep in mind that it was never formally submitted to underwriters for assessment and a lending decision. I know that is a bone of contention for Mr and Mrs W because they believe they'd given the go ahead for it to be submitted. Having listened to the relevant call, I don't

think that was a mistake on either side's part; to me it was a simple misunderstanding. In any event, I don't think Mr and Mrs W were adversely affected by the application not being submitted at that point.

I say that because, had the application been submitted formally, it would in all likelihood have been rejected for the £50,000 Mr and Mrs W wanted and had been led to expect was possible by virtue of the DIP. But as our investigator explained, it was the DIP that was wrong, because it raised Mr and Mrs W's expectations. It caused them to think, wrongly, that they might be able to borrow £50,000 for consolidation of their unsecured debts. That was HSBC's mistake, and for the disappointment it caused, I consider £200 to be fair in the circumstances.

Of course, what then reinforced Mr and Mrs W's belief that the first advisor was wrong to say they'd probably only be approved for a consolidation £28,000, was when they were then approved for a secured loan of £49,600. I will say at this point that I fully appreciate Mr and Mrs W's reaction, and why they see that approval as vindication of their position. In reality, however, is that the two applications weren't the same.

The first application was for a loan to consolidate a number of individual unsecured debts; HSBC could not be certain the money lent would be used for its intended purpose, and the affordability assessment would have had to factor in the risk that some (or all, in a worst case scenario) of the unsecured debt might still exist after the secured loan had been granted.

In contrast, the second, and successful, application was for a loan to repay another secured loan. Here, HSBC had a mechanism to ensure the existing loan would be repaid, through the solicitors whose function was to direct the funds to T and obtain a release of T's legal charge. That means the second application represented an entirely different underwriting risk for HSBC from what the first would have if it had been formally submitted.

I said at the outset that I wouldn't be commenting on every single point, and I haven't. I have, as I said I would, confined myself to those matters that I consider have a material effect on the outcome. I can see how strongly Mr and Mrs W feel. That's a natural, subjective reaction, and entirely understandable.

Be that as it may, I have to take a different approach. I'm impartial and I have to look at things objectively, sometimes taking a step back from the minutiae, focussing on the broader picture. That's what I've done. Having done so, for all the reasons I've set out, I can't find in Mr and Mrs W's favour, to the extent they are seeking."

I gave the parties two weeks to comment on the provisional decision; that time has now passed. HSBC made no further comment. Mr and Mrs W made further representations, which I will address next.

### **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 considered afresh everything that both parties have said and provided, I'm not persuaded to depart from my provisional conclusions. To be clear, that's not because I'm unsympathetic towards Mr and Mrs W after their experiences with HSBC whilst trying to refinance their consumer debt.

Rather, it's because whilst Mr W's email comments of 11 February 2024 summarise their frustrations and grievances with great clarity, they don't add anything new for me to consider. What they do, in essence, is reinforce the points Mr and Mrs W had already made to us in their earlier submissions, and which I'd already taken into account when I arrived at my provisional decision.

### **My final decision**

My final decision is that I uphold this complaint in part, by ordering HSBC UK Bank Plc to pay Mr and Mrs W £200 compensation for their time, trouble and upset.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further discussion of the merits of it.

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

Jeff Parrington

**Ombudsman**