

## **The complaint**

Mr and Mrs W complain that the legal and receiver costs HSBC UK Bank Plc passed on to them when they redeemed their mortgage were excessive. They said HSBC would have challenged these figures, if it was paying the bills itself.

## **What happened**

In 2011 Mr and Mrs W bought a property to extend and develop, with funding from HSBC. This lending was provided on an interest only basis, and intended to be relatively short term.

Mr and Mrs W started work using their own money, as HSBC wasn't willing to lend further at that time, but then HSBC did authorise further borrowing in 2015. Mr and Mrs W also borrowed elsewhere, placing a second charge on the property.

HSBC said the repayment date for the lending passed without repayment, and that from some time in 2020, Mr and Mrs W ceased to pay the interest on the outstanding borrowing. Mr and Mrs W have since refinanced with a different lender, but in the meantime, HSBC said that it had incurred legal fees, and appointed a receiver in respect of the property.

Mr and Mrs W have objected to the level of fees charged on the mortgage, for both the receivers and the legal firm. Mr W said HSBC has charged around £58,000, and the receivers fees add a further £29,000.

Mr and Mrs W said the amount of time spent by the legal firm on individual tasks couldn't be supported. They said although receivers were engaged, they were effectively stood down almost immediately, but this wasn't reflected in the fees. And they queried why the receivers had paid, proportionally, about six times what they were paying for insurance for the property.

Mr and Mrs W said that if HSBC had been paying for this work itself, rather than just passing the cost on to them, it would have challenged the fees charged. Mr and Mrs W said it wasn't fair for HSBC not to challenge excessive fees, simply because it was able to require them to pay this as a condition of discharging its lending. They wanted us to get the bills reduced.

HSBC said it had made a series of very large loans to Mr and Mrs W to finance their property purchase and then its redevelopment. It said the project was significantly over time, and HSBC considered it had not been effectively managed. HSBC said it had been seeking to get Mr and Mrs W to either refinance the debt or complete a sale for some time, which they hadn't done. And HSBC said its concerns had been made clear to Mr and Mrs W before it sought legal help.

HSBC said that this sort of legal and insolvency work is by its nature complicated and time consuming. Where security is being enforced and receivers appointed, the bank has to ensure everything is in order and the necessary steps are completed accurately and properly. So HSBC said there was no scope for taking a light touch.

HSBC also said that the receivers weren't stood down almost immediately, they remained in place until the charge was redeemed. And it said that the receivers had explained why its insurance cost significantly more than Mr and Mrs W's insurance.

HSBC said that the overall level of fees wasn't out of line with what it would expect in a matter like this. It noted that it got this legal advice at the bank's discounted rate, which Mr and Mrs W benefitted from. It had queried the fees with the legal firm and the receivers after they complained, but hadn't been able to secure any further discount on those fees. And HSBC said it wouldn't pay these fees itself.

Our investigator didn't think this complaint should be upheld. He noted that the charges were very far in excess of the £5,000 Mr W said he'd expected. But our investigator said the invoices he'd seen from the legal firm did seem to be in keeping with the fees that were passed on to Mr and Mrs W. Our investigator said HSBC isn't obliged to challenge the invoices it received. And our investigator said that, other than the costs being high, he hadn't seen any reason for HSBC to assume its solicitors were overcharging or being deceptive with their billable hours.

Our investigator said that our service cannot look at what the solicitors themselves had done, we could only look at what HSBC had done. So he had to consider whether HSBC had acted fairly, having instructed solicitors, by taking the invoices provided by said solicitors as accurate representation of the work completed. And he said he wasn't able to say that HSBC had done anything wrong in this case. So he didn't think it should be upheld.

Mr W replied, to disagree. He said our investigator had focussed on the legal fees, but he and Mrs W had also complained about the receivers fees too, and the amount the receiver had paid for insurance. Mr and Mrs W said our service seemed to be saying that if HSBC says it considered all the fees and costs reasonable, then there was no justification for our service to delve further into the reasonableness or otherwise of these expenses. They said that couldn't be right, because if it was, they would have no protection at all. They said they had to rely on HSBC to object to excessive charges, as they couldn't contest these directly. And Mr W repeated that HSBC wouldn't have accepted this level of fees if it had to pay them itself.

Because no agreement was reached, this case came to me for a final decision.

### **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've reached the same overall conclusion on this complaint as our investigator.

I should start by saying that, as our investigator noted, the legal firm and receivers working in this case do not fall directly within our service's jurisdiction. So, as he explained, all our service can comment on is what HSBC has done in this case.

I can understand Mr and Mrs W's concern at the legal and receivers' fees they have been required to pay, in order to redeem the lending from HSBC and complete the refinancing of their property elsewhere. These are large sums of money. However, I note that the outstanding lending to Mr and Mrs W was also for a very sizeable amount. I think it's in keeping with the scale of the bank's exposure in this matter, that HSBC chose to engage a relatively high profile law firm, and to have a small team working on this issue.

I appreciate that Mr W considers the key issues here were straightforward, so the work could largely have been done either by HSBC itself, or by one person in a legal firm. But I do think it's reasonable for HSBC to have characterised this as a complex and fast-moving set of circumstances, which, along with the scale of the bank's exposure, must have increased the risk to HSBC. And I don't think that HSBC was obliged to do this work itself, or that HSBC has been unfair or unreasonable in engaging a relatively high profile firm.

I also note that the initial appointment of receivers appears to have been done at Mr and Mrs W's request. And that the insurance obtained over the property was apparently required because the property was under insured, which is a breach of the terms of the lending to Mr and Mrs W.

But I am not considering whether the lawyers here have inflated their billing, or indeed, whether the receivers were correct to charge the stated amount for insurance. What I have to consider is just whether it was reasonable for HSBC to accept the invoices it received.

HSBC has said that the bills it received were in the region of what it would expect in a matter like this. It has shared with Mr W full details of the invoices, and according to its complaint responses to Mr W, it has discussed these fees again with both the legal firm and the receivers, in the light of his comments. It hasn't been able to secure further reductions.

I think HSBC has taken reasonable steps in respect of the fees that Mr and Mrs W were charged. And I don't think it would be fair and reasonable to ask HSBC to go further, and formally contest these fees. So, although I know that Mr and Mrs W will be disappointed, I don't think this complaint should be upheld.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W and Mr W to accept or reject my decision before 1 September 2023.

Esther Absalom-Gough

**Ombudsman**