

The complaint

Mr G complains about delays HSBC UK Bank Plc caused when dealing with debts on his accounts.

What happened

Some years ago, Mr G borrowed money with HSBC and this was secured using an Agricultural Charge. Unfortunately, Mr G began to suffer financial difficulties and in 2009 HSBC closed his account and passed the unpaid debts to a debt collection firm.

In 2019 Mr G approached another bank to obtain an overdraft for his new business but was told that the Agricultural Charge was still being held by HSBC and therefore couldn't be used as security for this borrowing. Mr G contacted HSBC who refused to release the charge as there was still unpaid debt. Mr G told them he had entered into an Individual Voluntary Arrangement (IVA) several years before and he believed the debt had been repaid. HSBC said it had no record of an IVA and that the debt collection firm had not informed it the money had been repaid. It maintained that it couldn't release the charge.

Unhappy with this response Mr G made a complaint to this service. Our investigator provided to HSBC details of the IVA that Mr G had sent to us. HSBC reviewed this information and agreed to release the security. Our investigator found HSBC hadn't done anything wrong by holding on to the security, as it hadn't been informed about the IVA or any repayments previously. But she did say HSBC delayed giving Mr G the details of the debt collection firm and by doing so this delayed the process of releasing the security. She recommended it should pay Mr G £300 compensation in recognition of this.

HSBC accepted that it should have provided this information to Mr G earlier but didn't agree that £300 was fair. It offered to pay £100 as a gesture of goodwill. And in addition to this it also offered an additional sum of £100 for an error during the process to release the security which caused an extra delay of two months.

Mr G refused the offers made by HSBC. He said that he has lost out financially as a result of the security not being released earlier. He said HSBC shouldn't have held onto the charge when it sold on the debt. As no agreement could be reached, the complaint was passed to me to decide.

I issued a provisional decision in which I said:

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

We're an informal dispute resolution service, set up as a free alternative to the courts for consumers. In deciding this complaint I've focused on what I consider to be the heart of the matter rather than commenting on every issue or point made in turn. This isn't intended as a discourtesy to Mr G. Rather it reflects the informal nature of our service, it's remit and my role in it.

The crux of this complaint relates to the release of the Agricultural Charge. What I need to consider is whether HSBC's actions were fair and reasonable.

HSBC has told us that when it passed the debt to a collection agency it retained the Agricultural Charge. It says this is because this allows it to still use the charge to settle any outstanding debt, if the payment is not obtained in full by the collection agent. Based on this I don't think it is unreasonable for HSBC to have held on to this security.

Mr H has said that HSBC should have released the charge following him clearing the debts after entering the IVA. But HSBC has told us the first time it became aware that Mr G had entered into an IVA was when he contacted it in 2019. And this does seem to be the case as Mr G told our investigator at a later stage that the supervisor handling the IVA informed him they only dealt with the collection agency – not HSBC. So, I'm satisfied the earliest HSBC could have started the process of releasing the Agricultural Charge was following Mr G's 2019 contact.

When Mr G did contact HSBC about this matter, it started to investigate. I've seen notes of contact between different departments within the bank to show this was happening and approximately one month after Mr G's first enquiry, I can see that HSBC found that the accounts had been closed with debt still owed. So, it decided the charge couldn't be released. Unfortunately, Mr G didn't have any information about his IVA that he could provide to HSBC and it took some time for this information to be obtained.

The fact Mr G didn't have documentation to support his insistence the debt had been repaid is unfortunate, but this isn't something I can hold the bank responsible for. But what is clear is that HSBC did know the name of the debt collectors who it had passed the debt to and the instruction from one of the departments was that it would be for Mr G to speak with them. As HSBC knew Mr G didn't have any information about the old debts it isn't clear to me why this information was not divulged to him at this point. And if he had been given that information I think it's likely the agreement to start the release of the security would have happened quicker. So, I'm not persuaded that HSBC isn't in some part responsible for this delay.

HSBC has agreed that it should have told Mr G this information earlier but thinks the offer of £300 is too high. It has offered a sum of £100 as a gesture of goodwill. HSBC has also informed us that the security release was agreed in March but the request to start the process with the Land Registry didn't get actioned at that time. It wasn't until this was chased in June that this oversight was noticed, and the process was started at this point. HSBC has offered to pay an additional sum of £100 for this error and the delay this caused in getting the security released.

From what I have seen, HSBC's actions by not passing on information about the debt collectors to Mr G potentially delayed the start of the security release action by around two months. This was compounded by a further delay of at least another two months when HSBC failed to start the official process of release with the Land Registry. Mr G is a farmer and has told us the money he was trying to obtain from another bank was to help him with his business and this was impacted by this issue. Mr G has also said this matter caused additional worry and stress for him and his family. He has referred to the knock-on effect of having to pay higher rates of interest as a result of not being able to get secured borrowing.

I've thought very carefully about this issue. This matter has clearly caused Mr G additional stress and inconvenience, especially as it directly related to the funding he needed for his business. Taking that into account, I'm not satisfied HSBC's offer of compensation totalling of £200 is enough for the ongoing delays that occurred. Based on everything I've seen and been told, I'm persuaded that a sum of £400 in total in recognition of all the delays in releasing the Agricultural Charge should be awarded.

Both parties responded to the provisional decision and accepted my findings.

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.

As both parties have accepted the provisional decision I see no reason to amend my outcome.

Putting things right

I require HSBC Bank UK Plc to pay Mr G £400 to compensate him for the distress and inconvenience caused.

My final decision

As stated above, I uphold this complaint.

HSBC Bank UK Plc need to put things right as outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 9 April 2021.

Jenny Giles
Ombudsman