

## **The complaint**

Mr C complains that he was unable to port his mortgage with HSBC UK Bank Plc due to its delays, unfair processes and errors. He asks that it refunds the early repayment charge (ERC) he paid.

## **What happened**

Mr C had a mortgage with HSBC. In mid-2020 Mr C decided to move to a new house. He wanted to port his mortgage product and take out additional borrowing.

Mr C tried to make a porting application online but found he was unable to do so. HSBC said he'd need an appointment with a mortgage adviser. This was because the loan to value was more than 60%. Mr C made a complaint, hoping this would result in HSBC allowing him to make an application online. However he didn't receive a response to his complaint. Mr C applied to another lender. He repaid his HSBC mortgage in late November 2020 and paid the ERC of about £5,000.

Mr C says:

- it was unfair for HSBC to require him to meet with a mortgage adviser. He says he didn't need mortgage advice and HSBC should have allowed him to make an application online. Mr C says waiting for an appointment with a mortgage adviser would have risked his buyer pulling out. And the product he wanted wouldn't have still been available.
- HSBC didn't respond to his complaint until February 2021. As a result, he had to apply for a mortgage elsewhere.
- HSBC took four mortgage payments after he'd repaid the mortgage. It only refunded one of these payments

Our investigator said HSBC was entitled to make a commercial decision about its application process, and how long products were available for. It offered Mr C an appointment with a mortgage adviser within about three weeks, which our investigator said wasn't unreasonable given the wider circumstances at that time. The investigator said HSBC recognised it didn't respond promptly to Mr C's complaint and offered £200 compensation. Our investigator said the outcome would have been the same if it responded sooner. He said Mr C chose to make an application elsewhere and HSBC was entitled to apply the ERC.

Mr C didn't agree. In summary, he said by ignoring its own complaints process HSBC set off a chain of events that led to his financial loss. He said HSBC still hadn't addressed his initial complaint.

Mr C said HSBC's decision to restrict online applications breached its regulatory requirement to treat customers fairly as it restricted existing customers access and choice. As an existing customer he had to either port his product or pay an ERC. He'd hoped when making a complaint that HSBC would recognise this and change its policy.

## **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.

### *Refund of the ERC*

Mr C took out a fixed interest rate product which included an ERC. This was payable if the mortgage was repaid before the end of 2022. Mr C agreed to this when he took out the product. Mr C repaid the mortgage in November 2020 and HSBC applied the ERC, as it was entitled to do under the mortgage terms and conditions.

Mr C says HSBC should refund the ERC as its unfair application process and failure to respond to his complaint meant he had to go elsewhere.

I don't think that it's fair and reasonable to require HSBC to refund the ERC. I've explained why below.

### *The mortgage application process*

Mr C wanted to port his existing mortgage product to a new mortgage and take out additional borrowing.

HSBC is entitled to make a commercial decision about its policies and application process. At that time, HSBC's policy was that it only allowed online applications where the loan to value was below 60%. It applied this policy correctly to Mr C's application. Mr C says the mortgage he wanted had a loan to value of 80%. HSBC required him to meet with a mortgage adviser to make an application.

In early August 2020, HSBC offered Mr C two appointments, one at the end of August 2020 and one at the beginning of September 2020. I don't think this was unreasonable, taking into account the wider circumstances at that time. The Covid-19 pandemic and the UK Government's stamp duty holiday meant many lenders were dealing with high numbers of applications and customer enquiries. Mr C declined to meet with a mortgage adviser. As a result, he didn't make an application to HSBC.

Mr C says he didn't need mortgage advice and wanted to apply online. He wanted to secure a mortgage product that was being withdrawn that day and he was concerned that any delay might lead to his buyer pulling out. Of course, many customers would have had similar concerns. I don't think it's reasonable to say that HSBC should have made an exception from its policy for Mr C.

Due to issues with the property chain, Mr C's sale and purchase didn't complete until late November 2020. Mr C accepts it's likely a porting application would have completed in time if he'd met with HSBC's mortgage adviser at the end of August. I appreciate he didn't know in early August there would be these delays with the sale and purchase.

Mr C is saying, in effect, that HSBC's process was so unfair that he had to apply elsewhere. I don't think that's reasonable. I don't think it was unfair for HSBC to have a policy that customers had to meet with a mortgage adviser in certain circumstances. And I think HSBC offered Mr C an appointment with a mortgage adviser within a reasonable timescale. I don't think HSBC treated Mr C unfairly.

### *HSBC's complaint handling*

Complaint handling isn't something this service can look into. This is because it isn't a regulated activity. However, I can consider how HSBC dealt with a complaint if this affected the resolution of the underlying problem. Mr C says that's the case here.

Here, the underlying problem was that Mr C couldn't go ahead with his mortgage application as quickly as he wanted or in the way he wanted. He had to wait three weeks for an appointment with a mortgage adviser. He says he made a complaint hoping this would expedite matters, ideally by allowing him to apply online. Mr C says it was reasonable for him to expect HSBC to respond either with an "uphold" (in which case it would allow him to apply online) or "non-uphold" (in which case he'd have to make an appointment with a mortgage adviser).

HSBC has eight weeks to respond to a complaint. From what Mr C has said, it's likely he's familiar with the complaints process. So when he made his complaint it's likely he knew he might not get a response before the end of September 2020. Mr C says HSBC could have sent an interim response arranging an appointment with a mortgage adviser as a contingency plan. Equally, Mr C could have accepted one of the appointments HSBC had already offered.

HSBC didn't respond to the complaint Mr C raised in August. HSBC says it wouldn't have upheld the complaint or made a policy exception for Mr C. So if HSBC had responded to the complaint, Mr C would then have needed to make an appointment with a mortgage adviser.

HSBC accepts that it didn't correctly record or respond to Mr C's complaint in August. It offered £200 compensation as an apology for this. I think this is fair and reasonable, in the circumstances. I appreciate Mr C's frustration that HSBC didn't respond to his complaint. But I don't think it's reasonable to find that it was HSBC's failure to respond to Mr C's complaint that led to him taking out a mortgage elsewhere and paying the ERC.

Mr C didn't need to wait for a response to his complaint before making an appointment with a mortgage adviser. If HSBC had responded to say he could make an application online, he could have cancelled the appointment. It was Mr C's decision not to meet with a mortgage adviser to make an application which meant he couldn't port the mortgage.

### *The direct debit payments*

Mr C repaid his mortgage on 26 November 2020. His monthly payments were collected by direct debit on 1 December, three working days later. HSBC says its automated request for direct debit payments was made a few days before Mr C's mortgage was redeemed. It says it refunded the payments within its usual timescale. I don't think it's fair and reasonable to require HSBC to do anything more about this.

### **My final decision**

My decision is that HSBC UK Bank Plc should pay £200 to Mr C, as it offered to do.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 15 March 2022.

Ruth Stevenson  
**Ombudsman**