

The complaint

Mrs K complains that HSBC UK Bank Plc's failure to respond to her contact attempts in relation to her mortgage application caused her to miss a deadline and to incur legal costs.

What happened

Mr and Mrs K visited a branch of HSBC in February 2020 to enquire about getting a mortgage on their unencumbered property for a home improvement project. They were given a decision in principal by the branch adviser and told they would need to complete their application before Mr K's 75th birthday – 15 July 2020 – for him to be included on the mortgage.

Mr and Mrs K needed some time to consider how much they needed to borrow, but attempted to contact the HSBC adviser, by email, on 18 June 2020 to make their application. They received no response and tried a further three times by email up to 10 July 2020 and, they say, several times to his mobile phone. They received no responses and say they also tried to contact HSBC's main switchboard but couldn't get through on the phone.

By the time Mr and Mrs K successfully made contact with HSBC, Mr K had passed his 75th birthday. But they still wanted to proceed with the application for the mortgage. To do so, the application could only go ahead in Mrs K's name, and so they were required to remove Mr K from the property deeds. Mr and Mrs K say they incurred the following costs in doing so:

- £294 – Transfer of equity
- £180 – Removal of restriction
- £330 – Registration of declaration of trust

They also say they'll incur at least £474 when they add Mr K back on to the deeds at the end of the mortgage term.

HSBC says many branch staff were unable to work at the time in question because of the Covid pandemic and wouldn't have had access to their work mobile phones or emails. It says its mortgage adviser would have had an 'out of office' message set, telling customers what they should do in his absence. But Mrs K says she didn't receive any responses at all to her emails to the advisor.

Mrs K's mortgage application did complete in October 2020 – later than she wanted and for an amount lower than she wanted.

HSBC's contact notes say Mrs K originally complained in July 2020 – before completion of the application – and HSBC paid her £50 to cover the costs of the phone calls she's made. It sent its final response letter on 5 October 2020. It said its adviser would have had an 'out of office' message set but is unable to explain why they were not received. It then focussed on a change in its policy, requiring Mrs K to show evidence of income which had added further delay – though after Mr K's 75th birthday. About that, it said it added this further check as a result of the Covid pandemic and its commitment to lend responsibly.

Dissatisfied with HSBC's response, Mrs K asked us to consider her complaint. Our investigator said he thought it more likely than not that HSBC's advisor hadn't set an 'out of office' message. HSBC hasn't been able to show that its advisor did set a message and our investigator thought Mr and Mrs K would have followed the message's instructions had there been one. But our investigator acknowledged that HSBC couldn't have been prepared for the pandemic and it had had a substantial impact on both businesses and customers. So, he thought the fairest way to resolve the complaint was for HSBC to pay half of Mr and Mrs K's costs associated with the removal of Mr K from the deeds – subject to proof of those costs.

HSBC agreed to pay half of the costs Mr and Mrs K had incurred, but not those to add Mr K back on to the deeds at the end of the mortgage. Mr and Mrs K said they would reluctantly agree but only if HSBC would pay half of the estimated costs to add Mr K back on to the deeds at the end of the mortgage. Our investigator asked HSBC to consider Mr and Mrs K's request, but HSBC declined to change its offer.

As Mrs K did not agree with our investigator's opinion, her complaint has been passed 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.

To decide Mrs K's complaint, I've thought about whether and to what extent HSBC caused Mr and Mrs K to miss the 'deadline' of Mr K's 75th birthday and incur additional costs. And I've thought about what that should mean in terms of a fair resolution to Mrs K's complaint in the specific circumstances of her experience and the broader circumstances of the Covid pandemic.

Mr and Mrs K first contacted HSBC with the intention of proceeding with their mortgage application on 18 June 2020. That would have given HSBC nearly a whole month to complete the work required to start their mortgage. In ordinary circumstances, I think that was sufficient time and I don't think it would be reasonable to expect Mr and Mrs K to have known the full impact of the Covid pandemic on HSBC and the way it was operating.

I also think HSBC couldn't have predicted the Covid pandemic or that it would be inundated with requests for payment holidays due to the resulting Government/Financial Conduct Authority (FCA) guidance about helping borrowers affected. So, HSBC was dealing with substantially more enquiries than before the pandemic while operating in a 'lockdown'/homeworking environment. I think it would have taken some time to adjust to that.

HSBC says its branch advisors didn't have access to emails or their work mobile phones, but they did have 'out of office' messages set telling customers what they should do. And it says the adviser Mr and Mrs K was trying to contact did the same. I've thought about that and have come to the same conclusion as our investigator. I've seen no evidence the adviser set any kind of 'out of office' message. And, it's likely that, had the adviser done so, Mr and Mrs K would have taken different action sooner than they did – probably the action outlined in the 'out of office' message, had there been one.

As I don't think it's likely the adviser set an 'out of office message, that means I do think HSBC could have done more to inform Mr and Mrs K what they should do in the situation they found themselves in. But I've also thought about whether Mr and Mrs K could have done more to move their application forward sooner. I've said I think their first contact in June 2020 was probably soon enough. And I also think it's reasonable that they didn't try something else – be that trying HSBC's main phone lines or even trying a different provider –

when they didn't get a response after that first email. But soon after that, I think they should have tried something different, given the relatively small timeframe.

Mrs K has said they tried HSBC's main switchboard – hanging on for hours, sometimes having the line drop out completely after half an hour or so. I've not seen evidence to show at what point they started doing that or how many times they tried, though I understand how frustrating that must have been. And while I don't know how long it would have actually taken to speak to HSBC that way, or whether waiting times varied throughout the day/week, I have thought about whether additional effort may have been worth it to mitigate the cost they've incurred. But I don't think Mr and Mrs K would have known the full extent of the additional cost at that time and I think their efforts to progress the matter do sound reasonable.

I've also thought about HSBC's change in criteria requiring Mrs K to obtain evidence of income from her employer. I understand that would have been new information to Mrs K and that it slowed the application process further. But I think it's reasonable for HSBC to change its lending criteria and, more generally it's appetite for risk in response to market and other conditions. In this case it was merely responding to the effects of the Covid pandemic on the stability of employment and I think that's a reasonable thing for a responsible lender to consider. I also don't think that delay had any impact on the substantial part of Mr and Mrs K's complaint – the delay resulting in the cost of removing Mr K from the deeds – as Mr K had already passed his 75th birthday by then.

Overall, I think the circumstances of the Covid pandemic played a huge part in the delay and the cost to Mr and Mrs K resulting from that delay. I think HSBC's service could have been better in this instance and I think it has acknowledged that by offering to pay for half of the costs Mr and Mrs K has incurred. Importantly here, while I think the adviser's out of office message may have pointed Mr and Mrs K in the right direction sooner, I can't say that would have resulted in a different outcome.

Mrs K has said they incurred their costs through no fault of their own. But I'm mindful of the fact that Mr and Mrs K was the party that wanted the application to proceed, not HSBC. So, to allow it to proceed, Mr and Mrs K chose to pay the costs of the additional work to remove Mr K from the deeds. Had the Covid pandemic not happened, it's unlikely they would have incurred those costs. So, it's the Covid pandemic that changed their situation more than HSBC.

Putting things right

Given what I've said, I think HSBC's offer to pay 50% of Mr and Mrs K's costs listed in the background section above is fair and I think it's a reasonable way to resolve this complaint. So, it should pay them:

- £147 in respect of transfer of equity
- £90 in respect of removal of restriction
- £165 in respect of registration of declaration of trust
- £402 in total

However, I don't think HSBC should pay half the cost of adding Mr K back on to the deeds at the end of the mortgage. That's because it may – due to any number of unforeseeable circumstances – never become necessary to add Mr K back onto the deeds. Or Mr and Mrs K may simply choose not to in the absence of necessity.

My final decision

My final decision is I partially uphold Mrs K's complaint about HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 18 May 2022.

Gavin Cook
Ombudsman