

The complaint

This complaint is brought by Mr M in his capacity as a director of a company I will call DE. The company's complaint is that delay by HSBC UK Bank Plc in processing a mortgage application caused financial loss to DE, which Mr M wants HSBC to reimburse.

What happened

I will summarise the complaint in less detail than it's been presented. There are several reasons for this. First of all, the history of the matter is set out in detail in correspondence, so there is no need for me to repeat the details here. I will instead concentrate on giving the reasons for my decision.

I also note that HSBC has acknowledged there were delays, and has offered compensation. I therefore don't need to analyse the events in depth, but instead will consider if there were any other delays or errors attributable to any acts or omissions on the part of HSBC for which additional compensation is warranted.

Finally, our decisions are published, so it's important I don't include any information that might lead to Mr M or DE being identified. So for these reasons, I will keep my summary of what happened quite brief.

DE was moving to new business premises and required a commercial mortgage of £143,500 from HSBC. It was anticipated by both Mr M and HSBC that the mortgage would be completed and the funds drawn down on 22 July 2022. As part of the application process, HSBC arranged for a valuation report to be carried out. The valuation report identified a potential risk in relation to asbestos.

Regrettably, while Mr M's relationship manager (RM) was on holiday, matters weren't progressed as they should have been, leading to a two-week delay. Once the RM returned and the documents were reviewed, the asbestos issue was noted. As a result, HSBC needed to see an Asbestos Certificate. This could have been requested two weeks earlier.

It wasn't until 2 September 2022 that the mortgage was drawn down, approximately six weeks after the original expected completion date of 22 July 2022.

On behalf of DE, Mr M complained. He said that the delay had caused financial loss to DE. Mr M said that the company had had to pay storage costs for several months, because the company hadn't been able to move into the new premises until November 2022.

Mr M wanted HSBC to compensate DE for this and to pay him compensation for his time, which he calculated at £900 for three days dealing with HSBC over and above 'normal' allowances, as well as having to undertake the management of DE at two premises. Mr M also said that DE was 'homeless' and wanted HSBC to pay the company £1,000 for stress caused as a result of this, and to reimburse the £250 cost of an asbestos survey which Mr M didn't think was necessary. In total the compensation DE was claiming was £4,427.28.

HSBC acknowledged there had been a small delay, and offered compensation of £1,200, broken down as £500 for the inconvenience to which the company had been put and £700 to cover any financial loss caused by this delay. Dissatisfied with this offer, Mr M raised DE's complaint with our service.

An investigator looked at what had happened but didn't think HSBC needed to do anything more. He thought, given what the surveyor had said about asbestos, that it was reasonable for HSBC to want further information about this.

As far as compensation was concerned, the investigator wasn't persuaded that all the delays were attributable to HSBC. He noted that the delay in moving to the new premises was because DE had been too busy to move in September 2022 and October 2022, and in November 2022 Mr M had been away. Given this, the investigator didn't think HSBC was liable to pay any additional compensation.

The investigator also explained that a limited company couldn't claim compensation for distress or inconvenience. He also wasn't persuaded that Mr M should be paid a daily rate for his time, as Mr M was claiming. Overall, the investigator thought that the compensation offered by HSBC was adequate.

Mr M, on behalf of DE, disagreed and asked for an ombudsman to review the complaint. He's made some further points, which I summarise below:

- he thinks the asbestos report wasn't necessary;
- it was only two weeks after the original completion date had passed that HSBC first requested the asbestos surveyor;
- it's *"common knowledge that surveyors' reports cannot and do not rule in/rule out all sorts of things. They are vague, stuffed with exclusions and notes, and often inaccurate. HSBC hiding behind this kind of get out is not acceptable when evidence had been presented to them"*;
- once the asbestos issue was resolved, there were then several more weeks of delay by HSBC until 2 September 2022 when the mortgage completed;
- it is *"nonsense"* that a company cannot feel distress, and unacceptable for HSBC to hide behind this excuse – HSBC has an obligation to put this right;
- as an employee/owner of DE, he had to spend a lot of time dealing with HSBC and so is entitled to be compensated for this at the daily rate of £300.

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 appreciate Mr M believes there was no issue with asbestos and so it wasn't necessary for HSBC to be provided with any further reports on this. However, HSBC was entitled to rely on the opinion of its own independent surveyors when it was considering this commercial mortgage application. The valuation report was for HSBC's own purposes, and it was entirely reasonable, in my opinion, for HSBC to take seriously the concerns of its own professional advisers in relation to an issue that could have affected the bank's security.

HSBC is entitled to decide the level of risk to which it is prepared to be exposed in any commercial transaction, and that includes any issues that might affect the building. I acknowledge Mr M thinks it wasn't necessary for HSBC to ensure the building was free of asbestos, but I'm satisfied this was a legitimate concern that HSBC was entitled to raise, and have answers to.

I've looked at the timeline of events, and I can see that there was a delay by HSBC after it received the valuation report on 11 June 2022 before anyone picked up the issue with the asbestos. That didn't happen until 21 June 2022. HSBC has accepted that it "dropped the ball" here. However, I'm not persuaded that, even if the asbestos issue had been dealt with immediately, that completion would have taken place by 22 July 2022 in any event – but for reasons that were not the fault of HSBC.

I note that on 27 June 2022 and 8 July 2022 HSBC requested the signed mortgage deed and Board Resolution. HSBC had to chase receipt of these on 25 July 2022. The asbestos survey was received on 12 August 2022, but HSBC had to chase again the signed mortgage deed and Board Resolution on 18 August 2022. These were logged on HSBC's system on 26 August 2022.

In the circumstances, I'm not persuaded that the reason the mortgage didn't complete on 22 July 2022 is as a result of delays that can be wholly attributable to HSBC. The timeline shows that documents the bank required to put the security in place were not returned until after the issue with the asbestos had been resolved. Consequently, whilst I accept there were delays by HSBC, I'm not persuaded that the bank is wholly responsible for the mortgage not completing by 22 July 2022.

That brings me to the question of compensation. At this point, it may help if I explain that as DE is the party complaining, I can't make an award for any distress caused to its director. That doesn't mean that I don't believe Mr M was distressed; it's simply that the complainant is a limited company and as such it can't suffer distress. What I can do is make awards for financial losses or for inconvenience.

I've looked at the financial losses Mr M has claimed. DE is claiming rent of £569.32 per month on storage units for August-November 2022 inclusive. However, after the mortgage completed on 2 September 2022, DE didn't move into its new premises straight away. Mr M has explained that the move didn't happen for two reasons – he was too busy in September and October, and he was away in November. In the circumstances, I'm not persuaded that the delay in moving was as a result of any error on the part of HSBC.

I'm also unable to compensate DE based on Mr M's claim for a daily rate of £300 for the time he spent dealing with HSBC. Mr M's time away from day-to-day business matters will have caused DE inconvenience, for which I can award compensation. But I'm not persuaded, over and above the compensation already offered by HSBC, that DE suffered a financial loss equal to the daily rate Mr M is claiming. DE can't simply charge HSBC Mr M's daily rate for the usual service it provides to its customers, as DE has no contract to provide services to HSBC.

I am satisfied that DE was inconvenienced by the delay caused by the bank in identifying the need for an asbestos report, and that HSBC must pay appropriate compensation for this delay.

Putting things right

I'm satisfied that the two-week delay by HSBC in June 2022 relation to the bank failing to identify the asbestos issue in the valuation report resulted in inconvenience to DE. I'm satisfied that £500 compensation for this is fair, and proportionate to the error made by the bank.

I think £700 compensation for financial loss is also fair and reasonable, given my findings that the delays in completing the mortgage after 22 July 2022 were not as a result of any

error, act or omission on the part of HSBC, and that the bank wasn't responsible for DE's decision not to move into its new premises until the end of November 2022.

My final decision

My final decision is that I partly uphold this complaint. In full and final settlement, HSBC Bank UK Plc must pay DE compensation of £1,200. I make no other order or award.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any correspondence about the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M on behalf of DE to accept or reject my decision before 12 September 2023.

Jan O'Leary
Ombudsman