

## **The complaint**

Through his representative, Mr S complains that HSBC Life (UK) Limited surrendered his Maximum Investment Plan (MIP) when he hadn't instructed it to do this.

To put things right, Mr S ideally wants HSBC to reinstate his investment or otherwise, pay him compensation to reflect the capital growth he would have received if HSBC had not surrendered the MIP and Mr S had remained invested in it.

## **What happened**

In 2012, Mr S invested in an HSBC MIP. He paid in £300 monthly and the ten year plan was set up with a maturity date of 7 November 2022.

Mr S was unhappy to receive a letter from HSBC in December 2022, saying that the MIP was being surrendered, when he had given no such instruction and he would have preferred to continue the MIP.

HSBC said it had sent Mr S two letters in advance of the maturity date which set out his options and reminded Mr S that he needed to provide instructions at least one month before the maturity date, failing which the whole plan would mature in line with the MIP terms and conditions.

Unhappy with this response, as Mr S said that neither he nor his financial advisor had received letters from HSBC ahead of the MIP maturity date, the complaint came to us.

Our investigator didn't feel he had seen enough to uphold Mr S' complaint. He said HSBC had provided evidence to show it had sent the maturity letters and HSBC had acted fairly and reasonably in line with its terms and conditions when it surrendered Mr S' MIP on the maturity date in default of receiving any other instructions from Mr S.

Mr S disagreed with our investigator and requested an ombudsman referral, saying:

- letters sent by HSBC in August and September 2022 were not received by Mr S or his financial advisor so '*... We were therefore unable to inform HSBC that we did not want the plan to be surrendered.*'
- The letter sent by HSBC in December 2022 referred to Mr S' '*recent instruction to fully surrender*' the plan, which HSBC has acknowledged was misleading when no instruction was ever provided.

The complaint comes 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 carried out an independent review and having done so, I've reached the same conclusion as our investigator. I'll explain my approach and how I've reached my decision.

We offer an informal dispute resolution service and we focus on deciding whether a financial business has made any error or acted unfairly or unreasonably.

It's my understanding that the crux of Mr S' complaint is that HSBC shouldn't have surrendered the MIP before checking with Mr S that this was what he wanted to happen. And he feels that HSBC then compounded its error by subsequently writing to Mr S to suggest that he had given instructions for the surrender when that was not the case – and he hadn't wanted to surrender the MIP.

HSBC's terms and conditions were in the paperwork sent to Mr S in October 2012 when he took out the MIP, which included the Policy Document and Key Features information along with notice of his cancellation rights. He would have been able to see the following:

***'5. Plan extension option***

*At the end of the initial plan period...you have the option to request that some or all of your policies are extended for a further 10 years .....*

*To exercise this option we must receive written notification at our Administration Office at least one month before the maturity benefits are payable.*

***6. Surrender***

*We may surrender your plan or any policy in your plan by giving you written notice where:*

*...*

- you or your adviser have failed to provide by specified deadlines such information as we have requested from you to fulfil our legal or regulatory obligations,*

***8. Instructions to us***

*... we will require written notification, together with any supporting documentation we request, before we can action any of the following:*

*...*

- exercise of plan extension option,*

***16. Plan maturity***

*Your maturity benefits will become payable at the maturity date or, if you have extended your plan in accordance with clause 5, at the revised maturity date. Your plan will then end and we will have no further liabilities or commitments under your plan.*

***19. Payment of plan proceeds***

*Where plan proceeds are payable under clause 16...we will undertake the following actions;*

- sell all the fund holdings allocated to all of the policies in your plan where maturity or death benefits are to be paid or, sell the relevant fund holdings applicable to the individual policies being surrendered to meet surrender requests,*
- credit the sale proceeds to your cash account on the settlement date(s)...*

It's agreed by both parties that Mr S didn't provide instructions to HSBC ahead of his MIP reaching its maturity date. So I can't fairly say that HSBC did anything wrong when it took action to surrender the MIP in line with its business terms.

HSBC still needed to treat Mr S fairly and reasonably. I've thought carefully about whether it was fair and reasonable for HSBC to proceed with the surrender when it didn't have instructions from Mr S.

HSBC told me that maturity letters are automatically generated and posted 1st Class (Royal Mail) two months prior to the maturity date, and a further letter is triggered one month after that if the policy holder has not made contact.

HSBC has provided a back scanned copy of a letter dated 9 August 2022 sent to Mr S some three months in advance of the maturity date which said his MIP would mature on 7 November 2022 and set out options:

Option 1 - allow the whole plan to mature and take the proceeds

Option 2 – continue the whole plan for a further ten years

Option 3 – Allow some policies in the plan to mature and others to continue.

The letter included a reminder that HSBC needed instructions at least one month before the maturity date otherwise the whole plan would mature with the proceeds going to Mr S' cash account.

HSBC has also provided a back scanned copy of a further letter sent to Mr S dated 8 September 2022 which repeated the key information included in its 9 August letter.

I find that HSBC took fair and reasonable steps to remind Mr S about the impending maturity date and prompt him to provide instructions if he didn't want the plan to be surrendered at the end of the initial ten year term.

I have no reason at all to doubt that Mr S is certain about what he's told us. But what he says about not receiving either of these letters isn't enough for me to be able to uphold his complaint. I have to decide whether I'm persuaded that HSBC sent these letters. I must look at all the available information and apply the test of 'balance of probabilities'. This means making some reasonable assumptions where there's only limited information. And I must be impartial. I am satisfied that HSBC has shown me that it did more likely than not produce the letters and that these were sent to Mr S at his correct address. I can't fairly hold HSBC responsible for any possible problems with postal deliveries.

The MIP terms say that all notices are sent by post. So I wouldn't reasonably expect HSBC to have taken any other action to contact Mr S – particularly bearing in mind that HSBC was aware that Mr S already had information which included the maturity date and given that the default option was effectively one of the choices he had available.

All this leads me to the conclusion that I haven't seen enough overall to be able to say that HSBC acted unfairly or unreasonably when it surrendered Mr S' MIP.

I've taken into account that HSBC's letter dated 15 December 2022 incorrectly referred to Mr S having provided an instruction to surrender the plan. But the important point of this letter was the confirmation that the surrender would be actioned. I have found that HSBC was entitled to take this action in line with its terms and conditions and that HSBC acted fairly and reasonably when it did this. So what Mr S has said about this doesn't affect my overall view.

In order to uphold Mr S' complaint I have to be able to fairly say that HSBC has done something wrong or acted unfairly or unreasonably – and I haven't seen enough here to do so. So I can't award the redress Mr S would like me to.

I hope that setting things out as I've done is helpful and even though this isn't the outcome Mr S hoped for, he will at least feel that the Financial Ombudsman Service has fully considered his complaint.

**My final decision**

I don't uphold Mr S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 2 April 2024.

Susan Webb  
**Ombudsman**