

## **The complaint**

Mr C complains that HSBC UK Bank Plc delayed his claim for support for mortgage interest (SMI) – a regular benefit payment from the department of work and pensions (DWP).

## **What happened**

At the time of Mr C's complaint, he had a mortgage with HSBC for approximately £47,600, the term on which expired in April 2023. So, HSBC was seeking repayment of the outstanding balance. And Mr C was marketing his property for sale so that he could repay the outstanding balance.

The mortgage was split into two accounts – the interest rate that applied to both accounts was 6.25%, meaning HSBC required a monthly payment of approximately £96 on the first account and approximately £152 on the second.

Mr C visited an HSBC branch on 24 January 2024 so that it could complete sections of his application form for SMI. He asked for the completed forms to be returned to him for submission to DWP. But HSBC submitted the forms directly as per its usual process and the instructions on the DWP form. It sent him a copy of the completed forms on 2 February 2024.

HSBC file notes state it sent Mr C's application form to DWP on 30 January 2024. Mr C called HSBC to say DWP still hadn't received the SMI application form and provided a different address for DWP. HSBC's file notes state it sent the form again on 4 March 2024, using the new address. And a letter confirming that was sent to Mr C on the same day.

Mr C emailed HSBC again on 23 March 2024 saying DWP still hadn't received his application form.

Mr C complained to HSBC on 27 March 2024. HSBC called him to discuss the matter on 3 April 2024. Mr C followed that call with an email to HSBC asking for the form to be resent by recorded delivery.

In its final response letter dated 30 March 2024, HSBC said it had sent the SMI application forms twice and that he should contact DWP to find out what was happening. But HSBC paid Mr C £50 as a gesture of goodwill.

Mr C complained again on 9 April 2024. HSBC sent him a further final response letter on 30 April 2024. In that letter, HSBC acknowledged that it hadn't carried out his request for the application forms to be sent a third time by recorded delivery. It committed to doing so and paid him £50 for the inconvenience caused.

I've seen that, since complaints were made and responded to, HSBC sent the application form again – this time by special delivery – on 1 May 2024, and a tracking number was obtained.

HSBC received a payment from DWP for £456.22 on 10 June 2024. It sent a letter to DWP acknowledging the payment and asking for confirmation of the weekly benefit it could expect to receive. And further payments of £48.77 on 22 July and 8 August 2024 were received by HSBC – up to the time it responded to our enquiries.

Dissatisfied by HSBC's response to his complaint, Mr C asked us to consider it. Our investigator didn't uphold Mr C's complaint. He said he's not seen evidence that HSBC acted unfairly, and he thought HSBC had sent the forms to DWP as requested.

Mr C didn't accept our investigator's opinion. He said a record HSBC has of it sending the SMI forms to DWP is not proof beyond reasonable doubt that it actually sent the forms. He also said he's firmly of the belief that HSBC was deliberately not sending the forms to DWP so that he would default on the mortgage.

As Mr C didn't accept our investigator's view, his complaint has been passed to me to decide.

### **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 Mr C's complaint, I've thought about whether the evidence indicates HSBC did what I'd expect with regard to its handling of Mr C's SMI application. And, given Mr C's thoughts on the matter, I've thought about whether it's more likely than not that HSBC took the action it says it did – in particular, whether it sent Mr C's SMI application to DWP, having completed the relevant sections.

Before moving on to outline my thoughts on what happened and explaining my decision, I'd like to comment on Mr C's comments about the level of "proof" required for me to decide his complaint. When a complaint is brought to us, we're required to consider all the evidence available, taking account of the relevant legislation and guidance, good industry practice, and the wider circumstances of a complaint. Evidence isn't the same as proof and we're not required to prove a point beyond reasonable doubt to reach a finding. Instead, having considered the factors mentioned above, our findings are based on what we consider most likely to have happened on the balance of probabilities.

In his correspondence to us, Mr C has explained what he thinks is most likely. I've considered what he's said in that regard before reaching my decision.

HSBC has sent us evidence showing entries on its system of when letters were sent to DWP and copies of those letters showing that the completed SMI application form was included. That evidence supports the series of events I've outlined in the "what happened" section above. I accept Mr C's concerns that evidence such as this is not proof beyond reasonable doubt. However, I only need to be persuaded, on the balance of probabilities, that HSBC sent the letters when it said it did, to the address(es) it said it did.

To doubt the evidence I've seen, I'd need to be persuaded that HSBC fabricated it or amended it in some way for the sake of our investigation. Firstly, it's not my experience that businesses – including HSBC – do that in order to 'win' a case. Even if I were to accept that HSBC would consider doing so in this case or cases like it, I think the risk of it doing so far outweighs any potential gain to it. I think the potential damage to HSBC's reputation alone would outweigh any financial gain to HSBC in forcing Mr C to default on his mortgage.

I know, and fully accept that the maintenance of Mr C's mortgage is hugely significant to him, but – while I would of course expect HSBC to take the matter seriously – the possible gains

from Mr C's default are not nearly as significant to it. I'm not persuaded that any such gains would be sufficient for HSBC to, firstly, deliberately not send the SMI forms to HSBC and secondly, alter its records so that it would falsely appear that it had sent them correctly.

I understand that Mr C may feel that my thoughts in this regard are based on a certain level of trust – trust that he doesn't share. But more significant than that, my thoughts are based on experience and a weighing-up of the value to HSBC of it acting dishonestly in this matter. I hope that's something that comes through in what I've said above.

I've also thought about what happened when DWP responded to HSBC. The evidence available doesn't show that DWP explained what its initial payment to HSBC was for. But it appears to have been a payment to reflect the months of benefit Mr C would have received if DWP received the SMI application when he originally completed the forms. I can see that HSBC did send the application form by special delivery on 1 May 2024. But I haven't seen that it's clear what instance of HSBC's sending of the application DWP actually responded to. So, I can't be sure that the application was only successful because HSBC sent the form by special delivery.

In any event, I don't think HSBC was required to send the application form by special delivery. The evidence shows that it sent the form twice before doing so by special delivery – on the second occasion changing the address to one Mr C had specified – and I think that ought to have been sufficient.

I note also that the application was, eventually, successful and I haven't seen that Mr C defaulted on his mortgage as a result of any delay in DWP receiving his application. So that adds weight to my thoughts that HSBC wasn't motivated to see the mortgage default. If HSBC was genuinely motivated to see his application fail, as Mr C claims, I wouldn't expect to have seen it send the application by special delivery on 1 May 2024.

Overall, I think HSBC acted reasonably in submitting Mr C's application for SMI benefit and I don't think it deliberately acted to cause his application to fail or that it falsified evidence.

### **My final decision**

My final decision is I don't uphold Mr C's complaint about HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 14 November 2024.

Gavin Cook  
**Ombudsman**