

The complaint

Mr and Mrs B's complaint is about the actions HSBC UK Bank Plc took to recover an outstanding mortgage debt. Mr and Mrs B believe HSBC put undue pressure on them, as a result of which they accepted a lower price for the property. Mr and Mrs B are also unhappy about legal costs added to the mortgage.

Mr and Mrs B would like HSBC to compensate them for their losses.

What happened

I don't need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, HSBC has made an offer of settlement. What I have to decide, therefore, is whether I consider the offer to be fair, or whether there is anything more HSBC is required to do.

Finally, our decisions are published, so it's important I don't include any information that might lead to Mr and Mrs B being identified. So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision.

Mr and Mrs B had a residential mortgage with HSBC. In July 2022 the bank was told by Mrs B that the mortgage was no longer affordable and that she and Mr B had split up. In December 2022 Mrs B told HSBC she had moved abroad, and that the court in the matrimonial proceedings was considering whether the property could be put into her name and then rented out.

In order to assist Mr and Mrs B, and to allow financial matters to be resolved within their marital proceedings, HSBC agreed to five payment breaks, two 'breathing spaces', a temporary acceptance of contractual payments which was not maintained, and two voluntary sale agreements.

By January 2024, with HSBC having difficulty in engaging with Mr and Mrs B (who had by this time moved abroad), the bank issued a demand for payment. The arrears were over £36,000 and no payment had been made for 18 months.

HSBC began legal action to recover possession of the property, as a result of which legal and court fees were incurred, including additional fees for service outside the jurisdiction, given that Mr and Mrs B were not in the UK. The property was sold by Mr and Mrs B in July 2024, at which point the arrears were over £50,000.

Mr and Mrs B believed HSBC had acted unreasonably in taking legal action when the bank knew they were trying to sell the property. Mr and Mrs B said that, feeling under pressure from HSBC, they sold the property for less than they believe it was worth in order to stop further action from being taken.

Mr and Mrs B complained to HSBC, which didn't uphold the complaint. Mr and Mrs B brought their complaint to our service. After a detailed investigation, the Investigator thought

HSBC had acted too hastily in taking legal action, given that there appeared to be a sale going ahead. She asked HSBC to refund – where it had not already done so – the following sums:

- £355 court fee;
- £490.90 legal fees;
- £759 fee for service outside the jurisdiction.

The Investigator also asked HSBC to remove all interest charged on those sums and refund that as well. In addition, the Investigator thought HSBC should pay 8% simple interest on the final refund figure from the redemption date (24 July 2024) to the date of settlement. The Investigator also asked HSBC to refund 5 days of interest for delays with the redemption.

The Investigator noted that HSBC had already paid £250 compensation for distress and inconvenience (£50 in May 2024 and £200 in August 2024) and so didn't require the bank to pay any additional compensation.

HSBC agreed with the Investigator's findings and agreed to pay the recommended compensation. Mr and Mrs B didn't agree, however, and asked for an Ombudsman to review the matter. Mrs B, who has dealt with the complaint throughout, says that she hasn't been provided with unredacted invoices to show the amounts charged. Mrs B also says that they lost £80,000 on the sale, and said that she didn't think the proposed settlement was fair. Mrs B said that she had no idea any compensation had been paid to Mr B, and that in any event £50 of that was in relation to Mr B's current account, not the mortgage.

Because the matter is unresolved, it falls to me to issue 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.

As I said above, because HSBC has made an offer to settle the matter, I do not need to go into depth about what happened. All I need to decide is whether I consider the bank's offer to settle the complaint is fair and reasonable.

Given the level of arrears on the mortgage, and that Mr and Mrs B had moved abroad, I'm not persuaded it was unreasonable for HSBC to consider legal action and to instruct solicitors. I'm not persuaded HSBC breached, as Mrs B claims, the Mortgage Pre-Action Protocol. But in any event, it would be for the court to decide whether this was the case, not our service. Mr and Mrs B had stopped paying the mortgage and had moved abroad, and in the absence of any payment proposals, I think the bank was left with no other option but to consider enforcement action.

However, details of a sale had been provided on 12 April 2024, and I agree with the Investigator that at this point HSBC should not have incurred further legal costs. I'm therefore satisfied that the court fee of £355 and the fee for service outside the jurisdiction of £759 should be refunded, and interest charged to the mortgage account on those sums reimbursed.

I'm satisfied Mr and Mrs B aren't entitled to see the invoices for legal work where these contain details of other customers. The relationship between HSBC and its solicitors is

legally-privileged. However, I'm satisfied the other legal costs incurred are reasonable and do not appear to me to be either excessive or to have been charged unnecessarily or for work that wasn't actually done. I'm therefore satisfied that no further refund of legal costs is due to Mr and Mrs B.

HSBC suspended legal action on 19 April 2024 and the sale of the property went ahead. There was a five-day delay in providing a redemption statement, and I think it's fair for HSBC to remove the interest charged to the mortgage account for that delay, which I understand HSBC has done in any event.

I'm not persuaded by Mrs B's argument that the property was sold for substantially less than she believes it was worth, or that the bank pressured her and Mr B into selling it. I note a similar property in the same street sold for £65,000 less than Mr and Mrs B's property two months after the mortgaged property had been sold. Mr and Mrs B could have sold the property at any point, once they'd moved out and stopped paying the mortgage on it. In the circumstances, I can't hold HSBC responsible for the price Mr and Mrs B agreed to accept for the property.

I'm satisfied that HSBC's actions caused Mr and Mrs B some distress and inconvenience. However, I note that HSBC has already paid £250 compensation, and so I'm not going to order the bank to pay anything further.

Putting things right

To settle the complaint, I direct HSBC UK Bank Plc to do the following, where it has not already done so:

1. Refund the following fees:
 - £355 court fee;
 - £490.90 legal fees;
 - £759 fee for service outside the jurisdiction.
2. Remove interest charged to the mortgage account on those fees and reimburse this.
3. Pay simple interest of 8% per annum on the total refund figure from the date of redemption of the mortgage to the date of refund.

Because Mr and Mrs B are no longer together, the refund should be paid in half-shares to each of them separately. If Mr and Mrs B accept this final decision, they must provide us with their bank details so that the Investigator can arrange for the payment to be made direct from HSBC.

I note the bank has already refunded five days' interest as a result of delays in providing a redemption statement, so no further action is needed in this respect. I also note that HSBC has paid £250 compensation for distress and inconvenience, so no further action is required in this respect.

I know this isn't the outcome Mr and Mrs B were hoping for. I appreciate the difficulties with the mortgage arose out of unhappy circumstances – the breakdown of their marriage. But I'm satisfied that HSBC tried to help Mr and Mrs B with their financial difficulties. Ultimately, given that there'd been no payment to the mortgage for a considerable period of time, there

was no other option but for the bank to instruct solicitors. The property was no longer Mr and Mrs B's main residence, they were living abroad, and had no credible way of repaying the mortgage and the arrears other than from a sale of the property.

HSBC was under no obligation to allow the situation to continue indefinitely, with the arrears continuing to accrue, until Mr and Mrs B sorted out their marital dispute about what was going to happen with the property. I also note that, even after the property sale was under way, HSBC agreed a payment break, which I'm satisfied was more than the bank was required to do, given the circumstances. So although I'm conscious of the background circumstances, and how stressful this must have been for Mr and Mrs B, I also have to take into account the bank's position, and, having done so, I think this is a fair resolution to the matter.

My final decision

My final decision is that HSBC UK Plc must settle the complaint as directed above. 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 discussion about it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 28 February 2025.

Jan O'Leary
Ombudsman