

The complaint

Mr and Mrs L complain about what happened when they tried to port their existing mortgage with HSBC UK Bank Plc. They said HSBC unreasonably refused to lend on the property they had already committed to moving to, which caused them foreseeable harm.

What happened

Mr L said he had been a customer of HSBC for decades. He and Mrs L had an existing mortgage on their then home, which had been on a fixed rate since 2020. That rate was due to end at the end of September 2025, and there was an Early Repayment Charge ("ERC") if the mortgage was redeemed before then.

Mr L told us that he'd taken this mortgage because it was portable, allowing him to transfer the rate to a new home. He said he and Mrs L knew they might want to move during the fixed interest rate period.

Mr and Mrs L sold their existing home, and agreed to purchase a new home, in 2024. The sale and purchase didn't happen at the same time – sale of their home happened in September 2024, but the purchase couldn't complete until March 2025. Mr L did, however, exchange on both properties at the same time, and paid a sizeable deposit towards the purchase of the new property. So he and Mrs L were legally committed to that purchase.

Mr L said he started a mortgage application, including to port his existing mortgage. But HSBC objected to the property he was purchasing. It had previously been two homes, now converted into one, and was still on two separate titles.

Mr L said the mortgage advisor did the application, but then emailed the next day, 4 September, to say he was worried that as the property was on two titles, it wouldn't be acceptable security for mortgage lending. Mr L said he was surprised, there was no indication of this in the mortgage documentation, and his solicitor hadn't warned him this could be an issue.

Mr L said he challenged whether this was really a risk for HSBC, and also how he could have been aware of that. But on 12 September HSBC confirmed that it wouldn't lend unless the titles were merged.

Mr L said he did then go ahead with merging the titles, although he had to pay for that. He asked for the processing of the application to go ahead on this basis, but on 25 September HSBC said it would not lend on this property, even if the titles were merged.

Mr L said HSBC gave four reasons, and he didn't think any of them justified a refusal of lending, or even were specific to this property. He said he replied, but HSBC wouldn't change its mind. Mr L said HSBC told him this decision was final.

Mr L said there was lots of equity in the property he was intending to purchase. He thought that HSBC had made its decision just to be able to collect the ERC on his mortgage, and to

be able to relend the money it had lent him, at a higher interest rate. Mr L said this caused him financial harm. He wanted HSBC to pay back the ERC it had charged, and compensate him for the higher interest rate he was paying now.

HSBC didn't agree. It said that porting Mr L's mortgage was expressly subject to conditions, including that the new property must be suitable security. And for this property, it had four concerns. These were –

- 1) The need to check building regulations had been complied with when the property was converted from two properties to one.
- 2) Whether there was demand for this larger property in this area.
- 3) The two properties have separate original driveways and front doors, so externally there was nothing to prevent them being separated – HSBC said the risk of an owner splitting them back and renting one wasn't acceptable.
- 4) The resistance by lenders to accepting the property, which meant a difficulty in selling in possession or default, with a higher risk of losses.

HSBC said reasons three and four were enough for it to decide not to lend. It had seen Mr L's response to its concerns, but wouldn't change its mind. HSBC said an ERC applied to Mr and Mrs L's lending, so when they moved their mortgage elsewhere, HSBC wouldn't refund that.

Our investigator didn't think this complaint should be upheld. He could see Mr L's mortgage was portable, but this was subject to HSBC being “... *satisfied the new property being offered as security is acceptable*”. He said HSBC makes its own commercial judgement about the risk levels it is comfortable with. That's not something our service can interfere with. He thought HSBC had reached a fair decision, and communicated the reasons for it.

Our investigator said when Mr L exchanged contracts, he had no guarantee HSBC would lend on the property he was going to buy. The agreement in principle that Mr L had then was clearly marked as only an indication of what HSBC could lend, and again was expressly subject to the property being suitable security. He didn't think HSBC had to do any more.

Mr L said he had a reasonable expectation that the property being purchased would be deemed as eligible security. There was nothing to suggest otherwise in any of the documentation provided. He said he couldn't have known this was a risk.

Mr L also insisted that HSBC had not explained what the problem was with this property. And without that explanation, he said this couldn't be a fair outcome.

Mr L said he knew he didn't have a firm offer from HSBC when he sold his old home. He said that wasn't his complaint. He said the people he was talking to at the bank told him they didn't understand the risk, but advised him to merge the titles, and that would resolve the issue. So Mr L said he incurred the costs of merging the titles. But then he was told that this wouldn't resolve things after all.

Mr L said HSBC sent him four reasons why it wouldn't lend, but he said none of those reasons seemed to have any reasonable merit or represent heightened risk. He said he'd replied to HSBC explaining why it was wrong, but he'd received no further explanation.

Mr L said the decision HSBC made resulted in a windfall gain for the bank both through keeping the ERC and benefiting from being able to lend the proceeds at now higher rates. He said a more reasonable outcome would be that porting was denied but some or all of this windfall was shared with him.

Mr L responded on each of HSBC's four reasons. He said building regulations had been obtained, and this was no different to any other property that had alterations. Mr L said that there were always examples of properties at different values on one street, so he didn't think there would be an issue with demand for the larger property. On the structure of the building, he said there weren't two separate driveways, they had been linked. There were two front doors, but one was just a secondary entrance, and the house would not be easy to split. And Mr L said he'd been able to obtain a mortgage from a choice of other lenders.

Mr L then said he thought what HSBC had done was a breach of the consumer duty, and he said the standard to apply here should be higher, because he had an existing mortgage, so had more to lose. He said HSBC wasn't acting in the best interests of him, as a customer. It hadn't communicated clearly, because he still had no idea why HSBC wouldn't lend on the property. And he said HSBC would clearly have made a profit out of its decision.

Our investigator stressed that we couldn't look at whether the ERC that HSBC had charged was a fair or proportionate amount, because Mr L hadn't yet complained to HSBC about that. And he wouldn't expect HSBC to publish detailed information on what was or wasn't acceptable security, which would cover all properties on the market. HSBC was entitled to assess that on a case-by-case basis. Our investigator said that the property Mr L was buying wasn't a common property type. HSBC had looked at this, and had given Mr L its reasons for not accepting that as suitable security. Although Mr L didn't agree, our investigator said HSBC doesn't necessarily have to enter a debate about this. It had looked at Mr L's complaint, but hadn't changed its mind.

Our investigator didn't accept that HSBC caused Mr L financial harm, and it wasn't refusing to let him port. The issue was that he'd chosen to go ahead with a purchase which HSBC didn't think was suitable security for its lending. Our investigator said he didn't agree that the consumer duty requires HSBC to accept the property as suitable security on the basis that if it didn't then Mr and Mrs L would face a financial loss due to the ERC being charged. And he did think HSBC had communicated its decision clearly.

Mr L said he thought our investigator had made mistakes. He said the original reason that HSBC gave for not lending was that the property was on two titles. But he said HSBC then told him, even if this was completed, this was not the reason HSBC would not lend. And he said the property did have two entrances, but it had one, merged, driveway formed from the two. He didn't think two front entrance doors was that uncommon, and he didn't think that justified HSBC's decision.

He still didn't think it was fair for HSBC to profit by £25,000 from this decision and for him to suffer by the same amount.

Mr L wanted to stress that he'd applied to port his mortgage on 3 September, and that up until exchange on 20 September, he'd repeatedly requested clarification that the two titles were the sole concern on the application. Mr L said that was confirmed by both his mortgage advisor and his personal banking advisor. So Mr L said there was an agreed path to resolution, which was that the two titles would be merged. And his delayed completion of the purchase meant there was time to do this. But it was only on 25 September, after contracts were exchanged, that HSBC suddenly started to raise other concerns, and saying it would still not lend, even if the titles were merged.

Mr L wanted an ombudsman to consider his complaint, so the case was then 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.

I've reached the same overall conclusion on this complaint as our investigator.

Firstly, I should say that I am satisfied that Mr and Mrs L's 2020 mortgage offer did make any porting of this lending in future, subject to any new property being something HSBC would consider as suitable security. I don't think that HSBC had given Mr L to understand that anything that wasn't "*non-standard construction*" would be suitable, and, like our investigator, I don't think it would be fair to expect HSBC to set out an exhaustive list of what might or might not constitute suitable security, in its terms and conditions or in its porting documentation. I do think it's reasonable for HSBC to say it will assess properties on a case-by-case basis.

Listening to the calls, it sounded as if Mr and Mrs L had already exchanged on their two properties, being legally committed to both the sale and the purchase, before they made an application to HSBC to port their mortgage. But they may simply have been putting the arrangements in place to do this. Mr and Mrs L started their mortgage application on 3 September, and they say they didn't exchange until 20 September.

Mr L's argument is that by this time, HSBC had reassured him on two key points – 1) that the only issue was the two titles on the property he wanted to buy, and 2) that this could be resolved if the titles were merged. Mr L said he had a "*reasonable expectation that the mortgage would be able to be ported subject to the merger of titles being completed.*" And it was only after exchange that this was refused for other reasons.

I've looked closely at the emails between Mr L and HSBC at this time. And I can see on 17 September, Mr L asked HSBC to progress his application, so it could receive approval subject to the merger of the two titles. HSBC did agree to move his application to the next stage. But it never told Mr L that this application was going to be approved. Mr L's property doesn't even appear to have been formally valued.

What HSBC agreed to do, was to pass the case to underwriters to consider. On 19 September, HSBC said clearly "*I'll ask the team to underwrite it as normal and provide you with a lending decision.*" I don't think that Mr L could have had a reasonable expectation at this point that HSBC would agree to port his mortgage to the property he wanted to buy, because I don't think HSBC had agreed to do any more than consider Mr L's application.

When it did consider his application, HSBC said no. It didn't think the property was suitable security for its lending. On 25 September, HSBC set out four reasons why it wouldn't lend.

I know Mr L disputes the reasons HSBC has given. He replied, saying he didn't accept them. I can see it may have been possible to assuage HSBC's concerns about building regulations and about the demand for properties in that area, but HSBC was clear that its third and fourth reasons (the risk of the property being demerged, and lower availability of lending on this sort of property) were enough for it to say this wouldn't be suitable security for it.

I understand Mr L strongly objected to the suggestion that he might demerge the property, and said he would be happy to sign an undertaking to this effect, but I do still think HSBC was entitled to make its own assessment of risk here. And, although I appreciate Mr L won't agree with me, I don't think HSBC has reached an unfair or unreasonable conclusion.

Mr L said HSBC had only reached this conclusion because of the money involved. But I

don't think it's likely that HSBC has made this decision solely so that it could charge Mr and Mrs L an ERC, or end their borrowing on an advantageous rate. I think it has made this decision because of additional risks it considers this property carries.

Mr L did then face the financial consequences of having to pay an ERC, and moving his mortgage to a lender charging a higher rate. And I've been able to hear on the call recordings that Mr L said if he'd known earlier HSBC wouldn't allow him to port, he may not have gone ahead with the transaction. But I don't think it's HSBC's fault that Mr and Mrs L had committed themselves to this purchase whilst their porting application was at a very early stage indeed, and before HSBC had reached any decision on whether it could lend on the house they wanted to buy. And I don't think it breaches the consumer duty for HSBC to then say it wouldn't lend on this particular property, which Mr and Mrs L were already committed to buying.

Mr L also said he incurred further costs, because he had to pay for the two titles on the properties to be merged. And he said he didn't need that after all, because his new lender was happy to accept two titles. But I haven't been able to see that HSBC is responsible, if Mr L did incur this cost. I can see Mr L emailed HSBC on the morning of 27 September, saying he was about to instruct the seller's solicitor to attempt to merge the titles, and asking if this was still needed. HSBC confirmed right away that it would not be able to lend even if the titles were merged. So I don't think Mr L incurred this cost because of anything HSBC did.

Mr L said HSBC's communications with him weren't clear. But on the calls Mr and Mrs L had with HSBC, I can hear that as soon as Mr and Mrs L described the property they were buying, HSBC's agent told him there might be concerns about the two titles. He confirmed that on their application call. Mr L said from the start that any objections could be overcome, but I do think Mr and Mrs L were warned about potential problems with the property they wanted to purchase from the outset. And, although HSBC then did agree to progress the application to a decision, it didn't do any more than that. It didn't indicate that Mr L's application would go through. I haven't been able to see that HSBC's communications with Mr L, either over the phone, or in emails, were unclear.

I know that Mr and Mrs L will be disappointed, but I don't think this complaint should be upheld.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L and Mr L to accept or reject my decision before 16 June 2025.

Esther Absalom-Gough
Ombudsman