

The complaint

Mr Y complains that HSBC UK Bank Plc failed to take steps to remove entries from his credit file arising from a personal loan fraudulently taken out in his name.

What happened

A current account and personal loan were taken out with HSBC by a fraudster using Mr Y's details, so the accounts were set up in Mr Y's name without his knowledge or consent.

When Mr Y discovered this, HSBC accepted that the accounts had been opened fraudulently and said it would arrange for them to be closed down.

But HSBC failed to close the loan account. As no payments had been made to the loan since it was taken out, HSBC had taken steps to recover payments from Mr Y and had reported the missed payments, and a default, to his credit file – even though it had said it would remove any adverse information and not take further collections activity.

Mr Y complained. HSBC accepted it was at fault and has since removed the entries from Mr Y's credit file. It has also offered him £2,500 compensation for his distress and inconvenience and has paid consequential financial loss for losses incurred by his limited company.

This complaint turns on whether HSBC has made an appropriate offer of redress, or whether there is more it needs to do to put matters right. Mr Y said it hasn't; he initially put his losses at around £111,000. This included losses both to him in his personal capacity, and losses to his limited company. I've previously issued a decision in which I explained that we could only award compensation to, and for losses suffered by, an eligible complainant – which in this case means that we can only award compensation for losses suffered by Mr Y himself, not losses suffered by his limited company.

Following that decision, our investigator looked at the merits of Mr Y's complaint. Mr Y said that he still thought HSBC should offer around another £16,500. But our investigator thought HSBC's offer was fair in all the circumstances, so Mr Y asked for his complaint to be decided by an ombudsman.

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 say, the underlying facts of this complaint are not in dispute. What remains for me to decide is the impact of HSBC's actions on Mr Y, and whether it has done enough to put matters right.

In March 2023, Mr Y had applied for a commercial mortgage with a different lender, secured against a property he already owned (which I'll call 24B). Mr Y borrowed just under £150,000. The purpose of the borrowing was to raise funds to invest in his limited company,

D, which the company would then use to purchase another property (which I'll call 71O) alongside a further mortgage.

D applied for the mortgage, but its application was rejected. Mr Y says that this was because of the adverse information HSBC had recorded about him and which, at this time, it had not yet removed. This meant that D was unable to go ahead with the planned purchase of 71O.

As well as the compensation it has already paid, HSBC has offered to reimburse any early repayment charge (ERC) should Mr Y repay the mortgage secured on 24B during its ERC period – in light of the fact that the money borrowed on this mortgage, which Mr Y intended to invest in D, is no longer needed because the purchase of 71O fell through. I understand that Mr Y has not yet repaid the mortgage on 24B, so no ERC has yet been incurred for HSBC to refund. But the offer to do so remains available, and I think that's fair.

In addition, Mr Y wants HSBC to refund the following costs he says he has been put to:

- Interest paid on the mortgage on 24B – over £9,000.
- Costs related to taking the mortgage out - £1,276 plus £3,625 lender fee.
- Cost of repaying the mortgage - £295 redemption administration fee.
- Cost of insurance on 24B - £292.
- Cost of alternative accommodation when purchase of 71O fell through - £1,536.

I'm not persuaded it would be fair to require HSBC to refund these costs. Our investigator asked Mr Y why he had not repaid the 24B mortgage when the purchase of 71O fell through. He told her that he had used some of the funds to repay other debts, some of the funds on personal expenses, and the bulk of the funds on purchasing a different property. That property needs substantial renovation, so Mr Y has not yet earned any rental income from it.

The purpose of the 24B mortgage was to raise funds for Mr Y to invest, via his company, in purchasing new property. Although he wasn't able to buy 71O, he has substantially achieved that purpose – he has bought new property with the mortgage funds. HSBC's mistake in not removing the adverse information prevented the 71O purchase going ahead, but it hasn't prevented Mr Y achieving his overall aim for the 24B mortgage.

With that in mind, I don't think it would be fair to require HSBC to refund the setup costs for the 24B mortgage. He took out a mortgage to invest in his company to buy property. He has done that. HSBC's error means he bought a different property. But nonetheless the 24B mortgage has achieved its aim. In those circumstances, it wouldn't be fair to expect HSBC to refund all the setup costs for that mortgage when those costs weren't wasted. Mr Y would always have had to have paid the setup costs to obtain a mortgage to invest in property. He has obtained a mortgage, and he has invested in property. So it's reasonable that he incurs those costs himself. The same applies to the mortgage redemption administration fee – especially as Mr Y has chosen to invest in another property rather than repay the mortgage, so has not in fact incurred that fee.

I don't think it makes a difference to my conclusion that part of the 24B mortgage was used for other purposes, or that the property Mr Y actually bought hasn't yet yielded any rent. It was Mr Y's choice to use that part of the funds for those purposes, and his choice to buy a property that needed renovation before it could be let.

HSBC offered to refund the ERC if Mr Y repaid the 24B mortgage, but Mr Y chose to retain it

and use the funds to purchase a different property instead. It wouldn't be fair for Mr Y to have the benefit of those funds without the costs of raising them. Mr Y says he's intending to move the mortgage to another lender now to benefit from a lower interest rate. It's a matter for HSBC whether its offer to refund the ERC would still apply in those circumstances. But I will not direct HSBC to refund any ERC Mr Y incurs now, since that's not a consequence of him repaying the mortgage because of HSBC's mistake – it's the result of a choice to retain the mortgage and then shop around for a better rate some time later.

I've also thought about whether it would be fair to expect HSBC to refund interest on the 24B mortgage, at least for a period. Because of the credit file reporting, Mr Y's purchase – via D – of 71O couldn't complete. And because of the delay in removing the reporting, Mr Y was unable to purchase an alternative property for some time. The reporting was eventually removed at the end of November 2023. However, I'm not persuaded that this represents financial loss. That's because if nothing had gone wrong Mr Y would still have had to pay this interest on the 24B mortgage – which was taken out before the credit file issue. He's told us that he wasn't planning to rent out 71O immediately either. In any case, rental income from 71O would have been paid to D, not Mr Y. So Mr Y himself hasn't incurred either higher costs to this mortgage, or reduced income, than would otherwise have been the case.

It also wouldn't be fair to expect HSBC to cover the cost of insuring 24B. That cost is a consequence of Mr Y owning the property, which he did before HSBC's mistake. The credit file information made no difference to Mr Y's need to insure a property he owns.

Finally, I'm not persuaded it would be fair and reasonable to expect HSBC to cover Mr Y's accommodation costs. He says they were incurred because he intended to live temporarily in 71O, and had given notice on his previous accommodation before the mortgage completed. That meant he had to pay costs elsewhere that he wouldn't have had to pay had he been able to complete on 71O.

But this property was to be purchased using a buy to let mortgage – I've seen the mortgage offer and it's a condition of the offer that the property be let and not be occupied by anyone related to the borrower. This means Mr Y would never have been able to live there without D being in breach of contract. To avoid that, Mr Y would always have had to pay for alternative accommodation even if the purchase of 71O had completed. So the cost of alternative accommodation is something he would always have had to pay to comply with the terms of D's borrowing even if the purchase of 71O had completed. It's not a consequence of HSBC's mistake.

As I explained in my jurisdiction decision, I can't consider any losses incurred by D as it's not an eligible complainant. I won't therefore comment on the fairness of the compensation HSBC paid for D's financial losses. In addition to that, HSBC has paid Mr Y £2,500 compensation for his distress and inconvenience. I recognise that discovering that he had been the victim of identity theft was very upsetting for Mr Y. This was compounded by the upset caused by HSBC's failure to remove the adverse entries from his credit file when it said it would. £2,500 is a very substantial award, and I'm satisfied it's a fair offer in all the circumstances.

My final decision

My final decision is that HSBC UK Bank Plc made a fair and reasonable offer to settle this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 7 May 2025.

Simon Pugh
Ombudsman