

The complaint

Ms J and Mr J complain that they were given incorrect and misleading information by HSBC UK Bank plc when they enquired about Mr J getting a transfer of equity of the matrimonial home after their marriage breakdown.

What happened

Ms J and Mr J own a house with a mortgage to HSBC. In May 2022, through a broker they remortgaged. The mortgage was for £267,999.00. The estimated value of the property was £470,000.00. They filed for a divorce in December 2023. In May 2024 Mr J enquired from HSBC about removing Ms J from the mortgage and taking it on himself. Mr J says that he was told by phone that this would be a simple process not requiring a re-assessment of the affordability of the mortgage. But when Mr J enquired the second time, he was told that he would need to go through a new mortgage application with affordability checks. Mr J says that besides being the opposite of what he was told originally, he owns a small business, and the accounts aren't as healthy now as they were previously as much of the profit has been reinvested. They are now trapped in the home and Ms J who hoped to move to a new home can't be released from the mortgage.

HSBC accepts that it gave Mr J incorrect information on the call about what was needed to process a transfer of title application but that it will need Mr and Mrs J to go through this process. It offered Ms J and Mr J £150 for the inconvenience of giving them incorrect information.

Our investigator's view

Our investigator said that as our broad approach was to put a consumer back in the position they would have been had an error not been made, that the outcome would not have been different had HSBC not made the error and that its offer of compensation was fair. Mr J disagreed and asked for a review.

My provisional findings

As my view of this complaint differed from that of our investigator, I issued a Provisional Decision as follows:

"Mr J phoned HSBC for advice about a transfer of equity application to allow him to take over the mortgage for the family home. I listened to that call made on 2 May 2024 and noted that the adviser was clear and precise about the advice she was giving but that advice was wrong. The adviser told Mr J that as he was not asking for any more money that the equity in the property could be transferred to himself without an affordability assessment. I detected that Mr J was somewhat surprised and relieved that such was the case.

But that wasn't the case as Mr J found out some months later when he spoke to another adviser and found out that a transfer of equity application involves an assessment of affordability as it involves a transfer from two borrowers with two incomes to only one borrower with one income and it's reasonable to assess whether the lending remains

affordable in that circumstance. Mr J has a problem with this as his income or net profit in the previous year was down because of an investment in the company and that would have a negative impact on his affordability assessment.

But for several months Ms J and Mr J had been operating under the wrong assumption given to Mr J by HSBC that he could proceed with the transfer of equity and then got the very bad news that what he was told was wrong. This was an error by HSBC, and I must consider the appropriate redress. As our investigator has said if an error has been made it's our role to put Ms J and Mr J in the position they would have been in but for that error. The adviser should have told Mr J in May that to get a transfer of equity to his sole name an affordability assessment was required, and HSBC has made Ms J and Mr J aware of that now. Mr J says that he will suffer from the delay in getting the correct information as his affordability assessment will be impacted because he made an investment in his company lowering the net profit. He says that if he knew the correct requirements in May he would have applied for the transfer of equity then and submitted his accounts.

But my understanding is that the accounts showing the investment were up to April 2024 and these would have been used in any case even if Mr J had made the application for transfer of equity in May. I also appreciate that Ms J and Mr J would have sought legal advice during this period as part of the matrimonial settlement and that would have occurred in any event because of the marriage breakdown and no settlement about the division of the matrimonial home seems to have concluded as a result of the incorrect information. So, I've no evidence that Ms J and Mr J suffered financially from HSBC's error.

Mr J also makes the point that in his business he would have stood by the error. As I said above our position is that if a lender makes an error that affects the consumer we can compensate the consumer but it's unfair for the consumer to get something from an error made by a member of staff that they would not have been entitled to in the first place.

I can award compensation for any distress and inconvenience that Ms J and Mr J suffered as a result of the error. What struck me in listening to the conversation in May was how definitive the adviser was in providing the incorrect information and that it would be reasonable for Ms J and Mr J to proceed on the basis that at least one part of the marriage break-up could be sorted. I'm also aware that this would be a very emotionally sensitive time for them both and when they found out that what HSBC told them was wrong, that must have been a significant disappointment for them. There was several months between Mr J being told the incorrect information and being told the correct information. So, this was not a case where the mistake was put right immediately but Ms J and Mr J would have proceeded for several months making plans based on incorrect information and incorrect assumptions. I believe that would have increased their disappointment when they found out that what they were told in May was wrong. So, I believe that the offer of £150 underestimates the extent of the distress and inconvenience they suffered and that £300 is a fairer figure. "

I issued my Provisional Decision and invited further submissions from Ms J and Mr J and from HSBC. Whilst Mr J acknowledged the empathy I showed to their situation in my decision he felt that the compensation offered was too low and explained why that was. HSBC said that whilst it didn't agree with everything I said that it was prepared to accept the 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 thank Ms J and Mr J and HSBC for the further submissions they have made. Ms J and Mr J feel that they are in limbo as Ms J is living with her parents whilst paying the mortgage and is unable to get a new one whilst the old one hangs over her. Mr J says he had prepared for losing the family home until HSBC told him there would not be a problem and now he feels in despair and feels that the compensation I suggested of £300 doesn't feel right.

I hope I have conveyed the empathy that I feel for Ms J and Mr J for the situation that HSBC put them in because of the misleading information in the phone call in May. That gave them false hope because what the employee told them was wrong. But they are now in the position they would have been in had the employee told them the correct information in the first place and indeed in the position Mr J thought they were in before the phone call namely that in order to get a mortgage on his own Mr J would have to show he could afford it under HSBC's affordability requirements. Ms J and Mr J are entitled to compensation for the distress caused by the disappointment felt when realising that what they were told was wrong and as I say above I believe that fair compensation for that is £300. But it's unfair for me to compensate them for not getting what they weren't entitled to in the first place namely the transfer of equity without an affordability assessment and that's why I don't consider that further compensation is appropriate.

Putting things right

HSBC UK Bank PLC should pay Ms J and Mr J £300 in total.

My final decision

My decision is that I uphold this complaint and require HSBC UK Bank PLC to pay the compensation set out above.

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

Gerard McManus
Ombudsman