

complaint

Ms L complains about a loan she had with HSBC Bank Plc ("HSBC"). Ms L also complains about the current accounts she held with HSBC and its handling of her complaints.

background

Ms L took out a loan to fund the purchase of her mother's property. It was her intention to use a loan until her residential property was sold, as she was going through a divorce. She says the loan was mis-sold to her and complains that HSBC changed the rates and applied fees. Ms L also complains that the bank didn't foreclose on the loan early enough, so she felt she owed more than she should've done.

Ms L also complains that HSBC failed to provide statements and inform her about funds in another account. She says HSBC didn't send her paperwork to the correct address and complains generally about the way her complaint has been handled.

Our adjudicator was unable to consider the issues about the loan agreement as a Court had already made a decision about this. Our adjudicator did not uphold the other complaint points. Ms L disagrees with this view and so the matter has come to me for a decision.

my findings

the loan

I understand that Ms L is keen for me to investigate this part of the complaint. But our scheme rules first require me to consider if it's appropriate to look into a complaint. Under these rules, I don't have jurisdiction to consider a complaint that has already been the subject of court proceedings where there has been a decision on the merits (DISP 3.3.4(8)).

I have seen a Court order for possession of the property, which contains an order for the full loan debt to be repaid. I have also seen the warrant for possession. HSBC has confirmed that the property has since been sold and the loan repaid.

I can see that Ms L knew about the proceedings as she applied for a stay. A hearing was listed but Ms L did not attend. The Court made a decision on the merits of the case about her liability for that loan and ordered that the property be sold and the loan repaid.

So taking these matters into account and as our adjudicator has explained, I'm not able to look into the merits of the complaint about this loan. A Court has already made a decision about it.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of the areas of the complaint I can consider.

the accounts

Ms L had a personal account, a business account and a flexible business loan account. I've looked at the complaints raised by Ms L. I agree with our adjudicator that a separate complaint hasn't been raised about the personal account. I can see our adjudicator asked

Ms L to provide further information about this, but nothing has been provided. So Ms L will need to raise a new complaint if she wishes to still pursue this.

As I've said I am unable to consider the loan account issues, for the reasons set out above.

The third account was a business account. Ms L complains that HSBC didn't give her information about the funds in this account. Specific payments were coming into the account regularly and a balance accrued. Ms L has suggested the bank purposely withheld them.

HSBC says the account details must have been given out by Ms L in order for the payments to have been credited to this account. I think that's likely as the payments were coming from 2 separate, external sources. Given the nature of these payments, it was reasonable for HSBC to have assumed that Ms L knew about them.

HSBC believed the payments along with voluntary payments made by Ms L were to be used against the interest on the loan. As a gesture of goodwill, HSBC repaid these payments to Ms L in April 2014, when she asked them to. These payments reduced the outstanding balance of the loan, despite not being credited to the loan account. Ms L has continued to receive the payments credited to the account after this time. So I can't see that HSBC purposely withheld these funds.

address for service

Ms L also complains that she didn't receive the paperwork relating to the Court proceedings. But I've looked at the documents sent at the time. I can see correspondence and original court papers were sent to the address of the property which was covered by the loan. That had been Ms L's residential address. It's clear she received this as she applied to stay the court proceedings. This also means Ms L knew correspondence was being sent to this address. HSBC says Ms L didn't inform it of a new address before a new address appeared on Court papers. And as soon as HSBC became aware of this, correspondence was sent to it. The Court order also confirms that the hearing date was sent to the correct correspondence address.

I agree with our adjudicator that it's the account holder's responsibility to keep the bank informed of any address changes and likewise the Court, so I'm not upholding this aspect of the complaint.

complaint handling

Ms L also complains about the way her complaint was handled. As our adjudicator has said, a formal complaint wasn't raised until September 2014. A detailed final response letter was sent to Ms L at the end of October 2014, within the guideline time of 8 weeks. It also gave appropriate referral rights to this service. So I can't see that HSBC did anything wrong here and at this point the bank and Ms L were still in discussions about extending time for repayment of the loan, pending the sale of the residential property.

my decision

the loan

I realise this will cause Ms L disappointment, but for the above reasons, I'm not able to consider the complaint relating to the loan, which has already been dealt with by a Court.

my final decision

the accounts, address for service and complaint handling

And on the parts I am able to consider, I've decided not to uphold these aspects of the complaint, for the reasons given above.

Under the rules of the Financial Ombudsman Service, I am required to ask Ms L to accept or reject this part of my decision before 5 February 2016.

Sarah Tozzi
ombudsman