

complaint

Mrs L complained that HSBC Bank Plc had lost the deeds to her house. She said they contain irreplaceable family documents and she wanted them back.

background

I issued a provisional decision on this case.

When Mrs L paid off her mortgage with HSBC in 2005, she asked for her deeds back. They were of historical interest and contained family documents which were irreplaceable.

There was lengthy correspondence, and in 2008 HSBC replied to Mrs L. It said the bank had carried out all steps it could to find the deeds. HSBC pointed out that evidence of legal ownership was recorded at the Land Registry, so the pre-registration deeds wouldn't be needed. But it offered Mrs L £250 which it said was *'to reflect the clear inconvenience and concern that you have experienced, both in the light of the search for the deeds themselves and from the fact that you have had to bring your complaints to the bank's attention.'*

HSBC asked for an acceptance within 10 days, and said *"the next step in our complaint handling procedures is detailed on the attached guidance sheet."* Mrs L, who wanted her deeds back, didn't write to accept the £250 but HSBC hasn't provided a copy of either the guidance sheet or subsequent correspondence. So I don't have full information.

What is clear is that Mrs L was still unhappy, and over the following years continued to complain to HSBC. In 2017 she complained to this service.

There was initially some concern about whether the complaint had been brought to us in time, because there are time limits which restrict what we can and can't consider. However, the investigator concluded that we could look at the complaint. I agree that the complaint is one we can consider.

The investigator didn't uphold Mrs L's complaint. She recognised that Mrs L felt HSBC hadn't looked carefully for the missing documents. But the investigator said there was no evidence either way about what had happened to them. She couldn't conclude that HSBC had destroyed them, and said she was satisfied the bank had done all it could to find them. She said that HSBC had promised that if the deeds did turn up, they'd return them to Mrs L.

Mrs L wasn't satisfied. She said she thought she'd have to accept HSBC's offer to return the documents when they turned up. But she was very concerned that the bank couldn't say whether or not it had destroyed them. She pointed out that the bank had no right to destroy documents it had demanded in the first place and which it held in safe-keeping.

my provisional findings

To reach my provisional decision, I considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I sympathised with Mrs L's desire to have her deeds and family documents back. I quite understood that it didn't help that HSBC assured her that the Land Registry information is enough to prove ownership. Family documents and the history of the property are often really important to owners.

But there was little I could do to put this right for Mrs L. HSBC said it had carried out “*prolonged and extensive searches*”. The fact that the documents hadn’t turned up didn’t prove the bank hadn’t searched. I could see Mrs L’s point when she said she’d expect there to be records of where important documents are held, and records if they’ve been destroyed. But unfortunately there was nothing I can do to make Mrs L’s documents appear, much as I’d like to.

I noted that in 2008 HSBC had offered £250 compensation for inconvenience and concern. I considered it was fair that the bank should offer this compensation. So I asked the bank if this offer was still on the table. HSBC refused. It said this was because it was made a long time ago so it couldn’t investigate how it had reached the figure of £250.

I didn’t think this was fair. The letter clearly showed that, at the time, HSBC put in writing that it thought £250 compensation was fair and reasonable. So I didn’t see what the bank now hoped to re-investigate in order to come to a different conclusion – especially as the passage of time meant there’d be less evidence not more. So I considered that HSBC should pay Mrs L the £250 it originally offered her.

I realised that financial compensation wasn’t Mrs L’s primary aim in bringing this complaint. She wants her documents back. But I still considered that it would be fair and reasonable that she should be compensated, and I found that £250 was an appropriate amount.

So my provisional decision was that I upheld this complaint in part. I couldn’t uphold Mrs L’s complaint about her missing deeds. However I said that I intended to order HSBC to honour its previous offer of £250 for the inconvenience and concern it caused by not finding her deeds and family documents.

responses to my provisional decision

HSBC said it was disappointed with my provisional decision but accepted the decision.

Mrs L wasn’t happy with the provisional decision:

- She set out what had happened. This included being told at one point that the mortgage hadn’t been a mortgage but a loan. Mrs L queried whether this confusion might have affected the disappearance of her papers;
- She described the times when her accounts had been transferred between branches, which she said hadn’t helped;
- Mrs L said HSBC hadn’t indicated to her that it had actually carried out any searches. She’d suggested different spelling for her address but said HSBC had just brushed her off. She said branch staff had done nothing to help.
- Mrs L said that when HSBC had previously offered £250 compensation, she’d been required to sign to say that if she accepted, the bank would be absolved from any further action to find the papers. This obviously was not acceptable, because what she wanted was the papers.

- Mrs L explained that she was aware of another bank which had a practice of contacting a customer asking where the deeds should be sent, once a mortgage was paid off. She said this showed that HSBC had a very poor organisational set-up.
- Mrs L concluded that she wants me to reassess my provisional decision and require HSBC to make a concerted search for her papers and deeds.

my findings

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

I do understand that what Mrs L really wants is her documents. But, however much I'd like to, I can't produce these. I don't think it would make any difference if I were to require HSBC to make a concerted search as Mrs L would like. I say that because the bank claims it's already done so, and if I were to make such an order, it would say it had done so again. Neither I nor Mrs L can watch them do this, and it's likely that if the deeds still didn't turn up, Mrs L couldn't be sure HSBC had really tried.

Although money isn't Mrs L's real aim, I still consider it's fair and reasonable to award her £250 for the inconvenience and distress which HSBC has caused her through failing to produce her documents and deeds. For clarity, I confirm that this does not, as Mrs L fears, absolve HSBC from continuing to try to find Mrs L's deeds. If it finds the deeds in future, it should contact her to return them. The payment represents compensation for the bank's past failures, and isn't an authority to write off all responsibility for the documents.

my final decision

My final decision is that I uphold this complaint in part. There's nothing I can do to make Mrs L's documents appear. But I order HSBC Bank Plc to pay Mrs L £250 compensation for the inconvenience and distress which it has caused her through having failed to produce her deeds and documents. If Mrs L accepts this decision, the compensation does not mean HSBC is free to destroy the documents if it finds them in future.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 11 August 2017.

Belinda Knight
ombudsman