

complaint

Mr S and Mrs U have complained that HSBC Bank Plc (“HSBC”) mis-sold an ‘Advance’ packaged bank account to Mrs U in 2007. Mr S was added to the account in 2008. They paid a monthly fee for the account and could have used several benefits in return.

background

One of our adjudicators has looked into Mr S and Mrs U’s complaint already. The adjudicator didn’t think that HSBC mis-sold the packaged account to them and didn’t recommend that it should pay Mr S and Mrs U any compensation. Mr S and Mrs U didn’t accept this recommendation and asked for an ombudsman to look at the complaint and make a final decision.

my findings

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

We have explained how we handle complaints about packaged bank accounts on our website. I have used this approach to decide what to do about Mr S and Mrs U’s complaint. I agree with our adjudicator that HSBC did not mis-sell the packaged account to Mrs U and does not owe them any compensation.

When Mr S and Mrs U disagreed with our adjudicator and asked for an ombudsman to look into the complaint, they told us that when Mrs U applied for a mortgage in 2007 her account was upgraded to a packaged account without anyone explaining she would have to pay for the Advance account or that it came with insurance benefits attached. She says she was told she needed the Advance account to get the mortgage but if it had been properly explained she would have kept her free account and would have taken a different mortgage. Mrs U has told us she only realised she was paying for the account in March of this year when she rang HSBC to query a fee on her account. When it was explained to her that she had a packaged account and not a fee free one she downgraded the account.

I’ve thought about these points carefully but they don’t persuade me that our adjudicator was wrong because:

- Mrs U had held a fee free account with HSBC for approximately 15 years before she took the packaged bank account. Both Mrs U and HSBC agree that the account was changed when Mrs U rang the bank to discuss getting a mortgage. Mrs U has said that at this time she was told she had to change her account to get the mortgage approved. HSBC have said that by changing the account Mrs U was able to get a reduced interest rate on her mortgage, which is the reason why she agreed to upgrade her account.

I don’t know what was said during that phone call. But at the outset, I should say that I don’t doubt Mrs U has provided her honest recollections of her interactions with HSBC. However, I’m mindful that memories can fade over time. And at times there is a conflict between what the bank and Mrs U says, or the evidence is unclear. In these situations, I have to look at what is available and the surrounding circumstances to help me decide what is more likely to have happened.

So, having taken everything Mrs U has told us into consideration, as well as everything the bank has told us, I think it's likely Mrs U was told that if she wanted to have the discount on her mortgage she would have to upgrade her account to the Advance account. But I don't think she was told that in order to get *any* mortgage she would have to change to a packaged account. I say this because I can see the main benefit Mrs U has used was the mortgage discount and it seems likely that as part of the conversation to set up her mortgage the advisor discussed the various different rates on offer to customers. And while I appreciate Mrs U may not have understood everything about the Advance account when she agreed to take it, I do think it's mostly likely she was given a choice regarding changing her account and chose to upgrade it to get the preferential mortgage rates.

- I don't think that HSBC recommended the packaged account to Mrs U so it didn't have to check if the account was suitable for her. But it still had to give Mrs U enough clear information about the packaged account for her to decide if she wanted it. Mrs U has told us she never realised she was paying for the Advance account and that she downgraded to a fee free account once she found this out. And Mrs U has told us that she was unaware the account came with benefits such as preferential rates on her overdraft and some insurance policies.

But Mr S and Mrs U have benefited from the preferential rates attached to Mrs U's mortgage and their overdraft and savings accounts. And while Mr S and Mrs U have not claimed against the insurance policies on the account this doesn't mean they couldn't have relied on them if they had needed to. Insurance gives us peace of mind and just because Mr S and Mrs U have been fortunate enough not to need to claim against them doesn't mean that they held no potential value to them. So while Mr S and Mrs U may not have used all the benefits it doesn't mean HSBC mis-sold the account.

- Mr S and Mrs U have said that they never noticed the fees on their account. But the account fees were on their statements every month from the time of upgrade. And HSBC has told us that they have sent 19 different mailings to Mr S and Mrs U about their packaged account since it was upgraded in 2007. So taking everything into account, I think it's likely that Mrs U was told about the account fee when she took out her mortgage and the packaged account. But a lot of time has passed since then and she possibly forgot about it over the years. And while it's possible that HSBC didn't tell Mr S and Mrs U everything it should have about the packaged account, I haven't seen anything to make me think that Mrs U would not still have taken the account even HSBC had told her everything.

I want to reassure Mr S and Mrs U that I have looked at all the information I have about their complaint. Having done so I don't think HSBC mis-sold the packaged account to them. I don't think it owes them any money.

my final decision

For the reasons I've explained, I don't uphold Mr S and Mrs U's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs U to accept or reject my decision before 2 November 2015.

Karen Hanlon
ombudsman