Financial Ombudsman Service

complaint

This complaint's about a joint mortgage Mr and Mrs P have with HSBC Bank Plc, and a personal loan that Mr P holds with the bank. They used the mortgage to buy a house which needed renovating, and the loan to continue working on the renovation. They complain that HSBC misled them into thinking it would extend the mortgage when the house was finished. Instead, they're now heavily in debt to family and unsecured creditors

background

In the autumn of 2015, Mr and Mrs P had an opportunity to buy a large but run-down house in their home village for £172,500. They say they had £30,000 available to spend on renovations once they'd bought the house. HSBC recommended a repayment mortgage of £155,250, but the surveyor who conducted the valuation recommended a £5,000 retention pending completion of the works. So the amount HSBC actually agreed to lend Mr and Mrs P was £150,250.

In January 2016, Mr P asked the bank about taking out a homeowner loan. He was told it would be subject to valuation, income and the property being finished. The mortgage completed in February 2016.

In May 2016, Mr P again spoke to the bank about taking out a homeowner loan. He told the call handler they'd so far accrued about £70,000 in credit card and family debt and asked if it was ok to continue borrowing this way to finish the house. She told Mr P that presently the bank wouldn't release more than £30,000 to repay unsecured debt. Mr P said he probably still needed another £50,000 to finish the house off.

The call handler said that once the mortgage had been in place six months, the bank could consider lending more for home improvements subject to valuation. She explained that normally the maximum loan to value (LTV) would be 90%, but if any of the lending was to consolidate existing debt, the maximum LTV would be 80%, and the £30,000 limit for consolidation would still apply.

In July 2016, Mr P took out a £25,000 personal loan from HSBC. Meanwhile, he and Mrs P sold off a parcel of land from the property for £30,000. They say they used that money to repay some of the credit card debts.

In September 2016, having finished the work on the house, Mr and Mrs P asked HSBC for a homeowner loan to consolidate the money they'd spent. It turned them down, saying they had too much unsecured debt.

The investigator didn't think HSBC had done anything wrong. Mr and Mrs P want to continue with the complaint, so it's come to me to review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm afraid I'm going to disappoint Mr and Mrs P, because I don't think HSBC has done anything wrong either

The starting point here is the sale of the mortgage in 2015. Where there's a dispute about what happened, I have to decide what most likely to have happened, given the evidence.

Here, the evidence is contradictory. Mr and Mrs P say the mortgage advisor recommended they borrow on credit cards and from family to pay for the refurbishment, and that once it was complete, they could extend the mortgage to repay the debt. HSBC says that didn't happen, and that Mr and Mrs P weren't intending to borrow to pay for the renovations. The bank's version of events is supported by the point of sale documents at the time.

That adds weight to the bank's position, but it doesn't mean things weren't said that didn't make it into the advice record. I don't find it improbable that borrowing from family and on credit cards was discussed; but the advisor actually recommending Mr and Mrs P do this seems less likely. There's another point to make here, though.

When Mr P rang the bank in May 2010, he told the call handler that he and Mrs P had originally anticipated spending around £50,000 on the refurbishment. They've also told us they had £30,000 available to begin with. So if there had been a discussion around further borrowing during the mortgage interview (that for some reason wasn't documented) it's likely to have been limited to maybe £20,000 or so; i.e. well under the bank's limit of £30,000 on mortgage lending for consolidation purposes.

What's apparent now is that Mr and Mrs P have spent a lot more than £50,000 on the refurbishments. They've not sent us any plans, budgets or invoices, but it's possible to get some idea of the expenditure from the information they've given us about their debt position now compared with when they applied for the mortgage.

Before they bought the house, Mr and Mrs P had unsecured debts of about £20,000; they also, as I've already said, had £30,000 to spend. By the time they complained to us in February this year, Mr and Mrs P told us they had unsecured debts of £73,000 (including the personal loan from HSBC in July 2016) and owed £68,000 to family. So Mr and Mrs P's overall debt has gone from £20,000 to £141,000.

Of course some of that will be interest but it's important also to remember that the figure of £141,000 is after the reduction of the £30,000 they received from the sale of land. Taking that money into account, and including the money they had to begin with, if I allow £20,000 for accrued interest, it's possible to estimate that Mr and Mrs P may have spent somewhere in the region of £160,000 on the renovations. I appreciate that's an estimate, but all of the information on which it's based has come from Mr and Mrs P, so it doesn't seem unreasonable to take it on face value.

I've not seen anything in the evidence from either party that would give me a reason to conclude that level of expenditure was envisaged when HSBC recommended the mortgage to Mr and Mrs P. Whatever may or may not have been said, it does rather look as though Mr and Mrs P have simply spent far more on the house than they intended to or the bank ever anticipated they would.

As far as the personal loan in July 2016 is concerned, it might seem odd that the same bank will offer someone one form of credit whilst at the same time refusing another. The fact is, however, that mortgages and personal loans are very different forms of lending, subject to differing regulatory frameworks and, even within the same financial business, completely divergent lending criteria and risk assessments. So, even though it seems counter-intuitive, it isn't at all unusual for that to happen.

I can see why Mr and Mrs P have conflated the two issues; after all, they happened around the same time. In reality, there's no connection or comparison to be made between the two lending decisions. What I've focussed on is whether HSBC was wrong to provide the loan, independently from any other consideration.

Mr and Mrs P's recollection is that HSBC advised them to take it out. I don't doubt the veracity of that belief, but I have to say, the evidence from the time does rather suggest that they were looking for an alternative source of funding to continue work on the house when other options weren't available. HSBC says it gave them information about unsecured personal lending and they made their own choice.

They may be unhappy about that now, but I think Mr and Mrs P were amenable to the idea at the time. That being the case, whether the loan was advised or not (and on balance, I find it most likely it wasn't) isn't really the key issue. Ultimately, I'm not persuaded HSBC did anything wrong in providing the loan.

I've looked at what was said when Mr and Mrs P asked about homeowner loans in January and May 2016. Overall, I don't think HSBC misled them. On both occasions, it made it clear that extra lending was possible rather than guaranteed, and would be subject to valuation and/or assessment of income.

I accept there wasn't any mention of the £30,000 upper limit on debt consolidation in January 2016, but I don't think it would be fair to view that as an omission. For the reasons I explained earlier, any expectation the bank may have had about Mr and Mrs P's spending plans at that stage would most likely have involved them borrowing about £20,000.

The £30,000 limit certainly was mentioned in the May 2016 phone conversation, but Mr and Mrs P had already exceeded it by then. They also continued to borrow more still before deciding they'd done everything they wanted to do to complete the works on the house.

Mr and Mrs P are in a difficult position; that much is clear. But taking a step back and looking impartially at everything they and HSBC have said and provided, it's hard for me not to conclude that they're there, not because of any shortcoming on the bank's part, but because they've spent a lot more on the house than they told the bank they were going to spend when it agreed to provide the mortgage.

my final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs P to accept or reject my decision before 14 August 2017.

Jeff Parrington
ombudsman