

complaint

This complaint is about a mortgage Mr and Mrs K have with HSBC Bank Plc. They're unhappy that when they remortgaged to HSBC Mrs K was added to the mortgage account, but not added to the property title.

background

Mr and Mrs K applied for a mortgage online with HSBC on a non-advised basis. The existing mortgage on the property was in Mr K's sole name with another lender. They wanted to remortgage to HSBC, raise extra money and add Mrs K to the mortgage and property title.

There was confusion during the application process about solicitors and processes, and the mortgage ended up completing in joint names but the title remained in Mr K's sole name.

HSBC offered to cover the £95.58 loss Mr and Mrs K had incurred in higher mortgage payments due to a slight delay in completing the remortgage. It also offered £400 for the confusion over whether or not Mr and Mrs K could use their own solicitor for the whole transaction.

The investigator who considered the complaint didn't recommend it should be upheld. He felt the offer by HSBC was fair. Mr and Mrs K didn't agree and so it comes to me to determine.

my findings

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

Mr and Mrs K have set out their account of events in considerable detail. I trust they won't take it as a discourtesy that I've condensed their complaint in the way that I have. Ours is an informal dispute resolution service, and I've concentrated on what I consider to be the crux of the complaint.

A lot of the confusion here seems to have come about due to Mr and Mrs K not realising that what they wanted to do were two separate and distinct transactions. There was a remortgage to HSBC, and there was a transfer of title to add Mrs K to the property title. Either transaction could be carried out in isolation without the need for the other. And all HSBC was interested in was the first, the remortgage. It had no interest in whether or not Mrs K was added to the property title, that was a matter for Mr and Mrs K to sort out themselves.

Before I go any further, there are some observations I need to make about the extent of my remit to consider this complaint. Part of this complaint is that HSBC's solicitors didn't accept Mr and Mrs K's request to carry out the transfer of title. I'm able to consider a complaint about the solicitors instructed by HSBC, but only in relation to the work they did that was – as defined by our rules – ancillary to the mortgage. So this will cover any work done to complete the registration of the charge in favour of HSBC. But I've no power to consider a complaint about any work done (or not done, as it may be) on behalf of Mr and Mrs K in order to complete their registration of the title to the property – because that is conveyancing work and isn't ancillary to the mortgage. As I said earlier, they're two separate transactions.

Here the complaint is that Mrs K wasn't added to the title as a co-owner of the property with Mr K. That is a complaint about conveyancing work and so is outside the scope of the Financial Ombudsman Service.

All I can consider is whether HSBC should have done more to make Mr and Mrs K aware of the situation. Mr and Mrs K have said they asked if they could use their own solicitors and were told they could as the firm was on the approved list, which led to them paying a £300 deposit. HSBC has admitted it made a mistake here in leading Mr and Mrs K to believe that they could use their own solicitor for the entire process (that is, the remortgage legal work, *and* the transfer of title). HSBC corrected this information in early December 2016 when it told Mr and Mrs K the legal work for the *remortgage* must be carried out by HSBC's own solicitors. For this error HSBC offered £400 compensation and that seems fair in the circumstances. It also offered to cover the difference in payments that was incurred due to this delay as Mr K's previous mortgage reverted to the standard variable rate for about a week before this remortgage completed; that was a sum of £95.58. Again, that seems fair.

Mr and Mrs K would have been aware that HSBC's solicitor hadn't accepted their request to carry out the legal work involved in the transfer of title. So it seems Mr and Mrs K should have been on notice that HSBC's solicitor wasn't carrying out this extra work for them. In addition the mortgage deed that was signed by Mr and Mrs K in the presence of their own solicitor - that is, with the benefit of independent legal advice - shows the borrowers as Mr and Mrs K, but the mortgagor as just Mr K. So I would have expected their solicitor to explain what this meant - and the implications of signing it - to Mr and Mrs K.

Whilst there were shortcomings in the service HSBC provided, I'm satisfied the amounts it has already paid to Mr and Mrs K are fair in the circumstances, so I make no other order or award.

my final decision

For the reasons set out, my final decision is that I don't uphold this complaint. Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs K to accept or reject my decision before 23 August 2018.

Julia Chapman
ombudsman