

The complaint

Mr G complains that HSBC UK Bank Plc (HSBC) irresponsibly allowed him to open an account with a £1,000 overdraft and also allowed him to spend in excess of that overdraft.

What happened

Our investigator's background summary covered all the relevant facts and issues, and is known to both Mr G and HSBC, so there is no need for me to repeat them again here in any great detail. Instead, I will focus on giving the reasons for my decision. So, if I've not mentioned something it's not because I've ignored it, rather it's because I don't think it's relevant to the issues I need to deal with.

Mr G applied for an account with HSBC and on his application said he was earning £21,000 per year. HSBC accepted his application based on the information he disclosed and the results of their electronic scoring system.

Mr G used his overdraft to gamble with and ran into financial difficulty and so his mother (Mrs G) made a complaint to HSBC advising them of Mr G's gambling addiction. HSBC responded by agreeing to waive and refund interest and charges, and Mrs G paid off the overdraft. HSBC didn't however believe they had done anything wrong in granting the overdraft to Mr G nor allowing him to exceed his limit, and so they rejected his complaint.

Mr G was unhappy with HSBC's final response and so brought the complaint to this service and our investigator looked into it. Having done so, the investigator didn't think that HSBC had done anything wrong.

Mr G didn't agree with that and asked that the complaint be passed to an Ombudsman for a final decision.

What I've decided – and why

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

The role of the Financial Ombudsman Service is to mediate individual disputes between consumers and businesses, and to award redress where it is appropriate. I have taken into account both sides' views in considering whether HSBC acted fairly and reasonably. I've looked at the issues raised and considered all the available evidence. I have to make an independent decision about what I think is right for each case, and that's what I've done here. And in this case, I don't think that HSBC has done anything wrong. I'll explain why.

The crux of this complaint is whether HSBC carried out sufficient checks when opening Mr G's account and granting him an overdraft of £1,000, which he had specifically requested. Mrs G advances the argument that HSBC and indeed other lenders in that position should carry out documentary checks on an applicant's income to see if the product they are applying for is affordable.

When Mr G applied for the account and overdraft, HSBC needed to carry out checks which were proportionate to things like the amount of credit being applied for and the information Mr G had provided about his financial situation. They needed to check whether he would be able to repay anything he borrowed in a way which was sustainable. But there isn't a set list of checks which HSBC had to do. HSBC say their decision to offer credit was based on information supplied by Mr G, and data from the credit reference agencies applied against their own risk strategies. And they say they did complete various checks including affordability and indebtedness checks before approving the application.

In Mr G's case I think HSBC were entitled to rely on the income Mr G disclosed on his application form. There is no way for HSBC to automatically check that information and it would require, as Mrs G states, a specific request for the production of payslips or bank statements or indeed some other form of documentation to prove the income. That in my view, in the circumstances of this case, would be disproportionate. Mr G was opening a new account and the overdraft was modest. I acknowledge Mrs G disagrees, but in my view, objectively, it is a modest amount, on a declared income of £21,000. And there is no regulatory requirement for HSBC to obtain such documentation.

But HSBC did undertake other checks. They checked Mr G's credit file and that revealed no default markers or missed payments. Whilst I agree that that does not show the level of commitments a person has, nor their overall indebtedness, what it does show is that they are, at that point in time, managing their finances without defaulting. And there was no other information provided nor known which could have alerted HSBC to the fact that Mr G had a gambling addiction. So I think HSBC did act fairly here in approving Mr G's application after reviewing his declared income and a full credit scored application including searches with Credit Reference Agencies.

Whilst I appreciate that Mrs G would wish there to be tighter regulation, our service doesn't have the power to make rules for financial businesses, assess or direct that they change their policy or procedures. We only look at what happened in the circumstances of the individual complaint and check that HSBC followed its rules and procedures and is applying them fairly to all customers.

The Financial Conduct Authority (FCA) takes a principles-based approach to conduct regulation and lets businesses choose how they incorporate those principles into the way they deal with customers. This is reflected in the remit the FCA has given this service under the Dispute Rules in the FCA Handbook. What we recommend however can influence how businesses review their policies. Any overall concerns about business process would need to be raised with the FCA.

I do acknowledge that HSBC allowed Mr G to go slightly over his overdraft limit on a few occasions, but this was never by very much, and I do think that in allowing that, it is a reasonable approach to take towards their customers. So I don't think HSBC acted unfairly in this regard either.

I know Mrs G would like the monies spent on the overdraft effectively refunded by HSBC, but as I don't think they've done anything wrong here, and Mr G has had the benefit of the money the overdraft provided, I don't think that would be fair. I've also not seen anything which shows that Mr G told HSBC about his gambling issues before Mrs G notified them.

So, although Mr G will probably be disappointed with my decision, I can't say HSBC has acted unfairly or unreasonably here and I'm not upholding this complaint.

My final decision

For the reasons set out above I do not uphold the complaint against HSBC UK Bank Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 18 June 2020.

Jonathan Willis

Ombudsman