

The complaint

Mr T complains that HSBC UK Bank Plc irresponsibly lent him two loans that he couldn't afford to repay.

What happened

Mr T successfully applied for two loans with HSBC – one in 2016 and one in 2018. Towards the end of 2018 he fell into arrears as he could no longer meet the required payments. The loans defaulted.

Mr T said it was irresponsible for HSBC to have agreed the loans in the first place as he couldn't afford the repayments due to the amount of other debt. He also said HSBC had charged him excessive fees for going over his agreed overdraft. He made a complaint to HSBC.

HSBC didn't uphold Mr T's complaint. It said the loan applications were done online so decisions were based on the information provided by Mr T. Further it said it hadn't been aware Mr T was in financial difficulties until it was contacted by a debt charity on his behalf, so didn't think it was unreasonable that fees were charged for exceeding the overdraft.

Mr T didn't think this was fair, he said HSBC should have been aware that he couldn't afford the loans from the information available to it. He brought his complaint to this service.

Our investigator considered all the issues but didn't recommend the complaint be upheld. He said that as HSBC hadn't provided the information it relied upon while making the lending decisions he had instead considered what it would likely have seen. He said he considered Mr T's disposable income after the loan repayments were taken into account were reasonable and didn't see a reason why HSBC would think it was unaffordable.

Mr T didn't agree. He said the amount he had left over after his essential expenditure, wasn't enough to live on. He asked for the complaint to be reviewed by an ombudsman.

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.

HSBC was required to lend responsibly. It needed to check that Mr T could afford to repay his loans sustainably. There was no set list of checks HSBC needed to do, but the checks should have been proportionate to the circumstances of each loan, which might include considerations about the amount borrowed, Mr T's borrowing history and so on.

HSBC hasn't provided evidence of the checks that it carried out at the point of the two loan applications, as it says this is commercially sensitive. It says both applications were made online and checks showed that Mr T was eligible for the loans. As HSBC hasn't provided evidence of the checks it carried out, I can't fairly say that it did enough checks. So I now need to consider whether any assessment failings resulted in HSBC agreeing to lend to Mr T irresponsibly. In order to do this I need to consider what I think proportionate checks would have most likely shown for each loan application.

The first loan application was made in 2016. This was for £10,000. I have looked at copies of Mr T's bank statements from around that time. And I have considered comments from Mr T about his income and expenditure. After taking into account all essential payments – including the loan applied for - it seems Mr T would have had around £500 disposable income left available each month. HSBC has also commented that the reason given for the loan was to consolidate other debt. So it would be reasonable for it to believe this would be the minimum Mr T would have available.

I have considered this alongside information from Mr T's credit file. Although he had some borrowing at the time, he was keeping up with all payments. And he had no adverse data on his file, so it was unlikely that a credit check would have prompted HSBC to ask further questions about his circumstances here.

When considering these two factors together, it seems HSBC made a responsible decision to lend. Although Mr T had some other credit, he was keeping up to date with payments and could afford these with money left over.

In 2018 Mr T applied for an additional loan of £3,000. At this stage Mr T had a higher amount of borrowing than previously. And I can see he had regularly gone over his available overdraft limit of his account with HSBC. However, his monthly income had also increased. And his credit file shows he was still managing his credit re-payments well. Further he had not had problems with the previous loan and had met the monthly payments. And from Mr T's own calculations, he had a similar amount left over after meeting all required payments. So I think it again seems HSBC made a responsible lending decision.

Mr T has explained that he had a problem with gambling. And he was using the borrowed money to fund this habit. However I don't think HSBC could have reasonably been aware of this. As it was an online application (each time), HSBC relied on Mr T's own assessment of income and expenditure. It also considered his track record of managing credit through a credit check and what it already knew about him. So I don't think it was required to ask further questions unless prompted to do so by some adverse information from those checks.

Further HSBC has shown that it sent a number of letters to Mr T when he fell behind with payments to the loans. These offered the opportunity for Mr T to contact HSBC to discuss any financial difficulties. Mr T didn't do this, and HSBC weren't aware of the problems he faced until it was contacted by a debt management charity on his behalf after the loans defaulted. So I don't think HSBC could have been reasonably expected to have been aware of Mr T's financial problems before this point.

So based on the information that would likely have been available for HSBC to view at the time, I think it lent responsibly to Mr T in both 2016 and 2018. So I won't ask it to do anything differently.

Mr T has also said he is unhappy with the amount he has been charged for exceeding his overdraft. After reviewing these charges, I don't think they are excessive and are in line with FCA guidance. Further the charges are laid out in the terms and conditions of the account. So I can't say HSBC has acted unfairly by imposing these charges and fees.

My final decision

For the reasons I have given, I don't require HSBC UK Bank Plc to do anything differently.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 10 July 2020.

Sophie Goodyear
Ombudsman