

The complaint

Mr M complains HSBC UK Bank Plc irresponsibly approved him for two loans.

What happened

Below is intended to be a summary of what happened and does not therefore include a full timeline or list every point that has been made.

Below is intended to be a summary of events leading to the complaint and isn't a full timeline of every event or point made.

In March 2017 Mr M took out two personal loans with HSBC for £5,000 in a 24-hour period.

Mr M said at this time he was suffering from a compulsive gambling disorder. He applied for the loans at what he's described as his worst period of suffering from the disorder.

He said he was also substantially overdrawn in his HSBC current account at the time of the applications.

Mr M says HSBC acted irresponsibly in approving the loans and allowing him to go so excessively overdrawn. He raised a complaint with HSBC but wasn't satisfied with their response, so he brought his complaint to our service.

Our investigator didn't think HSBC had carried out proportionate checks and had it done so, wouldn't have agreed to lend to Mr M.

He said at the time of the loan applications, Mr M's unarranged overdraft limit had reached around £5,000, which was around twice his monthly salary. And had HSBC checked how he was running his account; it would have highlighted a cause for concern.

He felt Mr M's complaint should be upheld and our service should also consider the use of Mr M's current account - as this was a key factor in considering what HSBC ought to have known about his finances at the time of application.

To put things right our investigator recommended:

- Refund interest
- charged on both loans including 8% statutory interest
- Refund any interest and charges accrued on Mr M's current account relating to his unarranged overdraft from January 2017 until when the account was closed
- Remove any adverse information relating to the loans from his credit file and return it to reflect as if the loans hadn't been granted

HSBC agreed to our investigator's recommendations to refund the interest and charges on the overdraft, and interest for the loans, but hasn't confirmed whether it agreed with the recommendation to remove adverse information from the credit file.

Mr M said while he welcomed our investigator's recommendations, he felt they didn't go far enough. Mr M has provided further comments describing how his life was severely impacted

following taking the loans. Mr M feels this could have been avoided if the loans had not been approved. Mr M has also commented he has seen other complaints where different directions have been given, by our service, to financial businesses - which he feels are similar circumstances.

The complaint then passed to me.

My provisional decision

I issued a provisional decision on 25 October 2021. In my provisional findings, I said:

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

I understand Mr M has strong views about what has happened, and I'm sorry to hear about the things he's described in his submissions. I want to assure him I've read and carefully considered everything both he and HSBC have said.

As the use of Mr M's current account is a key factor in considering what HSBC should have been reasonably aware of at the time of Mr M's loan applications, I've also included this in my provisional findings.

I'm intending to uphold Mr M's complaint. I'll explain why

The overdraft

While I appreciate HSBC's comment it sometimes allows payments to merchants to clear, resulting in an account entering an unarranged overdraft, I don't think it was reasonable for it to have allowed it to do so in these circumstances - and to levels that it did.

HSBC would have been reasonably been aware the transactions were for gambling merchants. And I can see from the account statements, the account had been in an unarranged overdraft throughout January 2017.

After recovering for short period, the account entered into a larger unarranged overdraft again in February 2017 and remained in this position until the loans were taken. The account continued to enter unarranged overdrafts following the loan applications.

So, I think HSBC had enough information that would cause concern about how the account was being managed. The account had been in an unarranged position for some time and more than once prior to the loans being taken and continued to do so after. So I think this should've made HSBC reasonably aware of an issue and prompted it to contact Mr M to discuss bringing the account back into a manageable position. But I can't see it did.

To put things right, I'm intending to direct HSBC to remove any interest and charges applied to the account in relation to the unarranged overdraft from January 2017 onwards.

The loans

When approving the loans, HSBC said it asked Mr M about his income and expenditure and referred to credit reference agencies. But I think it needed to carry out further checks. As Mr M held his current account with HSBC, this means HSBC had access to information regarding how it was managed.

Had it considered this, I think it would've seen Mr M had entered an unarranged limit that was around double his monthly salary and two loans with monthly repayments of around

£319 would've not been sustainable.

Additionally, Mr M's account had consistently been in this position for some time prior to this and most of the transactions related to gambling. This would have highlighted a potential issue with Mr M's spending, which in turn could relate to compulsive gambling. As I've said above, I don't think HSBC did enough to act on the information it had regarding the overdraft, and I think had it done further checks, it would've seen the loan repayments were not sustainable and it wouldn't have approved the loans.

With this mind, I think HSBC should put Mr M as far as possible back in the position he was in prior to taking the loans, but with any capital remaining outstanding - as he has spent these funds and they should be repaid. So I'm intending to say that HSBC should refund any interest and charges relating to the loans and remove any adverse information from his credit file relating to them.

Compensation

While gambling issues appear to have begun to present themselves prior to the loan applications, Mr M's HSBC current account had already been in an unarranged overdraft for a significant amount of time.

From looking at how the unarranged overdraft had increased in February 2017, HSBC approving the two loans, for significant amounts, in a short space of time, would have significantly added to, and exacerbated, the impact the issues were having on Mr M.

Mr M has provided detailed comments about the emotional and psychological impact repaying the loans had on him. Mr M has also described the period in which he took these loans as the worst period of his gambling disorder. Although Mr M was meeting his loan payments, I can see from his current account statements that following the loan application his finances continued to remain in a similar condition throughout 2017. So although the payments were being made, I do think this would have been particularly stressful for Mr M.

I'm intending to direct HSBC to refund interest and charges relating to the loans and overdraft, and I think this goes some way towards putting things. I also think HSBC should recognise the distress Mr M has been caused and pay compensation for the distress its actions have caused Mr M.

So, In addition to my other intended directions, I think HSBC should pay Mr M £250 compensation.

Mr M has referenced previous decisions made by other ombudsmen, which he says involve similar facts. But, as Mr M has himself commented we consider each case on its own individual facts, taking into account what we think is fair and reasonable in the circumstances. And we aren't bound by our previous decisions.

Putting things right

To put things right, I'm intending to direct HSBC to:

- Refund interest and charges for both loans. HSBC should also apply 8% statutory interest to this figure*
- Refund any interest and charges incurred by Mr M from when he entered the unarranged overdraft in January 2017 until the date the account closed*
- Remove any adverse information relating to the loans from Mr M's credit file*

- *Pay Mr M £250 compensation*

Responses to my provisional decision

HSBC said it believed it had made the lending decision in full compliance with regulatory guidelines at time. It also said it believed Mr M to have been in an arranged overdraft as of January 2017. However, it said it acknowledged Mr M's situation and the distress caused and said it would be willing to accept my intended directions as a gesture of goodwill, without an admission of liability.

Mr M didn't agree with my provisional findings. He said the compensation set out in my provisional findings did not fairly recognise the distress he had been caused by HSBC.

He reiterated his points about the impact of his gambling disorder. And provided further detail for me to consider regarding his emotional and psychological condition both before and after HSBC approved the loans.

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.

Mr M has provided a detailed submission in response to my provisional decision. I want to assure him I've considered everything he has said – in addition to reviewing everything already available to me on file. However, it doesn't change my decision – or my reasoning.

I appreciate the impact the gambling disorder has had on Mr M. As I've said, HSBC's actions may have exacerbated the impact the gambling issues were having on Mr M. But while it's actions may have contributed to the distress Mr M experienced; I'm not persuaded HSBC should be held solely responsible for issues Mr M experienced at that time. So for the reasons I've set out above, my direction that HSBC pay Mr M £250 compensation remains the same.

Putting things right

To put things right, I direct HSBC to:

- Refund interest and charges for both loans. HSBC should also apply 8% statutory interest to this figure
- Refund any interest and charges incurred on Mr M's overdraft from January 2017 until the date the account closed
- Remove any adverse information relating to the loans from Mr M's credit file
- Pay Mr M £250 compensation

My final decision

My final decision is that I uphold Mr M's complaint.

To put things right, I direct HSBC UK Bank Plc to do as I've set out above

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 December 2021.

Michael Baronti
Ombudsman