

The complaint

Mr S complains that HSBC UK Bank Plc lent to him irresponsibly.

What happened

HSBC provided Mr S with the following loans:

Loan 1 September 2014 £10,000 over 36 months

Loan 2 June 2015 £15,570 over 60 months

Mr S complained that HSBC lent to him irresponsibly. He said that at the time of applying for Loan 1 he had unsecured borrowing of £12,000 and that he was in financial difficulty at the time he applied for Loan 2.

HSBC didn't uphold Mr S's complaint. It said it had carried out proportionate checks before approving the loan.

Mr S wasn't happy with the response and brought his complaint to this service.

Our investigator upheld the complaint. He said that HSBC hadn't made a fair lending decision when it approved Loan 1 because Mr S's existing loan and debt repayments meant that it was unlikely that he would be able to sustainably repay the loan. In relation to Loan 2 the investigator said that HSBC hadn't carried out reasonable and proportionate checks and that the lending decision wasn't fair.

HSBC didn't respond to the investigator's view so I've been asked to make 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.

We've set out our approach to complaints about irresponsible and unaffordable lending on our website. I've had this approach in mind when considering Mr S's complaint.

Before agreeing to lend, the rules say that HSBC needed to complete reasonable and proportionate checks to ensure that Mr S could afford to repay what was being lent in a sustainable way. There's no set list of checks that a lender has to carry out, but checks could take into account factors such as the amount of the loan, the total amount repayable, the monthly repayment and the borrower's individual circumstances.

Loan 1

HSBC has said that it carried out a full credit and affordability assessment before lending to Mr S.

HSBC hasn't provided details of the checks it carried out. So, I don't know what HSBC found

out about Mr S's income and expenditure, or his other credit commitments. Because of the lack of information, I can't be satisfied that reasonable and proportionate checks were completed. So, I've gone on to consider what reasonable and proportionate checks would have shown.

Mr S has provided bank statements for the period immediately prior to Loan 1. I think these are a good indicator of Mr S's financial position at the time. HSBC would've had access to this information because Mr S held a current account with HSBC.

The statements show that Mr S's current account was £1785 overdrawn at the time Loan 1 was approved. He had average monthly income of £1464. The balance on Mr S's credit card was £5493.

Based on the assumption that Mr S's overdraft and credit card repayments were 5% of the balance, his debt repayments including Loan 1 were around £710, which is around 48% of his monthly income. This is a significant amount of income being used to service debt. We know that consumers who use more than 25% of their income to repay debt are more likely to struggle to repay debt in the future. Looking at Mr S's financial circumstances at the time of Loan 1, I think there was a real risk that Mr S wouldn't be able to sustainably repay the loan without having to borrow further. For this reason, I don't think HSBC ought to have approved the loan.

Loan 2

For the same reasons as I've explained in relation to Loan 1, I can't be satisfied that the checks completed before agreeing the loan were reasonable and proportionate.

I've looked at Mr S's bank statements for the period immediately prior to Loan 2. I've also looked at a credit report provided by Mr S.

HSBC has said that it was a condition of Loan 2 that Mr S's existing loan (Loan 1) and his credit card were repaid and that his overdraft was reduced to £500.

Loan 2 was for a larger amount than Loan 1 and was over a longer term.

The bank statements show that Mr S's average monthly income at the time was £1532. The credit report shows that Mr S was making loan repayments to a loan provider of £25 per month. The new (loan 2) repayment was £418. So, in total, Mr S was using around 27% of his income to repay debt.

This represents a significant proportion of Mr S's income and (as I've already said) is at a level which meant that there was a risk that Mr S wouldn't be able to repay his debt commitments without borrowing further.

Because of this, I can't say that Mr S was likely to be able to sustainably repay Loan 2. For the reasons I've given, I don't think HSBC acted fairly when it approved Loan 2.

Putting things right

To put things right, HSBC should:

Add together the total amount of money Mr S received as a result of being given Loans 1 and 2. The repayments made by Mr S should be deducted from this amount.

If this results in Mr S having paid more than he received, then any overpayments should be

refunded along with 8% simple interest calculated from the date the overpayments were made until the date of settlement*

If any capital balance remains outstanding, then HSBC should arrange an affordable payment plan with Mr S

Remove any negative information on Mr S's credit file in relation to Loans 1 and 2

*HMRC require HSBC to take off tax from this interest. HSBC must give Mr S a certificate showing how much tax has been taken off if he asks for one

My final decision

My final decision is that I uphold the complaint. HSBC UK Bank Plc must take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 19 July 2023.

Emma Davy
Ombudsman