

The complaint

Mr R complains HSBC UK Bank Plc lent to him irresponsibly when they approved two loans.

What happened

The details of this complaint are well-known to both parties, so I won't repeat them again here. The facts aren't in dispute, so I'll focus on giving the reasons for my 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.

Having done so, I've reached the same conclusions as our investigator for these reasons:

- Mr R has complained HSBC lent to him irresponsibly because they ought to have known he had a gambling problem when he applied for his loans. And, following our involvement, HSBC has agreed they shouldn't have approved Mr R's loans and are prepared to take steps to put things right. Our investigator felt a fair resolution to this complaint would be removing all interest and charges from the loans, meaning Mr R would only have to repay the capital he borrowed. However, Mr R has asked for his outstanding balance to be written off. As such, my decision will focus on what I consider HSBC should do to put things right.
- We've set out our approach to unaffordable and irresponsible lending complaints on our website – including the relevant rules, guidance, good industry practice and law. And this is what I've considered when deciding Mr R's complaint. Having done so, it's important that I explain in cases like this, when we consider borrowing shouldn't have been approved, our usual approach is that the customer isn't made to repay any interest, charges and/or fees that may have been applied. However, we would still expect them to repay the capital they borrowed because they had use of the funds.
- Mr R has been very open with us when explaining the impact the borrowing has had on him. So, I want to thank him for that, and assure him that I understand he has been through a very difficult time due to HSBC's mistake in approving his loans. Having said that, I must also place weight on the fact that the evidence provided shows he used the money he borrowed – albeit not in a way Mr R feels he benefited from. This evidence also shows the loan was used for more than solely gambling transactions – such as transfers to other accounts, for food, and payments towards other loans Mr R had.
- While I sympathise with Mr R's situation, I cannot safely conclude that writing off his outstanding balance is a fair and reasonable resolution to his complaint given he borrowed just over £10,000. I say this because while HSBC ought to have seen gambling transactions that amounted to relatively high values before Mr R applied for his loans, when he did receive the loan, some of the money was also used to

supplement payments towards his outgoings.

- As above, it's clear Mr R has been through a very difficult time and HSBC's mistakes contributed to that. I agree he shouldn't have been given the loan, but we are an impartial Service and must be fair to both parties to a complaint. As Mr R used the funds in the ways described above, I do think it's appropriate he repays what he borrowed. However, he shouldn't be responsible for repaying any interest and charges as he wouldn't be in his current situation (with this borrowing) if it wasn't for HSBC's mistake. As such, I consider what HSBC has already agreed to, is fair in the circumstances.

For the reasons above, I'm upholding Mr R's complaint about HSBC – albeit not as he hoped.

My final decision

My final decision is that I'm upholding Mr R's complaint about HSBC UK Bank Plc.

To put things right, HSBC UK Bank Plc should:

- Remove all interest, fees and charges applied to the loans from the outset. Any payments made by Mr R should then be deducted from the new starting balance. If the payments Mr R's made total more than the amount he was originally lent, then any surplus should be treated as overpayments and refunded to him with 8% simple annual interest* calculated on the overpayments made from the date they were paid by Mr R, to the date the complaint is settled.
- If there's an outstanding balance on the loans, then HSBC UK Bank Plc should agree an affordable repayment plan with Mr R, bearing in mind the need to treat him positively and sympathetically in those discussions, and take account of his current ability to repay the loan.
- Once the outstanding balance is repaid, any relevant adverse information (related to the lending) recorded on Mr R's credit file should be removed.

*If HM Revenue & Customs requires HSBC UK Bank Plc to take off any tax from this interest, HSBC UK Bank Plc should give Mr R a certificate showing how much tax they've deducted if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 11 September 2023.

Sarrah Turay
Ombudsman