

The complaint

Mr J complains that HSBC UK Bank Plc acted irresponsibly in lending him a personal loan. He thinks it should have realised he had a gambling addiction which meant the loan was unaffordable for him.

What happened

Mr J took out a personal loan with HSBC in March 2019, with whom he also has a current account. He borrowed £25,000 over a term of eight years. The monthly payment was £337.

Unfortunately, Mr J struggled to manage his repayments. The loan was defaulted in May 2022.

Mr J complained. He explained that he had been suffering from severe mental health issues which led to a gambling addiction. He thought that HSBC hadn't conducted sufficient affordability checks, as he thought it should have found signs of his gambling addiction. He explained that he'd opened a second current account with a different bank a few months before, and had started using it to gamble. But he thought HSBC should have noticed the second current account on his credit file, and asked for further information about it.

Mr J is employed as the director of a limited company. During the loan application, he declared his net monthly income to be £2,151, with his annual income being £33,000. Mr J said he had been taking funds from the company account to fund his gambling addiction, and he thought HSBC should have picked up on this due to the transactions on his current account in the months leading up to the application.

In its final response, HSBC said it thought it had conducted proportionate checks – including asking Mr J about his income and expenditure, and considering the conduct of his HSBC current account for the three months prior to the application. It said it considered the loan payments to be sustainably affordable for him. It said it couldn't see evidence of significant gambling on his current account in the three months prior to the loan application, and it had no record he'd made it aware of any mental health issues.

One of our case handlers looked into the complaint. She thought that HSBC should have asked some further questions of Mr J, but that even if they had it was unlikely he would have told them about the other account or the extent of his gambling.

Mr J disagreed. He said he was also making payments towards several mortgages, and he thought the payments on those accounts – along with the payments on his credit card accounts – might not have been up to date when he made the loan application. He thought HSBC should have questioned transfers into his current account from his business, and didn't think it had taken his living expenses into account when considering whether the loan was affordable for him.

As our case handler couldn't resolve things, the case comes to me decide.

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.

I've also considered the relevant rules and guidance on responsible lending set by the regulator, laid out in the consumer credit handbook (CONC). In summary, these say that HSBC needed to complete reasonable and proportionate checks to satisfy itself that Mr J would be able to repay the loan in a sustainable way.

This was a significant amount of borrowing, taken out over a long period of time. So I would expect HSBC to conduct thorough checks to satisfy itself that Mr J would be able to sustainably afford the monthly payment for the eight year term.

HSBC completed an income and expenditure assessment with Mr J. It's told us it considered the information he provided against average figures from the Office of National Statistics. And it told us it considered the conduct of his current account for the three months prior to the application, to verify what Mr J told it about his income and expenditure.

HSBC also completed external credit checks to verify what Mr J had told them about his credit commitments elsewhere, and the conduct of those accounts. Mr J told us he thought some of his accounts might have been arrears at the time, but he has provided us with a copy of his credit file which shows all his accounts were up to date at the date of application.

When he applied for the loan with HSBC, Mr J had a loan elsewhere with a monthly payment of £66. He didn't declare any credit cards during the application. None are shown on the copy of his credit file he's provided, and I can't see any payments towards any credit cards on the bank statements I've seen.

Mr J had several mortgages, but I can also see rental income being paid into his account. Mr J told us this was his partner's income for properties in her name. This seems unlikely to me, as several mortgages are shown on his credit file and the rental income is being paid into a current account in his sole name. I think it was reasonable for HSBC to expect the mortgage payments were being covered by the rental income.

Having considered the statements for Mr J's current account with HSBC, they support that Mr J was receiving at least the amount of income he declared in the application, if not more given the rent he was receiving.

Mr J declared essential monthly living expenses of £1,629, and HSBC used a figure of £1,680 in its affordability assessment. I think this aligns with the information I've seen on his bank statements. This meant Mr J had disposable monthly income of around £389, meaning the £337 monthly payment for the loan was affordable. So, I'm satisfied HSBC took Mr J's living expenses into account when it considered the application.

Mr J's bank account with HSBC showed daily use, including for essential living expenses such as bills. So I don't think HSBC should reasonably have also asked him for copies of bank statements from any other accounts to help it determine whether the loan was affordable and sustainable.

The bank statements with HSBC show very limited gambling transactions in the three months prior to the loan application. The account was maintained within its limits during that period.

I don't think HSBC should reasonably have considered information from more than three

months before the application when deciding whether or not to lend.

That said, HSBC has provided statement data from mid-October 2018. I can see Mr J made significant gambling transactions in October 2018. But, for the period of statements HSBC provided, the account generally didn't go overdrawn. When it did, Mr J promptly transferred in funds. Banks will not generally monitor their customers' spending, as long as an account is kept within its agreed limits. As that was the case here, I don't think HSBC should have had cause for concern about Mr J's gambling – nor that the loan wouldn't be sustainably affordable for him.

Mr J hasn't told us he made HSBC aware of the mental health issues he's experienced before he applied for the loan, and HSBC has no record he did so.

Mr J has also said he thinks HSBC should have queried the transactions being made from the account for his limited company, of which he is the director. On balance, I think it was reasonable for HSBC to consider that Mr J was an appointed company director in good standing and he had appropriate grounds for transferring any funds from the limited company account. I don't think this should have caused HSBC concern.

I'd like to say how sorry I am to hear about the difficult time Mr J has experienced over the last few years. I don't doubt how distressing things have been for him. I agree with our Investigator that even if HSBC had asked him further questions about the conduct of his account, it's unlikely he would have disclosed any information about his gambling addiction.

Overall, taking everything into account, I think HSBC conducted proportionate checks on Mr J's income and expenditure and had reasonable grounds to believe the loan would be affordable and sustainable for him. I don't think HSBC should reasonably have found signs that Mr J had issues with problem gambling.

My final decision

My final decision is that I don't uphold this complaint.

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

Frances Young
Ombudsman