DRN-4418543

## The complaint

Miss E complains that HSBC UK Bank Plc ("HSBC") irresponsibly granted her two fixed sum loan agreements that she couldn't afford to repay.

## What happened

In March 2020 Miss E took out a loan with HSBC. Under the terms of the fixed sum loan agreement, Miss E was borrowing £12,000 and paying it back by way of one payment of £389.73 followed by 35 payments of £389.52

In March 2022 Miss E took out a second loan. Under the terms of that agreement, Miss E was borrowing £8,340 and paying it back by way of one single payment of £375.97 followed by 23 payments of £375.86.

Both loans were taken out for the primary purpose of debt consolidation.

Miss E says that for each loan HSBC didn't complete adequate affordability checks and that she had already taken out a high level of debt elsewhere. So, HSBC ought to have seen the agreement was unlikely to have been affordable.

HSBC didn't agree. It said that it carried out an adequate assessment before approving each loan which included using information provided by a credit reference agency.

Our Investigator reviewed the complaint and upheld it. Whilst he thought HSBC had completed proportionate checks for each loan, he didn't think HSBC had gone on to make a fair lending decision about each loan being affordable for Miss E so that she would be able to make the payments sustainably

As HSBC has disagreed, the complaint has been passed to me for 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.

HSBC will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision.

As I've only seen summaries of the credit searches HSBC carried out before granting each loan, I can't say for sure that its checks were necessarily proportionate and that they did enough to ensure that Ms E would be able to manage to make the repayments and in doing so that she wouldn't be put in a position of undue financial difficulty. Having said that, I've kept in mind that although each loan was for a significant sum of money, the overall cost of each loan and payment terms weren't onerous to the extent that I would necessarily have expected HSBC to carry out better searches. But it remained open to HSBC to perform more detailed checks, especially given that Miss E was already banking with HSBC.

When Miss E applied for the first loan, she told HSBC her income was around £24,000 per year, which would have worked out to a monthly income of around £1,600. By the time of the second loan her income had increased to around £28,000, which works out to a net monthly income of around £1,750. HSBC says it verified Miss E's earnings by checking the credit turnover on her bank account.

HSBC also looked at Miss E's credit history before granting each loan. From what I've seen, neither check appeared to show or suggest adverse markings on her credit file, such as arrears, and there was no recent history of defaults or having a county court judgment registered against her. They *did,* however, show that Miss E already had a notable amount of existing credit.

Part of the first loan of £12,000 was used by Miss E to pay off her overdraft as well as her HSBC credit card, totalling around £1,700. For the second loan, Miss E used the funds to pay off her existing loan, her new HSBC credit card balance and again to clear her overdraft. But even though Miss E had planned to use the loan funds for debt consolidation purposes, which shows she was taking steps to manage her financial situation, I must consider whether taking these loans may have adversely impacted her finances going forward.

At the time of the first loan Miss E had a total credit card and overdraft balance of just under £6,000. HSBC had identified that Miss E had seven active credit accounts at the time. That means that whilst she would be reducing the HSBC credit card and overdraft debt she had, she would still be left with around £3,700 in credit debt plus the new monthly repayments of £389.73. To repay the remaining credit and new loan sustainably, based on 5% of the credit balance would mean Miss E having to find around £575 each month out of her income.

At the time of the second loan Miss E had nine active credit accounts and was now owing a total of around £13,300, including what she owed to HSBC. After repaying her HSBC credit card and clearing her overdraft, Miss E would likely still be owing around £6,000 in credit. To repay that sustainably plus her new monthly loan repayments would require her to find around £675 each month.

I agree that, given that Miss E banked with HSBC, it was open to HSBC to gain a better understanding as to how she was managing her day to day finances. One way to do this would be to review her bank statements. I agree with our investigator that at the time of the first loan Miss E appears to have been earning a monthly income that was closer to £1,500, rather than the £1,600 she mentioned when applying. She was setting aside around £800 each month for housing and food costs. She was also paying credit commitments of around £700, including a separate loan repayment of £300 going direct to a family member/friend. I can see that Miss E would still be left with other outstanding credit commitments. This all strongly suggests that Miss E's typical monthly income would have been likely to leave her with a shortfall of around £200 after taking the loan and using it to pay off her HSBC card and overdraft.

And looking at the second loan, whereby Miss E would have fully paid off the first loan and her HSBC credit card, I again broadly agree that, despite an increase to her salary, Miss E would still be left with a shortfall – this time of around £70-80 each month.

To summarise, I think had HSBC carried out a more detailed review of Miss E's financial circumstances it would have seen that there was a significant risk that by taking these loans Miss E would be stretched in ability to manage her day-to-day finances sustainably, with the likelihood that her situation would deteriorate and lead to her using additional sources of credit and borrowing.

It follows that based on what I've seen, Miss E didn't have enough consistent and disposable income to sustainably afford either loan. I think HSBC ought to have done more to look into Miss E's financial situation at the time of the application, especially given that it was aware of her level of existing borrowing and was in a position to gain a better understanding of her regular monthly expenditure. HSBC therefore didn't act fairly by approving the two loans.

I've seen that the second loan still has an outstanding balance. If it has not done so already, I would urge HSBC to continue to treat Miss E with appropriate forbearance as far as possible with the aim of agreeing a sustainable repayment arrangement.

**Putting things right – what HSBC need to do**

Miss E had the use of the funds as a result of this lending. So I think it's fair that she repays the capital amounts she borrowed. But Miss E has paid interest on two loans that shouldn't have been brought about. So, as I don't think HSBC ought to have approved the lending, I don't think it's fair for it to be able to charge any interest or charges under the agreement.

Miss E should therefore only have to pay the original loan amount for each loan. Anything Miss E has paid in excess of that amount should be refunded as an overpayment.

To settle Miss E's complaint HSBC should therefore do the following:

- Remove all interest, fees and charges applied to each loan from the outset. Any payments made by Miss E should then be deducted from the new starting balance.

  a. If the payments Miss E has made total more than the amount she was originally lent, then any surplus should be treated as overpayments and refunded to her, together with 8% simple interest* calculated on any overpayments made, from the date they were paid by Miss E to the date the complaint is settled.

  b. If after the adjustments have been made there is still a balance to pay HSBC should discuss arranging a suitable/affordable payment arrangement with Miss E

- Remove any adverse information recorded on Miss E's credit file as a result of each loan once any outstanding balance has been repaid.

*HM Revenue & Customs requires HSBC to take off tax from this interest. HSBC must give Miss E a certificate showing how much tax it's taken off if Miss E asks for one.

**My final decision**

I uphold this complaint and direct HSBC UK Bank Plc to put things right for both loans as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 7 February 2024.
Michael Goldberg
**Ombudsman**