

The complaint

Miss A complains that HSBC UK Bank Plc ('HSBC Bank') irresponsibly gave her three loans that she couldn't afford.

What happened

HSBC Bank provided the following loans to Miss A:

Loan 1 started on 1 June 2022 for £15,000 over 60 months and a monthly repayment of £328.45. Loan 1 was repaid from the proceeds of Loan 2 and was closed on 6 June 2022.

Loan 2 started on 5 June 2022 for £20,000 over 96 months and a monthly repayment of £356.57. Loan 2 was closed on 27 June 2022. Miss A told us she repaid loan 2 by borrowing from a friend.

Loan 3 started on 13 June 2022 for £15,000 over 60 months and a monthly repayment of £355.82. Loan 3 was closed on 21 June 2022. Miss A told us she repaid loan 3 by borrowing from a friend.

On 15 June 2022, Miss A complained to HSBC Bank to say that the loans shouldn't have been opened because they weren't affordable and that HSBC Bank ought to have made a better effort to understand her financial circumstances before it provided her with credit. HSBC Bank did not agree. But they did think their customer service had, at one point, not been at the level they might have wished it to be, and so they credited Miss A's account with £75.

Miss A was not satisfied and brought her complaint to this service.

Our investigator thought the lending on the first loan was reasonable. He thought the lending on Loan 2 was not reasonable and that redress should be paid. It's not entirely clear to me what the investigator thought about Loan 3, except that, as Loans 1 and 3 had been paid off by Miss A within the first 14 days of the agreement, it seems likely that he thought Miss A had suffered no detriment from those loans. Which was the case.

HSBC Bank agreed with the investigator's recommended redress which was for the standard redress to be applied on Loan 2 (which in simple terms was the return of interest and fees caused by the loan plus interest to be added from the date of calculation to the date of settlement). In addition, the investigator thought that HSBC Bank should increase to £200 the amount it had already paid for its lapse in customer service – so it would pay Miss A another £125.

Miss A didn't agree as she wanted the loan amount paid to her as redress. So, the complaint was passed to me to decide.

I issued my provisional decision on 25 October 2023 in which I said that I agreed with our investigator. In my provisional decision I set out the reasons why I intended to uphold the complaint about the second loan. I set out an extract below:

"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 general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website.

After reviewing all of the information provided in this complaint, I have reached the same outcome as our investigator, and for the same reasons. I explain below why I intend to partially uphold Miss A's complaint.

HSBC Bank needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Miss A could afford to repay what she was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that HSBC Bank should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the lower a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);*
- the higher the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);*
- the greater the frequency of borrowing, and the longer the period of time during which a customer has been indebted (reflecting the risk that prolonged indebtedness may signal that the borrowing had become, or was becoming, unsustainable).*

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

So how does that affect Miss A's three loans. Our investigator found that there was no redress payable on Loans 1 and 3. But he did think that redress should be paid on Loan 2. I provide a summary of why he thought that below.

Miss A's complaint is that HSBC Bank made credit available that was unaffordable. For loan 1, HSBC Bank told us it took into account the financial information Miss A declared in her application and cross-referenced the declared income against the money passing into Miss A's current account. This seemed to support the declared income. And Miss A had also declared she lived at home with her parents. The subsequent estimated expenditure suggested there was sufficient affordability for the first loan. HSBC Bank also told us they obtained credit reference data about Miss A at the time of each loan application. This showed modest other borrowings.

Nothing in the information that HSBC Bank had presented to it or that it procured for itself at that time would, in my opinion, have suggested that they needed to make more detailed investigation into Miss A's expenditure before agreeing the loan. For the reasons given above, I think the lending on Loan 1 was reasonable.

But even if I felt that HSBC Bank had failed in this matter, Loan 1 was repaid in full within the cooling off period and so Miss A has incurred no interest or charges in having that lending. And in this complaint, that reasoning also applies to Loan 3. That third loan was

also repaid within the cooling off period and so Miss A has incurred no interest or charges in having that lending. And so, there is nothing for HSBC Bank to compensate Miss A for in Loans 1 and 3, even if I thought they had been lent in an unreasonable manner.

For Loan 2, our investigator thought it was not reasonable lending and he suggested our standard redress be applied for that loan. HSBC Bank has agreed to pay that standard redress. Miss A feels that she should receive the loan amount back. The standard redress for unaffordable lending is for the business to return the interest and charges that it attached to the unaffordable lending. The idea is that the business should not benefit from the unaffordable lending it provided. And that would be the fair way to compensate someone who experienced unaffordable lending, normally.

It would not be normal redress to suggest that the loan amount be returned to the consumer. I say that because in such a case it could be argued that the consumer had access to the capital amount twice. And for the reasons given above, I have seen insufficient evidence that would be a fair settlement in this case.

In addition, the investigator thought that HSBC Bank should increase to £200 the amount it had already paid for its lapse in customer service – so it would pay Miss A another £125. I have seen insufficient reason to think that amount is not fair.

So, I have no reason to recommend that HSBC Bank pay any more in redress than it has already offered to pay. But for completeness I will set that out again. HSBC Bank should put things right with reference to Loan 2.

Putting things right – what HSBC Bank needs to do

Loan 2 was repaid after the 14-day cooling off period had expired and so accrued interest was applied to the settlement amount. I think this should be refunded. I can't see that any capital repayments were made.

To settle Miss A's complaint HSBC Bank should do the following:

- To add up the total amount of capital Miss A received as a result of having been given Loan Two. If any repayments were made these should be deducted from this amount.*
- Any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement).*
- To remove any negative information recorded on Miss A's credit file as a result of the interest and charges on loan two.*
- Pay Miss A £200 for her distress. As HSBC Bank has already paid £75 it's entitled to deduct this from this amount.*

†If HSBC considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Miss A how much it's taken off. It should also give Miss A a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate."

I asked the parties to the complaint to let me have any further representations that they wished me to consider by 8 November 2023. Both parties have acknowledged receiving the decision. HSBC Bank has accepted the provisional findings and suggested redress. Miss A

is disappointed with my provisional findings. As both parties have made their further submissions to me, I'm proceeding to my 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.

Miss A told us she had a separate complaint upheld and received an amount that she told us was similar to the suggested award for distress and inconvenience in this case, Miss A considered the other award was for a less serious fault than the irresponsible lending and customer service failing in this case.

We consider each case on the particular details and circumstances of each complaint. The redress for the irresponsible lending is our standard redress for unaffordable lending. Having reviewed Miss A's comments, I still think I have seen insufficient evidence to be able to recommend a redress different to the standard redress in this case.

Having considered afresh all the submissions made to me in this case and given that there's no new information for me to consider following my provisional decision, I have no reason to depart from those findings. And as I've already set out my full reasons for upholding Miss A's complaint, I have nothing further to add.

My final decision

For the reasons set out, my decision is that the lending on loan two was not reasonable and so I uphold that part of the complaint. HSBC Bank should put things right in the way set out above including the award for the customer service issue.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 28 November 2023.

Douglas Sayers
Ombudsman