

## **The complaint**

Mrs H has complained that HSBC UK Bank Plc ("HSBC"), irresponsibly granted her a credit card account which she couldn't afford to repay.

## **What happened**

Mrs H told us she took out a credit card with HSBC in June 2000 (card number ending 7603). She later fell into financial difficulties and entered into a debt management plan (DMP) in 2006 - this is expected to continue for a considerable time. Mrs H further said that she has been in extreme financial hardship for some while, which is affecting her mental health and adding to her health problems overall.

Mrs H complained to HSBC, saying – in summary - that it had failed to adequately check that she was in a financial position to be able to repay the borrowing, and that, had it completed suitable checks, it would have been evident to HSBC that it should not have approved the application or any credit increases. Mrs H would like HSBC to write off the remaining debt and remove the adverse credit entries from her credit file.

HSBC replied to Mrs H, saying that as this was all so long ago, it no longer had any records of Mrs H's account and therefore couldn't investigate her complaint. HSBC was later able to trace an extremely limited amount of information about the credit card account. It said the card was taken out in June 2000, but it could not find details of the original credit limit or the dates of any increases, although it had established that the credit limit in December 2004 was £9,600. It had received an offer of nominal monthly payments from a debt advice charity in July 2006 as part of Mrs H's DMP, and the debt was later sold to a third party in May 2008.

HSBC also told us that it considered Mrs H's complaint to have been made outside the time limits that this service has to apply. However, another Ombudsman at this service determined that it was within these time limits, and therefore we could consider the complaint.

Our investigator looked into Mrs H's complaint, but didn't think it should be upheld. Mrs H didn't agree and asked for it to be reviewed by an ombudsman.

## **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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website, and I've taken this into account here.

I've decided not to uphold Mrs H's complaint. I'll explain why.

I should first say that, as the credit card was issued in June 2000, this predates regulation by the Financial Conduct Authority (and its predecessor, the Financial Services Authority). The

relevant law was the Consumer Credit Act 1974, but the issue of assessment of ability to repay was covered in the Banking Code, a voluntary Code of Practice. So I have considered those in reaching my decision.

The issue of the credit card also predates the establishment of this service, but as one of the predecessor ombudsman schemes -the Office of the Banking Ombudsman - could have considered it, this service can also.

The Banking Code stated that all lending would be subject to the lender's assessment of the applicant's ability to repay. It went on to set out a list of issues that may be considered, although the list was neither exhaustive nor prescriptive. The list included matters such as the applicant's income and commitments, repayment history, credit record and credit scoring,

Mrs H has sent in copies of her credit file from 2004, an application for a separate card from 1999 (to demonstrate her income at that point), her recollections of her income and outgoings at the time, and a list of creditors at the start of the DMP in 2006. She hasn't been able to provide any copies of bank statements from 2000, but she said she had a joint mortgage with her husband at the time, and otherwise mentioned motoring and general living expenses. She also stated that she was helping to support her wider family. However, while I do appreciate that Mrs H has provided her best recollections, without bank statements I can't get a clear picture of her financial circumstances. And while I accept that the list of creditors on the DMP is extensive, it relates to 2006 and I need to look at what happened in June 2000.

Mrs H also provided information about her health and about the circumstances leading to her financial difficulties. I don't need to set these matters out in any detail here, but I have read and considered all the information she provided, and I do understand that she is, and has been for some time, in an extremely difficult situation.

HSBC told us it had no information about the checks carried out before granting the card, or the credit limit originally granted. As I noted above, all it could tell us was the date of opening (June 2000), the credit limit in December 2004 (£9,600) and that the debt was sold to a third party in 2008. I don't think this is unreasonable, as the card was issued nearly 24 years ago, and businesses aren't required to keep records indefinitely.

I've looked at the copy of Mrs H's credit file to see what credit she had in June 2000 and therefore what HSBC might have seen had it gathered information from credit reference agencies as part of the application process.

I can't see a mortgage listed, but I can see six credit cards, four mail order accounts and two loans taken out before June 2000. A further two credit cards were issued in June 2000 (one of which I take to be the card that is the subject of this complaint), along with a loan, but it's very unlikely that these would have been visible to HSBC in any credit checks as there is usually a time gap before credit reference agency records are updated.

Because the credit file is dated 2004, it only shows the credit limits and amounts outstanding at that point - there's no information about the credit limits that would have applied as at June 2000, or the balances outstanding then. The two loans that are listed prior to June 2000 show combined monthly payments of £43 (the loan Mrs H took out in June 2000 had a monthly payment of £210 but as I explained above I don't think that would have been visible in any checks HSBC carried out).

The credit card application Mrs H sent in shows that her annual income before tax in September 1999 was £15,264. So I think it would've been similar when she applied for the

credit card with HSBC in June 2000. Mrs H thought her monthly income after tax was in the region of £1,150.

I've thought carefully about all of the information that both parties have provided. I don't have any information about the checks HSBC carried out before granting the card, so I can't say whether they were consistent with what's set out in the Banking Code. I also don't know what credit limit HSBC applied when it issued the card, although given Mrs H's income from around that time I think it's unlikely that the initial limit was £9,600. Having said that, I have no information about whether or when the limit might have been increased, so I can only look at what happened in June 2000.

From what's on the credit file, the only *verifiable* monthly credit commitments that I think HSBC are likely to have seen in June 2000 are the loan payments of £43. Of course there would have been additional commitments in relation to the payments due on the other credit cards and mail order accounts, but as I have no information on the balances outstanding I can't estimate what these would've been. Mrs H has herself said that HSBC wouldn't reasonably have been aware of her wider family support. And as I noted above, in the absence of bank statements I don't have a clear picture of Mrs H's full circumstances.

So taking everything into account. I can't fairly say that it's more likely than not that the credit was unaffordable for Mrs H when she took out the card, or that HSBC acted unfairly in granting it – there simply isn't enough evidence for me to reach that conclusion. Therefore, while I have a great deal of sympathy for Mrs H in her current situation, I cannot fairly uphold this complaint.

### **My final decision**

For the reasons I've explained, I've decided not to uphold Mrs H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 20 April 2024.

Jan Ferrari  
**Ombudsman**