

The complaint

Mr B says HSBC UK Bank Plc irresponsibly lent to him.

What happened

Mr B complains about two loans he took out from HSBC. The first (loan 1) was for £15,000 over 48 months on 15 January 2022 and the monthly repayments were £333.67. Loan 1 was used in part to settle an existing HSBC loan Mr B had. It was then repaid in full on 25 January 2023. The second (loan 2) was for £7,000 over 48 months on 30 January 2022 and the monthly repayments were £188.76. It was repaid on 1 February 2022.

Mr B says both loans should not have been provided as they were unaffordable due to his gambling habit. He says HSBC had full access to the transaction history on his current account and could see regular large payments leaving his account. He was also overdrawn by a significant amount for a large period of time. And HSBC did not ask him what the funds were for. Having such easy access to credit when he has a gambling addiction increased the amount of debt he now owes. This has had a significant impact on his mental health.

HSBC says it carried out proportionate checks using information Mr B provided, financial information it already held on Mr B from his current account, and data from the credit reference agencies. They showed the loans would be affordable and did not reveal a gambling problem.

Our investigator upheld Mr B's complaint in part in relation to loan 2. He said the checks for both loans were proportionate and loan 1 seemed affordable. But he thought they showed loan 2 should not have been given to Mr B.

HSBC said whilst it didn't agree with everything the investigator said - as the merchant codes for the transactions he mentioned wouldn't have flagged as gambling - it agreed to his recommendations to bring matters to a close.

Mr B did not agree. He said he should not have been given loan 1 either as he was £3,200 overdrawn at the time and in the month before there was a clear increase in gambling and crypto currency transactions from his current account. Our investigator explained why this did not change his assessment so Mr B asked for an ombudsman's review.

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.

We've set out our approach to complaints about irresponsible and unaffordable lending on our website and I've followed it here.

Before agreeing to lend, HSBC needed to complete reasonable and proportionate checks to ensure that Mr B could afford to repay what was being lent. There's no set list of checks that a lender has to complete, but the checks need to take into account factors such as the

amount of the loan, the amount of the repayments and the borrower's financial circumstances.

As the parties are no longer in dispute about loan 2 my review will focus on loan 1, until I set out the redress.

I've thought about whether HSBC carried out reasonable and proportionate checks for loan 1. I've then looked at the information HSBC obtained from Mr B when he applied and the information it obtained from the checks it carried out to assess whether it made a fair lending decision.

HSBC has told this service it reviewed Mr B's current account to understand his regular income and fixed outgoings paid by direct debit or standing order. It did this to validate the income supplied within the application and to allow it to undertake a full affordability assessment using a combination of modelled essential monthly spending such as utility bills, council tax, groceries and any rent or mortgage payments. It asked about purpose of the loan which was to settle an existing HSBC loan and for home improvements. It carried out a credit check to understand the cost of his existing credit commitments and his credit history. Based on these checks HSBC calculated Mr B would have sufficient disposable income to be able to repay loan 1 sustainably.

I think these checks were proportionate. HSBC also had Mr B's repayment history for his existing loan with a very similar monthly repayment amount. This loan had been well managed. So I now need to decide if HSBC made a fair lending decision based on the information it gathered. It hasn't supplied the results of either its affordability assessment or credit check. But it has supplied Mr B's statements for his current account and Mr B has provided his credit file. So I can see what HSBC most likely saw at the time it made its lending decision. And I haven't seen anything to suggest HSBC was wrong to lend to Mr B.

Mr B argues that he was £3,200 overdrawn at the time, but a review of the three months prior shows that whilst he did use his overdraft facility at times he wasn't persistently reliant on that line of credit. He also feels HSBC ought to have been aware he was gambling but I can't see that it would have learnt that from proportionate checks at the time of loan 1. I accept his spend with a crypto trading platform had increased prior to the loan application. But this could have been for investment purposes and was not a certain indicator of a gambling problem. As our investigator pointed out with regards to the other transactions Mr B said were gambling, I agree it is plausible that given this loan was for home improvement the outlay involved may have already started before the loan went through. The transactions' narrative or merchant codes did not identify them as gambling.

From Mr B's credit report I can see he was up-to-date with all his active accounts at the time, and did not seem to be having difficulty managing his finances.

So in the round I find HSBC was not wrong to give loan 1 to Mr B. To be clear, I am not saying I doubt Mr B's testimony that he was gambling, rather that it would not have been proportionate for HSBC to complete the level of financial review needed to possibly discover this. I am sorry this has impacted on Mr B's mental health. I hope he now has the support he needs. If not Mr B could contact Step Change on 0800 138 1111 for advice about financial difficulties. And if he needs help to manage his gambling he could contact GamCare on 0800 802 0133.

Putting things right for loan 2

HSBC should:

- Refund all interest and charges applied to loan 2. Treat all repayments Mr B made as repayments of the capital.
- If this results in Mr B having paid more than he received, any overpayments should be refunded along with 8% simple interest (calculated from the date the overpayments were made until the date of settlement). †

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

My final decision

I am upholding Mr B's complaint in part in relation to loan 2. HSBC UK Bank Plc must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 July 2024.

Rebecca Connelley
Ombudsman