

## **The complaint**

Mr J complains that HSBC UK Bank Plc lent irresponsibly when it approved a managed loan to consolidate existing debts.

## **What happened**

Mr J had a loan, overdraft and credit card with HSBC. Mr J's explained that he wasn't able to maintain the loan repayments and in June 2022 contacted HSBC to ask for help. HSBC reviewed Mr J's circumstances and agreed to refinance his overdraft of £5,000, loan of £17,053 and credit card of £2,789 into a single managed loan totalling £24,850 at 0% interest. Loan payments of £428.44 a month were agreed over five years.

Mr J has explained that despite agreeing to refinance his debts, the new loan payment was still unaffordable. Mr J also went on to raise complaints about the credit card, overdraft and loan HSBC approved on the basis it lent irresponsibly. Mr J referred those complaints to this service and they were upheld, with HSBC agreeing to refund all interest, fees and charges applied to them.

In March 2023 Mr J fell behind with the managed loan payments and HSBC started to record arrears on his credit file. Mr J and HSBC agreed a repayment plan that reduced the monthly payment to £182 for six months. At the end of the six month plan, HSBC sent Mr J a default notice. Mr J contacted HSBC again and completed an income and expenditure assessment but its collections notes say another payment plan wasn't agreed at that time but a payment break was approved.

In January 2024 Mr J spoke with HSBC and started to make repayments of £150 the following month. HSBC advised that to formalise the agreement it would need to record a repayment plan on Mr J's credit file but he wasn't willing for it to do that. As a result, Mr J's been making payments to HSBC of £150 on an informal basis since that time.

Mr J later complained about the managed loan HSBC approved in 2022 and it issued a final response. HSBC's final response referred to credit file amendments it was required to make following his previous complaints but confirmed that didn't impact the information it was reporting about the managed loan.

An investigator at this service upheld Mr J's complaint. They noted that when HSBC had completed the managed loan application in June 2022 Mr J had included £1,500 a month as income that he was being given by his father. But the investigator wasn't persuaded that was a reasonable basis for HSBC's lending decision and agreed with Mr J it had lent irresponsibly. The investigator said HSBC should continue working with Mr J to ensure repayments remained affordable and remove any adverse information being recorded on his credit file about the managed loan.

HSBC didn't agree and said it was obliged to report accurate information about Mr J's loan to the credit reference agencies. HSBC explained that it wouldn't have approved the managed loan on the basis of repayments of £150 a month. HSBC reiterated that by using Mr J's father's contributions in addition to his income, he appeared to have a disposable income of

£1,948 a month which meant the managed loan was affordable. HSBC added that by approving the managed loan option for Mr J it had reduced his outgoings by £100 a month. As HSBC asked to appeal, Mr J's complaint has been passed to me to make a 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.

I'm aware the managed loan is made up of funds Mr J borrowed from HSBC via a credit card, overdraft and loan. And I'm aware complaints Mr J made that all three were lent irresponsibly by HSBC have been upheld. In this decision, I'm looking at the 2022 decision to approve Mr J's managed loan. I'm not looking at the original lending decisions for the previous accounts Mr J held that were repaid by the managed loan.

Before agreeing to lend, the rules say HSBC had to complete reasonable and proportionate checks to ensure Mr J could afford to repay the debt in a sustainable way. These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:

- The amount of credit;
- The total sum repayable and the size of regular repayments;
- The duration of the agreement;
- The costs of the credit; and
- The consumer's individual circumstances.

That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstances by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.

I'm aware the investigator has already set out the detail of the income and expenditure assessment HSBC completed so I'm not going to repeat it here. I've also listened to Mr J's application call with HSBC. What's clear is that the only way Mr J was able to afford the managed loan repayments of £428.44 a month was due to monthly contributions from his father of £1,500. Without using that as part of Mr J's income, the managed loan was unaffordable.

I agree with the investigator that using a monthly payment of £1,500 from Mr J's father as part of his long term income was unrealistic. I've seen Mr J's bank statements for the months before his loan was approved, and there's no evidence of payments close to that level from his father. Nor did HSBC seek to get any real understanding of Mr J's father's circumstances or whether he would be able to continue providing support at that level for the entire loan term. I also think it's fair to note that the managed loan was for a substantial sum with large monthly repayments. So I'm satisfied HSBC needed to be very sure Mr J was in a position to manage the monthly repayment over the full term of the loan before it decided whether to proceed.

In my view, it should have been clear to HSBC that the level of income used in the application was unrealistic. I'm satisfied that if HSBC had done more to verify Mr J's circumstances it would've either offered to refinance on different, more favourable terms, or declined to proceed altogether. Overall, I agree with the investigator's view that HSBC lent irresponsibly when approving the managed loan in 2022.

The situation is somewhat complicated by the fact Mr J's debts were all consolidated to the managed loan prior to successful complaints being raised about them. As a result, when HSBC issued refunds, they were forwarded directly to Mr J, not used to reduce the balance of the managed loan. But Mr J explained to HSBC he was using the refund sums to repay other debts and I see no reason to disbelieve him.

I need to decide how to fairly resolve Mr J's complaint. HSBC's made the point that whilst it agreed a repayment plan last year, Mr J has rejected further repayment plans due to the impact on his credit file. But I think our investigator makes a reasonable point when they say that HSBC has lent irresponsibly to Mr J on several occasions now. HSBC accepts the loan, overdraft and credit card were all irresponsibly approved. And we've now reached the conclusion that the managed loan, which was meant to be a solution to the other debts Mr J had, was also the result of irresponsible lending. As a result, I'm satisfied we need to take a pragmatic approach to resolving Mr J's case rather than relying on a standard settlement.

As no interest has ever been applied to the managed loan, I'm not going to recommend any refunds. But I'm not persuaded it's fair to continue recording arrears or adverse information on Mr J's credit file about a managed loan that I'm satisfied was irresponsibly approved in order to repay other debts that HSBC accepts it shouldn't have given him. Our investigator said HSBC should amend Mr J's credit file so the balance of the managed loan is reported but no adverse information is recorded. But HSBC has explained that it can't amend the information it reports on that basis due to the way its systems operate. HSBC also said it didn't agree the resolution was fair. In response, the investigator suggested that if HSBC can't amend the information it's reporting about Mr J's loan it should stop reporting it on his credit file.

Ultimately, I think the investigator's recommendation that HSBC removes the adverse information it's recorded about the managed loan from Mr J's credit file is the fairest approach. If HSBC's systems don't allow it to do that, then I think the next fairest option is for the managed loan to be removed from Mr J's credit file altogether. Whilst I understand HSBC is obliged to report accurate information, I have to balance that against the specific circumstances of Mr J's complaint. And I'm not persuaded the adverse information it's reporting about the managed loan tells the full story of Mr J's situation or that the lending checks HSBC carried out fell short.

The investigator also said it was reasonable for HSBC to continue to review Mr J's circumstances and offer affordable repayment options for him. I agree that's a fair approach and means HSBC can review whether Mr J's repayments are affordable and whether he can increase them in the future to repay the outstanding balance quicker.

Having considered all the available information, I'm satisfied the fairest approach is to uphold Mr J's complaint and tell HSBC to amend his credit file and continue to carry out reviews of his circumstances until the balance is repaid.

### **My final decision**

My decision is that I uphold Mr J's complaint and direct HSBC UK Bank Plc to settle as follows:

- Either remove all adverse information (including arrears and payment arrangements) about the managed loan whilst continuing to record the outstanding balance from Mr J's credit file or remove the account from his credit file altogether
- Continue to complete reviews of Mr J's circumstances until the loan balance has been repaid to ensure payments remain affordable

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 31 October 2024.

Marco Manente  
**Ombudsman**