

The complaint

Mr T has complained through a representative that HSBC Bank UK plc ("HSBC") failed to conduct proportionate checks before it lent to him.

What happened

The loans part of this this complaint are outlined below.

loan number	loan amount	total to repay	APR	agreement date	repaid date	number of monthly instalments	highest repayment per loan
1	£20,230.00	£23,747.45	6.7%	24/02/2018	09/01/2020	60	£395.75
2	£20,000.00	£23,737.68	6.7%	09/01/2020	outstanding	60	£395.63

Mr T had had some difficulties repaying the second loan and it seems from the notes provided from HSBC that the account was defaulted in January 2021 and the balance passed to its recoveries department.

Following Mr T's complaint HSBC explained in the final response letter that it had carried out proportionate checks which showed the two loans were affordable. Unhappy with this response, Mr T's representative referred the complaint to the Financial Ombudsman.

The complaint was considered by an investigator, who having reviewed the evidence didn't uphold the complaint. He said HSBC ought to have built up a more detailed picture of Mr T's finances but having looked at his HSBC bank statements, in the months leading up to both loan applications, he was satisfied that further checks wouldn't have altered HSBC's decision to lend.

Mr T's representative didn't agree with the outcome, and it raised some concerns about a further payment received from Mr T which was a mortgage equity payment. The comments didn't change the investigators' outcome, and as no agreement could be reached the complaint has been passed to me to decide.

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 general approach to complaints about unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website. And I've used this approach to help me decide Mr T's complaint. Having carefully considered everything I've decided to not uphold Mr T's complaint. I'll explain why in a little more detail.

HSBC needed to make sure it didn't lend irresponsibly. In practice, what this means it needed to carry out proportionate checks to be able to understand whether Mr T could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for checks to be less thorough – in terms of how much information is gathered and what is done to verify it – in the early stages of a lending relationship.

But we might think more needed to be done if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So, we'd expect a firm to be able to show that it didn't continue to facilitate a customer's loans irresponsibly.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr T's complaint. Having looked at everything I have decided to uphold Mr T's complaint and I've explained why below.

Loan 1

Mr T, as part of the application declared he received an income of £53,500 per year. HSBC says that it worked this out to be around £3,100 a month. HSBC took steps to verify this income by reviewing Mr T's HSBC current account turnover.

I've taken a look at the bank statements provided and it does seem that Mr T received a weekly salary that did fluctuate – in the months leading up to the loan he earned between £480 and £1,120 per week. But broadly speaking the income that Mr T declared looked about right.

I can see that Mr T received a significant payment on the 1 February 2018, but to be clear I've not counted that payment as income – because it wasn't regular. All I've considered is the weekly repayment Mr T received.

HSBC then explained that it also carried out a full affordability assessment, taking account of essential living costs such as council tax, clothing and utilities to name a few. It also carried out a credit search which identified that Mr T had a mortgage and as Mr T was married HSBC made a decision that the expenses were shared – which doesn't seem unreasonable.

As I've said above HSBC carried out a credit search and it's provided a summary of the information that it received. It knew Mr T had nine active accounts. HSBC also knew there were no defaults, insolvencies or CCJs recorded against. There wasn't anything in my view, solely from the credit search results, that would've led HSBC to either decline the application or carry out further checks.

Overall, for this loan, taking account of the credit search results and the living costs it calculated Mr T had monthly disposable income of £820.

However, HSBC hasn't been able to provide us with a copy of exactly what information it used for the affordability assessment beyond saying that Mr T had had £820 disposable income. I also can't ignore that the bank statements and the notes for this loan showed Mr T already had an outstanding loan with HSBC – because the purpose of this loan has been noted as debt consolidation for an existing HSBC loan.

So, like the investigator I do think further checks ought to have been carried out when thinking about the sum that was being borrowed and the term it was lent over, the fact Mr T was an existing customer of HSBC and it looks like this was another loan taken to repay another HSBC loan.

HSBC could've gone about doing this a number of ways. It could've simply asked him what his living costs were, asked for evidence from Mr T about his bills or as I've done, it could've reviewed the bank statements it had access too.

But to be clear, I've only used the bank statements to get an idea of what Mr T's regular living costs are likely to have been like at the time – I've not done this because I think HSBC ought to have requested this information as part of underwriting this loan. After all HSBC already had a reasonable idea of Mr T's income and his credit commitments.

I accept had HSBC conducted proportionate checks it may not have seen all the information that I have seen. But, in the absence of HSBC conducting a proportionate check I do think it's fair and reasonable to consider the bank statements that it had access to. And having looked at the statements I've come to the same conclusions as the investigator for broadly the same reasons.

At the time the loan was approved, Mr T had two accounts with HSBC. One of the accounts was not really used beyond making a number of direct debit payments that came to £752.51 per month.

Mr T's other HSBC account where he received his income into also had a number of direct debits and these came to around £1,050 each month. As part of these payments Mr T had an existing HSBC loan payment but I've not counted that bearing in mind this loan would be closed. So, adding together all of the direct debits and payments that I can see Mr T would need to make these came to around £1,800 per month.

There of course would be other living costs associated with this including, payments for petrol and food. But even taking account of those, along with the loan repayment that Mr T would need to make, had HSBC carried out a more comprehensive review of Mr T's living costs then it would've reached the same conclusion. The loan would've looked affordable.

I therefore do not uphold the complaint about this loan.

Loan 2

A portion of this loan went towards repaying loan 1, this is evidenced not only from the first loans statement of account but also the notes that have been provided about this application. And, I've considered that Mr T repaid loan 1 without any obvious repayment difficulties and that would've provided extra reassurance to HSBC that Mr T would be in a position to take on this loan, considering the monthly contracted repayment was broadly similar.

Mr T declared the same monthly income as before and once against HSBC said it reviewed his bank statement turnover. Having reviewed this turnover for the three months before the loan start date, Mr T received at least £3,100 per month and in December and November 2019 he received significantly more. So, I don't think it was unreasonable of HSBC to have used a monthly income of £3,100.

Credit checks were also carried out and showed much the same as the first loan, there were no adverse markers such as defaults or insolvencies. But this time HSBC was aware that Mr T's total outstanding debt was just over £40,000 – which given his declared annual income could be a significant amount.

The same sort of living cost checks were carried out as they were for loan 1, and this time after considering the credit check results HSBC worked out that Mr T had around £1,600 per month in disposable income in which he could afford his repayments.

While the loan may have appeared affordable to HSBC, I don't think it could fairly reach that conclusion. Firstly, it knew that Mr T had more debt than he did at loan 1 and dispute this his disposable income had almost doubled since the first loan. To me that doesn't make any sense when the information Mr T would've given HSBC show that his circumstances for loan were similar and he had at least the same amount of day to day living costs.

For the reasons outlined above I still think, HSBC needed to have a full and complete understanding of Mr T's outgoings to make sure that the loan was both affordable and sustainable for him. As before, HSBC had access to two bank accounts that Mr T had with it and it would've been fair, in the circumstances, for it to have considered what they showed.

There is one account that isn't used that often, and there are monthly direct debits of £759.06 being paid from it. But, there are also credits into the account from third parties that seem to roughly equal the amount of the direct debits. But even if I accept that Mr T was solely responsible for the payments I can see, it doesn't change the outcome that I've reached.

What appears to be Mr T's main account – which is the one where his salary is received there are a number of payments each month including for a credit card, what I believe to be a vehicle payment, mortgage, council tax and utilities. The majority of these payments are set up as direct debits and the total cost each month comes to around £1,600. Of course, on top of this there is the existing HSBC loan repayment but given that loan would be replaced with loan 2, and the repayments were for a similar amount it doesn't change the outcome that I'm intending to reach.

On top of this, there are also payments for petrol – and even though at times these are fairly regular, Mr T still had sufficient disposable income even with these payments to afford the loan. The current account balance remains positive with a healthy balance and so even if HSBC had taken a closer look at Mr T's bank statements it would've likely concluded the loan was affordable.

I'm sorry to hear about the payment problems Mr T had with repaying this final loan. Based on the evidence provided an outstanding balance likely remains due and I would encourage Mr T to work with HSBC to find an agreeable way forward to repay the balance.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think HSBC lent irresponsibly to Mr T or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons given above, I am not upholding Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 9 January 2025.

Robert Walker
Ombudsman

