

The complaint

Mr N complains that HSBC UK Bank Plc (“HSBC”) acted irresponsibly when it failed to monitor his overdraft and act on patterns of reliance and that it failed to spot signs of his financial difficulties.

What happened

On 18 November 2018, Mr N opened a HSBC advance bank account and was provided with an overdraft facility with a credit limit of £3,000. This limit never increased.

In September 2023 Mr N complained to HSBC that it had been irresponsible when it failed to assess or recognise patterns of debt and borrowing.

On 10 November 2023 HSBC issued Mr N with a final response letter (“FRL”). Within the FRL, HSBC explained how it had monitored his account and overdraft, it didn’t consider it had acted irresponsibly and didn’t uphold the complaint.

Unhappy with the response from HSBC, in May 2024 Mr N brought his complaint to us.

Mr N’s complaint was considered by one of our investigators who concluded that HSBC had failed to recognise and act appropriately on signs of financial difficulty. Our investigator upheld Mr N’s complaint from the first annual review in November 2019.

HSBC didn’t accept the investigator’s view, so Mr N’s complaint has been passed to me for review and 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.

Having done so, I can confirm that I’ve reached the same conclusion as our investigator and for broadly the same reason.

I’m aware that I’ve summarised this complaint above in less detail than it may merit. No discourtesy is intended by this. Instead, I’ve focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

If there’s something I’ve not mentioned, it isn’t because I’ve ignored it. I haven’t. I’m satisfied I don’t need to comment on every individual argument to be able to reach what I think is the right outcome. I will, however, refer to those crucial aspects which impact my decision.

Lastly, I would add that where the information I’ve got is incomplete, unclear or contradictory, I’ve to base my decision on the balance of probabilities.

Did HSBC conduct proportionate checks prior to making its lending decision?

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 a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more 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 lender to be able to show that it didn't continue to lend to a customer irresponsibly.

So before approving the in overdraft limit, HSBC needed to make proportionate checks to determine whether the credit was affordable and sustainable for Mr N. There isn't a prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include – but aren't limited to the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. And it's important to note that an overdraft is designed for short term borrowing. I'd also expect Halifax to think about Mr N's ability to repay the whole borrowing in a reasonable period.

Mr N applied for his overdraft online and declared a gross annual income of £53,805 which HSBC equated to approximately £3,959 a month. The income and expenditure document that HSBC sent us for Mr N doesn't contain any details of Mr N's outgoings. But as this was an online application and in essence, Mr N is complaining about the subsequent monitoring of his overdraft facility, as opposed to the initial decision to lend, I'm satisfied on balance HSBC conducted proportionate system checks and made a fair decision to lend initially.

HSBC's responsibility to monitor Mr N's overdraft usage

After granting the overdraft limit of £3,000 in November 2018, HSBC also needed to monitor and review his overdraft usage. And where it identified a pattern of repeat usage, as with Mr N's account, it needed to take steps to try and reduce it.

And in monitoring Mr N's usage of his overdraft facility, I would expect businesses to be aware of factors under the regulations that may indicate a consumer was suffering financial difficulty. These things include among others, adverse credit information, outstanding county court judgements (CCJ) for non-payment of debt or the consumer having to borrow further to cover existing debts.

In April 2019, Mr N exceeded the agreed limit and as a result a direct debit (DD) was returned. And this pattern was repeated with Mr N exceeding the agreed limit for several months resulting in further DDs being returned. These DDs were payments to his HSBC credit card and which should have put HSBC on alert that Mr N was trying to pay off existing debt using his overdraft, indicating Mr N was reliant on hardcore borrowing. Under the regulations, this is a recognised sign of a consumer likely to be experiencing financial difficulty.

HSBC wrote to Mr N regarding these returned DDs explaining the implications for interest and fees and options available. And between June 2019 and November 2019, Mr N was constantly overdrawn and only returned to a credit status on two occasions. But on a more concerning note, there was evidence, looking at Mr N's statements for that period, that Mr N was gambling excessively.

The letters HSBC sent to Mr N invited him to speak if he had any questions or concerns. Because Mr N didn't phone the bank after receiving the letters HSBC doesn't think it did

anything wrong as it believes the onus was on Mr N to contact it. I disagree. In the first instance, I don't think a letter that highlights the cost of the facility is the same thing as something which indicates you may be misusing the facility. And I think HSBC should have been in contact with Mr N about removing the facility, or at the very least reducing it to a more manageable limit. And HSBC should have signposted Mr N to adequate support regarding his gambling and discussed potential gambling blocks. HSBC told us it would have done this had Mr N contacted it directly but given the financial difficulties Mr N was facing at this time, I think HSBC should have taken a more proactive approach.

HSBC told us that it did speak to Mr N in November 2022 and offered appropriate support and did eventually stop the interest and charges being further accrued but I think this was a case of too little, too late. I say this as there were signs that Mr N was experiencing financial difficulty at the time of the first annual review in November 2019.

So I don't think HSBC acted fairly when it failed to take further appropriate action to reach out to Mr N at the time of the annual review in November 2019.

Did HSBC act unfairly in any other way?

I've also considered whether HSBC have acted unfairly or unreasonably in any other way and if an unfair relationship existed between HSBC and Mr N, as defined by section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I've directed above results in fair compensation for Mr N in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

HSBC should:

- Re-work Mr N's current overdraft balance so that any additional interest, fees and charges applied from November 2019 onwards are removed.

AND

- If an outstanding balance remains on the overdraft once these adjustments have been made, HSBC should contact Mr N to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr N's credit file, it should backdate this to November 2019.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr N, along with 8% simple interest (yearly) on the overpayments from the date they were made (if they were) until the date of the settlement. If no outstanding balance remains after all adjustments have been made, then HSBC should remove any adverse information from Mr N's credit file.*

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

My final decision

My final decision is that I uphold this complaint. HSBC Bank UK Plc should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 9 September 2025.

Paul Hamber
Ombudsman