

## **The complaint**

Mr R complains that HSBC UK Bank Plc trading as First Direct (HSBC) acted irresponsibly in agreeing to lend to him.

In bringing his complaint Mr R is represented by a third party. For ease of reading, I will only refer to Mr R in my decision.

## **What happened**

In June 2024 Mr R applied for two loans with HSBC within a couple of days of each other. On 5 June 2024 Mr R entered into a Fixed Sum loan agreement for £6,000, after interest and charges were applied the total amount repayable was £6,852.56. This was to be repaid over 24 months, by one payment of £285.60, and 23 payments of £285.52. On 7 June 2024 Mr R entered into a second Fixed Sum loan agreement with HSBC for £7,500. After interest and charges were applied Mr R was required to repay in total £8,565.67. This was to be repaid over 24 months with one payment of £356.97 and 23 payments of £356.90.

In October 2024 Mr R spoke to HSBC as he was struggling to meet his repayments. Mr R explained he'd been the victim of an investment scam where he'd used his pension. He said he'd applied for the loans as he was persuaded to send additional monies to the scammer to release his funds. He'd also persuaded his partner to release her pension as well. Mr R complained to HSBC as he said they hadn't properly checked whether he could afford the loans, as if they had they would have found he was in receipt of benefits and struggling with his mental wellbeing.

HSBC said their checks were proportionate and reasonable. And having checked Mr R's income and expenditure and credit history they said their decision to lend both loans was fair. They passed Mr R's details to their App Scam team to investigate his being a victim of a scam.

Mr R wasn't happy with HSBC's response and referred his complaint to us.

Our investigator said for the second loan HSBC's checks showed Mr R didn't seem to have sufficient funds to sustain the repayments. And that HSBC should have considered why Mr R was applying for another loan within a short period. But as part of another complaint brought by Mr R HSBC had refunded the monies Mr R had spent as part of the investment scam. He said as HSBC had put things right he wouldn't ask them to do anything further.

Mr R didn't agree reiterating that HSBC shouldn't have lent to him and that the monies refunded to him from his other complaint had been used to settle the monies owed to his partner and the claims management company (CMC) he'd instructed to help him with his complaint. He asked for an ombudsman 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.

I appreciate my decision will disappoint Mr R but I'm satisfied HSBC has put things right so I'm not going to ask them to do anything further. I'll explain why.

HSBC has provided details of the checks they did when deciding whether the lending was affordable for him. The relevant guidance says a lender should take reasonable steps to estimate a consumer's income and expenditure. It also allows for the use of statistical data in estimating any non-discretionary expenditure. Mr R declared his annual income to be £12,000 and HSBC checked this by doing a current account turnover check. The relevant guidance says "*Income can include income other than salary and wages.*"

HSBC said they'd modelled Mr R's essential spending, taking account of council tax, utilities, food, clothing, internet, TV, home essentials, fuel, travel and insurances. They also did a credit reference agency (CRA) check to determine Mr R's credit commitments. These checks didn't show Mr R to have any adverse information or signs of financial vulnerability. And that Mr R should have had a disposable income of £677 before the new lending was factored in. So, I'm satisfied the checks HSBC did for the first loan were reasonable and proportionate. And based on these checks their lending decision was fair as Mr R should have had sufficient disposable income to sustain the repayments and for discretionary spending and unexpected costs.

HSBC's assessment for the second loan showed Mr R should have had around £389 in disposable income before factoring in the new lending of around £360. I haven't seen any evidence that the second loan would be used to settle Mr R's first loan or that HSBC asked Mr R why he needed a second loan in such quick succession. So, while I think HSBC's checks were reasonable and proportionate, I don't think their lending decision for the second loan was fair as this would only have left Mr R around £30 to cover any unexpected costs and discretionary spending which I wouldn't consider sufficient. And I think they should have questioned Mr R further as to why he needed another loan in such a short time.

Our approach to put things right in this type of situation would be that Mr R would still be required to repay the capital lent to him, but it wouldn't be fair for him to pay any applied interest and charges. And once the capital amount was repaid any adverse information about the loan would be removed from Mr R's credit history.

But I can see HSBC has already accepted that the proceeds of both loans were sent to a scammer. And as Mr R was a victim of an investment scam, they've refunded all the payments sent to the scammer plus 8% interest. From their records I can see the refund was paid around February 2025 direct to Mr R but into his partner's bank account at his request.

Also around December 2024, Mr R entered an Individual Voluntary Arrangement (IVA). This is a legally binding agreement between an individual and their creditors to pay back all or part of their debts over a set period, Mr R said for his IVA this is six years. The IVA requires Mr R to make regular payments to an Insolvency Practitioner, who then distributes the money to his creditors. At the end of the agreement, any remaining unsecured debt is written off.

Mr R has provided his IVA documents which show the two loans he'd with HSBC that he's complained about are included. And HSBC has confirmed the debt from the two loans form part of the IVA with no further interest or charges being applied.

Its usually the case that any proceeds from a claim connected to the IVA should be paid into the IVA in full and any fees and costs of any instructed agent would be paid as an expense of the Arrangement. With Mr R only being entitled to receive any amount of statutory interest

that had been paid.

I can understand Mr R wanting to pay back other debts he owes but I can see in his IVA documentation that it was agreed for the monies owed to his partner to be set aside pending the resolution of his IVA. And I would have expected Mr R to inform his IVA administrator on receipt of any funds resulting from a claim connected to the IVA for them to decide upon distribution of said funds to Mr R's creditors, in this instance HSBC. And for them to settle the costs and fees incurred using a CMC.

I understand Mr R has now informed his IVA administrator about the monies he's received from HSBC. I've not been told the outcome of these discussions.

Taking all the above into account, while I think HSBC's lending decision for the second loan of £7,500 was unfair, I'm satisfied they've done more than I'd have asked them to do to put things right in deciding the lending was unaffordable or irresponsibly lent.

While I've only found HSBC acted unfairly in agreeing to the second loan. HSBC has removed the interest and charges from both loans. They've also refunded all the payments made by Mr R to the scammer from the funds he'd received from both loans, plus 8% statutory interest. I can't ask for any adverse information registered on Mr R's credit history to be removed until the capital balance has been repaid. So, I won't be asking HSBC to do anything further.

I know my decision will disappoint Mr R especially as he is struggling with his health, but I hope he understands my reasoning for my decision. And can be reassured that his complaint points have been considered.

### **My final decision**

HSBC UK Bank Plc has refunded all monies relating to the funds paid out from both loans plus 8% interest. And removed any interest and charges that had been applied. I think that's fair in all the circumstances, so I don't require HSBC UK Bank Plc to do anything more to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 5 November 2025.

Anne Scarr  
**Ombudsman**