

## Complaint

Miss P has complained about personal loans which HSBC UK Bank Plc (“HSBC”) provided to her. She’s said that these loans were unaffordable as she was in long-term financial distress and which caused ongoing financial difficulty.

## Background

Miss P was provided with two loans by HSBC. Her loan history is as follows:

Loan	Date taken	Amount	Term*	Monthly payment	Settled
1	March 2018	£25,000.00	60	£494.43	March 2022
2	March 2022	£25,000.00	60	£525.26	

\* in months

In February 2025, Miss P complained saying said that these loans were unaffordable and this created a cycle of her having to borrow further in order to make her repayments.

HSBC did not uphold Miss P’s complaint. It thought that it carried out reasonable and proportionate checks before agreeing to lend to Miss P and these showed these loans to be affordable. When Miss P’s complaint was referred to our service, HSBC told us that we couldn’t consider the complaint about loan 1 as it was made too late.

One of our investigators reviewed what Miss P and HSBC had told us. She reached the conclusion that we could look at Miss P’s complaint about both of her loans. However, she wasn’t persuaded that proportionate checks would have shown the loans were unaffordable for Miss P. So the investigator didn’t recommend that Miss P’s complaint be upheld.

Miss P disagreed with the investigator and asked for an ombudsman’s decision.

## My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

### *Basis for my consideration of this complaint*

There are time limits for referring a complaint to the Financial Ombudsman Service. HSBC has argued that part of Miss P’s complaint was made too late because she complained more than six years after it provided her with her first loan, as well as more than three years after she ought reasonably to have been aware of her cause to make this complaint.

Our investigator explained why it was reasonable to interpret the complaint as being one alleging that the lending relationship between Miss P and HSBC was unfair to Miss P as described in s140A of the Consumer Credit Act 1974 (“CCA”). She also explained why this complaint about an allegedly unfair lending relationship had been made in time.

Having carefully considered everything, I've decided not to uphold Miss P's complaint. Given the reasons for this, I'm satisfied that whether Miss P's complaint about some of the specific charges applied was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Miss P's complaint should be considered more broadly than just the individual lending decisions. I consider this to be the case as Miss P has not only complained about the circumstances behind HSBC's individual decisions to provide her with her loans, but also the fact she alleges that the provision of these loans created a cycle of her having to borrow further in order to make her repayments.

I'm therefore satisfied that Miss P's complaint can therefore reasonably be interpreted as a complaint that the lending relationship between herself and HSBC was unfair to her. I acknowledge the possibility that HSBC may still disagree that we are able to look at Miss P's complaint about both of her loans, but given the outcome I have reached, I do not consider it necessary to make any further comment or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Miss P's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Miss P's complaint can be reasonably interpreted as being about that her lending relationship with HSBC was unfair to her, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (HSBC) and the debtor (Miss P), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship. S140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given Miss P's complaint, I therefore need to think about whether HSBC's respective decisions to lend to Miss P, or its later actions resulted in the lending relationship between Miss P and HSBC being unfair to Miss P, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Miss P's relationship with HSBC is therefore likely to be unfair if it didn't carry out reasonable and proportionate checks into Miss P's ability to repay these loans in circumstances where doing so would have revealed the monthly payments to have been unaffordable, or that it was irresponsible to lend. And if this was the case, HSBC didn't then somehow remove the unfairness this created.

#### *Our typical approach to complaints about irresponsible or unaffordable lending*

We've explained how we handle complaints about irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Miss P's complaint.

I think that it would be helpful for me to set out that we consider what a firm did to check whether loan payments were affordable (asking it to evidence what it did) and determine whether this was enough for the lender to have made a reasonable decision on whether to lend.

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 that information – 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, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

That said, I think that it is important for me to explain that our website does not provide a set list of mandated checks that a lender is expected to carry out on every occasion – indeed the regulator's rules and guidance did not and still do not mandate a list of checks to be used. It simply sets out the types of things that a lender could do.

It is for a lender to decide which checks it wishes to carry out, although we can form a view on whether we think what was done was proportionate to the extent it allowed the lender to reasonably understand whether the borrower could make their payments. Furthermore, if we don't think that the lender did enough to establish whether the repayments to an agreement were affordable, this doesn't on its own mean that a complaint should be upheld.

We would usually only go on to uphold a complaint in circumstances where we were able to recreate what reasonable and proportionate checks are likely to have shown – typically using information from the consumer – and this clearly shows that the repayments in question were unaffordable.

I've kept this in mind when deciding Miss P's complaint.

*Application to Miss P's complaint – Why I don't think that HSBC's decisions to lend to Miss P were unfair or unreasonable*

HSBC says it agreed to Miss P's applications after she provided details of her monthly income and some information on her expenditure. It says it cross-checked this against information on credit searches which it carried out. In its view, all of this information showed Miss P could afford to make the repayments she was committing to on both of these occasions.

On the other hand, Miss P has said that these loans were unaffordable and they created a cycle of her having to borrow further in order to make her repayments.

*Why I'm satisfied that HSBC acted fairly and reasonably when providing loan 1 to Miss P*

Loan 1 was for £25,000.00 and provided to Miss P in March 2018. Unfortunately, HSBC hasn't been able to provide much information about this loan itself, or evidence of what it knew about Miss P before agreeing to provide it to her. As the decision to provide this loan took place more than seven years ago, I don't think that this is surprising and I've therefore not drawn any adverse inferences as a result of this.

In any event, I understand that HSBC is likely to have carried out credit checks. And I've not seen anything to suggest that any credit checks carried out will have shown that Miss P had any significant adverse information – such as defaulted accounts or county court judgments

("CCJ") recorded against her. I also think that the interest rate Miss P received for this loan also suggests that Miss P wasn't overly indebted or had any other issues at this stage either. In my view, if Miss P had been overindebted, HSBC would more likely than not have applied a higher interest rate to this loan.

Given what any credit searches HSBC is likely to have carried out will have shown, I think it is unlikely that there would have been any obvious reason for HSBC to decline Miss P's application. In these circumstances, I've not been provided with sufficient evidence to persuade me that it was unfair or unreasonable for HSBC to have accepted Miss P's application and provide her with loan 1.

*Why I don't think that HSBC's checks before providing loan 2 were reasonable and proportionate*

The information HSBC has provided suggests that it carried out similar, or even the same, checks before it agreed to provide loan 2 to Miss P. I have already explained why I think that this may have been sufficient for loan 1. However, I'm mindful that loan 2 was being provided in circumstances where Miss P was a repeat borrower.

Indeed, Miss P was being provided with loan 2 before she'd repaid loan 1. So I don't think that loan 1 being settled early is in itself evidence of loan 2 having been affordable. Given Miss P was a repeat borrower I would have expected HSBC to have taken steps to understand what her monthly expenditure actually was, rather than rely on declarations of this.

As I can't see that HSBC did obtain this information from Miss P, I'm not persuaded that the checks it carried out before providing loan 2 were reasonable and proportionate.

*Would reasonable and proportionate checks have prevented HSBC from providing loan 2 to Miss P?*

As HSBC didn't carry out sufficient checks before providing loan 2 to Miss P, I've gone on to decide what I think HSBC is more likely than not to have seen had it obtained the information that I think it should have gathered. As I've explained, bearing in mind the circumstances here, I would have expected HSBC to have had a reasonable understanding about Miss P's actual regular living expenses as well as her income and existing credit commitments.

I want to be clear in saying that this isn't the same as saying that HSBC had to review bank statements in order to verify all of this, as how it found out what I think that it needed to find out was down to it. Nonetheless, as I'm considering what proportionate checks are likely to have shown after the event, copies of bank statements have in any event been provided and they have what I now need to assess this complaint, I don't think it is unreasonable for me to have a look at them with an idea to determining what I think HSBC finding out more about Miss P's circumstances is likely to have shown.

I've therefore considered the bank statements provided in order to determine what I think HSBC finding out more about Miss P's actual regular living costs are likely to have shown it. Having done so, I don't think that HSBC attempting to find out further information about Miss P's actual regular living costs would have made a difference here. I say this because I've not seen anything that shows me that when Miss P's committed regular living expenses, other non-discretionary expenditure and her existing credit commitments were deducted from her income she did not have the funds to make the monthly payments to loan 2.

I accept that Miss P's actual circumstances may not have been fully reflected either in the information she provided, or the information HSBC obtained. For example, I note that Miss P

has said that she wasn't in good health at this time. I'm sorry to hear about Miss P's health difficulties and any resulting impact that this has had on her being able to pay this loan. But HSBC wouldn't have known about this and as a result I can't reasonably expect it to have known about this or factor it into its decision to lend either.

I'm also mindful that the information from Miss P's application shows that her selected loan purpose was consolidation of her existing debts. I don't know whether Miss P did go on to consolidate all of her existing debts into just this loan. Although her bank statements do show her making payments to some of her revolving credit providers shortly after being provided with the funds for this loan.

In any event, HSBC could only make a reasonable decision based on the information it had available at the time. It's possible that Miss P went on to re-establish balances on any accounts that she cleared. But HSBC won't have known whether Miss P would actually pay off her existing balances. Equally it wasn't in position to close Miss P's accounts with her other providers either.

All HSBC could do was take reasonable steps and rely on assurances from Miss P that she would consolidate her borrowing in the way that she said she would. So I'm satisfied that the proceeds of this loan could and should have been used to clear a significant proportion of the existing debt that Miss P had and which she is now arguing meant that she shouldn't have been provided with this loan.

This includes the HSBC overdraft which Miss P says her use of meant this loan shouldn't have been provided. Equally, as the debt Miss P was looking to consolidate had a significantly higher interest rate, I'm satisfied that HSBC was reasonably entitled to believe that Miss P would be left in a better position after being provided with this loan.

In reaching my conclusions, I've also kept in mind that HSBC provided a second loan to Miss P and that repeat borrowing in itself can sometimes be an indication of difficulty. I've also noted that Miss P has said that loan 2 was her second consolidation loan and consolidation loans don't always work for individuals who are in debt.

The first thing for me to say is the debt consolidation is a legitimate purpose for borrowing. So I don't think that it would be fair and reasonable for me to uphold Miss P's complaint on the basis such loans don't always improve the borrower's financial position. Furthermore, I don't know whether loan 1 was provided on the basis that it was going to be used to consolidate Miss P's existing debt. As I've said, there is an extremely limited amount of information remaining about this loan and this doesn't include what was recorded at the time of Miss P's application.

In any event, loan 1 had been running for four years by the time that Miss P applied for loan 2. I also think it fair to say that consolidation loans tend to prove more problematic where multiple consolidation loans of increasing amounts are provided to the customer. Having considered the available evidence, I'm not persuaded that's what happened here.

I say this because even if loan 1 was taken for consolidation purposes, loan 2 wasn't for a higher amount. Indeed, around £7,500.00 was going towards settling the balance that remained on loan 1. So there's a reasonable argument that the amount Miss P was being lent for loan 2, was less than what she was initially advanced for loan 1.

In any event, I don't think that there was clear evidence that Miss P's indebtedness was increasing in a way that was unsustainable or otherwise harmful, particular if she had gone on to close some of her revolving credit accounts once the balances on them had been cleared.

It's also worth noting that the total period of time Miss P was due to be indebted to HSBC for, at the time she was provided with loan 2, was around nine years. It isn't unusual for a single loan of £25,000.00 to be provided over such a term. Equally, I'm also mindful that the payments for loan 2 were that much higher than loan 1 and for the reasons I've explained I'm satisfied that they were more likely than not affordable at the time of the application too.

So while Miss P being a repeat borrower here has led to me taking a closer look at the overall pattern of lending, I'm satisfied that it wasn't unfair for HSBC to have provided loan 2 to Miss P on the basis that it ought to have realised that it was increasing Miss P's indebtedness in a way that way unsustainable or otherwise harmful.

Having carefully considered everything and while I appreciate that this will disappoint Miss P, I'm satisfied that proportionate checks are likely to have shown HSBC that these loans were individually affordable for Miss P. Furthermore, I don't think that Miss P's pattern of borrowing meant that HSBC offered these loans in circumstances where it ought reasonably to have realised that they may have been unsustainable or otherwise harmful for her either.

Overall, and based on the available evidence I don't find that Miss P's relationship with HSBC was unfair. I've not been persuaded that HSBC created unfairness in its relationship with Miss P by irresponsibly lending to her when providing her with any of her loans. I don't find that HSBC treated Miss P unfairly in any other way either based everything I've seen.

So while I can understand Miss P's sentiments and appreciate why she is unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Miss P. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

### **My final decision**

For the reasons I've explained, I'm not upholding Miss P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 30 October 2025.

Jeshen Narayanan  
**Ombudsman**