

Complaint

Mrs S has complained that HSBC UK Bank Plc ("HSBC") irresponsibly provided a credit card to her. She says that this was irresponsible and resulted in ongoing difficulty.

Background

Mrs S was initially provided with a credit card by HSBC in August 1995. Given the account was opened more than 30 years ago there is understandably a very limited amount of information available. HSBC has been unable to confirm the amount of the credit limit that it initially granted.

Nonetheless, it has confirmed that the earliest statements it has show that Mrs S' credit limit was £9,300.00. So it is prepared to accept that this is the limit Mrs S was provided with. Mrs S hasn't said anything about the limit being for a different amount either.

In March 2025, Mrs S complained saying that the credit card was unaffordable and resulted in a worsening of her circumstances. HSBC did not uphold Mrs S' complaint. As far as it was concerned, Mrs S had complained too late. Mrs S remained dissatisfied at HSBC's response and referred her complaint to our service.

When responding to our request for its file on Mrs S' complaint, HSBC reiterated its belief that Mrs S had complained too late. One of our investigators reviewed what Mrs S and HSBC had told us. She thought that she hadn't seen enough to be persuaded that HSBC failed to act fairly and reasonably to Mrs S. This resulted in the investigator deciding against recommending that Mrs S' complaint be upheld.

Mrs S disagreed with the investigator's conclusions and asked for an ombudsman to look at her complaint.

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 Mrs S' complaint was made too late because she complained more than six years after the decisions to provide the credit card and all of the credit limit increases 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 relationship between her and HSBC was unfair to her as described in s140A of the Consumer Credit Act 1974 ("CCA"). He 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 Mrs S' complaint. Given the reasons for this, I'm satisfied that whether Mrs S' complaint about the decision to lend was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Mrs S' complaint should be considered more broadly than just the lending decision. I consider this to be the case as Mrs S has not only complained about the decision to lend but has also alleged that this unfairly resulted in her having to miss other payments elsewhere because of the payments she had to make on this card.

I'm therefore satisfied that Mrs S' complaint can therefore reasonably be interpreted as a complaint about the ongoing fairness of her relationship with HSBC. I acknowledge HSBC may not agree we can look at Mrs S' complaint. Furthermore, having considered Mrs S' response to our investigator's assessment it is clear that she disagrees with the basis upon which we're able to consider her complaint.

However, given the outcome I have reached here, I do not consider it necessary to make any further comment or reach any findings in relation to why I am able to consider this complaint.

In deciding what is fair and reasonable in all the circumstances of Mrs S' case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Mrs S' complaint can be reasonably interpreted as being about the fairness of her relationship with HSBC, 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 (Mrs S), 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 Mrs S' complaint, I therefore need to think about whether HSBC's decision to lend to Mrs S and increase her credit limits, or its later actions resulted in the lending relationship between Mrs S and HSBC being unfair to Mrs S, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mrs S' relationship with HSBC is therefore likely to be unfair if it didn't carry out reasonable enquiries into Mrs S' ability to repay in circumstances where doing so would have revealed the credit card or limit increases to be irresponsible or unaffordable. And if this was the case, HSBC didn't then remove the unfairness this created somehow.

Preliminary matters

I've read and considered everything provided. I want to reassure Mrs S that where I haven't commented on a specific issue she has referred to, or a comment that she may have made, it's not because I've failed to take it on board and think about it. The reason I will not have commented on the issue is because I'm satisfied that I don't need to do so in order reach what I consider to be a fair and reasonable outcome.

For the sake of completeness, I would add that our complaint handling rules, which I'm required to follow, permit me to adopt such an approach. It may also help for me to explain that I will reach my decision on the balance of probabilities. Where the evidence is contradictory, inconclusive or incomplete (as a lot of it is here), I must reach my conclusion based on what I consider is more likely than not to have happened in light of the available evidence and the wider circumstances.

I'll now turn to setting out my thoughts on HSBC's lending decision.

Was the decision to provide the credit card unfair?

We do have an explanation about how we handle complaints about unaffordable and irresponsible lending on our website. However, the vast majority of our website guidance covers regulated lending. Furthermore, the decision that HSBC made to lend to Mrs S not only predates the regulation of consumer credit lending but it was also made prior to when the obligations, which our current guidance is based on, were introduced.

So I think that the information on our website and our typical approach to lending complaints has only very limited, if any, relevance to Mrs S' complaint.

When Mrs S applied for a credit card in the period August 1995, this not only predated the current regulator's (the Financial Conduct Authority ("FCA")) rules and guidance which came in in April 2014, it also predated the regulation of consumer credit.

Prior to April 2007, while a number of lenders signed up to various voluntary codes, a lender wasn't required to be regulated in order to provide credit. Therefore, all of the decisions HSBC made to offer Mrs S credit - the decision to provide the card itself and the limit increases - took place prior to the introduction of the main regulations and standards in relation to irresponsible and unaffordable lending.

That's not to say that there weren't any expectations or standards in relation to lending at the time Mrs S applied for a credit card. I understand that HSBC was a subscriber to then British Bankers' Association's Banking Code, which was in place at the time. But it would be fair to say that its obligations and responsibilities were not the same as they are now.

For example, neither the concept of borrower focused assessments nor proportionate checks were part of the expectations or requirements at the time. And, given in mind what Mrs S said in her letters of complaint, I think it's important to highlight that persistent debt wasn't part of the considerations at this time either.

What HSBC agreed to do – as a result of it being a subscriber to the banking code – at the time of Mrs S' application for a credit card, was assess whether it felt that she would be able to repay any lending. I therefore need to consider this part of Mrs S' complaint in relation to these expectations that were in place on a lender at this time.

HSBC's decision to provide Mrs S with a credit card

In this instance, I'm led to understand that HSBC is likely to have agreed to Mrs S' application after it carried out a credit search. Indeed, this was what lenders typically did

before agreeing to provide credit at this time. This is especially as any checks in the 1990s were more concerned with the likelihood of a lender getting its money back, rather than how a borrower might be able to afford their repayments. On the other hand, Mrs S says that the credit card as unaffordable.

I've considered what the parties have said.

What's important to note is that Mrs S' credit card was a revolving credit facility rather than a loan. This means that to start with HSBC was required to understand whether Mrs S could repay a limit of £9,300.00 within a reasonable period of time.

HSBC hasn't been able to provide any details on what it found out about Mrs S as a result of the credit checks that it carried out prior providing the card. Given the initial application took place more than three decades ago, I don't think that this lack of information is unreasonable. Therefore, I've not drawn any adverse conclusions as a result of HSBC not being able to provide this information as part of its defence to Mrs S' complaint.

In any event, I'm also mindful that I've not been provided with any information and neither has it even been argued, that Mrs S had any significant adverse information – such as defaulted accounts, county court judgments ("CCJ") recorded against her at this time. From what Mrs S has said she has referred to having had a poor credit score in 2005.

HSBC clearly felt that Mrs S could repay £9,300.00 within a reasonable period of time. I've not seen anything at all to demonstrate that this wasn't the case in August 1995. Furthermore, as I've explained, it's fair to say that the standards expected of lenders at this time was far more light touch than it is today.

As this is the case, I've not been persuaded that HSBC's decision to provide Mrs S with a credit card was unfair or that it resulted in unfairness going forward.

It's clear that Mrs S feels strongly about her complaint and I do sympathise with the difficulties that she has had. I also accept that given the rules, guidance and standards in place today - in relation to a lender now needing to ensure that it does not lend irresponsibly rather than just considering the credit risk – it's possible that HSBC might not take the same lending decision today.

However, all I can do is consider HSBC's actions against the obligations and expectations that were in place at the time and in light of this make a call on whether it acted fairly and reasonably at that time. Finding that a firm was required to do something that it wasn't, or retrospectively applying rules that didn't apply at the time, would not only result in a decision that is not fair and reasonable all the circumstances, it would result in a decision that was unlawful. So I can't view whether HSBC treated Mrs S fairly and reasonably through the prism of today's standards.

Given, as I've explained, it's fair to say that the standards expected of lenders at this time was far more light touch than it is today and there's quite understandably very limited information from the time, I've not been persuaded that it was clearly unreasonable for HSBC to feel that Mrs S could repay £9,300.00 within a reasonable period of time.

Finally, while I've noted what Mrs S has said about having this account for 30 years and this is longer than a mortgage would be provided for, I don't think that the comparison made is a reasonable one. I say this because Mrs S' credit card was an open-ended credit agreement, rather than a mortgage or a fixed-sum loan. This means that this credit card didn't have a determined end date, at the outset, in the same way that a mortgage or fixed-sum loan would.

I would agree that a customer not making any reductions at all to a mortgage or fixed sum loan, which they couldn't draw further funds on, for 30 years is likely to be indicative of problematic debt. However, this is not what happened here. Indeed, Mrs S pretty much cleared the balance on this credit card account in 2019 and I don't think that it is unfair to say that she could have closed the account at that point.

For the sake of completeness, I would add that there was no requirement for HSBC to proactively do this or conduct a further assessment of affordability at this stage, especially as Mrs S clearing the balance was in itself an indicator of affordability that HSBC was entitled to rely on.

Equally, while the balance on Mrs S' account did increase again after this – this was as a result of additional spending. So Mrs S did not owe the full amount for the period she had this account. And I don't think that her comparison is fair here, given she did clear the balance on the account and it isn't unusual for a customer to keep the same credit card for an extended period of time.

Therefore, bearing in mind all that I've considered here, I don't find that Mrs S' relationship with HSBC was unfair. I've not been persuaded that HSBC created unfairness in its relationship with Mrs S by unfairly lending to her whether when initially agreeing to provide her with a credit card. Based on everything I've seen, I don't find HSBC treated Mrs S unfairly in any other way either.

So while I can understand Mrs S' sentiments and appreciate that she feels strongly about matters, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Mrs S. 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 Mrs S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 1 December 2025.

Jeshen Narayanan
Ombudsman