

The complaint

Mr L complains that it was irresponsible for HSBC UK Bank Plc to give him a credit card.

What happened

In July 2016, Mr L applied for a credit card with HSBC. The bank agreed his application and offered a £5,000 credit limit. The limit hasn't been changed.

On 25 June 2025, Mr L complained to HSBC. He said the card was agreed over the phone despite him telling the bank he was struggling financially. Since then, his financial situation continued to worsen, and he is still paying back the debt. To resolve his complaint, Mr L requested a refund of the charges and interest plus 8% simple interest, an amount for distress and inconvenience and an apology.

It's not clear if HSBC has issued a final response letter regarding Mr L's complaint – I've only seen one regarding his overdraft - but it has provided us with details of its investigation. It has told us it believes the complaint has been referred to late for us to consider under the complaint handling rules set by the Financial Conduct Authority (FCA) as more than six years has passed since the account was opened.

One of our investigators looked into the complaint. She felt it could reasonably be considered as a complaint regarding an unfair relationship as described in Section 140A of the Consumer Credit Act 1974 (s.140). She said this meant the complaint had been brought in time as the relationship is ongoing, and she went on to look into it.

Our investigator felt she didn't have enough information to say that HSBC had conducted reasonable and proportionate checks. Ordinarily she would consider other evidence to see what those checks might've found such as bank statements but, due to the time that's passed, that evidence is no longer available. Our investigator said she couldn't reasonably reach a finding that Mr L had been treated unfairly.

Mr L didn't agree with our investigator so as there was no agreement, the complaint has been passed to me for a 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.

There are time limits for referring a complaint to the Financial Ombudsman Service, and HSBC thinks this complaint was referred to us too late. Our investigator explained why she didn't, as a starting point, think we could look at a complaint about the lending decisions that happened more than six years before the complaint was made. But she also explained why it was reasonable to interpret the complaint as being about an unfair relationship as described in s.140, and why this complaint about an allegedly unfair lending relationship had been referred to us in time.

For the avoidance of doubt, I agree with our investigator that I have the power to look at the complaint on this basis. I think this complaint can reasonably be considered as being about an unfair relationship as Mr L says the credit card has simply made his situation worse. This may have made the relationship unfair as he had to pay more in interest than he could afford and was unable to reduce the debt for several years. I acknowledge HSBC still doesn't agree we can look at this complaint, but as I don't think it should be upheld, I don't intend to comment on this further.

In deciding what is fair and reasonable I am required to take relevant law into account. Because Mr L's complaint can be reasonably interpreted as being about the fairness of his relationship with HSBC, relevant law in this case includes s.140A, s.140B and s.140C of the Consumer Credit Act 1974.

S.140A says that a court may make an order under s.140B if it determines that the relationship between the creditor (HSBC) and the debtor (Mr L), 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.

S.140B 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 what Mr L has complained about, I need to consider whether HSBC's decision to lend to him, or its later actions, created unfairness in the relationship between him and HSBC such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mr L's relationship with HSBC is therefore likely to be unfair if it didn't carry out proportionate affordability checks and doing so would have revealed its lending to be irresponsible or unaffordable, and if it didn't then remove the unfairness this created somehow.

I think there are key questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- Did HSBC carry out reasonable and proportionate checks to satisfy itself that Mr L was in a position to sustainably repay the credit?
- If not, what would reasonable and proportionate checks have shown at the time?
- Did HSBC make a fair lending decision?
- Did HSBC act unfairly or unreasonably towards Mr L in some other way?

HSBC had to carry out reasonable and proportionate checks to satisfy itself that Mr L would be able to repay the credit sustainably. It's not about the bank assessing the likelihood of it being repaid, but it had to consider the impact of the repayments on him. There is no set list of checks that it had to do, but it could take into account several different things such as the

amount and length of the credit, the amount of the monthly repayments and the overall circumstances of the borrower.

Did HSBC carry out reasonable and proportionate checks?

As our investigator pointed out, the lending decision which gave rise to this credit card was taken nine years before Mr L raised his complaint. Businesses aren't obliged by either law or good industry practice to retain records indefinitely. Generally, they only do so for around six years. It's not surprising then that HSBC doesn't have all the information it considered when it agreed the credit card.

It has been able to provide some information which confirms that Mr L was employed full time on a salary of £18,500 per year. His current account was with HSBC and I understand he had an overdraft of £2,100. As I have little more information than that, I can't fairly conclude that reasonable and proportionate checks were carried out.

What would reasonable and proportionate checks have shown at the time? Did HSBC make a fair lending decision?

To try to establish what HSBC might have seen at the time when carrying out its' checks, we told each party we'd like to see bank statements for a few months before the lending decision.

I note that Mr L banked with HSBC so it would have been able to see how his current account was running. It was clearly satisfied with what it saw or it wouldn't have agreed the card. But neither HSBC nor Mr L can provide copies of those statements, so I can't comment on whether the bank was right to be satisfied or not. It follows that I can't reasonably say that HSBC treated Mr L unfairly when it agreed the card for him.

To be clear, I do acknowledge and empathise with what Mr L has told us about the impact this lending had on him and his circumstances. But I simply don't have enough information to be able to uphold his complaint.

Did HSBC act unfairly or unreasonably towards Mr L in some other way?

I've carefully read and considered everything Mr L and HSBC have said. I can see from his credit card statements dating back to October 2019, that Mr L hasn't spent on the card and has simply been making payments to it. So he's doing what he can to reduce the debt, and I understand he has now almost repaid it which I'm sure will be a relief to him.

HSBC has provided copies of a number of letters it sent to Mr L since November 2020 regarding his account being in persistent debt. It explained that in order to repay a greater proportion of the balance (rather than largely just covering interest) to reduce the debt more quickly, it would display a "*voluntary payment*" option on his statements which would be a little higher than his minimum contractual payment. It also asked him to contact it if he was struggling.

I can see that over time, Mr L has increased his payments up to and above the voluntary payment shown on his statements which has helped him bring the balance down more quickly.

Mr L has sometimes contacted the bank about his situation. As he has acknowledged, it has occasionally frozen interest to help him.

Having considered all the evidence I do have, I don't think HSBC has treated Mr L unfairly

with regards to this credit card account.

I realise my decision will come as a disappointment to Mr L, but for the reasons I've already given, I don't think HSBC lent irresponsibly to him or otherwise treated him unfairly in relation to this matter.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 12 March 2026.

Richard Hale
Ombudsman