

The complaint

Miss A complains that HSBC UK Bank Plc ('HSBC') irresponsibly granted her a credit card she couldn't afford to repay.

What happened

In April 2019 Miss A entered into an agreement with HSBC to have access to credit by way of a credit card account. She was given an initial credit limit of £3,000. This wasn't increased, although it was reduced, to £2,900, in September 2021.

HSBC said that Miss A's complaint had been made too late under our time limit rules. This was because the account had been opened more than six years before Miss A started her complaint. HSBC also said Miss A ought to have been aware that something had gone wrong when late payment fees were being added to her account.

Our investigator agreed the complaint had been brought too late under both the six-year and three-year parts of our time limit rules, saying she ought to have been aware that HSBC might be at least partly responsible for something going wrong by the time her limit was reduced, in September 2021. And no exceptional circumstances applied.

Our investigator also thought Miss A's complaint could be interpreted as being about an unfair credit relationship as described in Section 140A of the Consumer Credit Act 1974 (s140). And that meant the complaint would have been made in time. Having looked at the complaint on this basis, however, our investigator didn't think HSBC had acted unfairly or unreasonably in agreeing to grant the card. And she said that HSBC had done enough to help and support Miss A.

As Miss A didn't agree, her 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 because the decision to lend took place more than six years ago. Also, Miss A ought to have been aware that HSBC may have done something wrong more than three years before she started her complaint.

However, our investigator explained why it was reasonable to interpret the complaint as being about an unfair relationship as described in Section 140A of the Consumer Credit Act 1974, and why this complaint about an allegedly unfair lending relationship had been referred to us in time.

Seeing as I've decided not to uphold Miss A's complaint and given the reasons for this (which I'll go on to explain), whether Miss A referred her complaint more than six years after the lending decision has no impact on that outcome. Nor does the fact that I agree she ought

reasonably to have known that she might have reason to make a complaint at least three years before she did so.

That's because, like our investigator, I think Miss A's complaint should be considered more broadly than just the decisions to grant her the credit, seeing as she has complained not just about the decision to lend but also the impact it had on her. Miss A's complaint can therefore reasonably be interpreted as a complaint about the fairness of her relationship with HSBC. I acknowledge HSBC may still not agree we can look at the complaint, but given the outcome I have reached, 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 Miss A's complaint can be reasonably interpreted as being about the fairness of her relationship with HSBC, relevant law in this case includes s.140A, s.140B and s.140C of the Consumer Credit Act 1974 ("CCA").

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 (Miss A), 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 their 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 Miss A has complained about, I therefore need to think about whether HSBC's decision to provide Miss A with credit on her card, or any of its later actions, created unfairness in the relationship between her 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.

Miss A's relationship with HSBC is therefore likely to be unfair if it didn't carry out proportionate affordability checks, where 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 will approach the complaint on that basis.

When assessing affordability, there wasn't a set list of checks that HSBC needed to complete, but they needed to be borrower-focused and proportionate to things like the type of lending, the cost of the lending as well as the amount, and how long Miss A would need to maintain her repayments for.

Before opening the account, HSBC gathered evidence and information from Miss A about her ability to repay, including checking her income and credit file. However, HSBC hasn't been able to provide us with the actual details. So, I'm not able to make a finding that its checks were reasonable and proportionate.

But I have seen Miss A's credit report which didn't show recent adverse markings on her credit file.

I think I should clarify here that to make a finding that HSBC had acted unfairly, I would also need to establish what HSBC would have been likely to have seen had it carried out better checks. Not being able to establish that the lending checks were proportionate doesn't necessarily mean that the credit itself was unaffordable.

Having seen Miss A's bank statements the card looked to be affordable and something that she'd be able to repay sustainably. I say this having noted her income and typical monthly outgoings. I've seen evidence that Miss A was gambling online from time to time. But I can't say that her financial situation was deteriorating at the point she applied for the card such that HSBC would have been made aware of the issue – and I wouldn't necessarily have expected it to ask for her bank statements.

So, based on what I've seen, I don't have enough evidence to fairly say that Miss A was likely to be unable to sustainably repay what she spent on her credit card.

I haven't seen anything else that might suggest HSBC ought to have done more to support Miss A than it did. I say this taking into consideration I've seen letters sent to her about her card use, missing payments and going over her credit limit. HSBC also paused her interest between October 2019 and February 2020. Miss A says she reached out to HSBC for help, although HSBC hasn't been able to locate a record of this. Taking everything into consideration, therefore, I don't think HSBC ought reasonably to have done more to help and support Miss A.

It follows that I won't be making a finding that HSBC acted unfairly or unreasonably. I don't find that Miss A's relationship with HSBC is currently unfair. It's not clear enough to me that HSBC created unfairness in its relationship with Miss A by lending to her irresponsibly. And I don't find HSBC treated Miss A unfairly in any other way based on what I've seen.

I'm sorry to have to disappoint Miss A on this occasion.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 5 March 2026.

Michael Goldberg
Ombudsman