

## **Complaint**

Mr B has complained about a credit card HSBC UK Bank Plc (“HSBC”) provided to him. He says that the credit card was unaffordable for him and caused him ongoing financial difficulty.

## **Background**

In November 2011, HSBC provided Mr B with a credit card which looks to have had a credit limit of £500. It would appear that Mr B’s credit limit was increased to an amount of over £750 at some point between November 2011 and March 2017, as HSBC has been able to provide a copy of a letter showing that Mr B’s credit limit was reduced to £750 in March 2017.

In March 2025, Mr B complained saying that the credit card was unaffordable and caused him ongoing financial difficulty. HSBC did not uphold Mr B’s complaint. It believed that Mr B had complained too late. Mr B remained dissatisfied and referred his complaint to our service.

When responding to our request for its file on Mr B’s complaint, HSBC reiterated its belief that Mr B had complained too late. One of our investigators reviewed what Mr B and HSBC had told us. And he thought HSBC hadn’t done anything wrong or treated Mr B unfairly. So he didn’t recommend that Mr B’s complaint be upheld.

Mr B disagreed and asked for an ombudsman to look at the 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 Mr B’s complaint was made too late because he complained more than six years after its decision to provide him with a credit card; as well as more than three years after he ought reasonably to have been aware of his cause to make this complaint.

Our investigator explained why it was reasonable to interpret Mr B’s complaint as being one alleging that the relationship between him and HSBC was unfair to him 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 Mr B’s complaint. Given the reasons for this, I’m satisfied that whether Mr B’s complaint about the specific lending decisions was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Mr B's complaint should be considered more broadly than just the lending decisions. I consider this to be the case as Mr B has not only complained not about the decision to lend but has also alleged that this unfairly caused ongoing financial difficulty as he had to take out further credit to maintain his payments.

I'm therefore satisfied that Mr B's complaint can therefore reasonably be interpreted as a complaint about the overall fairness of the lending relationship between him and HSBC. I acknowledge HSBC may not agree that we can look at Mr B's complaint, but given the outcome I have reached, I do not consider it necessary for me to make any further comment, or reach any findings on these matters.

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

Mr B's relationship with HSBC is therefore likely to be unfair if it didn't carry out reasonable and proportionate checks into Mr B's ability to make his repayments in circumstances where doing so would have revealed the credit card to be unaffordable, or that it was irresponsible to lend. And if this was the case, HSBC then didn't somehow then remove the unfairness this created.

I've considered Mr B's complaint in this context.

#### *Our approach to complaints about irresponsible and unaffordable lending*

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

HSBC needed to make sure it didn't lend irresponsibly. In practice, what this means is HSBC needed to carry out proportionate checks to be able to understand whether Mr B could afford

to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. 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 it – 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 or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

### *The partes' submissions*

HSBC says it initially agreed to Mr B's application after it took some information on his income and carried out a credit search. And the information obtained indicated that Mr B would be able to make the monthly repayment due on this credit card.

On the other hand, Mr B says that credit card was unaffordable for him and caused him ongoing financial difficulty.

I've considered what the parties have said.

### *Application to Mr B's complaint – Did HSBC act fairly and reasonably when offering Mr B a credit card and subsequent limit increases?*

What's important to note is that Mr B was provided with a revolving credit facility rather than a loan. And this means that HSBC was initially required to understand whether Mr B could repay £500 within a reasonable period of time.

Given, it's unclear what Mr B's credit limit was prior to March 2017, it's difficult to know what Mr B was required to repay. In any event, even if Mr B's limit had been as high as £1,000.00, I think it's fair to say that the monthly repayments required to repay such a credit limit weren't especially high.

I understand that HSBC is likely to have carried out a credit search on Mr B at the time of his initial application and any credit limit increases, but given the length of time since Mr B's application it no longer has a record of what this showed. In any event, I haven't been provided with anything that shows that Mr B had any significant adverse information - such as defaulted accounts or county court judgments recorded against him at these respective times.

Furthermore, I understand that Mr B was working and was in receipt of a salary. Bearing in mind all of these circumstances, it doesn't appear unreasonable for HSBC to have agreed to Mr B's application and to provide him with credit of up to around £1,000.00. So I'm not persuaded that any unfairness was caused as a result of HSBC providing Mr B with his credit card or increasing his credit limit.

### *Did HSBC allow Mr B to use his card in a way that was unsustainable or otherwise harmful for him?*

Mr B has also said that HSBC acted unfairly towards him as it continued to allow him to use this credit card even after it ought to have seen his account wasn't being operated correctly and he'd missed payments. In the first instance, I think that it would be helpful for me to

explain that the type of review that Mr B has referred to is mainly concerned with an overdraft.

A credit card isn't designed to be operated with a credit balance in the same that a current account is. So having a balance on a credit card isn't necessarily a problem, in the same way that being continually overdrawn might be. Furthermore, I wouldn't expect a lender to automatically withdraw a credit card because of a late or missed payment. Indeed, there are rules on when a lender can and it is appropriate to default a credit card account.

That said, the regulator, the Financial Conduct Authority ("FCA") did introduce new rules regarding persistent debt on credit cards in 2018. The final stage of these rules came into operation in 2020<sup>1</sup>. This permitted credit card providers to close a credit card to new spending where customers were not taking sufficient steps to reduce balances that were in persistent debt.

The lender would then set up an affordable pay down plan for the balance owed, even if a customer was making their minimum payment in accordance with the terms and conditions of the account. Given Mr B's reference to him failing to clear the balance on the card and only making minimum payments, I've considered whether HSBC had sufficient regard to these rules.

In the first instance, it's worth noting that that it doesn't automatically follow that an individual who has had a balance towards the upper end of their credit limit will be in persistent debt. I say it because the definition of persistent debt is based on how much of the customer's payments go towards interest and how much goes towards repaying the capital borrowed. As this is the case, it is perfectly possible for someone to remain at the upper end of their credit limit for the relevant period without ending up in persistent debt.

Furthermore, I'm mindful that Mr B was offered a 0% interest loan in order to clear his credit card balance in 2016. However, for whatever reason, it looks like this wasn't taken up. In terms of the persistent debt rules and how they were applied to Mr B's account, I can see that HSBC wrote to Mr B in December 2018 and September 2019 explaining that his account had entered into persistent debt and he should consider increasing his monthly payments if he could.

The information provided shows that Mr B must have increased his payments because he was notified that he was no longer in persistent debt in June 2020. Mr B coming out of persistent debt effectively restarted things. That said, I can see that Mr B's card has been closed to further spending for some time now and he hasn't been charged interest in this period too. So Mr B is now on a plan which result in the balance on the card being cleared.

I appreciate that Mr B may feel that he will have owed less had he not had to pay interest or charges in the first place. However, as this was an interest-bearing credit card and I don't think that HSBC should have taken unilateral corrective action, particularly bearing the relatively low limit in place, the consequences of such action and I can't see that the account met the criteria for such action to be taken.

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<sup>1</sup> The persistent debt rules actually came into force in 2018. This is when the first PD18 letters will have gone out. As the paydown plan phase starts at 36 months, it wasn't until 2020 where the first accounts will officially have been in persistent debt for the required time. It is only where this criteria was met that a lender was permitted to impose solutions aimed at helping reduce a customer's debt, without adverse credit information being recorded, irrespective of whether the customer was maintaining the account in line with the terms and conditions.

In these circumstances, I'm satisfied that HSBC reducing Mr B's credit limit, reminding him of the interest he was paying and setting out an additional voluntary payment, which would have resulted in him clearing the balance quicker was fair and reasonable. Indeed, this did lead to Mr B's account exiting persistent debt. And it looks like when the account once again entered a similar position it was closed to new spending and a payment plan was agreed. In these circumstances, I don't think that HSBC did act unfairly in allowing Mr B to use the credit card account in the way that he did.

Overall, and based on the available evidence I don't find that Mr B's relationship with HSBC was unfair. I've not been persuaded that HSBC created unfairness in its relationship with Mr B by irresponsibly lending to him. I don't find HSBC treated Mr B unfairly in any other way either based on what I've seen either.

So overall and having considered everything, while I can understand Mr B's sentiments and appreciate why he is unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Mr B. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

### **My final decision**

For the reasons I've explained, I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 February 2026.

Jeshen Narayanan  
**Ombudsman**