

complaint

Mrs B complains that the loan HSBC UK Bank Plc gave her in December 2014 was unaffordable.

background

Mrs B said she was in financial difficulties and had health problems when HSBC accepted her application for a loan in 2014. She applied for a consolidation loan of £25,000 and asked HSBC to increase her existing loan from £15,665.50. HSBC initially declined her application on the basis that she was overcommitted. She said she was regularly exceeding her overdraft, she had payday loans, and direct debits had been returned the previous month. She had been off work earlier in the year for health reasons. She was vulnerable and not able to manage her accounts. Her application was looked at again by the underwriters and again declined. She made another application three weeks later which was also declined.

This time her manager at work asked the underwriting team to look at the application again and it was approved with conditions. She said that her financial circumstances were the same as when the applications had been declined. So she thinks this was irresponsible lending.

She said one of the conditions of the loan was to make sure all external lending was closed but this didn't happen. She told us she used the loan to pay off her debt but she said the branch didn't sit down with her to help her close her existing borrowing. So it built up again. She said she appreciates that some of the responsibility falls on her but she wasn't in any state to be managing her finances. She's asked HSBC for the phone calls where it was agreed that the branch would help her close all her lending but HSBC said they are not available despite the fact it keeps them for six years.

HSBC said it didn't know about Mrs B's health problems until she made this complaint. It said the loan was "*exceptionally agreed*" after Mrs B's appealed the original decision. It said her decision not to close any lending accounts after she'd paid off her creditors, was outside its control.

It said the loan would've put her in a better financial position "*had she upheld her commitments*". It said it was "*only consolidating the debt she already had to make things more manageable for her*". Her overall lending was not increased by this loan. And it was given to her to help her repay her existing lending at a lower interest rate.

Our investigator didn't think HSBC had done anything wrong. He thought it was trying to help her by consolidating her debt into a single monthly payment to try and put her in a better financial position. He said the decision not to close her external accounts was outside HSBC's control.

Mrs B wasn't happy with this. She said the bank failed her. She was having problems sending us her credit file and wanted to show she had missed payments and late payments. She said there was a note on her file that the branch was to pay off and close all lending with her and it didn't do that. And it knew about her health problems.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so I've come to the same conclusion as our investigator for very similar reasons. I can see how strongly Mrs B feels about this so I know she will be disappointed with my decision.

Mrs B is having difficulty sending her credit report to us which she says will show missed and late payments at the time of the lending although no arrears. But I don't think Mrs B's credit history is in dispute. So I'm satisfied I can make my decision without it.

If a loan is unaffordable it means that the customer couldn't afford to make the repayments at the time he or she was given the credit. The affordability checks a lender should carry out should be proportionate to the size of the loan and the cost of repayment. We can't say that HSBC should've done any particular check. But we can look at Mrs B's circumstances at the time to see if there was anything that should've concerned HSBC.

Mrs B said her credit report should've given HSBC cause for concern. But Mrs B has told us there were no arrears on the report. And I don't think missed and late payments would have led HSBC to conclude this loan was unaffordable particularly as it was to help her consolidate those debts and not to increase the overall level of her borrowing.

I've considered whether it was irresponsible for the bank to have given Mrs B the consolidation loan. Irresponsible lending is not just about whether Mrs B could afford to repay the credit or not – it's whether there's another reason she shouldn't have had the credit. This will depend on her personal circumstances. And it could be irresponsible to lend money to someone who is in a debt spiral because they're borrowing money to repay other loans which they can't afford. But I don't think that's the case here. I accept she was repaying other loans and was having some difficulty making the payments. But this was a consolidation loan for her to pay off all her other debt and then to make a single monthly payment at a lower interest rate. There wasn't any increase overall on her borrowing. So I can't see that was irresponsible of HSBC.

Mrs B says that HSBC knew at the time of the loan about her health problems and that she was vulnerable and couldn't manage her finances. She said it's not listening to the phone calls from that time. But even if HSBC had been aware of her circumstances I don't think this would've made the lending irresponsible. . Lenders shouldn't refuse to lend to someone just because they have a particular medical history – this could be discrimination. So, lending money to someone in this sort of situation isn't automatically irresponsible – it depends on their individual circumstances. But it could be irresponsible to lend money to someone whose medical condition might mean they would've had problems understanding what they were doing. I would like to reassure Mrs B that I'm not minimising the difficulties she faced from her health problems. But I don't think HSBC would've had enough information from her phone calls and other contact with her to conclude that she didn't understand what she was doing when she asked HSBC for a consolidation loan.

Mrs B is particularly concerned because she said one of the conditions of the loan was for the branch staff to sit down with her, help her pay off her debt with external lenders and then close down the accounts so she couldn't use them again. It's not in dispute that she used the loan to repay her existing debt but she said HSBC didn't close her external accounts so she soon found her borrowing had substantially increased again.

I know Mrs B won't agree with me but I don't think that was something HSBC could do. It could close down any HSBC accounts Mrs B had. But it had no control over her external accounts. It had to be Mrs B herself who closed those accounts. HSBC said its branch staff sat with her and sorted out her HSBC accounts. And they made sure all the external payments were made to clear the balances so that she could contact her creditors to make arrangements to close those accounts. I know Mrs B won't agree with me but I can't see it could have done anything more.

my final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 9 October 2019.

Linda Freestone
ombudsman