

complaint

Mr A complains that HSBC UK Bank Plc mis-sold him a personal loan.

background

In January 2018 Mr A went into an HSBC branch to apply for a £10,000 personal loan. Mr A says that when he applied for the loan, he told the agent he wanted it to pay off other debts. Mr A says the agent said he wouldn't be able to borrow the full £10,000 for this reason so he should say he wanted the loan to buy a car instead.

HSBC approved the loan, and Mr A withdrew almost the full amount on the same day HSBC paid it into his account. Two weeks later a family member paid £10,000 into Mr A's bank account and that same day Mr A paid £10,000 to HSBC in repayment of the loan.

Mr A was unhappy that HSBC didn't ask enough questions about why he wanted the loan. He said he had a gambling problem and HSBC should've been aware of this from the cash withdrawals he was making at casinos. So he complained to HSBC.

HSBC didn't uphold his complaint. It confirmed all its personal loans are subject to a full affordability assessment, information from credit reference agencies and its own lending criteria. It said the loan was affordable for Mr A, based on the regular credits into his bank account and what he'd told it about his outgoings. It said its personal loans are non-advised products so its agents aren't able to make recommendations, only give factual information. It also said that it wasn't able to see that Mr A's cash withdrawals were made at casinos and were likely being used for gambling.

Mr A was still unhappy so he got in touch with our service. The investigator who looked into things thought HSBC hadn't mis-sold Mr A's loan, as it undertook sufficient checks and there was nothing to make HSBC think Mr A might have had gambling problems.

Mr A disagreed so his complaint's been passed to me to make a decision.

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'm not upholding Mr A's complaint.

Mr A says his complaint is really about the HSBC branch agent telling him to say the loan was to buy a car. Mr A points out he doesn't currently have a driving licence so doesn't need a car. He thinks HSBC should have done further checks on why he wanted the loan.

The loan application happened in branch, which means there's no call recording or other record of what was discussed. So I've considered what each party has told me about that discussion. Mr A says the agent told him to say the loan was for a car so he could borrow more. The HSBC agent who processed Mr A's loan application says they followed all HSBC policy and procedures, and that at no point had Mr A given them any reason to believe the loan was for anything other than to buy a car.

When we have two conflicting versions of events, I have to make my decision on the balance of probabilities, that is, what I think most likely to have happened. We have a copy of the

loan application itself completed at the time of the loan. This suggests Mr A did agree to take the loan out for the purpose of buying a car. If any part of the application was incorrect Mr A could have taken steps to correct it with HSBC, but I've seen nothing to suggest he did. So on balance, I don't think I can say HSBC told Mr A to give incorrect information to get the loan.

Mr A says HSBC should have carried out more detailed checks to be sure the loan was for a car, such as looking at his driving licence. But it's not obliged to do such checks and I think it was reasonable for HSBC to rely on what Mr A said he wanted the loan for. Taking everything into account, I can't say HSBC did anything wrong here.

I'd expect a responsible lender to carry out proportional checks to see whether Mr A could afford the loan. I'm satisfied HSBC did, because I've seen that it looked at his existing debt, searched his credit record, and applied its own lending criteria. And HSBC has provided copies of Mr A's bank statements from the three months prior to his loan application. The statements show Mr A's income and outgoings, and based on these it appears the loan repayments were affordable for him at the time. I understand Mr A was on a zero hours contract and his income fell after he took the loan, but I don't think HSBC could've foreseen this. And this doesn't mean it wasn't affordable at the time he took the loan.

The statements don't show anything to suggest Mr A has financial difficulties or is gambling. There are regular cash withdrawals but that's not unusual and it's not possible to tell from the statements that the withdrawals were made at casinos or other gambling establishments. HSBC has confirmed it first became aware of Mr A's gambling when he complained that the loan had been mis-sold, and I've seen nothing to suggest HSBC knew before this.

Considering everything I have, I think HSBC carried out the proper checks to make sure the loan was affordable, and the loan wasn't mis-sold. As Mr A paid the loan back within 14 days of taking it, he wasn't charged any interest so I can't see he's lost financially in this regard.

my final decision

For the reasons set out above, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 21 March 2019.

Ailsa Wiltshire
ombudsman