

complaint

Mr D complains that HSBC Bank Plc lent to him irresponsibly, and didn't treat him sympathetically when he experienced financial hardship.

background

I issued a provisional decision in July this year saying why I didn't think this complaint should be upheld. I said:

"Mr D has had a current account with HSBC for a number of years. In early 2017 he complained to HSBC, asking for the charges applied to his account over the previous six years to be refunded. He said he'd been out of work for several months, had recently started a much lower paid job, and that the charges had left him in financial hardship.

HSBC said it was sorry to hear Mr D was in financial hardship, and sign-posted him to its financial guidance team, as well as to third party debt charities. It didn't agree to refund the charges though, as it thought they'd been applied correctly.

There was some further correspondence between Mr D and HSBC. But HSBC didn't agree to refund the charges. So Mr D brought the complaint to us.

The investigator thought the charges had been applied correctly. And she thought as HSBC had arranged a loan with Mr D in late 2016 to help him manage his debts it had acted reasonably to help him. So she didn't think she could fairly ask it to refund the charges.

Mr D didn't agree. He said in his time of trouble HSBC increased his overdraft to £5,000 and approved £5,000 in loans without any evidence of his income. So it lent to him irresponsibly.

The investigator said that from looking at Mr D's statements she could see that he often went heavily overdrawn, but would then move large sums of money into the account. And she could see the information he'd given HSBC about his income and expenditure showed he had a large disposable income. So she thought it had been reasonable for HSBC to lend to Mr D based on the information it had.

Mr D remained of the opinion that HSBC had lent to him irresponsibly. As an agreement couldn't be reached, the complaint has been passed to me for a final decision.

my provisional findings

Mr D has complained about the fairness of the charges applied to this account. But the Supreme Court ruled on this subject, and there is nothing more I can add. So my decision on this complaint doesn't deal with the fairness or legality of those charges. And from looking through Mr D's bank statements I'm satisfied that they were applied in accordance with the terms and conditions of his account.

We expect lenders to comply with the relevant code when dealing with customers having financial difficulties. Essentially, this means that lenders should consider such cases sympathetically and positively. But this doesn't necessarily mean suspending charges or interest, or offering a refund of historical charges.

When HSBC became aware of Mr D's financial hardship it sign-posted him to its financial guidance team, as well as debt charities. And it later arranged a loan to help him consolidate his debts (helping him avoid further overdraft charges). So I think HSBC was sympathetic to Mr D's position, and took reasonable steps to assist him.

In around mid-2016 he applied for two loans – one for £3,000 and one for £2,000. And he asked for an increase in his overdraft limit. I've seen Mr D's applications. They show his income and expenditure, as well as other financial commitments. From the information HSBC had, I think the lending looked to be affordable for Mr D.

Mr D used his account for gambling for many years. He'd often go overdrawn by large sums. But large sums would then be transferred in, either from betting sites or from another account, bringing the account into credit – sometimes by thousands of pounds. So I don't think the way he used the account meant HSBC should've known Mr D couldn't afford the lending he asked for.

I know Mr D thinks HSBC should have asked for evidence of his income. But I think HSBC – bearing in mind the size of the loans/overdraft increase and the amount of money passing through his account – was entitled to rely on the information he gave it.

my provisional decision

My provisional decision is that I'm considering not upholding this complaint."

developments

HSBC didn't respond to my provisional decision. Mr D responded to say he disagreed, but he didn't make any comments on the merits of the complaint. So I still don't think I should uphold this complaint.

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 D to accept or reject my decision before 14 September 2017.

James Langford
ombudsman