

complaint

Mr P complains that HSBC Bank Plc mis-sold him a credit card that was unaffordable for him. He says it's failed to treat him sympathetically in his financial difficulties.

background

Mr P took out a credit card online with HSBC in September 2016 after providing confirmation of his address and income. Following checks with credit reference agencies, the card was issued with a credit limit of £5,500. The credit card quickly fell into arrears and Mr P contacted HSBC about his financial difficulties in May 2017.

HSBC then carried out an income and expenditure check that revealed Mr P was earning around £1,300 per month after tax and was paying over £1,100 per month to other creditors. HSBC thought he should reduce his payments to other creditors so as to pay off this debt. They refunded him £12 for a late payment fee as a gesture of goodwill but advised him of the collections procedure if he didn't pay off the card.

Mr P came to this service because he thought HSBC shouldn't have given him the credit card in his circumstances and he didn't think it was treating him sympathetically to help him sort things out. Our adjudicator agreed with him and she recommended that HSBC should pay back all interest charged on the debt and freeze interest and charges for the future. HSBC disagreed and asked for review by an ombudsman. It didn't accept the credit card was mis-sold but said it would refund the interest and charges to date as a goodwill gesture, however it wouldn't freeze the interest going forward. Mr P thought HSBC should also refund the money he'd used on gambling because it shouldn't have given him the credit.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Mr P applied for the credit card online through a simple process. But before deciding to lend, HSBC was obliged to consider whether or not the credit would be affordable and sustainable for Mr P in his circumstances.

The Consumer Credit Source Book ("CONC") sets down the kind of factors a bank must consider including the financial position of the customer at the time of seeking credit, the customer's credit history and the customer's existing financial commitments as well as the type, amount and cost of the credit. When Mr P took out the credit card, he had significant existing financial commitments as compared to his income. The amount of credit offered was quite large in relation to Mr P's income. CONC says that a bank must carry out proportionate checks before lending bearing those factors in mind. In this case, I don't think HSBC did enough to check whether or not Mr C could afford the credit he was given. When he applied, Mr P gave his gross annual income as £19,800 which would give him take home pay of around £1,400 per month at the time of the application. HSBC also asked for his address and it says it carried out a Credit Reference Agency (CRA) check. Mr P had confirmed no future change in circumstances that would affect his ability to pay. But the situation with his finances at the time should have caused HSBC to carry out further checks. I can see that the Experian check revealed 17 unsecured loans hits as well as 6 cards. Given Mr P's income and the amount of credit provided, I would've expected HSBC to look further into the affordability of the credit.

Within a month of taking the card out, Mr P had a balance of almost £5,500, the majority of his spending going to pay other loans and online gambling sites. By January 2017, just four months after the credit was approved, the account was in arrears. It's clear from the way the account was used that it wasn't affordable or sustainable right from the start. So I find that the credit card was mis-sold.

When Mr P contacted HSBC about his financial difficulties in May 2017, he said he'd lost his previous job and been out of work for six months though he'd just started a new job. The income and expenditure assessment revealed that Mr P had no disposable income after paying his creditors. HSBC's response was to tell him to reduce his payments to other creditors although it did refund one late-payment fee. But I don't think it treated Mr P sympathetically or tried to help him sort things out. I recognise that it's since offered to freeze past charges and interest on the account to the date the complaint was considered by this service which is a welcome step.

But I think it needs to go further to put Mr P as far as possible into the position he would've been in if it hadn't given him unaffordable credit. I find that HSBC should refund all interest and charges to date and freeze future interest and charges on the card. The card should also be removed from his credit file. HSBC should also engage with Mr P to set up an affordable payment plan for the outstanding balance. Mr P says HSBC should refund the money he used for online gambling. But he chose to use the credit in that way and had the benefit of it so I don't think HSBC should pay that back.

my final decision

For the reasons given above, it's my final decision that this complaint is upheld. HSBC Bank Plc should refund all interest and charges applied to Mr P's card and freeze all further interest and charges on the account. In addition, it should engage with Mr P to set up a realistic payment plan for the outstanding balance and remove reference to this card from his credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 24 October 2018.

Susie Alegre
ombudsman