

## The complaint

Mrs L complains that HSBC UK Bank Plc ("HSBC") lent to her irresponsibly.

## What happened

Mrs L successfully applied for two loans with HSBC in 2019. The first loan was taken out in February 2019 and Mrs L repaid this a few days later. Mrs L then took out a further loan in June 2019 for £6,000. This was to be repaid with 34 monthly payments of around £199.

Mrs L complained to HSBC in January 2023 as she felt they had lent to her irresponsibly. She said HSBC hadn't asked her to provide full details of her income and expenditure and should have seen she was living in her overdraft each month and gambling significant amounts due to her gambling addiction. Mrs L also said she had several other creditors to whom she had taken out borrowing and that taking out additional credit with HSBC put a huge strain on her finances.

HSBC didn't uphold the complaint. They felt they had carried out appropriate checks and had lent responsibly.

Our investigator partially upheld the complaint. She thought that HSBC had carried out proportionate affordability checks for the first loan and made a fair lending decision based on those checks. However, she felt that HSBC should have carried out further checks for the second loan as this was the third loan she had taken out with them in around eight months. Our investigator thought that HSBC should have checked all of Mrs L's existing bank accounts and would have seen she was gambling heavily. And she thought it would have been clear to HSBC that Mrs L likely would have used the loan proceeds to continue to gamble and to repay other borrowing with other creditors. So, she felt Mrs L didn't have the disposable income to repay the loan sustainably.

HSBC didn't agree so Mrs L's complaint was passed to me for a decision.

I issued my provisional decision on 12 December 2023, in which I said the following and which forms part of my final decision:

*'Mrs L didn't disagree with our investigator's view in respect of the first loan she took out with HSBC. So, I don't propose to review this as this particular issue is no longer in dispute. I will though consider the circumstances surrounding the second loan.'*

*Before lending to Mrs L, HSBC were required to ensure that the borrowing was affordable and sustainable. There isn't a set list of checks that needed to be undertaken, however, the rules required that checks were proportionate to the circumstances of the lending. What is considered proportionate will vary in each case. In deciding what proportionate checks ought to be, HSBC needed to take into consideration things such as (but not limited to): the amount borrowed, the total amount repayable, the size of the regular repayments, the term, and Mrs L's circumstances.'*

*I understand that Mrs L declared on the loan application that she was employed and earning about £26,000 a year. HSBC has told us that Mrs L said the purpose of the loan was to buy a new motor vehicle.*

*The Financial Conduct Authority's Consumer Credit Sourcebook ("CONC") deals with a way a firm should assess a customer's income and expenditure. CONC 5.2A.15R says (among other things) that a firm "must take reasonable steps to determine the amount, or make a reasonable estimate, of the customer's income." and that "...the firm must take account of the customer's income it has determined or estimated..." I note also that guidance in CONC 5.2A.16(3)G includes that: "For the purpose of considering the customer's income under CONC 5.2A.15R, it is not generally sufficient to rely solely on a statement of current income made by the customer without independent evidence (for example, in the form of information supplied by a credit reference agency or documentation of a third party supplied by the third party or by the customer)."*

*HSBC says they validated Mrs L's income from the credit turnover that was being received into her account each month. I've looked at Mrs L's bank statement for the three months prior to the lending decision noting that HSBC extrapolated the income information over the same time. From this, it seems Mrs L had salaried income coming in each month which approximated the net monthly salary applicable to the annual salary she had declared, at least for two of the three months in question. And, although the most recent month showed a salary around half of what had come in from the previous two months, there were significant levels of credits coming into her account over the course of the three months. So, overall, I think HSBC took reasonable steps to determine Mrs L's income and took account of that appropriately.*

*In addition to income, there's also the question of expenditure. HSBC needed to make a reasonable assessment of Mrs L's outgoings. CONC 5.2A.17R requires that a firm "must take reasonable steps to determine the amount, or make a reasonable estimate, of the customer's current non-discretionary expenditure" and must take account of that determination or estimate in their assessment.*

*HSBC used statistical data to estimate part of Mrs L's expenditure. CONC 5.2A.19 indicates that the use of statistical data is acceptable for this, unless the firm knows or has reasonable cause to suspect the statistical data is unlikely to be reasonably representative of the customer's situation.*

*Here, though, I don't think it was proportionate for HSBC to have relied on statistical data. I say this having looked at Mrs L's credit file that she sent to us. This shows she had taken out loans with HSBC in January 2018, November 2018 and in February 2019. So, she was returning for a fourth loan with HSBC in a year and a half, and a third loan within a year. I note also that her credit report showed she had taken out a loan with another bank in March 2019. I think this information should have prompted HSBC to have considered why she was returning so frequently for borrowing and to check whether she was experiencing difficulties of some kind or was at risk of becoming over-indebted.*

*As such, I think it would have been reasonable and proportionate for HSBC to have understood Mrs L's specific financial circumstances, rather than relying on an estimate. I can't be sure exactly what HSBC would have found out if they had asked Mrs L about this. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Mrs L's bank statements as to what would most likely have been disclosed.*

*I note that Mrs L held a couple of accounts with HSBC at the time; a sole account into which her salary went each month and a joint account from where her monthly bills were paid. This*

*is relevant as Mrs L has said HSBC should have seen she was gambling and struggling to control her spending as a result.*

*I think it more likely than not that even if HSBC had seen Mrs L's bank statements, they wouldn't have seen that she was gambling and to an extent which meant lending her more money would likely be detrimental. I say this because the transactions on the joint and sole account weren't identifiable as gambling. And I think it would have been too much to have expected HSBC to have asked Mrs L for copies of the bank statements from the other bank that showed those transactions. Nor can I be reasonably sure that Mrs L would have disclosed the nature of her gambling and how it affected her had HSBC asked questions around the frequency of those transactions.*

*I note also it seems that Mrs L said to HSBC she wanted to use the loan proceeds to buy a motor vehicle. HSBC was entitled to believe that was her intention, assuming this was said by Mrs L of course.*

*I think HSBC would have been entitled to rely on the information shown in the sole and joint accounts. The joint account statements I've seen don't show any obvious signs of stress and financial difficulties as the balance remained positive leading up to the lending decision. Although Mrs L's sole account showed a different picture, in that she was overdrawn for a significant period of time, I don't think this should have been taken in isolation bearing in mind the position of the joint account. Overall, I think HSBC would likely have felt that the proposed loan would have been affordable.*

*So, I provisionally find that HSBC didn't carry out proportionate checks. However, I don't find that they would (or should) have declined to agree to give Mrs L the loan if they had carried out proportionate checks.*

*I would like to mention here though that I am not saying that Mrs L didn't suffer from a gambling addiction or wish to underestimate the impact this had on her. I completely understand this would have had a significant impact on Mrs L. However, my consideration of this complaint is around HSBC's decision to lend. And, for the reasons I've set out above, I currently don't intend to uphold this complaint'.*

I invited both parties to send further comments and evidence for me to consider.

HSBC replied saying they had nothing further to add for my consideration. Mrs L didn't reply.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As I haven't been sent any further evidence or comments to consider on the merits of this complaint, I see no reason to depart from my provisional decision. So, for the reasons given in that decision which I have included in my final decision, I don't uphold this complaint.

### **My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 9 February 2024.

Daniel Picken  
**Ombudsman**