

The complaint

Mr K says HSBC UK Bank Plc irresponsibly lent to him.

What happened

Mr K took out four loans from HSBC as set out below:

loan	taken out	value, £	term in months	monthly repayment, £
1	Jan-17	12,590	60	228
2	Dec-17	13,230	60	239.37
3	Jul-18	19,860	60	388.7
4	Sep-19	15,000	60	271.32

Loans 1 to 3 were for debt consolidation, so loans 2 and 3 repaid the previous HSBC loan. Loan 4 was to purchase a car. Mr K says HSBC failed to conduct proportionate checks, he is now in an Individual Voluntary Arrangement (IVA) and this has impacted his mental health.

HSBC says its assessments used a range of internal and external data and showed Mr K could afford each loan.

Our investigator upheld Mr K's complaint in part saying loans 2 to 4 should not have been given as it was clear Mr K was in an unsustainable spiral of debt, even if he did have the disposable income needed to afford the loans.

HSBC disagreed and asked for an ombudsman's review. In summary, it said its checks had followed the regulatory guidelines and showed Mr K met its creditworthiness and affordability requirements. Mr K accepted the four loan offers and some responsibility must be placed on the borrower.

I reached a different conclusion to the investigator so I issued a provisional decision. An extract follows and forms part of this final decision. I asked both parties to send any comments or new evidence by 27 December 2023.

Extract from my provisional decision

I've thought about whether HSBC carried out reasonable and proportionate checks for each loan. I've then looked at the information HSBC obtained from Mr K when he applied for the loans and the information it obtained from the checks it carried out to assess whether it made fair lending decisions.

For each loan HSBC asked for certain information from Mr K. This included his income, some of his outgoings and the purpose of the loan. It verified his declared income using the information it held as Mr K's current account was at HSBC. It used modelled essential monthly spending to better estimate his expenditure. It carried out a credit check to

understand the cost of his existing credit commitments and his credit history. Based on these checks HSBC calculated Mr K would have sufficient disposable income (over £1,000 for each loan) to be able to repay them sustainably.

I think these checks were proportionate for loans 1 and 2, and whilst I am not wholly persuaded they were for loans 3 and 4 I won't comment further on this as even based on the information it did gather I don't think HSBC made fair lending decisions for the last two loans. I will explain why in due course.

Loans 1 and 2

HSBC's checks showed Mr K had £1,636 and £1,705 of monthly disposable income at the time of loans 1 and 2 respectively. He was not overindebted and there was no adverse information on his credit file. The credit check showed he had £3,700 of unsecured debt at the time of loan 1 and £15,200 at the time of loan 2 – but that was largely loan 1 and loan 2 was used to settle this. So in the round I find both lending decisions were fair.

It follows I do not think HSBC was wrong to give loans 1 and 2 to Mr K.

Loans 3 and 4

HSBC argues that its checks showed these loans would be affordable for Mr K as he would have £1,544 and £1,828 of monthly disposable income at the time of loans 3 and 4 respectively. However, I think there were key indicators in the data it gathered that there was a risk Mr K would most likely struggle to repay the loans without suffering adverse financial consequences.

I say this because by July 2018 Mr K's overall indebtedness had increased over five-fold to £20,100 in just 18 months. Whilst I accept Mr K was settling loan 2 he was still increasing his exposure. This was taking the amount of income he would need to spend on unsecured credit each month to a level at which I think HSBC did not have the assurances it needed that its lending would not likely go on to cause Mr K financial harm. And at the time he took out loan 4 – which did not settle loan 3 as it was for a car and so significantly increased his monthly spend on credit, I think it was clear there was a high risk further lending would cause financial harm for Mr K. Indeed it was only seven months into the 60 months term of loan 4 when Mr K started to struggle with his repayments.

It follows I find HSBC was wrong to give loans 3 and 4 to Mr K.

HSBC has stated that it adjusts the interest rate it offers to price the risk element into each lending decision and Mr K has to take some responsibility for his actions. But as it knows its obligation is to carry out borrower-focused checks. So HSBC had to ensure that making the payments to the loans wouldn't cause Mr K undue difficulty or significant adverse consequences. In other words, it wasn't enough for HSBC to simply think about the likelihood of it getting its money back – and adjust the cost of the loan(s) accordingly to reflect the level of risk, it had to consider the impact of the loan repayments on Mr K.

I then set out what HSBC would need to do to put things right.

Neither party responded to my provisional decision.

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.

We've set out our approach to complaints about irresponsible and unaffordable lending on our website and I've followed it here.

As neither party sent in any comments or new evidence for me to consider I am not changing the findings or the outcome presented in the provisional decision.

It follows, for the reasons set out above, I find HSBC was wrong to give loans 3 and 4 to Mr K.

Putting things right for loans 3 and 4

I understand Mr K is subject to an IVA. And his Insolvency Practitioner (IP) may have an interest in any refund he might receive. Mr K should bear in mind his obligations to his IP in respect of any redress he receives. A copy of this final decision will be sent to his IP.

Mr K has had the benefit of the money he's borrowed, and I think it's fair that he repays this. But I think HSBC should refund the interest and charges that Mr K has paid on loans 3 and 4.

So HSBC should:

- Add up the total amount of money Mr K received as a result of being given loans 3 and 4. The repayments Mr K has made should be deducted from this amount.
- If this results in Mr K having paid more than he received, any overpayments should be refunded along with 8% simple interest calculated from the date the overpayments were made until the date of settlement *
- If any capital balance remains outstanding HSBC should arrange a repayment plan with Mr K and his IP.
- Remove any negative information from Mr K's credit file in relation to loans 3 and 4 once any outstanding capital balance is repaid.

*HMRC requires HSBC to take off tax from this interest. HSBC must give Mr K a certificate showing how much tax has been taken off if he asks for one.

My final decision

I am upholding Mr K's complaint in part. HSBC UK Bank Plc must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 31 January 2024.

Rebecca Connelley
Ombudsman