

The complaint

Mrs S complains that HSBC UK Bank Plc was irresponsible in its lending to her.

What happened

Mrs S was provided with a credit card account by HSBC. She says that she quickly reached the credit limit and that this was then increased on several occasions until it was over £8,000. Mrs S says that had HSBC checked her credit file it would have seen her other debts and that she had previously been bankrupt. She was operating in her overdraft and incurring fees for this. Mrs S says she wasn't working at the time and her only income was the family allowance meaning she had no reasonable way of repaying the credit.

HSBC said that due to the time that had passed since Mrs S opened her account it no longer had the information available to provide its business file.

Our investigator said that given when the account was opened (in 2006) HSBC had very little information about the account. She said we didn't have the opening credit limit or details of any credit limit increases. She explained that businesses are only required to hold records for six years and given the time that had passed since the account was opened, we couldn't expect HSBC to still have the records available. She said that if further evidence was provided about the account and Mrs S's circumstances at the time this could be considered but based on the information provided, she didn't have enough to say that HSBC had acted unfairly or made an unfair lending decision.

Mrs S provided further evidence in support of her claim that the lending was unaffordable. As this didn't change our investigator's position, and Mrs S disagrees with the outcome, this complaint has been passed to me an ombudsman to issue a 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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've had this approach in mind when considering what's fair and reasonable in the circumstances of this complaint.

In summary, before providing credit, lenders need to complete reasonable and proportionate affordability checks. There isn't a set list of checks a lender is required to carry out, it just needs to ensure the checks are proportionate when considering things like: the type and amount of credit being provided, the size of the regular repayments, the total cost of the credit and the consumer's circumstances.

Unfortunately, due to the timing of the issues raised in this complaint the evidence provided has been very limited. HSBC has explained that it no longer holds the relevant information to show the checks undertaken when the credit card account was provided, and I don't have details about the dates of the credit limit increases. While this is frustrating, given this

complaint is about a credit card provided around 20 years ago, and HSBC is only required to hold its records for six years, I do not find I can say that it has done anything wrong by not being able to provide a business file for this complaint.

As I cannot say what checks were carried out before the lending was provided, I have looked at what Mrs S has submitted to see if this suggests that reasonable checks at the time would have raised concerns about the affordability of the credit. Mrs S has provided a copy of a credit card statement from March 2001 showing a credit limit of £500. Mrs S has also provided copies of bank statements from around the time which shows she had an overdraft facility of £250 and that she was overdrawn on her bank account and incurring fees as a result. She has also confirmed that she wasn't earning an income at that time as she was a housewife looking after young children and she has provided copies of her tax credit information.

I have taken all of the above into account but for me to uphold this complaint I would need to be satisfied that at the time the credit card application was submitted, reasonable checks would have shown that the limit provided at that time wasn't affordable. I would also need to then understand how the account was managed and what reasonable checks would have shown at the time of any credit limit increase. As I don't have the information to show when the account was opened or the credit limit applied, and I haven't clear details to understand what reasonable checks would have revealed had Mrs S been asked about her financial circumstances at the time, I do not find I have enough evidence to be able to say that the lending decision was irresponsible.

So, while I acknowledge that Mrs S has provided evidence that suggested she may have been struggling in 2001, I do not find that this is enough to say that this complaint should be upheld. Therefore, while I know this will be disappointing to Mrs S, I do not find I have the evidence to uphold this complaint.

My final decision

My final decision is that I do not have enough evidence to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 13 December 2023.

Jane Archer
Ombudsman