

The complaint

Ms M complains that Bank of Scotland plc (BoS) unfairly passed her loan to its recoveries department.

What happened

Ms M, a sole trader, had a secured business loan from BoS. During the pandemic lockdown period, Ms M's business ran into difficulties and she was unable to make repayments on the loan. At the end of 2020, BoS issued a formal demand for repayment then transferred the loan to its recoveries department. Ms M later repaid the loan in full.

Ms M complained to BoS, saying that she'd been in regular communication with the bank and had been repeatedly reassured and told not to worry about the missing repayments. She said she was then shocked to hear that the loan had been moved to recoveries. As a result she had to undertake a substantial project to separate one floor of the business premises to sell as a residential property, in order to repay the loan in full.

Unhappy with the bank's response, Ms M referred her complaint to this service.

Our investigator looked at the available evidence and concluded that the bank hadn't acted unfairly or unreasonably. She gave the following reasons, in summary:

- Ms M was experiencing financial difficulties and requested a repayment holiday. But BoS explained it wasn't able to offer a holiday because repayments had already been missed.
- Because Ms M could give no date when the arrears would be paid, the bank made it clear that the loan would be transferred to recoveries, so that the recoveries team could set up an affordable repayment plan.
- The account was eventually transferred to BoS's recoveries department. This enabled the bank to negotiate an appropriate repayment schedule with Ms M while she sought to sell part of her property. Given the substantial arrears, the investigator considered this to have been an appropriate action by the bank.
- The investigator hadn't seen anywhere that the bank had told Ms M that she shouldn't worry about the arrears.

Ms M didn't agree with the investigator's conclusions. She made the following points, in summary:

- The loan was passed to recoveries without her knowledge when her business couldn't operate because of the lockdowns. Ms M consistently kept a conversation going with the bank about the effects of COVID and how she and they might work together to come to a solution. Previously the loan ran without default.
- She would have continued to pay the loan after lockdown, including the arrears.

Instead her partner had to take out borrowing to pay her business loan in full.

- The bank turned its back on a small business at the most vulnerable time in history, taking advantage of its weaker position.

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.

Having done that, I've reached the same conclusions as the investigator, and for largely the same reasons.

BoS kept Ms M informed about the missed repayments and the arrears position throughout 2020. I'm satisfied that Ms M was aware of her mounting arrears. By October 2020, she had missed seven monthly repayments. I can see that Ms M asked for a repayment holiday, but the bank wouldn't agree to this when there were already substantial arrears. This was in line with its usual approach, and I don't think it was unreasonable.

From BoS's internal notes, I can see there were discussions with Ms M in October 2020 about the arrears position. There was no prospect that Ms M's business could generate enough revenue in the near future to make up the arrears and start monthly repayments again. The bank warned her that a formal demand would be issued and, when the deadline expired, the debt would be transferred to the recoveries department. That's what happened – BoS issued the formal demand in November 2020 and the debt was passed to recoveries after the 14-day period expired. I don't think the bank had failed to warn Ms M what would happen as a result of the arrears and the difficulties faced by her business.

During the October 2020 discussions, Ms M mentioned the plan to generate funds to repay the loan from the conversion and sale of the residential property. That plan was pursued further when the loan was in recoveries. Ultimately this enabled Ms M to repay the loan at the end of 2022.

I agree with the investigator that the transfer to recoveries allowed Ms M to negotiate a repayment plan for the loan. I don't think it was unfair or unreasonable for the bank to transfer the loan to its recoveries department.

I also agree with the investigator that there's no contemporaneous evidence that the bank told Ms M that she shouldn't worry about the arrears.

Ms M feels let down because BoS pursued the arrears when her business was in trouble. She says she would have been able, after the lockdown, to resume repayments again. I can understand that Ms M's business had been severely affected by the lockdowns, and she hoped to put things right when the market improved. But the bank didn't take action until the repayments had fallen into considerable arrears, and no one at the time knew how the pandemic or the economy would develop. In the circumstances, I can't reasonably say that the bank should have continued to wait before seeking repayment.

I realise that Ms M will be disappointed by my decision, and I understand the depth of her feelings about these events. But I don't think BoS acted unfairly or unreasonably by transferring her loan to its recoveries department.

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 Ms M to accept or reject my decision before 23 October 2023.

Colin Brown
Ombudsman