

## **The complaint**

A limited company, which I'll refer to as W, complains that HSBC UK Bank Plc incorrectly required loan repayments on the wrong dates. W says this resulted in the bank putting its Bounce Back Loan ("BBL") into default and registering Cifas and late payment markers against it.

W is represented by one of its directors, who I'll call Mr A.

## **What happened**

HSBC said:

- In May 2020, W opened a current account with HSBC and successfully applied for a £50,000 BBL.
- On 4 June 2020, they briefly placed a restriction on W's current account.
- On 5 June 2020, they removed the restriction. The proceeds of the BBL were transferred to W's current account and the same day, W transferred the BBL funds to an account in Mr A's name at another bank.
- In May 2021, W successfully applied for a six month Pay As You Grow repayment holiday and a term extension.
- In November 2021, W completed a form to close its current account. HSBC declined to comply with this request until W set up an alternative means to make its loan repayments.
- In December 2021, they wrote to say that W's six month repayment holiday was about to end and the first repayment on the loan would be due on 5 January 2022.
- In January and February 2022, they sent letters about missed BBL repayments. They also sent another letter about the need for a payment vehicle for the loan.
- On 24 February 2022, after a phone conversation with Mr A, they sent him a new direct debit mandate. This was never returned.
- In 9 April 2022, another form was submitted to close W's current account and they sent another letter saying W needed another means to repay the loan first.
- On 5 August 2022, they issued a notice of default, because they became aware of a petition for W's dissolution. They gave W until 26 August 2022 to sort out the issue.
- On 10 August 2022, they wrote to tell W that they no longer wished to provide it with any banking or credit facilities. They said its accounts had been suspended and would be closed.

- On 30 August 2022, they wrote to say they were exercising their cancellation rights under the loan agreement. The full amount was therefore immediately payable. They also put a Cifas marker on the national fraud database against Mr A's name for "evasion of payment".

Mr A told us:

- He hadn't had access to the BBL proceeds until November 2020, so he considered this to be the drawdown date.
- He had written to the bank on at least six occasions and also had numerous telephone calls with them and raised complaints between December 2020 and February 2022 to try and resolve what he considered to be HSBC's error with the repayment dates.
- HSBC's Collections team had made calls to him, but couldn't arrange a direct debit for him to repay.
- He had never tried to evade payment and remained willing to repay, although W was in trading difficulties.
- The problem at Companies House had been resolved and W was still trading.

One of our investigators looked into what had happened. She didn't think that the bank acted fairly as she considered that Mr A had made attempts to pay. She recommended that HSBC remove the Cifas marker, reconstruct the loan and pay £200 for the inconvenience caused to W.

HSBC didn't accept our investigator's recommendation, although they later told us they had decided to remove the Cifas marker.

I issued a provisional decision on 29 November 2023. I didn't recommend the bank take any further action. In summary, I said:

- I am aware that Mr A has more than one business. However, in W's case, I'd seen evidence from the bank statements that there was no delay in drawdown.
- It followed that I saw no reason why repayments should not have begun 13 months after the drawdown date of 5 June 2020, as set out in the BBL agreement.
- W successfully applied for a PAYG repayment holiday before these repayments were due to begin, thereby postponing any repayments by a further six months. I could see that HSBC then wrote to W in December 2021 to say that repayments were about to start. I think that was correct and could see no errors in HSBC's actions in respect of W's repayment dates.
- I thought that HSBC's letters of January, February and May 2022 regarding BBL arrears were correct, as I thought that repayments were due throughout that period and that W did not pay them. Indeed, W has never made a loan repayment. Late payment markers on W's credit record over that period would therefore also be accurate.

- Failure to pay an amount due is an event of default under W's BBL agreement. So the bank could have declared an event of default at any point after January 2022. However, the default notice HSBC sent to W on 5 August 2022 referred to a notice for compulsory strike-off instead.
- Companies House's record shows that a Notice for compulsory strike-off of P was made on 31 May 2022. There had also been an earlier application in August 2021.
- W's BBL agreement listed notices of intended dissolution as an event of default. So I thought the bank acted reasonably, and in accordance with the agreement, when they issued a notice of an event of default.
- The bank followed the procedure set out in the BBL agreement when they wrote giving W until 26 August 2022 to rectify the strike-off notice. I'd seen no evidence that Mr A attempted to contact the bank about this and the striking off action was not discontinued until 8 November 2022.
- I therefore thought the bank hadn't done anything wrong when they declared an event of default and issued a formal demand for the full balance.
- Mr A had provided extensive evidence of emails he sent to the bank seeking to clarify the repayment dates over a prolonged period. These emails mentioned the name of W as well as another company. However, in the case of W, as I've explained above, there was no delay in drawdown and I think the bank's letters were clear as to when repayments would start. So I don't think his emails were applicable to W's situation, only to the other company.
- Mr A also provided recordings of some calls with the bank, which show him being passed between departments, with no-one able to take any payment for the loans. On at least one occasion, in January 2022, he is told that the bank couldn't take any payments from him while there was a complaint outstanding. W isn't explicitly mentioned in these calls.
- Overall, I thought the evidence showed that HSBC failed to assist Mr A on the telephone calls I've heard and they also failed to respond to his emails, even to confirm they weren't relevant to W. I consider that this failure amounted to very poor service on the part of the bank.
- On the other hand, I'd also seen evidence from the bank that Mr A submitted at least two applications to close W's current account. In response, the bank explained to him on at least four occasions (three by letter) that he couldn't do this unless he provided an alternative means to repay the BBL, such as a direct debit from an account at another bank. Direct debit mandates were enclosed with their letters. So I think it would have been evident to Mr A that it was possible to repay W's BBL by other means if he so chose.
- The complainant is a limited company. Limited companies cannot be distressed and I have no power to make an award for distress suffered by directors.
- I wasn't persuaded that W was actively trading during this period, so I didn't think it had been inconvenienced by the bank's poor service. My intention was therefore not to make an inconvenience award. But I was happy to reconsider this if any evidence of inconvenience was provided.

Neither party has 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.

Having done so, and in the absence of any new evidence or arguments from either party, I haven't changed my provisional view.

In my provisional decision, I invited Mr A to provide evidence of any inconvenience experienced by W as a result of the bank's poor service. No evidence has been provided, so I still don't intend to make any award for inconvenience as I'm not persuaded there was any.

My findings remain that, whilst HSBC's standard of service was poor, I've seen no evidence that W suffered a loss or inconvenience as a result. I consider the bank was entitled to declare an event of default and then to make formal demand and take recovery action.

### **My final decision**

My final decision is that HSBC UK Bank Plc doesn't need to take any action to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask W to accept or reject my decision before 11 January 2024.

Louise Bardell  
**Ombudsman**