

## **The complaint**

Mr C, a sole trader, is unhappy that HSBC UK Bank Plc defaulted his Bounce Back Loan.

## **What happened**

In August 2020, Mr C successfully applied to HSBC for a £13,000 Bounce Back Loan (“BBL”) and received the loan funds shortly thereafter. As per the terms of the BBL, Mr C became liable to begin making monthly payments towards the loan from September 2021 onwards. But Mr C didn’t make monthly payments in line with his contractual repayment obligations, and by July 2022 his BBL had fallen into a position of multiple arrears.

On 4 July 2022, Mr C spoke with HSBC about his BBL arrears, which at that time stood at £1,032. HSBC explained that they needed to conduct an income and expenditure assessment with Mr C before they could agree to a repayment plan for the arrears with him, because they needed to be sure that Mr C could reasonably afford such a plan before it was put in place. Mr C explained that he didn’t have his income and expenditure information to hand at that time, but that he would call HSBC back within a week and arrange an affordable plan to clear the BBL arrears with them.

On that same call, Mr C agreed a Pay As You Grow (“PAYG”) payment deferment plan for his upcoming BBL payments, which meant that Mr C would only need to make interest payments on the loan for the next six months.

Mr C didn’t call HSBC back with his income and expenditure information as he’d agreed to, and so on 19 July 2022, HSBC sent a letter to Mr C advising him that his BBL arrears remained at £1,032 and asking him to contact them as a matter of urgency.

On 27 July 2022, Mr C called HSBC in response to the letter he’d received and made a payment of £32 to reduce the BBL arrears to £1,000. Mr C then offered to clear the outstanding BBL arrears over a period of 10 months. HSBC again explained that they needed to conduct an income and expenditure assessment with Mr C before they could agree to a repayment plan for the arrears with him, and again Mr C said that he didn’t have that information to hand and would call HSBC back with it within a week so that an income and expenditure assessment could be conducted.

A week later, on 4 August 2022, Mr C called HSBC to make a payment of £50 towards the outstanding BBL arrears – reducing them to £950. HSBC asked for Mr C’s income and expenditure information that he’d promised to provide to them, but again Mr C didn’t have this information to hand and explained that he’d call HSBC back within a week with it.

But Mr C didn’t call HSBC back with his income and expenditure information as he’d promised to. And when HSBC were able to speak with Mr C again two and a half months later, on 19 October 2022, the BBL arrears remained at £950. Although during this time, Mr C was making the interest only payments towards his ongoing BBL payments that he was required to make as per the PAYG plan that he’d agreed with HSBC in July 2022.

Shortly afterwards, Mr C did complete an income and expenditure assessment with HSBC.

And on 24 October 2022 he discussed a payment plan for the arrears with HSBC. However, HSBC's wasn't comfortable agreeing to a plan because the income and expenditure assessment had shown that Mr C only had disposable income of £55 per month, which meant that a payment plan to clear the arrears wasn't likely to be affordable for him.

During the 24 October 2022 call, Mr C explained to HSBC that he was expecting his financial position to increase within two months. And HSBC's agent – who noted that Mr C was still in an interest only PAYG plan at that time – applied a two-month payment break to the BBL, which effectively gave Mr C two months' breathing space to allow his business to recover and where HSBC wouldn't chase him for repayment of the BBL arrears during that time.

On 13 December 2022, HSBC sent a letter to Mr C explained that his six-month interest only PAYG plan for his ongoing BBL payments was coming to an end, and that from 13 January 2023 onwards his monthly payments moving forwards would be increasing from £25.82 – the interest only monthly amount – to £144.51.

On 9 January 2023, following the end of the two-month breathing space, HSBC began attempting to call Mr C about the outstanding £950 arrears on his BBL. HSBC called Mr C on 8 days out of the following thirty. But Mr C didn't answer any of HSBC's calls.

Mr C did make the increased monthly payment of £144.51 on 13 January 2023, which meant that his BBL didn't fall any further into arrears. But because his loan remained £950 in arrears and had been in a position of multiple arrears for several months, and because Mr C wasn't responding to HSBC's calls to discuss this matter and wasn't contacting HSBC himself, HSBC issued a default notice to Mr C on 14 February 2023.

The default notice gave Mr C until 7 March 2023 to clear the £950 arrears on his BBL. But Mr C didn't clear the loan arrears by that date.

Because of this, HSBC issued a final demand for full repayment of the BBL on 18 March 2023, giving Mr C until 5 April 2023 to repay the BBL in full. And when Mr C didn't repay his loan in full by that date, HSBC defaulted Mr C's BBL on 22 April 2023 and transferred his debt to a debt recovery agency. Mr C wasn't happy that HSBC had defaulted his loan, and he believed that the £141.51 payments he was making included an amount to clear his BBL arrears. So, he raised a complaint.

HSBC responded to Mr C and said they didn't feel they'd acted unfairly in how they'd administered his BBL, including that they'd defaulted it for non-payment of arrears. Mr C wasn't satisfied with HSBC's response, so he referred his complaint to this service.

One of our investigators looked at this complaint. They felt that HSBC hadn't clearly indicated to Mr C that his £141.51 increased ongoing monthly payment amount didn't include any payment towards his account arrears or that Mr C still needed to come to an arrangement with HSBC about his BBL arrears. And because of this, they recommended that this complaint should be upheld in Mr C's favour. HSBC didn't agree with the view of this complaint put forwards by our investigator, so the matter was escalated to an ombudsman for a final 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.

I issued a provisional decision on this complaint on 19 December 2023 as follows:

*Mr C has explained to this service that he believed the £141.51 payments he was making to*

*HSBC from January 2023 onwards included an amount to clear his BBL arrears of £950.*

*I've considered whether I feel it was reasonable for Mr C to have held this belief. And upon review, I don't feel that it was. Rather, I feel that Mr C should have reasonably been aware that the £141.51 monthly payment was his ongoing monthly BBL payment and that his arrears remained outstanding and separate to this monthly payment.*

*There are several reasons why I've arrived at this position, including that I feel that Mr C did have an understanding that his ongoing monthly BBL payments were dealt with separately to his account arrears because of the events that took place in 2022.*

*Specifically, Mr C applied for the PAYG plan in July 2022, which meant that he needed to make – and did make – interest only payments for the six scheduled monthly BBL payments from July 2022 through December 2022. And while this PAYG plan was in effect, Mr C held several discussions with HSBC about his BBL arrears and the need to come to an arrangement to clear those arrears – separate to the reduced ongoing monthly BBL payments he was making because of the PAYG plan.*

*Indeed, it's notable that when Mr C applied for the PAYG plan in July 2022 to reduce his next six scheduled monthly BBL payments, he received a confirmation letter from HSBC which included the following statement:*

*“The figures set out in this letter do not include any arrears. You are responsible for paying the whole of the loan including any arrears.”*

*Additionally, when the PAYG plan came to an end in December 2022, so that Mr C was liable to make increased monthly payments from January 2023 onwards as a result, there was no indication given to Mr C by HSBC that those higher monthly payments included an amount to reduce his outstanding BBL arrears. And, as explained, I don't feel that it was reasonable for Mr C to assume that this was the case.*

*Furthermore, while Mr C had spoken with HSBC at relatively frequent intervals during the six-month PAYG plan, he didn't answer any of the calls that HSBC made to him following the end of the PAYG plan and the end of the two-month 'breathing space' that HSBC had given to him. And I feel that it's more likely than not, given the history of the account, that Mr C would have been aware that HSBC were trying to contact him at that time about the £950 BBL arrears that remained outstanding.*

*Mr C may argue that he tried to come to a payment plan to clear the BBL arrears with HSBC, but that HSBC didn't accept the offer that he made – specifically, £100 per month over ten months, in addition to his scheduled BBL payments for those months.*

*But like all lenders, HSBC have an obligation to ensure that they don't accept financial commitments from an account holder which that account holder can't reasonably afford to honour. And because Mr C was in a position of significant arrears on his BBL, I feel that it was reasonable for HSBC to have concerns over Mr C's ability to afford the £100 additional payment per month that he was offering, and so to have required Mr C to complete an income and expenditure assessment with them to confirm his affordability at that time.*

*HSBC first asked Mr C to complete an income and expenditure assessment with them on 4 July 2023, but it wasn't until two and half months later that Mr C provided the necessary information to them. And when Mr C did explain his financial position, it turned out that he only had disposable income of approximately £55 per month – which wasn't enough to cover the extra £100 he was offering to pay. And on this basis, I don't feel that it was unreasonable for HSBC to not have accepted Mr C's offer to pay £100 per month to clear his BBL arrears.*

*Indeed, given the income and expenditure information that Mr C did give to HSBC, I'm not convinced that it was reasonably possible for Mr C to have cleared his BBL arrears in any reasonable amount of time. And while I note that Mr C did explain to HSBC in October 2022 that he anticipated his business income would increase by December 2022, I also note that Mr C then stopped answering HSBC's calls from early January 2023 onwards when they wanted to speak with him again about his BBL arrears.*

*Ultimately, it must be remembered that Mr C's BBL was £1,032 in arrears at the start of July 2022. And while Mr C made two small payments towards those arrears, his BBL was still £950 in arrears nearly ten months later, when the loan was defaulted on 22 April 2023. And given the significant amount of these arrears and the length of time that they went unresolved, and in consideration of what I feel was a fair provision of ongoing forbearance by HSBC, I don't feel that HSBC did act unfairly or unreasonably by following the arrears process that they did in 2023 which resulted in the defaulting of Mr C's loan.*

*None of this is to suggest that Mr C was acting in bad faith here. But it is to say that I feel that the reason Mr C didn't clear his BBL arrears was because he couldn't afford to – at least not within a reasonable timeframe such that HSBC shouldn't fairly have defaulted his loan. And while I appreciate that this is unfortunate for Mr C, the terms of the BBL include that a failure to meet the contractual repayment obligations of the loan is an act of default.*

*All of which means that my provisional decision here is that I do not uphold this complaint against HSBC and that I won't be instructing HSBC to take any further or alternative action.*

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In my provisional decision letter, I gave both Mr C and HSBC the opportunity to respond and provide any comments or new information they might wish me to consider before I moved to issue a final decision.

HSBC confirmed that they had nothing further to add. And while Mr C did call our investigator and asked where he should send his response to the provisional decision, no response to my provisional decision was subsequently received from him by the deadline given in the provisional decision letter for him to do so.

As such, given that the deadline for further submissions has now passed, I see no reason not to issue a final decision here on the basis explained in my provisional decision above, where the outcome is that I do not uphold this complaint. And I therefore confirm that my final decision is that I do not uphold this complaint accordingly.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 14 February 2024.

Paul Cooper  
**Ombudsman**