

The complaint

Mr W is unhappy that Bank of Scotland plc (“BOS”) hold him personally liable for a Bounce Back Loan (“BBL”) that he says he applied for in the name of his limited company which has since ceased trading.

What happened

In May 2020, Mr W successfully applied to BOS for a BBL. Mr W believed he had applied for the BBL for his limited company, which subsequently ceased trading and was dissolved. But he found that BOS had incorrectly recorded the BBL as being applied for and received on a sole trader basis, which meant that he remained personally liable for the outstanding balance of the BBL. Mr W wasn’t happy about this, so he raised a complaint.

BOS responded to Mr W and confirmed that he’d applied for the BBL on a sole trader basis and had received the BBL funds on that basis. Mr W wasn’t satisfied with BOS’s response, so he referred his complaint to this service.

One of our investigators looked at this complaint. But they didn’t feel BOS had acted unfairly in how they’d managed the situation and so didn’t uphold the complaint. Mr W remained dissatisfied, 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.

Having done so, it’s clear that while Mr W may have intended to apply for the BBL in the name of his limited company, he didn’t do so. Instead, Mr W applied to BOS for a BBL, and subsequently received the BBL funds, on a sole trader basis.

I take this position because the business relationship which Mr W held when he applied for the BBL was clearly that of a sole trader. This is evidenced by the business current account (“BCA”) statements, which are titled in Mr W’s name and not in the name of his limited company (which is only referenced as a trading name). And by the fact that Mr W applied for the BBL in his own name using his sole trader BCA and received the loan funds into that same sole trader bank account.

Additionally, BOS have provided contact notes which show that in June 2019, Mr W tried to deposit a cheque written out to his limited company into his sole trader account but that this was refused by BOS – because his account wasn’t in the name of his limited company. And BOS’s contact note also explains that Mr W was told at that time that the name and basis of the BCA couldn’t be changed and that if Mr W wanted an account for his limited company, he would need to apply to them for a new limited company BCA.

But Mr W didn’t then apply for a new limited company BCA, but instead continued to use his existing sole trader account. And this includes that Mr W applied for the BBL using that sole trader BCA and thus on a sole trader basis – which was the only business relationship basis

he held with NatWest – in May 2020.

Furthermore, after applying for the BBL via his sole trader BCA with NatWest, Mr W then accepted the BBL agreement – which confirmed that he was being lent the money in his own name – before receiving the BBL funds into his sole trader BCA.

Mr W feels that BOS should have been aware that he was operating on a limited company basis and questions why BOS didn't raise this point with him before providing the BBL to him. In normal circumstances, I might agree with this point. But the BBL scheme was set up precisely because of abnormal circumstances – the emergence of the Covid-19 pandemic – and many of the rules and regulations surrounding lending were suspended for this scheme.

This includes that BBL applications were self-attested, and it wasn't expected that lenders such as BOS would check the trading name or status of applicants – in much the same way as they weren't expected to verify the business turnover information provided by the applicant at the point of application. Instead, it was for the applicant to ensure that a BBL was applied for correctly. And as mentioned, Mr W received the BBL agreement titled in his own name to review and accept if he was happy with the information contained therein – which he did.

Ultimately, it's for Mr W to ensure that his business relationship with BOS is structured on the correct basis – and I feel this is especially pertinent following the conversation he had with BOS in 2019 regarding the non-acceptance of cheques made out to his limited company into his sole trader account. And it isn't for banks such as BOS to check the validity of their existing business relationships with their customers on regular ongoing basis.

Finally, Mr W has questioned why BOS objected to the closure of his limited company, if it were the case that his only business relationship with BOS was that of a sole trader. Mr W stated several months ago that he would provide further information about this point, but to date no such further information from Mr W has been forthcoming.

I also don't feel that any action BOS may have taken in this regard would override all that I've explained above. This includes the sole trader BCA, sole trader BBL agreement, and the prior conversation BOS held with Mr W about his sole trader account and the need to open a new limited company account if he wanted to bank with them on a limited company basis. And I feel that these points demonstrate that Mr W clearly applied for the BBL on a sole trader basis and should in all reasonableness have understood that he was doing so.

All of which means that I don't feel that BOS have done anything wrong or acted unfairly here by holding Mr W personally liable for the BBL. And it follows from this that I won't be upholding this complaint or instructing BOS to take any further action here. I realise this won't be the outcome Mr B was wanting, but I hope he'll understand, given what I've explained, why I've made the final decision that I have.

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 W to accept or reject my decision before 4 October 2023.

Paul Cooper
Ombudsman