

The complaint

A limited company, which I'll refer to as E, complains that HSBC UK Bank Plc unfairly refused its application under the Government's Recovery Loan Scheme ("RLS"). E also complains that HSBC acted unfairly in relation to an earlier Coronavirus Business Interruption Loan ("CBIL"), in particular by requiring E's director to give a guarantee.

E is represented in this complaint by its director, Ms S.

What happened

E operated in a sector that was forced to close down by the pandemic. In June 2020, it took out a CBIL for £1m to see it through what it estimated would be a six month period of restrictions. This was later topped up by a further £375,000 in June 2021.

In late 2021, with pandemic restrictions still in place, E applied for a £250,000 recovery loan ("RL"). HSBC declined E's application. E appealed, but the bank didn't change its decision.

In February 2022, E began creditors' voluntary winding up proceedings.

Ms S complained to the bank that its actions had forced E out of business. HSBC didn't uphold the complaint as they didn't think they had done anything wrong.

Ms S asked our service to look into the matter. She said she was seeking compensation of £500,000 to compensate for the loss of a business that was viable pre-COVID. She asked us to consider the following points:

- The rejection of the RLS application was unfair treatment of a long-standing customer and in breach of Governmental guidelines.
- The bank's reasoning for turning E down was unreasonable, citing sector volatility.
- Government guidelines said that businesses were entitled to borrow 25% of their last filed turnover on CBILs, which amounted to £1.8m. But HSBC had only let E borrow £1.375m.
- 70% of the recovery loan was guaranteed by the Government, limiting the bank's exposure to only £75,000.
- HSBC had insisted on a guarantee for the CBILs when they already had an 80% Government guarantee.

One of our investigators looked into what had happened but didn't recommend upholding the complaint. He didn't think the bank had breached any guidelines and pointed out that banks were entitled to carry out credit reviews for both CBIL and RLS applications.

Ms S asked for an ombudsman to consider the matter again. She said many of the rules were clearly ambiguous and this open to interpretation.

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, I've reached the same conclusion as our investigator, for essentially the same reasons. I realise this will be a disappointment to Ms S, but I'm afraid I don't have a great deal to add to what our investigator said.

There's no dispute that both the CBIL scheme and the RLS were designed to provide financial support to smaller businesses that were suffering cashflow problems as a result of the pandemic. Banks were put under some pressure to make these loans available swiftly and without onerous levels of information requirements. But in the case of both the schemes mentioned above, banks were also left with considerable discretion over lending criteria and over such decisions as whether to require personal guarantees from directors.

I haven't seen any evidence that HSBC breached any guidelines by declining E's RL. Nor do I consider the bank behaved unfairly by doing so.

As I've said, the Government scheme left lending decisions to the banks and although there was a 70% Government guarantee, banks were not supposed to rely on this when making credit decisions but rather to look for viable propositions. Banks are also expected to lend responsibly and HSBC had in my view legitimate concerns about E's debt levels, which I understand also included a CBIL with another lender. Servicing this amount of debt would have been difficult even if previous levels of profitability had resumed. And ongoing disruption in its business sector meant they were also not convinced that E's order book would all materialise.

Turning to the CBILs, I don't think the Government set a maximum percentage of turnover for this particular scheme. But even if I'm wrong about that, it would have been a maximum and it was again at the discretion of the lender how much they thought it was appropriate to lend. So I don't think it was unreasonable of HSBC not to lend as much as E would have liked.

Ms S thinks HSBC acted in bad faith by requiring personal guarantees for the CBILs. But this was permitted by the scheme rules and the bank only asked for a guarantee of 10% of the amount borrowed. I don't think it was unfair of the bank to set this as a criteria, even if some other banks chose not to do so. I know Ms S has spoken of feeling placed under duress, but the evidence shows that she took legal advice from a lawyer of her choosing and the guarantees were signed on his premises. So I think the bank took reasonable steps to ensure that she made an informed decision.

In summary, I agree with Ms S that the rules governing the granting of CBILs and RLs were left open to interpretation by lenders. But I don't think that HSBC interpreted them unfairly or made unreasonable decisions in this case. I think the bank had legitimate concerns about the ability of E to service the levels of debt Ms S wanted.

I don't doubt that Ms S has been through an extremely stressful time, with lasting repercussions for her and her family. But I consider the cause of that stress to have been the pandemic itself rather than any unfair action on the part of HSBC.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision before 30 August 2023.

Louise Bardell
Ombudsman