

The complaint

A sole trader, whom I'll refer to as 'Mrs B', is unhappy with the service she received from HSBC UK Bank Plc surrounding her application for a Bounce Back Loan ("BBL").

What happened

Mrs B applied for a BBL with HSBC in September 2020. Mrs B chased the status of her application on numerous occasions before she was eventually told she needed to provide personal identity verification ("IDV") documents to the bank. Mrs B sent her IDV documents to HSBC but heard nothing in return. After several further months chasing HSBC, Mrs B was told in January 2021 that her IDV documents hadn't been received. Mrs B wasn't happy with the service she was receiving from HSBC surrounding her BBL application, so she raised a complaint with them at that time.

In February 2021, HSBC wrote to Mrs B and explained that high demand for the BBL scheme had impacted their ability to respond to her in a timely manner, but that they still required Mrs B to provide her IDV documents if she wanted her application to proceed. Mrs B sent her IDV documents to HSBC again but received no response. Mrs B then telephoned HSBC in March 2021 to chase her application and was told that her IDV documents had been rejected.

Mrs B was later told by HSBC that her application had been cancelled and that she would need to reapply. Mrs B did reapply, but she was then told that the BBL scheme was now closed to new applicants. Mrs B reiterated her complaint to HSBC, who confirmed that the high demand for the scheme has led to significant delays and that because the BBL scheme was no longer open for new applications she would be unable to reapply. HSBC apologised to Mrs B for the standard of service she'd received surrounding her application and offered to pay her £100 as compensation. HSBC later increased this offer of compensation to £250.

Mrs B wasn't satisfied with HSBC's response, so she referred her complaint to this service. One of our investigators looked at this complaint. They felt that they were unable to compel HSBC to provide a loan to Mrs B under similar terms as those offered by the BBL scheme, but they did recommend that HSBC increase their offer of compensation to Mrs B to £500, which they felt more fairly reflected the level of trouble and upset that Mrs B had experienced.

Mrs B remained dissatisfied and didn't feel our investigators recommendations went far enough. 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 11 January 2023 as follows:

HSBC have confirmed that high demand for the BBL scheme led to significant delays

in processing and moving forwards BBL applications such as Mrs B's.

I can appreciate the difficult position that HSBC, like all lenders, were in at the time of the BBL scheme, given the unprecedented nature of the social circumstances that led to the creation of the scheme. However, from a fairness perspective, I do feel that Mrs B was deprived access to the BBL scheme because of the issues that HSBC encountered.

One reason I say this is because BBL applicants were only able to apply to one business for a BBL at any one time. In this instance, this means that because Mrs B's BBL application was with HSBC she was unable to apply to any other lender for a BBL until her HSBC application was resolved.

While I feel that some leeway in regard to BBL application processing times should be given to lenders such as HSBC, given the wider circumstances referred to previously, I don't feel that this leeway should reasonably extend to where BBL applications fail to be processed altogether. Ultimately, HSBC accepted Mrs B's BBL application, and so I think Mrs B was entitled to expect it to be processed.

Where an unfair event has occurred, such as the non-processing of a BBL application, this service would generally seek to instruct the business to take the corrective action necessary to restore the complainant to the position they should fairly be in – or as close as reasonably possible – had the errors being complained about never occurred.

In this instance, it's not known whether Mrs B's BBL application would have been successful, because it was never processed. So, my provisional decision here is that HSBC must now process Mrs B's application under similar criteria to how it would have been processed at the time it was initially made. And, if Mrs B's application is successful, HSBC must also provide a loan to Mrs B on the same terms as she would have received via the BBL scheme, including the loan term, interest rate, and that Mrs B wouldn't be required to make any payments towards the loan for the first twelve months.

I'm aware that HSBC will have concerns this provisional instruction, especially given that the BBL scheme itself is now closed. But a BBL was ultimately a loan, albeit on preferential terms, and given that I feel Mrs B was potentially denied access to those preferential terms by HSBC's delays, I feel it's fair that HSBC should now give Mrs B the opportunity to potentially benefit from those preferential terms – should Mrs B decide that she still wishes to take on this debt for her sole trader business.

Mrs B's application would be dependent on it passing all the necessary customer onboarding checks. But I don't feel that it would be fair for the application to be subject to affordability or creditworthiness tests, given that BBL applications weren't themselves subject to these tests.

In their correspondence with this service, HSBC have suggested that they'd somehow be unable to provide a loan on such terms to Mrs B. But it's not clear why this would be the case. Ultimately, the loan I've described would be a business loan with some manual adjustments, and I feel that it is within HSBC's gift to provide a loan on such terms, given that HSBC can control such things as the interest rate applied as well as decide to either write off or pay itself the payments that would fall due on the loan in the first twelve months.

Finally, I note that in their correspondence with this service, HSBC have said that if

Mrs B had brought her complaint to them sooner, during an exceptions window that ran until 31 December 2021, they would have been able to consider her application in line with the exception criteria and, if appropriate, provided Mrs B with a BBL.

But Mrs B did bring her complaint to HSBC before that window closed, and HSBC's own complaint notes confirm that they were aware of Mrs B's complaint in May 2021. As such, I feel that HSBC's point here is moot.

To summarise, if Mrs B still wants a business loan on the same terms as a BBL, I'm provisionally instructing HSBC to process a loan application for Mrs B as it would have been processed during the BBL scheme, and not subject to any criteria it wouldn't have been subject to at that time.

Additionally, if this loan application is successful, HSBC must provide Mrs B with a business loan on the same terms as she would have received with a BBL, including the interest rate, loan term, and that no repayments would be required from her for the first twelve months of the loan.

Following responses received from both Mrs B and HSBC, I issued an updated provisional decision on 23 February 2023. This updated provisional decision largely reiterated the position I'd reached in my initial letter above, and included the following:

In response to my provisional decision, HSBC expressed concerns surrounding the fact that the BBL scheme had now ended and that it might not be possible for them to settle the complaint in the manner I proposed. HSBC therefore suggested allowing Mrs B to apply for their most relevant live loan product and reimbursing to Mrs B the difference in cost of that loan and the BBL.

As explained previously, the overriding remit of this service is to issue instructions to a business so that a customer who has incurred an unfair outcome is put back into the position they would have been in, had the actions or inactions of the business that resulted in the unfair outcome never taken place.

On the face of it, HSBC's suggestion above seems reasonable and appears to conform with the remit of this service as I've described it. But HSBC also stipulated that any loan application Mrs B might make would be subject to the standard eligibility and affordability criteria pursuant to that loan.

But the BBL scheme didn't have the same application criteria as the loans that Mrs B might now be able to apply for. And so, I don't feel HSBC's proposal here does put Mrs B back into the position she should be in – because I feel that there's a higher chance of the suggested loan application being unsuccessful than should fairly be the case.

I put this point to HSBC, who explained that they felt that allowing Mrs B to apply for a loan using the more relaxed criteria for a scheme that no longer existed would contravene their own internal policies and potentially their regulatory obligations.

I can only reiterate once again that the overriding remit of this service is to put Mrs B back into the position she should have been in, had HSBC not acted unfairly towards her by not processing her BBL application as they did. As such, I remain satisfied that it is within my remit here to issue a final decision which includes the instructions to HSBC as described in my provisional decision above.

However, it's understood that Mrs B doesn't hold a business current account with HSBC. If this is the case, then Mrs B would need to apply for a loan feeder account with HSBC before the BBL could be applied for, and this loan feeder account would be subject to the standard onboarding and creditworthiness criteria – as it would have been had it been applied for during the time the BBL scheme was running.

Should it be the case that Mrs B is able to successfully apply for a BBL, it may be the case that, in order to comply with these instructions, HSBC may need to apply a variety of credits to an existing loan product, such as they've previously suggested. Although I must note, given the remit of this service, that any credit file reporting HSBC might then make must be as such reporting would be made if Mrs B had a BBL – i.e. in regard to the credit Mrs B is considered to have borrowed and not inclusive of any corrective credits that HSBC might need to apply.

Finally, in my previous letter, I forgot to address the point of compensation, which I feel should be payable to Mrs B for the inconvenience this matter has caused. I apologise to both Mrs B and HSBC for this omission and confirm that I feel HSBC should pay Mrs B compensation totalling £500 for the inconvenience this ongoing matter has caused her business, including that Mrs B was unfairly denied access to the BBL scheme.

HSBC responded to this updated provisional decision and again expressed their concerns about being instructed to provide new lending to Mrs B on the same basis as a BBL.

HSBC provided further information about these concerns, including that Mrs B had subsequently taken a personal loan for an amount comparable to that which she'd applied for via the BBL scheme. HSBC noted that Mrs B used her personal account for business also so put forwards a proposal whereby they would make a one-off payment to Mrs equal to the difference between how much interest Mrs B would now pay on her personal loan above the amount that she would have been paid on the BBL, had her BBL application been successful.

I considered HSBC's proposal and found it to be reasonable. And I asked our investigator to communicate my position on this matter to both Mrs B and HSBC on 24 April 2023 as follows:

The ombudsman would like to update all parties to this complaint as to his present thinking. This is following an offer put forwards by HSBC to make a payment to Mrs B which would effectively reduce the amount of interest that Mrs B would pay on a more recent personal loan she's taken with HSBC to that which she would have paid had that more recent loan been taken out as a BBL.

The ombudsman feels that HSBC's offer presents a fair solution to what's happened here, and while he acknowledges that Mrs B would prefer HSBC to be instructed to issue her with a new loan on the same terms as a BBL, the ombudsman feels that there are several factors which make HSBC's offer a fairer and more reasonable solution.

These include that matters have clearly moved on from the time that Mrs B first applied for the BBL, including that Mrs B has taken the more recent loan from HSBC. And the ombudsman feels that it may not have been the case that Mrs B would have either required or been granted the more recent loan by HSBC if she already had the BBL that she'd applied for and about which she now complains.

Additionally, it must be remembered that the purpose of the BBL was to help businesses negotiate the difficult times surrounding the emergence of the Covid-19

pandemic in 2020. But those times have now been negotiated by Mrs B, who also now has borrowing from HSBC of a similar amount to that which she wished to borrow for her business as a BBL. And while Mrs B may point out that a BBL is a business loan while her more recent loan is a personal loan, it's clear that Mrs B uses her personal HSBC account for business purposes.

Finally, the ombudsman also feels that HSBC's offer essentially achieves the remit of this service to put a successful complainant – as much as is reasonably possible – into the position they would have been in, had the unfair action being complained about not taken place. This is because he feels that the offer made by HSBC can be fairly considered as essentially converting Mrs Burn's more recent loan into a BBL. And because, as per his more recent provisional decision letter, any instruction he might make in regard to HSBC providing a BBL to Mrs B would be dependent on her successfully applying to HSBC for a business loan feeder account – an application which would be subject to HSBC's standard checks and thus not guaranteed to be successful.

Mrs B responded to the above and expressed her dissatisfaction with my apparent change of position. But I'd like to confirm that my overall position hasn't changed here, and it remains the case that I feel that HSBC acted unfairly. What has changed is what I feel is the fairest way to resolve the issue at this time.

It's the remit of this service to put a complainant back into the position they should have been in, as much as reasonably possible, had the mistake or error made by the respondent business never occurred. Often this can be clearly and simply achieved, but I don't feel that this is the case in this instance.

As alluded to above, one reason I say this is because matters have clearly moved on, including that Mrs B has taken a personal loan with HSBC comparable to the amount she applied for as a BBL. And so, by instructing HSBC to provide Mrs B with a new loan on the same terms as a BBL at this time, I wouldn't be returning Mrs B to the position she should have been in had her BBL application been successful – because Mrs B achieved a comparable lending position with HSBC when she took the personal loan.

Instead, by instructing HSBC to make the payment to Mrs B which they've proposed – a payment which I feel has the effect of essentially transforming the personal loan to being on similar terms as a BBL – I feel that this more accurately returns Mrs B to the position she would have been in had her BBL application with HSBC been successful. And should Mrs B require further borrowing beyond her present loan amount she can apply for it – in much the same way as she would have been able to apply for a personal loan had she been successful in obtaining a BBL.

As such, I remain of the opinion as expressed in my communication of 24 April 2023, for the reasons explained therein. And it follows from this that my final decision here will be that I uphold this complaint in Mrs B's favour on that basis.

I realise this might not be the outcome Mrs B was wanting here, but I hope that she'll understand, given what I've explained, why I've made the final decision that I have.

Putting things right

HSBC must make a payment to Mrs B in compliance of the offer that they've made so as to ensure that Mrs B pays no more in interest on her more recent loan than she would have paid, had her application for a BBL been successful.

HSBC must also make a further payment of £500 to Mrs B as compensation for the trouble and upset that she's incurred here.

My final decision

My final decision is that I uphold this complaint against HSBC UK Bank Plc on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask L to accept or reject my decision before 12 June 2023.

Paul Cooper
Ombudsman