

The complaint

Mr O is unhappy that HSBC UK Bank Plc set up a Bounce Back Loan (“BBL”) on a sole trader basis rather than on a limited company basis.

What happened

Mr O applied for a BBL in the name of his limited company. Mr O’s BBL application was successful, and he received the BBL funds shortly afterwards. However, Mr O was later told by HSBC that his BBL application had been processed on a sole trader basis and not on a limited company basis. Mr O wasn’t happy about this, or with the service he’d received from HSBC surrounding this matter, so he raised a complaint.

HSBC apologised to Mr O for the poor service he’d received, which included that Mr O hadn’t received a call back from HSBC to discuss his BBL, and HSBC made a payment of £100 to Mr O as compensation for any trouble and upset he may have incurred as a result. However, HSBC confirmed that Mr O had applied for the BBL using his HSBC sole trader business account and that as such they weren’t able to transfer the BBL to a limited company basis as he would like. Mr O wasn’t satisfied with HSBC’s response, so he referred his complaint to this service.

One of our investigators looked at this complaint. During their review, HSBC offered a further £100 compensation to Mr O for being initially incorrectly told that he could transfer the BBL to a limited company basis. Our investigator felt this further offer of compensation from HSBC was fair, and they didn’t feel that HSBC should be instructed to transfer the BBL to a limited company basis as Mr O would like. Mr O 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, I’d like to begin by confirming that this service isn’t a regulatory body or a Court of Law and doesn’t operate as such. This means that it isn’t within my remit here to declare that HSBC have or haven’t acted in a non-regulatory or unlawful way.

Instead, this service is an informal, impartial dispute resolution service. And while we do take relevant law and regulation into account when arriving at our decisions, our remit is focussed on determining whether we feel a fair or unfair outcome has occurred – from an impartial perspective, after taking all the circumstances and factors of a complaint into consideration.

Mr O has explained that he applied for the BBL in the name of his limited company. Mr O has also explained that the statements he receives for his HSBC business current account (“BCA”) are in the name of his limited company and that as such there’s nothing which indicated to him that his BCA – and hence his relationship with HSBC – wasn’t on a limited company basis.

I've received copies of the statements for Mr O's BCA from both Mr O and HSBC. And both sets of statements confirm that the account name is not in Mr O's limited company name as Mr O suggests, but instead is in clearly the name of Mr O himself.

And while the statements are addressed to a company name, there's no reference to the word 'limited' anywhere in this addressee company name. Additionally, the addressee's name is simply the recipient of the statements to which they are posted, and it can be the case that statements for a person's account can be posted to a company – which is what has been happening here. As such, I don't agree that it was reasonable for Mr O to assume from the BCA statements that the BCA was in the name of his limited company.

Furthermore, while the BBL application does show that Mr O named his limited company as the BBL applicant, it also shows that Mr O provided the details for his HSBC sole trader BCA, and that the name on that BCA was given in the BBL application as being Mr O's own name and not the name of his limited company.

Mr O didn't have a HSBC business account in the name of his limited company at the time he applied for the BBL. And, because it was a requirement of HSBC that a successful BBL applicant must have an existing business relationship with them, it could never have been the case that Mr O could have successfully applied for a BBL in the name of his limited company – because his limited company didn't have an existing business relationship with HSBC. Only Mr O as a sole trader had such an existing relationship.

Importantly, Mr O's BBL agreement – which HSBC sent to him to review and sign in acceptance of it – contains no reference to Mr O's limited company, and instead refers only to Mr O. And so, I feel it should reasonably have been apparent to Mr O upon review of the documents he was sent that the BBL he ultimately agreed to wasn't being provided by HSBC to his limited company but was instead being provided to him on a sole trader basis.

Mr O may argue that he specifically applied for the BBL in the name of his limited company, regardless of the sole trader basis of his existing relationship with HSBC, and that as such HSBC should have called him and questioned this discrepancy with him before issuing the BBL agreement to him in the manner that they did.

But it must be remembered that the BBL scheme was a reaction to the emergence of the Covid-19 pandemic in 2020. And because of the unique and unprecedented circumstances surrounding the formation of the BBL scheme, lenders such as HSBC weren't expected to conduct thorough checks on applicants at the point of application. Instead, the onus was on the applicant to understand the nature of the BBL scheme and to self-attest their eligibility for it. And lenders such as HSBC were expected to process received applications and provide the loan funds to successful applicants as quickly as possible.

Accordingly, I don't feel the onus was on HSBC to have queried the discrepancy between the limited company name given as the applicant and the sole trader basis of their existing relationship with Mr O. Instead, I feel that the onus was on Mr O to have understood the nature of his existing business relationship with HSBC and to have recognised that the BBL agreement he'd been provided wasn't on a limited company basis and to have contacted HSBC to question them about this if he wasn't happy to accept the BBL as a sole trader.

Consequently, I'm satisfied that by signing the BBL agreement and accepting the BBL funds into his sole trader BCA, that Mr O did accept the BBL from HSBC on a sole trader basis – regardless as to whether this was a mistake on Mr O's part or not. And so, I won't be upholding this aspect of Mr O's complaint.

However, it's clear that Mr O hasn't received the best service from HSBC surrounding this matter. This includes that Mr O didn't receive a call back from HSBC to discuss his BBL as he'd requested. HSBC have apologised for this and made a payment of £100 to Mr O as compensation for any trouble and upset he may have incurred as a result. Additionally, after Mr O referred his complaint to this service, HSBC have offered an additional £100 compensation to Mr O for the frustration and inconvenience that HSBC caused by incorrectly indicating that he could transfer the BBL into the name of his limited company.

HSBC have explained that they're unwilling to allow Mr O to transfer the BBL to a limited company basis because they don't feel they made any error which would warrant the allowance of such a transfer. This seems reasonable to me, and I'm in agreement with HSBC's position that Mr O himself – and not HSBC – should ultimately be considered accountable for Mr O accepting the BBL on a sole trader basis as he did.

Finally, while I accept that matters of compensation can be subjective, I feel the payment of £100 and offer of a further £100 compensation by HSBC does constitute fair compensation for what's happened here, and I can confirm that it's commensurate with what I may have instructed HSBC to have paid, had they not already done or offered to do so.

In taking this position I've considered the impact these events have had on Mr O, but also that, while HSBC made a mistake in telling Mr O that he could change the BBL to a limited company basis, such a transfer was never fairly warranted. And I've also considered the general framework which this service uses when considering compensation awards for trouble and upset – further details of which can be found on this service's website.

All of which means that, while I will be upholding this complaint in Mr O's favour, I'll only be doing so to compel HSBC to pay the further £100 compensation to Mr O that they've already offered to pay. And I won't be instructing HSBC to take any further action beyond this. I realise this won't be the outcome Mr O was wanting, but I hope he'll understand, given what I've explained, why I've made the final decision that I have.

Putting things right

HSBC must pay £100 to Mr O – taking the total compensation payable to £200.

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 Mr O to accept or reject my decision before 16 August 2023.

Paul Cooper
Ombudsman