

The complaint

A company, which I'll refer to as "D", complains that HSBC UK Bank Plc unfairly terminated its Bounce Back Loan agreement and closed its bank account.

Mr and Mrs S are D's directors, and have brought the complaint on the company's behalf.

What happened

D banked with HSBC. It took out a loan of £16,750 from the bank under the Bounce Back Loan Scheme in May 2020.

Mr S, one of D's directors, also runs a separate sole tradership business. He held facilities with HSBC for that business, including a Bounce Back Loan.

In January 2021, HSBC conducted a review of Mr S's sole trader accounts. It concluded that Mr S hadn't been eligible for the Bounce Back Loan he'd obtained for that business and deemed his application to have been fraudulent. This led HSBC to withdraw all facilities from Mr S and any businesses with which he was associated, including D.

HSBC wrote to D on 5 August 2021 to advise that it was closing all of the company's accounts and that a formal demand for full repayment of all debts owed to the bank would follow shortly.

HSBC subsequently applied the closing account balance of £1,431.40 to reduce the amount D owed on its Bounce Back Loan and issued a formal demand requesting immediate repayment of the remaining debt (of around £15,000).

In response to complaints about how HSBC had treated Mr S and his businesses, the bank maintained its position and said that it had conducted a thorough review before withdrawing the facilities in accordance with the applicable terms and conditions. So Mr S asked us to look into things.

HSBC's handling of Mr S's sole trader accounts was the subject of a separate complaint, which was escalated to us for review and ultimately to me for a final decision. I concluded that although HSBC had legitimate cause to question whether Mr S was eligible for the Bounce Back Loan he'd obtained as a sole trader, I didn't think it had investigated the position thoroughly enough. Had it done so, I didn't think it would have deemed the application to have been fraudulent. Although I thought the bank would still have had legitimate grounds to consider that Mr S hadn't met the eligibility requirements, I didn't think it was fair or reasonable to consider him to have acted fraudulently.

This leaves the question of how HSBC has treated D, which is the subject of this decision.

My provisional decision

I issued a provisional decision on this complaint last month, setting out why I intended to uphold it and setting out what I thought HSBC needed to do to put things right. I said:

HSBC's decision to withdraw facilities from D was based solely on the bank's conclusion that Mr S had acted fraudulently in obtaining the Bounce Back Loan for his separate sole trader business. But as summarised above, in the separate complaint brought to us by Mr S I didn't think that it was fair or reasonable for HSBC to deem Mr S to have acted fraudulently.

It follows that I don't think HSBC had legitimate grounds to withdraw facilities from D in the manner it did. While I found that the bank could reasonably have concluded that Mr S hadn't been eligible for his sole trader loan, I don't think this apparent ineligibility alone would justify the immediate termination of D's facilities. And I've not seen that the bank had any concern – or cause for concern – as to D's eligibility or entitlement to the loan, or with any of its business activity.

So I think HSBC made an error in closing D's account and terminating its Bounce Back Loan facility.

D was impacted in two ways by HSBC's actions. Firstly, its bank account was withdrawn without notice. The terms and conditions of the account allowed for its immediate closure in certain circumstances, but I don't think that was warranted for the reasons I've explained.

HSBC may still have decided to end its relationship with D in light of its review, but – even if it had done so – I think it ought to have provided the company with 60 days' notice as provided for by the terms and conditions. This meant that D had to find alternative banking facilities at very short notice, with its day-to-day operations – such as making and receiving payments – made much more difficult.

When the complaint was originally raised, D was looking for its account to be reinstated. As I've noted, HSBC may always have opted to end its relationship with the company – so I don't think it would be reasonable for me to require the bank to reopen the account. And I understand that D will have made alternative arrangements by now. The company is also free to apply to HSBC for a new account in the future, if it wishes.

Secondly, D was affected by the termination of its Bounce Back Loan facility. Again, the terms and conditions allowed for its termination in certain circumstances – but I don't think that any applied here, given that I didn't think HSBC's concerns about fraud on Mr S's part were justified. The termination of the facility meant that HSBC utilised all of the funds held in D's account to reduce the debt – depriving D of access to this working capital, again making its day-to-day operations more challenging.

With the loan still active but having been defaulted, I think HSBC should restore the loan to its status prior to termination. It should be transferred out of the bank's recoveries and collections department and into its "business as usual" processes. This should also involve the reactivation of D's access to the Pay As You Grow ("PAYG") flexible repayment options. And the bank should arrange for any adverse information registered about D and the loan – including the default and any subsequent non-payment – to be removed.

That will leave the question of payment of the loan moving forward. Had the loan not been defaulted, D would've had to start making monthly repayments by now. But none of those payments were made. I don't think it would be reasonable to require D to make up all of these payments immediately (unless it is able and willing to do so), not least as the company may have chosen to defer or reduce the expected

payments through the PAYG options. Instead, I would suggest that HSBC work with D to agree a mutually acceptable repayment arrangement to bring the account into order, such that it will be fully repaid by the end of the loan term.

HSBC utilised the closing balance held in D's account to pay down the amount owing on the Bounce Back Loan. That shouldn't have happened. But it has had the effect of paying down the balance that D owes on the Bounce Back Loan (so the company hasn't suffered a loss as such). Given this, and the amount of time that has passed and in which matters have moved on, I am not proposing to instruct HSBC to return this sum.

I've also thought about how to fairly compensate D for the impact of what HSBC did wrong. And in doing so, I've considered what its directors have said and provided to us. I've not been provided with any evidence of any particular financial losses that D incurred as a result of its HSBC facilities being withdrawn or being deprived of the use of the balance held in its account. Mr and Mrs S have sent me some letters, including notice of unpaid sums and arrears notices from other credit and service providers – but none of these seem to relate to agreements in D's name and instead relate to agreements either in their own names or the name of their other businesses. As I can only award compensation to D, I can't factor in any losses that may have been suffered by Mr and Mrs S as individuals or by their other businesses.

I can see, though, that D would've been inconvenienced, in having to make alternative arrangements – both with customers and suppliers – at very short notice, during what was already a challenging time for businesses. Mr and Mrs S, as its directors, were taken away from the day-to-day running of the company to deal with the sudden withdrawal of its banking facilities – and have had to spend a lot of time dealing with HSBC, including by way of complaint, to get matters resolved.

So in addition to the actions I've set out above, I'm also intending to require HSBC to pay D compensation of £500.

I invited both parties to respond with any further points or evidence they wanted me to take into account before I made a final decision. HSBC didn't send me anything else to consider. Mr and Mrs S replied to say, in summary, that:

- While appreciating that HSBC may have had reasonable grounds to doubt Mr S's eligibility for a Bounce Back Loan in his sole trader capacity, that couldn't be said for D – as it had been trading since 2018 and had the right to apply for the loan.
- HSBC's actions had stopped D from growing, which was evidenced by the company being turned down for finance elsewhere in 2022. With no access to funds, they'd also been left unable to pay for fuel to attend jobs and earn money. And once direct debits had been cancelled, they'd had to pay for certain expenses – like car insurance and tax – in one upfront lump sum, rather than by instalments.
- The matter had also impacted their personal life significantly, depriving them of income and leaving them without access to money for day-to-day living – causing them unimaginable stress.
- In light of the above points, they didn't feel that £500 compensation was sufficient.

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 not reached a different view of the complaint – either in terms of what went wrong or how it should be put right – to that set out in my provisional decision.

The only additional points I've been sent are those by Mr and Mrs S which, as summarised above, make their case for an increase to the amount of compensation I award. I'll explain why their further points haven't led me to a different view on this.

Firstly, this complaint is brought by D. Under our rules, it is only D to whom I can make an award for compensation. I can't make any award to Mr and Mrs S – in their personal capacity – for any losses, distress or inconvenience they may have suffered as a result of what HSBC did wrong in respect of D's accounts. So while I can appreciate that the problems with their company's accounts would inevitably have had some knock-on effects on their personal finances and day-to-day lives, I'm afraid that isn't something I can factor into the amount of compensation that I award D.

In terms of compensation for the company, I explained in my provisional decision that I believed this only to be warranted for the inconvenience that D had been caused by the errors on HSBC's part. This was because I'd not seen evidence of any particular losses that D had suffered. While Mr and Mrs S have replied to say that the company's growth was inhibited by the restriction of its funds and facilities, they've not provided me with any detail as to how these losses were sustained or what they might amount to, or any evidence to substantiate any such claim.

Mr and Mrs S have provided a copy of an email exchange that shows a finance application, purportedly in D's name, was turned down. But there's nothing to show that this was due to any of the issues with HSBC – and there are many other reasons why an application may not succeed. And even if it was the result of something HSBC did wrong – such as the Bounce Back Loan being marked as defaulted by credit reference agencies – I've not seen how the absence of this facility caused D any financial loss. The finance facility itself would've been a cost – and there's nothing to show me that D would've utilised that loan to make a profit.

So I still think the redress I proposed in my provisional decision represents a fair way to resolve this complaint. That is, for HSBC to pay D compensation of £500, arrange for the removal of any adverse information recorded about the Bounce Back Loan in light of its termination and restore the loan to its status prior to termination. The latter may be somewhat complex, but with no objection to the approach described in my provisional decision I think the bank should achieve this by:

- Transferring the loan out of the bank's recoveries and collections department and into its "business as usual" processes;
- Reactivating D's access to the Pay As You Grow ("PAYG") flexible repayment options; and
- Working with D to agree a mutually acceptable repayment arrangement to bring the account into order and ensure that any arrears and missed payments are fully repaid over the course of the loan term.

My final decision

For the reasons I've explained, I uphold this complaint and require HSBC UK Bank Plc to:

- Restore D's Bounce Back Loan agreement to its status prior to termination in the manner described above;
- Arrange for the removal of any information registered both internally and externally with credit reference agencies about the default of the loan or any related non-payment; and
- Pay D compensation of £500.

Under the rules of the Financial Ombudsman Service, I'm required to ask D to accept or reject my decision before 4 October 2023.

Ben Jennings
Ombudsman