

The complaint

A limited company, which I will refer to as G, complains that Bank of Ireland (UK) Plc (BOI) delayed a payment which led to increased costs.

G wants BOI to pay the interest it has incurred because of the late payment.

Mr O, who is a director of G, brings this complaint on G's behalf.

What happened

G banks with BOI and on 31 March 2022, instructed BOI to send a £20,000 CHAPS payment. Mr O says the intended beneficiary didn't receive the money for several weeks. The money was for a loan repayment and as the payment was late, the beneficiary has commenced legal action to recover unpaid interest of more than £50,000. Mr O says BOI is responsible for the delay but BOI disputes this.

Our investigator didn't recommend that G's complaint be upheld. She didn't think that BOI was responsible for the payment arriving late. Our investigator explained that the payment was delayed due to checks carried out by the correspondent bank. She thought BOI acted promptly to try and retrieve the payment.

Mr O was very unhappy with the outcome of G's complaint. He couldn't believe that it's reasonable for £20,000 to go missing for 90 days.

After considering the complaint, I issued a provisional decision on 1 November 2023 in which I said:

I realise that I have summarised this complaint in less detail than the parties and I've done so using my own words. The rules that govern the Financial Ombudsman Service allow me to do this but it doesn't mean that I have not considered everything that both parties have given to me.

G has been left in the middle of this situation through no fault of its own. In cases like this, where there are multiple financial institutions involved, it is sometime difficult to accurately apportion responsibility for any delays.

I'm satisfied that BOI sent the payment on 31 March 2022 in line with G's instructions. So, I can't reasonably find BOI responsible for any initial delay. I don't, for example, have evidence to suggest that BOI made a mistake with the payment details which then caused a delay.

Once G made BOI aware in early April 2022 that the payment hadn't been received by the intended beneficiary, BOI explained the options to G and provided details of the payment it had made so that the beneficiary bank could follow up at their end. Then on 8 April 2022, BOI tried to recall the payment. Again, I think that BOI acted reasonably in response to G's concerns about the payment.

After it became apparent that the beneficiary bank or its correspondent bank, wanted further information as part of its compliance checks, BOI forwarded the information request to G on 12 April 2022 and G responded the same day.

As far as BOI was concerned, it had provided the necessary information to allow G's payment to be approved. At this point, BOI had no reason to believe there was still an issue with the payment.

According to an email from BOI's correspondent bank on 14 May 2022, compliance checks were continuing. The checks were being carried out by the beneficiary's bank or their correspondent bank, rather than BOI and BOI was not in control of how quickly these checks were being conducted. So, I can't fairly say that BOI was responsible for most of the payment delay.

However, there does seem to have been some confusion over the payment recall. By the same email of 14 May 2022, BOI's correspondent bank asked BOI to confirm whether it now wished to recall the payment. BOI didn't reply so the correspondent bank sent a second email a few days later. BOI responded on 19 May 2022 to say that G wanted the funds to be paid down and not recalled. I am conscious of the fact that BOI had already told its investigation team in mid-April 2022, that the funds should no longer be recalled. So, I'm not entirely sure why BOI's correspondent bank wasn't aware of this.

The compliance checks were being carried out independently of any recall of funds and it appears that it was these checks which slowed the payment. However, I think there's the possibility that some of the delay may have been caused by the correspondent bank's unresolved confusion over the recall of the payment.

14 May 2022 was a Saturday - which is not a business day. However, it took BOI until 19 May to respond to confirm that the funds were to be paid and not recalled. According to the invoice provided by G, the beneficiary received the payment by or on 24 May 2022.

I can't be sure that the payment would have arrived sooner had BOI responded to the correspondent's bank query more promptly than it did. However, given the fact that BOI was aware of the urgent nature of the payment, I think it would have been reasonable to expect it to respond to the correspondent bank on the first business day after the email of 14 May 2022 – which would have been Monday 16 May 2022. So, I think it's reasonable to hold BOI responsible for a delay of three days.

I now turn to what BOI should do to put things right. G has provided us with a copy of the loan agreement it entered into with the beneficiary. According to the loan terms, G would incur daily interest charges of £200 for late repayment. As I think BOI is responsible for a delay of three days, I think it's fair to require it to pay G £600 together with interest from the date on which the beneficiary received the payment to the date of settlement.

I appreciate that this is unlikely to satisfy Mr O as G has been hit with a bill for around £50,000 by the beneficiary. This looks to be made up of a daily arrears penalty of £15,000 calculated by reference to the number of days between the due loan repayment date of 10 March 2022 and the date the payment was received. The beneficiary has then gone on to add daily compound interest totalling more than £35,000 as at February 2023.

Some of the daily arrears penalty was incurred before G instructed BOI to make the payment, so I couldn't hold BOI responsible for this. Then, as I've outlined above, I don't consider BOI was to blame for most of the payment delay. It's not until 16 May 2022, that I think BOI could have acted sooner and the payment may have arrived with the beneficiary a few days before 24 May 2022.

I know that G has gone on to incur significantly more late payment interest charges but I would have expected G to take steps to try to prevent the debt escalating as it has. Even if I thought that BOI was responsible for more of the delay, I wouldn't require it to pay the late payment interest charges that have accrued as I can't see that G has tried to mitigate its losses, for example by borrowing elsewhere to repay the arrears penalty before it increased further. I also don't know whether G will ultimately be required to pay everything that the beneficiary seeks. However, as I've said, I don't consider BOI was responsible for the majority of the delay so I wouldn't look to compensate G for its consequential losses in full.

Further submissions

Neither BOI nor G responded to my provisional 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.

As neither BOI nor G has responded or asked me consider any further information, I consider it fair to make my final decision along the same lines as my provisional decision.

Putting things right

BOI should:

- pay G £600; and
- pay 8% simple interest on the sum of £600 from 24 May 2022 to the date of settlement

My final decision

My final decision is that I uphold this complaint and direct Bank of Ireland (UK) Plc to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask G to accept or reject my decision before 14 December 2023.

Gemma Bowen
Ombudsman