DRN-4499911

The complaint

Ms D is unhappy that Lloyds Bank PLC consider her to be personally liable for a Bounce Back Loan ("BBL")

What happened

Ms D has outlined her complaint as follows: Ms D was a sole trader who operated a business which I'll refer to as 'DS'. On 1 January 2020, DS was acquired by another business, a limited company, which I'll refer to as 'X'. Following the acquisition of DS by X, Ms D took up a position as an employee of X.

Both DS and X held business accounts with Lloyds, and the rearrangement of banking facilities following the acquisition of DS by X was overseen by a Relationship Manager (RM).

On 20 March 2020, X's CEO requested a financial review with Lloyds' RM on the basis that X's and DS's client accounts had already been merged and X's CEO was now seeking to consolidate the office accounts and bring all remaining DS facilities into X's secured facility.

The financial review took place on 24 March 2020, with Ms D being present along with X's CEO and the RM. During the meeting, the RM confirmed his understanding of X's acquisition of DS and Ms D's new position as an employee of X. Additionally, X's CEO asked the RM for further borrowing for X from Lloyds, because of the emergence and impact of the Covid-19 pandemic which was unfolding at that time.

There was then ongoing communication between X's CEO and Lloyds' RM about X's request for further borrowing, with the RM expressing concern about the level of X's existing level of borrowing with Lloyds.

On 19 May 2020, the RM called X and made the recommendation to X's CEO that X should apply for a £50,000 BBL. X's CEO explained that he was seeking a minimum of £100,000 further borrowing for X, at which time the RM explained that he could approve two BBLs in this instance, because there were technically still two separate office accounts open under the consolidated banner of X – one in the name of X, and the other in the name of DS.

X's CEO and Ms D accepted Lloyds' RM's assertion that two BBLs could be applied for, and the RM talked X's CEO and Ms D through their respective online applications for the BBL at that time. Both BBL applications were then quickly approved by Lloyds, with the purpose of both loans being a funding solution for X.

In June 2022, a new RM was appointed by Lloyds to manage X's accounts. A meeting with the new RM took place on 24 June 2022, at which time the new RM identified all the accounts connected to X at that time, which included both BBLs opened in May 2020.

At that time, X was experiencing some financial difficulty which led to Ms D leaving the company in July 2022. X was also unable to meet its credit commitments, and the monthly instalments for the BBL in question here – the one applied for by Ms D – went unpaid.

Ms D had never received any correspondence from Lloyds about the BBL, with all letters and statements being sent to X. But in January 2023 she was told by a former colleague at X that a debt recovery agency (DRA) had been trying to contact her at X about the BBL.

Ms D contacted Lloyds' RM and explained how and why the BBL had been opened to. But the RM explained that the previous RM hadn't left any notes which corroborated Ms D's position. The RM also explained that the records that Lloyds did have showed that Ms D had applied for the BBL herself on a sole trader basis and that as such she was personally liable for the outstanding BBL debt. Ms D wasn't happy about this, so she raised a complaint.

Lloyds responded to Ms D but didn't uphold her complaint. They reiterated that the BBL had been applied for by Ms D on a sole trader basis and that all information submitted on the BBL application refers to Ms D and to DS.

Lloyds also explained that as the applicant, it had been Ms D's responsibility to have ensured that she understood the terms of the BBL before she applied for it. And Lloyds said that if Ms D had entered any private funding arrangement with X, that would be a civil matter between Ms D and X. Ms D wasn't satisfied with Lloyds' response, so she referred her complaint to this service.

One of our investigators looked at this complaint. But they didn't feel Lloyds had acted unfairly by approving the BBL application Ms D had submitted to them and they weren't persuaded that Lloyds' RM had likely coerced Ms D into making the application as she claimed. Ms D 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. 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 factors and circumstances of a complaint into consideration.

I also note that both Ms D and Lloyds have provided several detailed submissions to this service regarding this complaint. I'd like to thank Ms D and Lloyds for these submissions, and I hope they don't consider it a discourtesy that I won't be responding in similar detail here. Instead, I've focussed on what I consider to be the key aspects of this complaint, in line with this service's role as an informal dispute resolution service.

This means that if either party notes that I haven't addressed a specific point they've raised, it shouldn't be taken from this that I haven't considered that point – I can confirm that I've read and considered all the submissions provided by both Ms D and Lloyds. Rather, it should be taken that I have considered that point but that I don't feel it necessary to address it directly in this letter to arrive at what I consider to be a fair resolution to this complaint.

I feel that this complaint hinges on whether Ms D's testimony regarding how Lloyds RM knowingly induced her to apply for the BBL as a funding solution for X is felt to be persuasive or not.

There are no notes from the RM in question which corroborate Ms D's testimony. This might be because the application wasn't made in the manner that Ms D suggests. But given Ms D's claims here, another possibility is that the RM didn't record any notes. Both possibilities seem plausible to me. And I don't feel that the absence of notes is a strong persuading factor either way.

Accordingly, I've reviewed the supporting evidence supplied by both Ms D and Lloyds. As alluded to above, this is a lot of information. And to confirm, I won't be commenting on everything that's been provided to this service, but only on the information I feel is most relevant to this complaint.

Of note are a series of emails provided by Lloyds between X's CEO and Lloyds' RM dated 4 May 2020. The first of these emails is at 9:40 am from the RM to X's CEO, with the RM advising the CEO of the new BBL scheme and providing a link for X's CEO to access Lloyds' BBL website page. Then, at 10:33 am, X's CEO replies to the RM as follows:

"Wow – application done! That really is as easy as press said it would be."

Following this, at 10:49 am, the RM asks X's CEO whether he received any confirmation or loan approval. And X's CEO responds immediately and says that the loan was approved and that a copy of the BBL agreement is on its way to him.

Ms D has explained in her testimony that Lloyds RM suggested on 19 May 2020 during a telephone meeting that two BBLs be applied for as a funding solution for X – one by X and one by Ms D on behalf of RS. But these emails show that X's CEO applied for a BBL on X's behalf himself on 5 May 2020, having been sent information about the BBL scheme and a link to Lloyds' BBL webpage by the RM.

It's also notable that, as per the BBL application provided by Lloyds and by Ms D's own testimony, Ms D applied for a BBL herself, as a sole trader, trading as DS, on 19 May 2020. This was two weeks after X's CEO applied for a BBL on X's behalf.

I hope Ms D can understand why the fact that X applied for a BBL two weeks before she applied for one, causes me to have doubts about the accuracy of her testimony. Indeed, I find it difficult to accept that Lloyds' RM is likely to have surreptitiously arranged the joint BBL applications as Ms D contends, given that the two applications took place 14 days apart.

Rather, in consideration of this evidence, I find Lloyds' position to be the more persuasive. And it seems more likely to me that what happened here is that Ms D chose to apply for a BBL on 19 May 2020. And I feel that in doing so it was Ms D's responsibility to have understood the terms of the loan that she was agreeing to, including that as a sole trader she would be personally liable for the balance of the loan, if it went unpaid. And it should also be noted that I would feel that Ms D held this responsibility, as the applicant, even if it were the case that it had been suggested to her by any third party that she should apply.

All of which means that I don't feel that Lloyds have acted unfairly here as Ms D contends. And it follows from this that I won't be upholding this complaint or instructing Lloyds to take any further or alternative action. I realise this won't be the outcome Ms D was wanting. But I hope that she'll understand, given what I've explained, why I've made the final decision that I have.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 6 March 2024.

Paul Cooper
Ombudsman