

The complaint

A limited company, which I'll refer to as 'N', complains that HSBC UK Bank Plc defaulted its Bounce Back Loan (BBL).

N's complaint is brought to this service by its director, whom I'll refer to as 'Mr I'.

What happened

To briefly summarise: Mr I arranged a payment holiday for N's BBL with HSBC. But Mr I was later shocked to discover that HSBC had terminated N's BBL and defaulted the loan for non-payment – at a time when Mr I assumed that N was still benefiting from a payment holiday on the BBL.

Mr I wasn't happy about this, especially as to the best of his knowledge N had a direct debit in place to make the BBL payments if a payment holiday wasn't in effect. And Mr I also wasn't happy with the difficulties he'd encountered when trying to speak with HSBC about what had happened. So, he raised a complaint on N's behalf.

HSBC responded to Mr I and explained that N's BBL direct debit was initially cancelled by HSBC because a Safeguard review wasn't completed by N. HSBC also noted that it had informed N that its banking facilities – including any direct debits – would be cancelled if the Safeguard review wasn't completed.

HSBC also noted that it had spoken with Mr I in October 2022 and agreed a payment break with him regarding N's BBL, and that Mr I had been told at that time the N's direct debit had been cancelled to avoid payments being applied for during the payment break. Finally, HSBC apologised if Mr I had encountered difficulty in being put through to the correct department when he called HSBC, but that the position of N's BBL meant that a specialist team in HSBC was dealing with the account which unfortunately led to a degree of necessary inconvenience in Mr I being transferred to that team.

Mr I wasn't satisfied with HSBC's response, especially as he'd already successfully complained to HSBC on N's behalf about the Safeguard review. So, he referred N's complaint to this service. One of our investigators looked at this complaint. But they didn't feel that HSBC had acted unfairly by defaulting N's BBL for non-payment and so didn't uphold the complaint. Mr I 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 Mr I has provided several detailed submissions to this service regarding N's complaint. I'd like to thank Mr I for these submissions, and I hope he doesn'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 Mr I notes that I haven't addressed a specific point he's 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 N and HSBC. 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.

Mr I feels that HSBC caused N's BBL payments to not be made because HSBC cancelled the direct debit in error that was set up to make the BBL payments. Mr I is correct that HSBC did cancel the direct debit in error. However, I don't agree with HSBC should be considered accountable for N's later missed BBL payments

There are several reasons for this. The first is that HSBC mistakenly cancelled N's direct debit in September 2022. But by that time, N had already missed two payments towards its BBL – the July and August 2022 payments – meaning that these weren't paid by N while it's direct debit to make the payments was still in place.

Additionally, it's Mr I's responsibility – as the sole director of N – to have ensured that N met its contractual payment obligations. And if N's BBL payments weren't being made by direct debt, then it was for Mr I to have made those payments for N via an alternative channel, such as by telephone, or to have contacted HSBC and reinstated N's direct debit. This is because, ultimately, the responsibility to make the contractual BBL repayments sat with N.

I'm also satisfied that HSBC made reasonable attempts to contact N in writing about the arrears that were accruing on its BBL. And I note a series of letters sent by HSBC addressed correctly to N's registered company address, as it was during that time, the postcode of which Mr I confirmed as being correct on the telephone call that I've listened to.

These letters include missed payment letters sent to N in July and August 2022. Mr I then contacted HSBC and agreed to a six-month Pay As You Grow (PAYG) capital and interest payment holiday on N's BBL. This meant that N wasn't required to make the subsequent six BBL monthly payments, with the BBL payments set to resume in May 2023. And HSBC sent a letter to N in April 2023, the month before its BBL payments were set to resume after the PAYG holiday, to remind it that payments would become due again in and that N would need to take action to make those payments if no valid direct debit was in place.

But N didn't resume making its monthly BBL payments when it should have done, and it didn't contact HSBC about this. Mr I has explained that he was aware that N was eligible to receive three PAYG holidays and assumed that HSBC would apply them concurrently. But Mr I's assumption in this regard was incorrect, and it isn't supported by the PAYG agreement which he signed on behalf of N which explained that the payment holiday was for a duration of six months and which didn't include any reference to an automatic roll over into a new PAYG holiday, as follows:

You have selected a capital and interest payment holiday of 6 months. Following the end of your capital and interest payment holiday your next monthly instalment of capital and interest will be made on 19 May 2023.

Mr I's incorrect assumption also isn't supported by the letter sent by HSBC in April 2023 wherein it confirmed that the PAYG holiday was ending, and that N was liable to make monthly BBL payments from May 2023 onwards.

Additionally, while the PAYG holiday Mr I agreed to in October 2022 addressed the next six payments that N was scheduled to make towards its BBL, it did nothing to address the missed payment arrears that had already accrued on N's BBL at that time – because of the monthly payments that weren't made in July, August, and September 2022.

HSBC confirmed to Mr I in October 2022 that N's BBL arrears would need to be addressed while the PAYG holiday for future payments was in force. And HSBC agreed a separate three-month payment break during which they wouldn't chase N for its accrued arrears to allow N the opportunity to improve its financial position. And again, when that three-month term was close to ending, HSBC sent a reminder of this to N and explained that N would need to contact HSBC to make a suitable arrangement with it regarding the arrears. But N didn't contact HSBC and address its BBL arrears after the three-month term ended.

All of which means that I don't feel HSBC have acted unfairly by considering N's BBL to be in the position of significant and prolonged arrears that it was or by following the loan arrears process that ended in the defaulting of N's account. And this is because, ultimately, N didn't meet its contractual BBL payment obligations – which as explained it was Mr I's responsibility as the sole director of N to have done, regardless of whether HSBC had previously incorrectly cancelled N's BBL direct debit or not.

Mr I has said that he did try to contact HSBC on several occasions but was passed between different departments and found HSBC to be of little help. But by the time that Mr I was trying to contact HSBC, a final demand had already been issued and N's BBL had already been transferred by it to a specialist department - which I'm satisfied that it was reasonable for HSBC to have done because of the adverse position of N's account.

If Mr I had encountered difficulties contacting HSBC before that time, there isn't a clear record of this. And it would have been for Mr I to have overcome those difficulties, with the onus being on him to have come to an arrears repayment plan that was acceptable to HSBC before a final demand was issued.

Accordingly, given that I don't feel that HSBC have acted unfairly here as Mr I contends – but rather have undertaken a fair and reasonable account arrears process – it follows that I won't be upholding this complaint or instructing HSBC to take any further or alternative action. I realise this won't be the outcome Mr I was wanting. But I trust that he'll understand, given all that 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 N to accept or reject my decision before 18 March 2024.

Paul Cooper
Ombudsman