

## **The complaint**

Ms B complains about the actions of HSBC UK Bank Plc which have meant that she is being pursued for a debt owed by her company.

## **What happened**

Ms B told us:

- Her limited company which I'll call 'U' had a business current account with a £10,000 overdraft with HSBC. In March 2020, due to the impact of the Covid-19 pandemic, she applied for an increase of U's overdraft to £20,000.
- As part of the increased borrowing request, HSBC said that she needed to give a personal guarantee for £25,000. The bank was aware that she was U's sole director and had no salary or assets when giving the guarantee, but HSBC was insistent. So, in March 2020 she signed the personal guarantee to obtain the overdraft increase for U.
- The personal guarantee document did say that she seek legal advice before signing it. However, she thought getting legal advice at the start of lockdown would be challenging and the bank had given no advice on how to source legal advice. She'd felt pressured to sign the guarantee and confused about what the guarantee was for as she'd also applied for other facilities for U around the same time.
- In April 2022, she'd flown to another part of the UK due to a family emergency, and around the same time, U had entered liquidation. In July 2024, HSBC issued a formal demand for repayments of U's facilities which at that point were around £112,000. The bank also requested payment of £25,000 under the personal guarantee towards U's overdraft.
- HSBC hadn't provided her with support and had behaved with a lack of care and due diligence, so it was unfair for it to call upon the personal guarantee.

HSBC told us:

- In 2020, Ms B contacted it to increase the overdraft for her business from £10,000 to £20,000. It agreed to do this with the support of a personal guarantee which was signed on 13 March 2020.
- The personal guarantee document was clear that it was an important legal document, and independent legal advice should be sought before it was signed. Ms B signed the guarantee to say that she understood this.
- In May 2024, it wrote to Ms B to say that it had received a liquidation order for U and the company's accounts had been restricted. A final demand was sent to Ms B in July 2024 for repayment of all U's outstanding borrowing, which at the time was

around £112,000. At the same time, it sent Ms B a final demand for £25,000 in line with the personal guarantee it held from her.

Our investigator didn't recommend the complaint be upheld. She thought that the personal guarantee document had been clear that Ms B should seek legal advice before she signed it. She acknowledged that Ms B said legal advice wasn't readily available due to the Covid-19 lockdown, however she didn't think it was fair to hold HSBC responsible for this. The investigator also said that if Ms B had concerns about not being able to receive legal advice that she could have approached HSBC, but she hadn't done so. The investigator didn't think HSBC needed to check that Ms B could financially afford the personal guarantee, as Ms B was signing to say that she would repay this however necessary. The investigator said that she understood Ms B had been emotionally stressed at the time of signing the guarantee, but she hadn't seen any evidence that HSBC had pressured Ms B to sign it. So, she thought it was reasonable for Ms B to be liable under the personal guarantee.

Ms B didn't agree. She said that HSBC had been demanding immediate signatures for the documents and the witness to the personal guarantee wasn't in line with the agreement. So, she asked for an ombudsman to review her complaint.

### **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'm sorry to disappoint Ms B but there isn't much more that I can add to what our investigator has already said. I do want to acknowledge that Ms B has been through a difficult period which has impacted her health, and I'd like to thank her for sharing her circumstances with us. I recognise that this isn't the outcome that she'll be hoping for, but my role is to be fair to both parties, and I can't fairly say that HSBC has behaved unreasonably here with regards to the personal guarantee.

Ms B told us that HSBC should have done more to support her with regards to the personal guarantee. But I don't agree. It would have been inappropriate for the bank to provide Ms B with any assistance regarding the personal guarantee, because the security she was providing was for the bank's benefit if the situation occurred that U was unable to repay the outstanding debt. The reason that the personal guarantee documents say that any advice needs to be provided independently is so that any third-party being used has no links to the bank, and there can be no undue influence on the advice provided to the guarantor giving the personal guarantee. Therefore, HSBC was never going to be able in this situation to give Ms B advice on whether she should or shouldn't sign on the guarantee documents or who she should seek advice from.

I've checked the agreement which Ms B signed as a guarantor, and I'm satisfied that it was clear and sufficiently prominent that she should seek independent legal advice before signing it. I recognise that Ms B said she didn't think it would be possible to seek legal advice due to the Covid-19 lockdown. However, I haven't seen any evidence that Ms B even attempted to seek legal advice or even asked the bank what she could do to obtain independent legal advice given the situation with the pandemic.

I also acknowledge that Ms B says she was pressured by the bank to sign the personal guarantee, but I haven't seen any evidence that's the case. It appears that there were ongoing discussions between HSBC and Ms B about the borrowing and the documents were sent to Ms B to complete when she was ready. I do recognise that Ms B may have felt pressure to sign the documents, however I think it's more likely that this was as a result of Ms B's personal situation at the time, such as the impact of the pandemic. However, I can't

fairly hold HSBC responsible for not wishing to increase U's borrowing without the security in place to support this. I also haven't seen any evidence that HSBC misrepresented the personal guarantee requirement, and I'm satisfied that Ms B had reasonable opportunity to get support to review the documents before returning them to the bank.

Ms B told us that she also believes it's unreasonable that the bank didn't check the personal guarantee was affordable before it accepted this as security. However, there is no requirement for HSBC to undertake this check because it wasn't providing lending to Ms B. The lending was being provided to U, and therefore any affordability checks would have been on behalf of the business. By signing a personal guarantee, Ms B was simply saying that she agreed to repay any outstanding balance owed by U by whatever means was necessary. There wasn't any requirement for the bank to check how this would be repaid.

Ms B has also mentioned that HSBC took further security in the form of a 'floating charge' for the additional facilities which were provided to U. She feels this essentially meant HSBC had doubled the cover provided to the bank and should have replaced the personal guarantee. However, I'm not persuaded that's the case. Ms B provided the personal guarantee to cover a specific amount of £25,000 and U's borrowing from the bank was substantially more than this. Therefore, I'm not persuaded that there was 'double' the cover for the overdraft, the new security seems to have been in addition to the personal guarantee, rather than a replacement. I also haven't seen any evidence that HSBC said the personal guarantee would be replaced with the floating charge, or that Ms B queried the removal of the personal guarantee when the additional security was taken. So, I don't think it was unreasonable for HSBC to leave the personal guarantee in place.

I understand that Ms B is likely to be unhappy with my decision, as I've seen what this means to her. But I don't agree HSBC has treated her unfairly in her capacity as a guarantor. So, I won't be asking it to do anything more. Ms B has told us that she is struggling to repay the balance requested under the personal guarantee and that HSBC has passed the debt to a third-party collection agency. I would suggest that Ms B contacts the third-party collection agency to discuss a way forward as we would expect it to look to support customers who are in financial difficulty.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 25 July 2025.

Jenny Lomax  
**Ombudsman**