

## **complaint**

S, a limited company, complains that HSBC Bank Plc did not respond to efforts to repay a debt. It issued threatening letters instead. S is represented by its director, Mr W. Mr W asks that HSBC reinstates S's bank account, agrees reasonable terms to repay the loan and clears any adverse information from his credit files.

## **Background**

S had an agreed overdraft of about £30,000. Mr W and other directors gave guarantees to HSBC for the debt. In early 2013 HSBC issued a letter of concern, including that the overdraft had exceeded its limit and the account was not receiving regular credits. While there were discussions about converting the overdraft to a loan, HSBC did not receive requested information from S and the loan did not proceed. Payments were made to reduce the overdraft to £21,000. As regular credits were not being made to the account, HSBC passed it to a debt collection agency in mid-2014.

Mr W says HSBC agreed when S took out overdraft it could be converted to a personal loan if the business did not go well. Mr W says HSBC did not respond to emails sent to another director. It continued to send letters to S's address instead of communicating by email as requested. As the directors travel, post is not a reliable way to contact them.

The adjudicator did not recommend that the complaint should be upheld. She said:

- HSBC was entitled to ask for information before deciding whether to convert the overdraft to a loan. The information was not provided.
- The terms of the overdraft were not met. So HSBC was entitled to issue demands and pass the account to a debt collection agency.
- HSBC had communicated with S and had acted properly. It had sent formal letters to the company's address. Directors had responded to letters, suggesting they received them.

S did not agree. On its behalf, Mr W said he had tried to repay the overdraft, offering to take out a mortgage loan and setting up a standing order. HSBC had not taken their communication needs into account and bears some of the blame for the breakdown.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

While Mr W says HSBC did not respond to S, the evidence does not support this. I am satisfied HSBC wrote to S asking for information to support its request for a loan. It also wrote to S asking for its proposals to repay the overdraft and warned S the account could be passed to a debt collection agency. As HSBC did not receive the information it requested or an acceptable repayment proposal, I do not find it acted unreasonably in passing S's account to a debt collection agency.

It is S's responsibility to ensure it notifies HSBC of any change of address. While I appreciate the directors may not always be at S's address, I do not find HSBC made an error by sending formal letters to S at its address in its files.

While Mr W says there was a tacit understanding the overdraft would be converted to a personal loan if the business failed, the evidence does not support this. Even if this were the case, I would still find it reasonable for HSBC to ask for information before agreeing to replace the overdraft with a personal loan.

HSBC has a duty to report information to the credit reference agencies. I have seen nothing to suggest it has given inaccurate information to the credit reference agencies.

I do not find it reasonable to require HSBC to reinstate S's account. S should contact the debt collection agency with the aim of agreeing a plan to repay the debt.

### **my final decision**

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask S to accept or reject my decision before 6 July 2015.

Ruth Stevenson  
**ombudsman**