

The complaint

A company which I'll call 'B' complains that HSBC UK Bank Plc behaved unreasonably when it requested a deed of priority which caused it a financial loss.

The complaint is brought on B's behalf by one of its directors, Miss K.

What happened

B held existing borrowing with HSBC which were supported by a debenture as security.

Miss K told us:

- B had been struggling with its cashflow due to the liquidation of some of its customers in April 2023. B had initially sought assistance from HSBC however it had struggled to get appointments with or support from its Relationship Manager ('RM').
- B approached another lender for further borrowing to support the company with its growth, but as part of the agreement the new lender required a deed of priority ('DOP') from HSBC.
- She had initially requested a DOP in November 2023 and had arranged a meeting with the RM to discuss this in early December 2023, but the RM had cancelled the meeting a couple of minutes before it had been due to take place.
- She'd eventually received the required documents for the DOP from the RM and signed and returned these on 5 December 2023. The RM said it would take three to four weeks for the DOP.
- After numerous emails and lack of responses explaining that the agreement from the new lender was only valid for two months, the RM finally said on 25 January 2024 that the DOP would be provided by 5 February 2024.
- She had been chasing the RM for months to get the DOP and when she called to query why this hadn't been provided as agreed, she was told the RM no longer worked for HSBC.
- She'd complained to HSBC about the delay in providing the DOP and it upheld the complaint. However, the compensation offered by HSBC wasn't enough to cover the impact to the business. The further borrowing was to support the growth of the company such as purchasing new machinery. The bank's delay in providing the DOP had caused estimated losses of £30,000 - so HSBC should cover these losses.

HSBC told us:

- B had met with its RM in December 2023 and requested a DOP. The RM had requested a DOP from the lending team in mid-December 2023, and B had provided

the relevant documents at that time.

- The DOP had been agreed by the lending team in mid-December 2023, but it couldn't see a reason why the DOP hadn't been progressed as it would've expected. The RM no longer worked for HSBC, so it was unable to investigate the reason for the delay.
- B had raised a complaint on 5 February 2024 and the DOP had been issued on 9 February 2024.
- It accepted that B had received poor service from its RM for several months and that there had been a delay in providing B with a DOP. It had apologised to B and offered £650 compensation for the inconvenience caused.

Our investigator thought HSBC had done enough to put things right. He said that the crux of B's complaint was that HSBC was responsible for £30,000 of consequential losses caused by the delay in it providing B with a DOP. However, whilst he accepted that HSBC had caused a delay in B receiving the funds from the new lender, he didn't think there was sufficient evidence to show these losses had occurred as a result of this delay. He said that, for example, the evidence provided by B didn't show how the new funding led to specific sales increases or that B would have been able to purchase stock at cheaper prices. So, he thought the £650 compensation offered by HSBC was fair.

B didn't agree and asked for an ombudsman to review its complaint. It said it had been caused losses as a result of not being able to purchase equipment that had been in stock when it should have received the funds and then was out of stock with a lengthy delay. It also said that its sales ledgers showed the increases from customers as a result of being able to purchase more stock.

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.

The background to this complaint is known to both parties so I won't repeat it at length here. HSBC has also accepted that it made a mistake, and the crux of B's complaint is that the compensation offered by the bank isn't sufficient. I'm sorry to disappoint B, but I agree with our investigator that HSBC has done enough to put things right.

Miss K says that the delays in getting the DOP from HSBC caused B a consequential loss of £30,000 which it should pay as compensation. However, I'm sorry to disappoint B as I'm unable to recommend that award as I haven't seen sufficient evidence that's the case. Our service is an evidence-based organisation, and whilst I don't doubt that B was caused inconvenience as a result of the bank's delay, I can't simply accept Miss K's word for the losses she says B was caused. I need to see both evidence of those losses, and that those losses were a direct result of the bank's actions.

Miss K has provided evidence of B's sales which show that there was an increase after the funding had been received. She says this shows that HSBC's delay cost B profit. However, I haven't seen any evidence that the change in the amount of B's sales was solely as a result of the funds being received. I say this because B's income is seasonal and the increase in sales may be due to changes in supply and demand which weren't directly related to the availability of the funds.

Furthermore, Miss K has provided customer emails which she says show that B was caused reputational damage, however the emails provided by B were from early December 2023. Given B's initial request to the RM was at the end of November, and the RM had advised there was a three-to-four-week timescale to provide a DOP at that time, I can't fairly hold the bank responsible for any issues B was experiencing at that time.

I also acknowledge that Miss K says that B's production was affected as the delay in receiving the funds meant it couldn't purchase the equipment it needed – which had been in stock in late December/early January. But I'm not persuaded that's the case as the emails about the equipment were dated mid-February 2024 after the DOP had already been issued by HSBC and the supplier in question explained that there was a twelve week wait time due to the type of equipment. B also told us that it had then chosen to purchase a smaller piece of equipment due to the wait times provided by the supplier. But I haven't seen any evidence that B tried to mitigate its losses by looking for an alternative supplier, or whether the smaller piece of equipment was available sooner.

I'm sorry to disappoint Miss K as I know she feels strongly about B's complaint, and I don't dispute that B was caused inconvenience as she had to take time away from her role as the company's director to repeatedly chase HSBC to progress the DOP. However, I'm not persuaded that I have sufficient evidence to say that HSBC caused B a financial loss, and therefore my award is solely for the inconvenience caused to B.

Here, HSBC has offered B £650 for the inconvenience caused, and taking into consideration the timescales provided by the RM initially, I think the earliest that B would have received the DOP would have been at the beginning of January 2024. Given that B received the DOP on 9 February, around five weeks later, and taking into consideration the times that Miss K said she had to chase HSBC about the DOP, I think the bank's offer of £650 is enough to put things right.

My final decision

HSBC UK Bank Plc has already made an offer to pay B £650 to settle the complaint and I think this offer is fair in all the circumstances.

So, my decision is that HSBC UK Bank Plc should pay £650.

Under the rules of the Financial Ombudsman Service, I'm required to ask B to accept or reject my decision before 30 September 2024.

Jenny Lomax
Ombudsman