

The complaint

A company I'll call G complains that HSBC Bank UK PLC (HSBC) recalled its Bounce Back Loan (BBL), used the balance of the account funds to pay off the BBL, and that it closed G's bank account.

G is represented by its director, Mrs H.

What happened

In or around October 2022, HSBC blocked G's account while it carried out a review. When it completed its review, it decided it no longer wished to offer banking services to G, so it gave G 60 days' notice of its intention to close G's account in a letter dated 11 October 2022.

HSBC then decided to call in G's BBL and wrote to G on 28 November 2022 to confirm its decision. In that letter, HSBC also said it had used G's account balance of £5,450.39 to pay down the debt, meaning the total amount due was £31,013.98. However, HSBC wrote 2 more letters which provided different account balances. The third letter HSBC sent confirmed the correct account balance, which was £9,793.03, meaning G owed £26,671.34.

Mrs H complained but HSBC rejected her complaint, so Mrs H brought her complaint to our service. Our Investigator upheld G's complaint, saying HSBC had acted in line with its terms of business when it closed G's account, but she didn't feel HSBC had done enough to show it was entitled to recall the BBL. She invited HSBC to provide further evidence in support of its decision, but said that HSBC should reinstate the BBL, remove any adverse credit markers registered, repay the account funds HSBC used to offset part of the debt, and pay £400 to recognise the inconvenience G experienced.

Mrs H accepted our Investigator's findings, but HSBC didn't. It did submit further information, but that information didn't change our Investigator's mind, so the matter came to me to decide.

On 16 August 2024, I issued a provisional decision. In it, I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint."

Account closure

A bank is entitled to close an account with a customer, so long as it does so in a way that complies with the terms and conditions of the customer's account.

In HSBC's notice to close letter, it referred to section 26 of its account terms and conditions, which says HSBC can close G's account by giving two months' notice. The terms and conditions don't oblige HSBC to disclose the reasons for its decision to G, and I can see HSBC didn't want to tell Mrs H why it closed the account.

With that being the case, I've looked at the evidence HSBC provided our service to determine whether or not it acted fairly when it closed G's account. And having done so, I'm

satisfied that it followed the correct procedure in accordance with its terms of business, that it was entitled to close G's account in the manner it did, and that it didn't need to disclose the reasons for its decision to Mrs H.

BBL

HSBC told our service it was entitled to withdraw the BBL in accordance with the terms and conditions of the loan. And it set out the extent of the review it carried out in determining whether it should recall the loan. I accept the terms of the BBL entitle HSBC to recall the loan in certain circumstances, but our service would expect to see justification for a recall to ensure HSBC has treated its customer reasonably, so HSBC's discretion in this regard is not unfettered.

The conditions, rules and requirements that apply to BBLs are different to those that apply to current accounts. And our service's approach to termination of each of these products is distinct, not least because a bank account can be replaced relatively easily. Whereas the same cannot be said of a credit facility, particularly a BBL. And the consequences of terminating a BBL are usually more severe than the consequences of terminating a current account, in no small part because BBLs were incepted to help businesses that might be struggling to operate successfully throughout COVID.

With that in mind, I've looked at the evidence HSBC sent our service, to understand why it recalled the loan, and whether or not it treated G fairly in doing so. And having done so, I'm not persuaded it was entitled to call in the BBL. I'll explain why. Because HSBC isn't obliged to disclose the reasons for its decision to G, I won't go into detail about the evidence and rationale HSBC has submitted. However, while I can see HSBC had concerns about retaining G as a customer that were born out of a wider review, I haven't seen evidence to demonstrate its review identified sufficient grounds to justify withdrawing the BBL.

I should say that I'm satisfied HSBC's intentions in commencing its review and recalling the BBL were reasonable, and I understand why it decided to do so. Furthermore, it is not for me to set out exactly what steps HSBC should follow before terminating a BBL: that is a matter for HSBC to decide and those steps will vary from case to case. So, to be clear, I have decided this complaint based on the facts particular to this case and what I consider to be fair and reasonable.

With that being said, HSBC hasn't demonstrated a level of concern that would justify recalling a BBL in this instance. It has said why it doesn't want G as a customer, but beyond explaining the reasons for its concerns, it hasn't provided sufficient evidence to support those concerns, nor to demonstrate why they are reasonable grounds for recalling a BBL in these circumstances.

And as I've said above, there is a higher bar for recalling a BBL than there is for closing an account with notice and, based on what HSBC has told our service, it appears that HSBC applied the same rationale for exiting G as it did for calling in the BBL. To be clear, I'm not denying HSBC's right to recall a BBL in certain circumstances, and had HSBC evidenced other concerns, I may have reached a different outcome. But as I've said above, I have to assess each case on its own merits, and on this occasion, I'm not persuaded there were further reasons beyond what HSBC has told our service, and I'm not persuaded HSBC has done enough to demonstrate its actions were reasonable.

As to what HSBC should do to put things right, firstly it follows that it should reinstate the BBL and return the same to the position it was in at the date of the recall. The intention of this direction is to put G back in the position it would have been in, but for HSBC's error. So, HSBC should treat the BBL as if it were paused in November 2022, then un-paused when it

is reinstated.

This means that G should have the same number of repayments to make after the BBL is reinstated as it had at the time the BBL was called in. And that those repayments should be the same amount as before. For example, if G had 10 monthly repayments to make at £1,000 each at the date the BBL was recalled, G will have to make 10 future monthly payments of £1,000.

G shouldn't be put to any detriment as a result of this, so HSBC must not treat any payments G would have made since November 2022 as missed payments, it must return the account funds it used to pay down the BBL, it must not seek to offset any portion of that amount against the BBL without G's consent, and it mustn't charge additional interest, fees or charges that G wouldn't have incurred had HSBC not recalled the BBL in the first place. In addition to reinstating the BBL, HSBC will also need to compensate G for issues it has experienced as a result of HSBC's errors.

Mrs H hasn't claimed any specific consequential losses, but she has explained that losing the account funds impacted her ability to meet business expenses and I think it is self-explanatory that being denied access to an account balance of £9,793.03 will have impacted G's operations and caused it difficulties. And I consider that (along with my other directions regarding compensation) paying simple interest at the rate of 8% for the period during which G was deprived of its funds puts G back in the financial position it would have been in, had HSBC not used G's account balance to pay off the BBL debt.

That means that HSBC will have to pay G simple interest at the rate of 8% from 28 November 2022, being the date HSBC notified G that it had used the account balance to pay down the BBL, until the date it returns the account funds to G.

I can see that HSBC's actions also caused G inconvenience in that its director's attention was diverted elsewhere to deal with the fallout of HSBC's errors. Our Investigator awarded £400, but I'm minded to reduce that award to £250. I don't underestimate the impact this situation has had on G, but it's important to note that I can't make an award in respect of any distress Mrs G experienced personally.

HSBC's customer here is G, not Mrs H. And a limited company can't experience distress, so I can only make an award in recognition of any inconvenience the limited company experienced, and not any distress its director experienced personally. And having thought about what Mrs H has told our service, while £400 would be appropriate if I were to consider distress as well, I think £250 is a more appropriate award for the inconvenience caused.

Finally, our Investigator's outcome expressly said the BBL reinstatement should include any Pay As You Grow options, so I'll include the same direction below. However, in cases such as this, a direction that a BBL be reinstated on the same terms that existed before wouldn't exclude PAYG options. So ordinarily I wouldn't make express reference to PAYG, because it goes without saying that I wouldn't expect a bank to deprive a customer of PAYG options in circumstances such as these.

My provisional decision

My provisional decision is that I uphold this complaint. To put things right, I require HSBC Bank UK PLC to:

1. Reinstatement the BBL (and any PAYG options that would have been available to G but for HSBC's decision to recall the BBL) on the same terms that existed at the date the BBL was recalled;

2. Return the account funds (£9,793.03) that HSBC used to pay down the BBL to G;
3. Pay G simple interest at the rate of 8% on the above sum, from 28 November 2022 until the date the BBL funds are returned to G;
4. Pay £250 in recognition of the inconvenience HSBC caused G; and
5. Remove any adverse credit markers it registered against G arising out of, or in any way connected to the withdrawal of the BBL and/or the withholding of G's remaining account balance.

Both parties now have a final opportunity to present any further evidence or arguments they wish me to consider, before I issue my final decision. And to seek clarity on any points I have made that are not sufficiently clear."

G accepted my provisional findings and, while HSBC said it disagreed, it didn't submit anything further for me to consider.

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.

Because neither party provided anything further for me to consider, I see no reason to change my provisional findings.

My final decision

My final decision is that I uphold this complaint. To put things right, I require HSBC Bank UK PLC to:

1. Reinstate the BBL (and any PAYG options that would have been available to G but for HSBC's decision to recall the BBL) on the same terms that existed at the date the BBL was recalled;
2. Return the account funds (£9,793.03) that HSBC used to pay down the BBL to G;
3. Pay G simple interest at the rate of 8% on the above sum, from 28 November 2022 until the date the BBL funds are returned to G;
4. Pay £250 in recognition of the inconvenience HSBC caused G; and
5. Remove any adverse credit markers it registered against G arising out of, or in any way connected to the withdrawal of the BBL and/or the withholding of G's remaining account balance.

Under the rules of the Financial Ombudsman Service, I'm required to ask G to accept or reject my decision before 1 October 2024.

Alex Brooke-Smith
Ombudsman