

The complaint

A limited company, which I'll refer to as D, complains that HSBC UK Bank Plc failed to release a debenture after it repaid its Coronavirus Business Interruption Loan ("CBIL"). D also complains that HSBC mis-sold it the CBIL in the first place.

D is represented by its director, Mr P.

What happened

D took out a £100,000 CBIL in 2021. D repaid it in full in July 2023.

In November 2023, Mr P complained on D's behalf that the bank still hadn't released a debenture taken as security for the CBIL. He also complained about the mis-sale of the CBIL, saying D could have taken a bounce back loan ("BBL") instead and this had cost it £7,000 in interest.

The bank responded separately to the two points. In their first letter, they said they hadn't mis-sold the CBIL, pointing out that the maximum amount that could be borrowed under a BBL was £50,000 so D could never have borrowed the amount it wanted under that scheme. HSBC did, however, pay D £150 for poor service, as D's director had to make a number of calls and there were delays.

In response to the issue about the release of the debenture, HSBC said that their security was released on 9 November 2023. They apologised for an error that they said had meant it wasn't released earlier. They offered D £400 compensation for the impact of this delay. After Mr P referred the complaint to the Financial Ombudsman Service, they offered a further £100 for this error.

One of our investigators looked into what had happened. He concluded that the CBIL had not been mis-sold and that the bank's offer of £500 as compensation for the delay in releasing the charge was fair.

Our investigator also explained that Mr P should complete a Companies House form MR04 if he wanted to get D's Companies House records updated to show that HSBC's charge had been released.

Mr P disagreed and asked for an ombudsman's decision. He made the following points, in summary:

- HSBC had never told him that he needed to complete an MR04 form and the bank had obviously only told our investigator this late on in the investigation.
- He had spent hours on the phone to the bank trying to get the debenture removed and they had repeatedly told him they'd informed Companies House. Now they were saying he had to contact Companies House.
- He had never received the letter the bank said they'd sent in February 2024

regarding the MR04 form. In any case, this was seven months after the loan was repaid.

- D had suffered losses in this time. Suppliers had changed their terms of trade and it had been turned down for other borrowing.

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.

Did HSBC mis-sell the CBIL?

Mr P hasn't mentioned the mis-sale part of the complaint in recent correspondence. But for completeness, I will discuss that point briefly first. HSBC's records show that Mr P had a meeting with the bank to discuss borrowing £100,000, which he said D needed as a result of reduced revenue in the pandemic. After this meeting, I've seen a copy of the letter HSBC sent to Mr P, which set out three possible options, from which he chose a CBIL. The bank did not recommend any of the options, it was left to Mr P to choose the most suitable. So there was no sale. And I consider the bank gave him enough information to make an informed choice.

I realise that Mr P has since said that he could have managed with a £50,000 BBL instead. But there's no evidence that he indicated this to the bank at the time. If he had mentioned the lower amount, I think it's more likely than not that the bank would have mentioned BBLs as another option. BBLs were applied for via an online application without any advice, so if he had wanted this option for D, it would have been available.

With all this in mind, I agree with our investigator that the CBIL was not mis-sold. I don't think the bank did anything wrong in the way it set out D's options for Mr P. It follows that I'm not going to direct the bank to refund any of the interest paid.

What was the impact of HSBC's delay in releasing the debenture security?

The crux of this complaint, however, is the delay in releasing the security for the CBIL after it was repaid. HSBC have acknowledged that this delay was an error on their part. The decision for me is what the consequences of this error were, if any, and if there were any, whether the bank's offer of £500 compensation is fair and sufficient to put things right.

D has argued that its suppliers changed their terms of trade as a result of the delay. But I haven't seen any evidence to support this. Mr P has provided one letter showing a supplier making a change in terms, but this does not mention HSBC's debenture, but rather says that a review had shown that D was trading beyond what its current trading terms could support. I note that this letter was also dated before D repaid its CBIL, so there was no delay in releasing the security at that point.

I also do not see why the ongoing existence of a debenture should cause concern to suppliers. It is perfectly normal for businesses to pledge security over their assets in support of borrowing and in my view, doesn't imply anything negative about the financial health of that business. My conclusion is it's unlikely that any changes in terms of trade were caused by HSBC's delay.

Mr P has, however, sent another letter that does specifically mention HSBC's charge. This is a letter from another bank, turning D down for a £250,000 overdraft because of the existence of the debenture. It is also dated November 2023 and says that D only applied for the overdraft that month, some months after the repayment of the CBIL. So I think this is clear evidence that HSBC's error in not removing the charge earlier caused this application to be rejected.

It's important to note though that I'm not saying that D would definitely have been successful in its overdraft application were it not for the debenture. The other bank clearly turned down the application at an early stage. Without the debenture, it would have progressed further, but there would have been many other factors taken into account. Nonetheless, I think it's clear that the debenture was a deal-breaker that stopped the second bank from considering the request any further at that point.

Mr P hasn't provided any evidence of any losses caused to D by being declined for this overdraft. I'm mindful that D had enough funds to pay off the CBIL a few months earlier. But clearly D wanted an overdraft, so no doubt being turned down was inconvenient. That said, given that the other bank has been very clear that the decline was due to the debenture, I think it more likely than not that the bank would reconsider this position once they saw evidence that the debenture no longer existed. I think Mr P had this evidence by 29 November, when HSBC notified him in writing that they had removed their charge in their response to his complaint.

It seems to me that Mr P could have reapplied for the overdraft or tried other banks once he had confirmation that HSBC had removed their charge. In the absence of any evidence about the impact of the overdraft decline, I think that the £500 already offered by HSBC for the inconvenience caused by their delay is reasonable.

Was HSBC responsible for D's Companies House records not being updated?

This brings me to Mr P's next point, which is that he says that after releasing their security, HSBC then compounded their error by misadvising him regarding the removal of the debenture. Essentially, he says that this means the delay for which HSBC was to blame was much longer than the period between D repaying the CBIL and the debenture being released. Mr P says he only learnt in July 2024 from our investigator about MR04 forms and that this was something D needed to do itself. Mr P also says he spoke to Companies House and they told him that the bank needed to notify them.

I can see that there has been considerable confusion regarding Companies House records. So I think it's worth saying that I don't think HSBC had any responsibilities regarding notifying Companies House. The bank's obligations were to remove their charge. I'm satisfied that they removed the charge on 9 November 2023 and had notified Mr P of this by 29 November 2023. Mr P clearly received this letter because he referred the complaint to our service. It is true that HSBC *could* also have notified Companies House, but they had no obligation to do so and it is not normal practice for banks to do so. So I am not going to criticise the bank for not taking this step.

As far as what Companies House may have said, I am not looking at a complaint against Companies House and have no powers to do so. So I'm not going to make any findings about what they may have said to Mr P, although they did tell our service that it was normally the company itself that completes the necessary form to update their records.

Banks should, however, communicate in a manner that is fair, clear and not misleading and I have considered whether HSBC misled Mr P.

Mr P says he made many calls to the bank regarding the charge still being recorded against D's name, in which he was misled by HSBC. The bank have no records of these calls, except for one call regarding his complaint in November 2023. In that call, the bank say they confirmed that they had removed their charge and informed Mr P that he needed to contact Companies House. I have also seen a letter from the bank dated 13 February 2024, which states that the security has been discharged and says "please arrange to submit a form MR04 form to Companies House".

Mr P says he did not receive the February 2024 letter and was never told by the bank that he needed to submit the form. I can't explain what prompted the letter at that point – perhaps it was a delayed letter from November 2023 or perhaps it was triggered by one of the phone calls Mr P says he made. But the letter is correctly addressed, its contents are accurate and I have no reason to doubt it was sent. It doesn't necessarily follow that correctly addressed letters will be correctly delivered. But if D didn't receive it, I wouldn't consider it fair to hold HSBC responsible for that, given that the delivery of letters is undertaken by a postal service over which they have no control.

I haven't seen any evidence that leads me to conclude that HSBC gave Mr P any incorrect information about updating Companies House, although they could probably have been more helpful earlier. I also think it's relevant that it is D's responsibility to keep its records up-to-date and there is information readily available online that shows that directors can complete MR04 forms themselves.

Putting things right

For the reasons set out above, I think HSBC were only responsible for the delay in releasing D's debenture between July and November 2023. It's unfortunate that Mr P didn't realise that he could complete the MR04 form until later in 2024. But I don't consider this was the result of a bank error.

I am satisfied that the delay did have some adverse impact on D, which would have caused some inconvenience. But in the absence of any evidence of a greater impact, I consider the £500 already offered by the bank to be sufficient compensation for this inconvenience.

My final decision

For the reasons explained above, I uphold this complaint and direct HSBC UK Bank Plc to pay D the £500 they have already offered.

Under the rules of the Financial Ombudsman Service, I'm required to ask D to accept or reject my decision before 19 December 2024.

Louise Bardell
Ombudsman