

The complaint

A limited company, which I'll refer to as 'R', is unhappy that HSBC UK Bank Plc defaulted its Bounce Back Loan ("BBL") without prior notice or warning.

R's complaint is brought to this service by its director, whom I'll refer to as 'Mr J',

What happened

In June 2020, Mr J successfully applied to HSBC for a £10,000 BBL on R's behalf, and R received the loan funds that same month. Under the terms of the BBL, no payments were due on the loan for the first twelve months, meaning that R's contractual liability to make monthly payments to the loan began in July 2021. The BBL agreement confirms that R was required to make 60 monthly payments of £177.47 per month.

In July 2021, before the first payment to the BBL had become due, Mr J contacted HSBC on R's behalf and arranged a six-month Pay As You Grow ("PAYG") capital repayment holiday. This meant that, for six months beginning in July 2021, R was only required to pay the interest portion of the scheduled monthly payment, which equated to £20.89 per month. The term of R's BBL was also extended by six months to accommodate that capital balance payments that R wasn't making during the six-month PAYG payment holiday period.

HSBC received the required £20.89 payments from R for the next six months (although the September 2021 payment was received late) and the payment holiday then ended. This meant that R became liable to resume making payments at the original contractually agreed rate from 11 January 2022 onwards, and HSBC sent a letter to R on 13 December 2021 advising them as such.

On 10 January 2022, the day before R was scheduled to make its BBL payment for that month, Mr J called HSBC and requested a further six-month PAYG capital payment holiday. However, because Mr J had called so close to the payment date, HSBC weren't able to arrange the PAYG holiday to begin until the following month.

This meant that R needed to pay the £177.47 payment for that January 2022 to avoid the account falling into arrears, which R did. This point appears to be confirmed by the PAYG agreement letter that HSBC sent to R and which confirms that the payment holiday would run from February to July 2022, and that 59 scheduled capital payments (and not 60) remained on the loan, payable from August 2022 onwards.

R then made payment of £20.71, as per the PAYG holiday, for February, March, April, and May 2022. However, R didn't make any payment for June 2022, which meant that R's BBL fell into arrears, and HSBC sent a letter to R advising it as such. Following this, R didn't make a payment to clear the accrued arrears, but it did make the final PAYG holiday payment of £20.71 in July 2022.

Following the end of the second PAYG holiday in July 2022, R once again became liable to make capital and interest payments towards the loan. Because of the two PAYG holidays, the amount of these payments had increased slightly to £180.70.

Once again, just before the payment was due, Mr J requested a further PAYG capital payment holiday on R's behalf. But again, Mr J applied for this payment holiday too late for it to be applied to that month. This time, Mr J didn't make the contractually required loan payment for that month. And this meant that R's BBL fell further into arrears, with the arrears being one missed payment of £20.71 from June 2022 and one payment of £180.70 from August 2022, for a total arrears amount of £201.41.

Alongside the third payment holiday, which began in September 2022, Mr J arranged for a restructuring of the BBL wherein the term of the loan was extended until June 2030. This meant that R would be contractually required to make six payments of £20.71 during the PAYG holiday period, starting in September 2022, and to then make 88 monthly payments of £122.74 when R's liability to make capital repayments resumed. Importantly however, the £201.41 existing arrears weren't folded back into the restructured loan agreement and so remained outstanding and required to be repaid.

R then made the required £20.71 payment for September 2022, but didn't make the required payment of £20.71 in October 2022. And R also didn't make a required payment in January 2023. This meant that when the six-month PAYG holiday came to an end in February 2023, R had only made four of the six required payments during the holiday term, and that its BBL was a further £41.42 in arrears, with a total arrears amount of £242.83. And by the end of this payment holiday in February 2023, R's BBL had been in arrears for nine months, since June 2022.

Following the end of the third PAYG capital repayment holiday, R made a payment of £122.74 in March 2023, in line with the restructured loan agreement. But Mr J then called HSBC shortly after this payment and arranged a fourth PAYG payment holiday, this time on a capital and interest basis, whereby no payments were required of R for six months beginning in April 2023 and ending in September 2023. However, R was still required to clear the £242.83 total arrears that remained outstanding.

R didn't make any payments to clear or reduce its outstanding arrears, and so in May 2023, HSBC sent a default notice to R which explained that unless the £242.83 BBL arrears were repaid, that an act of default may be considered by HSBC to have occurred.

A few weeks later, in June 2023, HSBC received a notice from Companies House that Mr J had put in application to have R dissolved. HSBC passed on this information to the British Business Bank ("BBB") which oversaw the BBL scheme, who then put in an objection to R's dissolution with Companies House.

Following this, R didn't make any payments to clear the arrears on its BBL in the time given to do so by the default notice. This led HSBC to issue a final demand to R in July 2023 requiring full repayment of the outstanding BBL balance within 18 days. And, when R didn't repay its BBL or contact HSBC within 18 days, HSBC defaulted the loan and removed the overdraft facility from R's business current account ("BCA").

In August 2023, after R's BBL had been defaulted, Mr J noticed that the loan was no longer visible on R's online banking account. Mr J contacted HSBC and ask why this was the case and learned that R's BBL had been defaulted. Mr J wasn't happy about this, as he hadn't received any letters of phone calls from HSBC about the position of R's loan. So, he raised a complaint on R's behalf.

HSBC responded to Mr J but didn't feel that they'd acted unfairly or unreasonably in how they'd administered R's BBL. Mr J didn't agree, so he referred R's complaint to this service.

One of our investigators looked at this complaint. They felt that HSBC hadn't acted fairly by failing to keep R sufficiently informed of the arrears present on its BBL and so recommended that HSBC rescind the defaulting of R's BBL and restore the overdraft facility on R's BCA. HSBC didn't agree with our investigator's recommendations, so the matter was escalated to an ombudsman for a final decision.

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.

I issued a provisional decision on this complaint on 28 November 2024 as follows:

In his correspondence with this service, Mr J has said that he didn't receive any of the letters that HSBC sent to R informing it of the arrears present on its BBL. But HSBC have demonstrated to my satisfaction that they sent several letters to R about the position of its loan, and that those letters were sent to R's correct address – the address that Mr J has confirmed to this service as being the correct address for R.

Of course, it doesn't necessarily follow that because those letters were posted to R at its correct address that R received those letters at that address. But if it were the case that R didn't receive any of the several correctly addressed letters that HSBC sent to it, then that would be unfortunate for R, but it wouldn't be something I would consider holding HSBC accountable for. And this is because the delivery of correctly addressed mail is undertaken by a postal service over which HSBC have no direct control.

Additionally, and importantly, it was Mr J's responsibility, in his capacity as director of R, to have been aware of the position of R's BBL and of the fact that several contractually required monthly payments weren't made. And Mr J's responsibility in this regard wasn't reduced or diminished in any way if it were the case that R didn't receive the correctly addressed mail the HSBC posted to it.

As such, I feel that if Mr J wasn't aware of the arrears that had accrued on R's BBL resultant from the missed payments, then I feel that he reasonably should have been aware of those arrears. And this is because as R's director, Mr J should have been monitoring the loan and ensuring that the contractually required payments were made.

HSBC have also provided details of several phone calls that their collections team made to R using the phone number for R that Mr J has registered with them. These calls took place between January and May 2023, and none of the calls were answered.

In consideration of all the above, I don't feel that HSBC have acted unfairly by following the BBL arrears process that they did, which led to the defaulting of R's loan. And this is because, ultimately, R has missed several scheduled payments and hasn't contacted HSBC to clear the accrued arrears or come to an alternative arrangement. And I'm satisfied that HSBC sent several correctly addressed letters to R about the position of its BBL, including a default notice and subsequent final demand, and made several attempts to contact R by telephone.

Given that I don't feel that HSBC have defaulted R's BBL unfairly, I also don't feel that HSBC have acted unfairly by being no longer willing to provide an overdraft facility to R on its BCA. HSBC's terms and conditions include that HSBC can remove an overdraft facility if they feel it's likely that the facility holder won't be able to repay its debt if called upon to do so. And I feel that because Mr J allowed R's BBL to fall into a position whereby HSBC fairly defaulted it, that it is now reasonable for HSBC to have a valid concern that R won't be able to repay

its overdraft debt and to therefore no longer be willing to provide that credit facility to R.

All of which means that my provisional decision here is that I won't be upholding this complaint or instructing HSBC to act in any way differently to how they presently are. In short, this because I don't feel that HSBC have acted unfairly here, given that R's BBL did fall into arrears and given that those arrears weren't addressed by Mr J in the time that HSBC fairly gave R to do so.

HSBC responded to my provisional decision and confirmed that they were in acceptance of it. Mr J also responded to my provisional decision and reiterated that he hadn't received any letters or phone calls from HSBC about the arrears that had accrued on R's BBL and that as such he didn't feel it was fair for me to not uphold this complaint.

However, as explained in my provisional decision above, I'm satisfied that HSBC did send letters and make calls to R about the loan arrears. And I can only reiterate that I wouldn't consider holding HSBC accountable if R didn't receive the correctly addressed letters that I'm satisfied that HSBC sent.

I also want to confirm that even if HSBC hadn't sent any letters or made any phone calls to R about its BBL arrears, then I still wouldn't uphold this complaint in R's favour in the manner that Mr J would like. And this is because while HSBC have a responsibility to send such letters to assist R in understanding the position of its account, it was ultimately the responsibility of R (or Mr J, as director of R) to monitor the BBL account and to be aware of any missed payments and accrued arrears. And this responsibility existed regardless of whether arrears communication attempts were made by HSBC or not.

In this instance, Mr J appears to not have monitored the ongoing position of R's BBL account, and to therefore not have been aware of the arrears that were present on R's loan. This isn't a failing of HSBC. And I'm satisfied that it's the failure of Mr J to have monitored R's BBL account and to have ensured the contractually required payments were being made to the loan that was the primary reason why R's BBL has now been defaulted by HSBC. And, as explained, I don't feel that HSBC following the loan arrears process that they did in the presence of prolonged account arrears was unfair.

In summary, I'm satisfied that HSBC did send arrears letters and make arrears phone calls to R. But even if HSBC hadn't sent such letters or made such calls, I still wouldn't consider the defaulting of R's BBL by HSBC to be unfair. And this is because it was Mr J's responsibility to have been aware of the ongoing position of R's BBL regardless of any arrears communications that HSBC attempted.

Mr J has also said that R has always been committed to repaying this BBL. But I don't feel that this statement is supported by the fact that Mr J applied to have R dissolved.

All of which means that my final decision is that I do not uphold this complaint. Mr J has asked this service to provide details of the calls and letters that HSBC made and sent to it, and I will arrange for this to be provided to him. Mr J has also asked for direct evidence of the postage of the letters by HSBC. But HSBC sent the letters by standard post, and so direct evidence of postage isn't available. That HSBC sent such letters by standard post seems reasonable to me. And I can only reiterate again that the non-receipt of correctly addressed letters sent by HSBC to R has no impact on my decision here, for the reasons given above.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask R to accept or reject my decision before 13 January 2025.

Paul Cooper
Ombudsman