

## **The complaint**

Mrs P complains that Chetwood Financial Limited trading as BetterBorrow (“BetterBorrow”) have held her liable for a loan she didn’t apply for.

## **What happened**

Mrs P explained that she received a phone call from someone (a scammer) who claimed to be from her bank’s fraud department. I’ll refer to the bank as R and the scammer as J.

Mrs P said that she was initially suspicious of the call, but J knew personal details about her that convinced her he was a genuine employee of R.

J told Mrs P that her account was at risk from fraudulent activity and that he was going to help her secure it.

Over the course of several hours, J persuaded Mrs P to send him copies of various identity documents including her driving licence and images of her debit card including the three-digit security number. Mrs P was told to download various apps that all related to crypto currency trading (although Ms P said she wasn’t aware of their purpose at the time).

Mrs P was also given a “secure email address” and a password for it to use when opening the apps. In the background, J was applying for loans in Mrs P’s name and Mrs P said she was unaware of this activity at the time.

Mrs P was told to move funds between various accounts and did so, making several transfers between her accounts. At some point, a loan from Betterborrow for £9,500 was approved and paid into Mrs P’s account. Another loan from a different company was also paid into a different bank account held by Mrs P that was later repaid.

There were then a number of transactions using her debit card (apart from one bank transfer) to various crypto currency accounts set up by Mrs P. Mrs P was required to confirm the payments using her bank’s app on her phone. It then appears that J accessed the crypto currency accounts and removed the funds to his own “wallet”, effectively making them disappear.

J told Mrs P that he would call her the next morning to continue securing her account. Overnight, Mrs P became concerned about what had happened and called her bank. Mrs P was advised to speak with BetterBorrow and contacted them about the loan. Mrs P reported the matter to the Police and Action Fraud.

Mrs P was held liable for the loan by BetterBorrow and made a complaint about their decision and asked the Financial Ombudsman Service to look into the situation. BetterBorrow were asked by our service to investigate the complaint and after looking into the circumstances, they couldn’t find any evidence of fraud and held Mrs P liable for the loan.

## ***What BetterBorrow said***

BetterBorrow were advised by Mrs P that she’d been the victim of a scam and hadn’t applied for a loan. They asked Mrs P for information about the circumstances of the loan and she told them in an email, that:

*“...He manipulated me into applying for not one but two loans one from you and another from company called Z.*

*This lead to money being transferred through my account into crypto currency accounts.*

*This man was on loud speak instructing through every process, he was also instructing through WhatsApp.”*

Mrs P also sent a copy of a message she'd received which indicated it was from BetterBorrow and titled "Crypto Loan".

In later discussions, Mrs P confirmed she'd been instructed by J to make the purchases but didn't know it was to do with crypto currency at the time.

During one call with BetterBorrow, it became apparent that residual funds from the loan were still in Mrs P's account (funds that weren't spent at the time) and BetterBorrow advised Mrs P that they'd contact R about the recovery of them.

BetterBorrow concluded that there was no evidence to suggest Mrs P had been the victim of a scam and continued to seek the repayment of the loan.

#### *The investigation so far*

After BetterBorrow had concluded their own investigation into Mrs P's complaint, an investigator from our service was assigned to look into the circumstances. Evidence was requested from both parties.

Mrs P sent in various screenshots of the apps she downloaded and details of her bank statements. She hasn't been able to provide any details about J or copies of any messages from him.

Mrs P told the investigator what had happened to her and how she'd been totally taken in by J and thought he was securing her account. Mrs P later denied applying for the loans or anything about them at the time.

BetterBorrow provided details of their investigation and their assessment of why they thought Mrs P should be held liable.

BetterBorrow later accepted that Mrs P hadn't taken out the loan and shouldn't be bound by its terms relating to charges and interest, but, as she was involved in enabling those funds to be sent to the crypto wallet, she should repay the full loan amount (£9,500). Because there was another complaint linked to the loan amount, an interim outcome was issued (this was because there was a possibility that the other complaint could refund some or all of the loan).

The other complaint didn't recommend any refund to Mrs P, so a further outcome was issued relating to this complaint. The investigator recommended that Mrs P repay the loan to BetterBorrow because:

- it was likely she had some knowledge of it due to the large payment made into her account which looked unusual compared to the funds Mrs P held at the time.
- Mrs P appeared to have spent the residual funds left in her account from the loan.
- The investigator also thought there were some inconsistencies in Mrs P's version of events.

Mrs P disagreed with the investigator's report and was unhappy that it appeared to say she was being less than honest. Mrs P denied any knowledge of the funds from the loan at the time and that they'd been used to purchase crypto currency.

As no agreement could be reached, the complaint has now been passed to me for a 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.

As BetterBorrow have accepted that Mrs P wasn't responsible for the loan's application, it follows that she can't be held liable for the charges or interest associated with it or references to it on her credit file. But, the issue for me to decide here is can Mrs P be held liable for the repayment of the loan itself?

Ordinarily, if someone is unaware of the loan and hasn't profited from it in anyway, then it's likely that the loan would be written off. But, if the evidence indicates that the complainant (Mrs P) was or should have been aware of it and still involved herself in its use, then my decision would be different.

I'd like to deal with the comments around inconsistencies in Mrs P's testimony. I recognise that there will often be some difference when recounting a traumatic event, especially if this is done over several months, or even sometimes years. In this complaint, Mrs P has given different versions surrounding what she knew about the loan, from either applying for it under the direction of J to not knowing about it at all. Whilst I don't think that Mrs P deliberately misled BetterBorrow, the variations in her story have made it more difficult to determine what actually happened.

So, looking at the specific circumstances of this complaint, I have to take a view on what the likely version of events was based on a balance of probabilities, especially when the evidence is contradictory, as it is here.

Mrs P told our service that she was the victim of a (safe account) scam, and that J was protecting her accounts. This type of scam tends to follow a similar path, but not here. Mrs P's circumstances also included the application for a loan(s), the payment of it into her own account and the purchase of crypto currency. They were paid into accounts she herself set up. Mrs P was also involved in the payments from her account to the crypto merchants.

I accept that scammers don't follow strict rules when stealing money from people, but this set of circumstances was different to the usual safe account scam. Mrs P has said that she didn't know about crypto currency when she opened these apps, nor was she aware of the loan. Looking at the screenshots she's sent, several of them are for different merchants selling/trading crypto currency. References on the pages show either prices for crypto currency or actual crypto currency purchases, so I found it difficult to accept that Mrs P knew nothing about them at all based on the multiple applications she was persuaded to make, by opening these various accounts. The purpose of them is fairly obvious, so even though Mrs P was no doubt in a stressful situation, these various accounts she opened would likely have given a suggestion that she was involved in some form of crypto trading/purchase. This is at odds with the story she was given about securing her funds.

I've also considered the likelihood that Mrs P was unaware of the loan when it was paid into her account. At the time, two of Mrs P's accounts used to make the crypto purchases held about £500 in them prior to the loan being paid into one of them. There are some internal transfers that Mrs P said was J asking her to move money around, so I can see how some of the funds could become confused, but I do have difficulty accepting that Mrs P was unaware that her accounts now had £9,500 more in them than when she started. There's also evidence that shows a new contact number for BetterBorrow had been set up on Mrs P's phone. This showed the contact was from BetterBorrow for a "Crypto Loan". I think it unlikely that Mrs P would ignore this. There doesn't appear to have been any questioning of this by Mrs P, which I found unusual.

Mrs P was also confirming these payments through her banking app which would have shown who the funds were going to (the various accounts she'd set up). In order to confirm the payments, Mrs P would have been required to log in to the app and confirm the payment, so I was surprised that Mrs P didn't notice the large influx of money she'd received that was much larger than balances she usually held in the account.

Mrs P said J would call her back the next day and complete the process to secure her account. At the time, there were still over a thousand pounds of the loan amount left in the account, so I would have expected a scammer to move those funds as soon as possible. That's because they wouldn't know when the account holder would suspect something was wrong. Allowing them to think about the call overnight (which is what happened here) seems an unnecessary risk for the scammer to take when they could easily have made further purchases as they'd been doing throughout the evening.

It seems as though the second loan was also untouched by the scammer, so they've left several thousand pounds unused. I think that's quite unusual for a scammer to go to the trouble of arranging loans to not attempt to use them all.

Overall here, I think it unlikely Mrs P was unaware there was something untoward happening and there's evidence to suggest she should have known she had more funds in the account than she would normally have held. It's been unfortunate that Mrs P had no evidence to suggest the level of control over her, so I've accepted her testimony here. But I don't think it would be fair to expect BetterBorrow to write the loan off. That's because I think it likely Mrs P knew there was a loan and didn't prevent it being used to purchase crypto currency.

I understand that BetterBorrow said they would request the return of the remaining funds left in Mrs P's account. I'm not aware if that was ever done, so if it was, then the debt should reflect that, if not, then Mrs P has already had use of those funds. BetterBorrow should ensure they take Mrs P's personal circumstances into account when agreeing a suitable repayment plan.

### **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 Mrs P to accept or reject my decision before 30 October 2023.

David Perry  
**Ombudsman**