

The complaint

In summary, Mr M complains that Barclays Bank UK PLC mis-sold him a personal loan.

What happened

Mr M saw an advert for a loan on Barclays' mobile banking app and he applied for it, requesting to borrow £25,000. An agreement was sent to Mr M on 5 May 2022. Shortly afterwards, the amount of £25,000 was drawn down. Part of the capital paid off other loans Mr M had, and part remained in his current account.

Some time later, in 2023, Mr M complained to Barclays; he felt the loan had been mis-sold to him. He referenced promissory notes and The Bills of Exchange Act 1882; broadly, he didn't think Barclays had lent him anything "physical". In fact, Mr M says he hadn't been lent anything at all. So, ultimately, Mr M didn't believe the loan itself was valid and it had been mis-sold to him.

Barclays didn't uphold Mr M's complaint. In its final response letter, the bank said that it hadn't made any errors and that it didn't believe the loan to have been mis-sold.

Mr M brought his complaint to our Service. He said Barclays couldn't prove it had lent him anything, nor could it prove the existence of a contract. Mr M said he had asked, on several occasions, for a copy of a contract with "wet ink" signatures – but he hadn't been provided one.

An Investigator here looked at what had happened, but he didn't uphold Mr M's complaint. In short, our Investigator said:

- Our Service isn't able to determine whether a debt is enforceable – instead, that's a matter for the Courts.
- Barclays had provided a copy of the loan paperwork, including the terms, which Mr M had agreed to. Mr M didn't dispute applying for the loan, nor that Barclays had paid the specified amount. So, nothing suggested the loan had been mis-sold.
- It wasn't necessary to enter into discussion over the definition of the term "loan", nor comment on the wider banking system in general. Nothing suggested that Barclays had made an error here.

Mr M disagreed. He sent several emails mostly reiterating that he'd asked for proof of a loan contract, but he hadn't been provided one. Mr M said he hadn't signed anything and that he hadn't agreed to the loan.

As no agreement has been reached, the complaint has now been passed to me to decide.

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.

Having read the submissions provided by Mr M, it would appear to me that the broad themes of his complaint are validity and enforceability. He's referenced, in particular, the lack of an agreement – or contract – containing wet ink signatures. As I understand it, in the absence of being sent an agreement with such signatures, Mr M believes there's nothing to prove he has any contractual obligations to Barclays.

Simply put, that's not a matter for us to determine. Instead, that's something better placed before the Courts. So, although I'll say here, just to be clear, that I don't agree with Mr M's position that an agreement without wet ink signatures is effectively null and void, I'll make no further comment on it.

We're here to provide informal dispute resolution, and while I'll take relevant law, best industry practice, regulation and rules into account; it isn't my role, nor that of our Service, to resolve legal queries of that nature.

I've noted what Mr M has said about promissory notes, and how he believes that's exactly what Barclays issued him – as opposed to really lending him something. His view is that nothing "physical" has been lent, so there is no actual loan. But I don't see things the same way. And while I accept Mr M may believe that a legal technicality, or some interpretation of certain Acts and laws, absolves him of any liability to repay, as I've already explained, that's not a matter for this Service to determine.

Broadly speaking, my remit is to decide what is fair and reasonable. Here, from the information I have available; Mr M applied for a loan, his application was accepted, the capital was drawn down and distributed as requested. So, overall, with that in mind, I'm satisfied it is both fair and reasonable of Barclays to expect Mr M to repay in accordance with the agreement it sent him.

Much like our Investigator, I see no need to debate the meaning of the term "loan" or comment on the wider banking system. Instead, for the reasons I've outlined above, I can't fairly conclude that Barclays mis-sold Mr M a loan – or that it's done anything wrong in expecting him to meet his repayments. It follows that I don't uphold the complaint.

My final decision

My final decision is that I don't uphold Mr M's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 February 2024.

Simon Louth
Ombudsman