

The complaint

Miss K, a sole trader, is unhappy that Lloyds Bank PLC consider her liable to repay a Bounce Back Loan (“BBL”) that she says was taken out fraudulently in her name without her knowledge.

What happened

In January 2023, Miss K received a letter from Lloyds which said she was liable to repay a £50,000 BBL that had been taken in her name in June 2020. Miss K contacted Lloyds and said that she’d never applied for a BBL or received any BBL funds. Miss K also said that she’d previously been in an abusive relationship and that she believed it was her ex-partner – who had access to her Lloyds accounts at that time – who had fraudulently applied for the BBL in her name.

Lloyds responded to Miss K but felt that it was reasonable to believe that Miss K had known about the BBL application and the BBL funds. However, Lloyds explained that they would consider not chasing Miss K for the outstanding BBL balance if Miss K could provide a police report confirming that Miss K’s ex-partner was being investigated by the police for fraud. Miss K wasn’t happy with Lloyds’ response, so she referred her complaint to this service.

One of our investigators looked at this complaint. But they felt that it was reasonable for Lloyds to believe that Miss K had been aware of the BBL, and so they didn’t feel that Lloyds had acted unfairly in how they’d managed the situation. Miss K remained dissatisfied, 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.

Having done so, I feel it’s important to confirm that it isn’t within the remit of this service to decide whether fraud has or hasn’t taken place here. Such a decision would be for a Court of Law to make. Instead, my remit here is limited to deciding whether I feel Lloyds continuing to consider Miss K liable to repay the BBL is reasonable. And whether Lloyds requiring a police report confirming that Miss K’s ex-partner is being formally investigated for potential fraud before considering suspending any recovery action against Miss K is fair.

This isn’t to say that I’m not mindful of the emotive nature of the events that Miss K has described as taking place here. And I can confirm that this service considers any allegation of fraud undertaken by an abusive partner with the utmost seriousness. But it is to say that, as an impartial party, I’m duty bound to consider the positions of both Miss K and Lloyds when arriving at my decision here.

Accordingly, given that this is a complaint against Lloyds, I’ve thought first about whether it’s reasonable for Lloyds to believe Miss K was most likely aware of the BBL application undertaken in her name and the receipt of the BBL funds. And having done so, I do feel it’s reasonable for Lloyds to believe that Miss K was most likely aware of the BBL application

and the receipt of the BBL funds.

There are several reasons for this. These include that the BBL was applied for in 2020 using an email address which Miss K continued to list with Lloyds as being her contact email up to the point that she raised her complaint with them in January 2023. Notably, the BBL facility letter and terms and conditions were sent by Lloyds to this email address following the successful BBL application. And so, I feel it's reasonable for Lloyds to believe that Miss K would have had access to this email address and thus the BBL correspondence that they sent to it, given that she maintained that email address with them for several years.

Additionally, following the receipt of the £50,000 BBL funds into a business current account held in Miss K's name, £15,000 of those funds were then transferred into a personal current account in Miss K's name.

Miss K has explained that this transfer was also undertaken without her knowledge by her ex-partner, who had access to her accounts. But Lloyds have been able to demonstrate that, at that time the transfer was made, Miss K's business and personal accounts were also logged into, and that the accounts were accessed using a device that had been regularly associated with Miss K's personal current account since 2019. And I feel it's reasonable for Lloyds to conclude from this information that it was most likely Miss K who logged into her accounts using the device she regularly used to do so.

It also must be noted that Lloyds have explained to Miss K that they might be willing to consider her as not being liable for the outstanding balance, but that they require a copy of a police report confirming that Miss K's ex-partner is being formally investigated by the police for fraud before they might consider doing so.

Lloyds position on this matter seems reasonable to me. This is because, ultimately, someone is liable to repay the money that Lloyds have lent here. And if Miss K believes that it's her ex-partner who should be liable to repay this money, then it seems highly likely from the available evidence – including Miss K's own testimony – that her ex-partner has acted illegally in applying for and obtaining that money.

In such circumstances, I feel it's reasonable for Lloyds to require evidence that the police are actively investigating Miss K's ex-partner for potential fraud before Lloyds themselves consider shifting the focus of their recovery efforts away from Miss K to her ex-partner.

All of which isn't to say that Miss K's partner didn't fraudulently apply for the BBL without Miss K's knowledge. But it is to say that I don't feel Lloyds are acting unfairly by continuing to consider Miss K liable to repay the outstanding BBL balance at this time, based on the information they have available to them and the lack of a police report as they've requested.

I realise this won't be the outcome Miss K was wanting here, but it follows that I won't be upholding this complaint or instructing Lloyds to take any action. I hope that Miss K will understand, given what I've explained, why I've made the final decision that I have. And I can only encourage Miss K to work with Lloyds, in accordance with their requirements, if she wants them to consider her ex-partner to be liable for the outstanding balance.

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 Miss K to accept or reject my decision before 18 October 2023.

Paul Cooper
Ombudsman