

The complaint

Mr L has complained that Oakbrook Finance Limited (trading as Likely Loans) are holding him liable for a loan which he says was taken out fraudulently in his name.

What happened

Both sides are most familiar with the case, so I'll summarise what happened in brief.

In 2017, a £4,000 personal loan was taken out from Oakbrook in Mr L's name, alongside a smaller loan from another company. The funds were paid into an old bank account of Mr L's and forwarded on to a third party by bank transfer.

Mr L reported the loan as fraudulent. Oakbrook noted that it had been paid into a bank account of Mr L's, and asked him for more information such as statements. Mr L did not provide this for several years. Oakbrook held Mr L liable for the loan.

Mr L came to our service. In our investigation, he explained that he kept the bank card in a wallet or in his room in a shared property, along with a record of his PIN and online banking details. His landlord, landlord's staff, and other tenants could've accessed his room. He also hosted people he'd met through a cryptocurrency investment scheme which later turned out to be a scam. He had received suspicious emails and texts, and thought he might have been the victim of phishing. He explained that his room was a mess and he didn't really use that bank account anymore. So he didn't notice that his card and details were missing until he found a letter about the loan.

Our investigator didn't uphold the complaint. Mr L appealed, so the complaint's been passed to me to decide.

I sent Mr L and Oakbrook a provisional decision on 25 July 2023, to explain why I thought the complaint should be upheld. In that decision, I said:

First, I will clarify that I have taken into account everything which both sides have said and provided. But I've focused my decision on what I've found to be the key points.

I need to consider whether Oakbrook is entitled to hold Mr L liable for this loan. Broadly speaking, the onus is on Oakbrook to show that it is.

This case is quite finely balanced. On the one hand, I accept that some of Mr L's genuine details were used to apply, that he was not initially co-operative, and that he had trouble explaining what might have happened here. And he seems to accept that he's been disorganised. I am also conscious that evidence is more limited given the time that's passed.

On the other hand, I have substantial concerns that this loan application was not genuine. For example:

- The application used an email address and phone number which do not match up to Mr L. This is common practice in ID theft.*
- The residential status, time at address, employment status, income, and loan purpose provided were all false.*
- The only correct information provided was basic details like Mr L's name and address, which would have been relatively straightforward for an ID thief to obtain.*
- The IP address used at application does not match up to any genuine online banking activity of Mr L's, and is based in another country.*
- Oakbrook has not provided evidence of any comprehensive ID checks which positively confirm that it was Mr L who applied for this loan.*
- Mr L's bank confirmed that both before the loan was taken and when it was being sent on, new users accessed his online banking, and his security details were reset. No biometrics were used.*
- The bank also confirmed that around this time, Mr L's online banking was accessed using a device linked to a confirmed fraudster.*
- I can see that that bank account was effectively dormant by the time of the alleged fraud, as Mr L said. Mr L has provided statements showing he did his banking through another account.*
- There are potential points of compromise for Mr L's old bank account, and it is plausible that an account takeover happened here.*
- The way Mr L's bank account was used fits with what I'd expect in an account takeover situation.*
- Oakbrook argues Mr L would have received text messages from his bank alerting him about things like new payees. But the bank had no records of any such alerts.*
- It does not look like Mr L benefitted from this loan. The money was rapidly transferred away to a third party, as is consistent with an ID theft case.*
- The other loan provider closed Mr L's loan and stopped pursuing him. We've been unable to get further information about why they did this as they've since gone out of business. But it tends to indicate they didn't have sufficient basis to hold Mr L liable.*

Taking into account everything that's been said and provided so far, I think Oakbrook doesn't have the balance of evidence needed to hold Mr L liable for this loan, and I'm not currently satisfied that he took it out. Given the evidence set out above, I have concerns that this loan may have been the result of ID theft. It follows that I currently think Oakbrook should no longer hold him liable.

Mr L asked for compensation, and I've thought carefully about this too. But the fraudsters would be primarily responsible for the distress Mr L might have suffered here, rather than Oakbrook. Further, from what I can see, the delay in sorting things out was mostly caused by Mr L. And it doesn't seem unreasonable that Oakbrook initially held Mr L liable for the loan when he was not co-operating with their fraud investigation. So I do not currently intend to award compensation here.

I said I'd consider anything else anyone wanted to give me – so long as I received it before 22 August 2023.

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.

Oakbrook didn't respond to the provisional decision before the deadline.

A firm representing the other loan provider got in touch to let us know they no longer had substantial information about Mr L's former loan. So they could not provide the application or further information about what checks were performed or why that loan was closed. As such, I have placed no further weight on that other loan either way.

Mr L forwarded evidence that someone tried to take another loan in his name with a different bank, though I can't say for certain whether that was fraud or not. But more significantly, he sent us evidence that he was involved in a potential cryptocurrency scam in the months before the Oakbrook loan was taken out, where he provided copies of his photo ID and other key personal information to the crypto platform. This also supports how he might have become the victim of identity theft.

Mr L asked for a deadline extension as he wanted to make a subject access request to Oakbrook and give us a copy of the result. But Mr L has already had more than enough time to provide us with information. And we already have access to Oakbrook's files, so this would not be new information. So I found no good reason to extend the deadline here.

Lastly, Mr L said he mostly agreed with the provisional decision but reiterated that he wanted compensation for the years he said he'd suffered. I understand Mr L's point of view and I did think about this carefully. But as I said before, it's the fraudsters who would be primarily responsible for the distress Mr L might have suffered here, rather than Oakbrook. And as far as I can see, the time it's taken to sort things out has mostly been caused by Mr L's own delays. Further, it doesn't seem unreasonable that Oakbrook initially held Mr L liable for the loan when it was paid into a genuine bank account of his, he hadn't given Oakbrook all the same evidence he gave us, and he was not co-operating with its fraud investigation. So I do not think it would be fair for me to tell Oakbrook to pay compensation in this case.

I do think Oakbrook should take the loan out of Mr L's name, for the same reasons as set out in my provisional decision above. I hope this will help bring the matter to a close for Mr L.

Putting things right

I direct Oakbrook Finance Limited to:

- Take the loan out of Mr L's name and disassociate him from it;
- Make sure that Mr L is no longer pursued for this account; and-
- Remove any record of this account from Mr L's credit file.

My final decision

I uphold Mr L's complaint, and direct Oakbrook Finance Limited to put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or

reject my decision before 19 September 2023.

Adam Charles
Ombudsman