

The complaint

Mr K has complained that MBNA Limited are holding him liable for a credit card which he says was taken out fraudulently in his name.

What happened

On 2 July 2023, an MBNA credit card was opened online in Mr K's name using his correct details, and was linked to a bank account in his name. The card was sent to Mr K's address and contact was sent to his email and his wife's phone. On 10 July 2023, a £3,600 money transfer was made to the bank account in Mr K's name. That money was then spent in Mr K's local area, mostly at a betting agency.

On 12 July 2023, Mr K and his wife told MBNA that the account had been opened fraudulently through ID theft.

MBNA held Mr K liable for the account, on the basis that it had been opened with his correct details, the money had been paid to a bank account of his, the card went to his address, his wife confirmed they'd received MBNA's texts and emails, and he'd logged into his online account while on the phone with them.

Our investigator looked into things independently and didn't uphold the complaint. Mr K didn't agree, so the complaint's 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 done so, I've found that MBNA are entitled to hold Mr K liable for this credit card account. I'll explain why.

The credit card was applied for using Mr K's correct personal details, such as his full name, address, date of birth, place of birth, marital details, residential details, employment details, and banking details. The application passed its checks, and there was no indication that the account was being applied for by any third party.

The card was sent to Mr K's address. Correspondence was sent to his wife's phone and to an email address Mr K confirmed was his. Mr K now says he'd lost access to that email, but according to MBNA's contact records his wife confirmed during a call that she'd checked the email address and seen MBNA's contact. So it seems that Mr K would've been aware of the account shortly after it was applied for. Yet he didn't tell MBNA anything was wrong until after the spending. Further, it is not likely or plausible that a fraudster would use Mr and Mrs K's genuine contact details to fraudulently apply for the card. That would mean that the fraudster would be unable to receive key contact and run the account, whereas Mr and Mrs K would learn about the fraud almost straight away and be able to stop it before a fraudster could even spend on the card.

The £3,600 money transfer was made to a bank account in Mr K's name. Mr K says that that account was also opened fraudulently through ID theft. However, it was opened using Mr K's valid driving licence, along with a live selfie he took of himself. We asked Mr K to provide us with a current selfie and his driving licence, and they match up to what was provided to the bank. To be clear, the selfie was live – it had to be taken there and then, with the device's camera, in the app. It was not a pre-taken or pre-stored picture. Like the credit card, the bank account was applied for using Mr K's correct details, the application passed the relevant checks, and the card and PIN were sent to his address. I am reasonably satisfied that Mr K opened the bank account involved here.

So the £3,600 was paid into a bank account of Mr K's. It was then spent in Mr K's local area, using the card and PIN which he was sent. As the account had never been used before this, there was no opportunity for someone to learn the PIN other than from the letter sent to Mr K's address, which is not an apartment block and does not have shared postal facilities. It is not very likely that an online fraudster would happen to live in Mr K's local area. And I've not found any particularly likely or plausible way that they could've used his card and PIN without his consent.

Finally, I've not seen any evidence which makes it seem implausible or unlikely that Mr K could've applied for this account.

Mr K pointed out that another company didn't hold him liable for a debt taken out at a similar time. But we look at each case on its individual merits. While that company may not have had sufficient evidence to hold Mr K liable, MBNA do.

To summarise, it is not likely or plausible that this card was taken out without Mr K's consent. On the other hand, the evidence strongly points to it being his credit card. It was applied for using Mr K's correct details, the application passed its checks, Mr and Mrs K received contact about the account but didn't report it until after the spending, the card was used to pay a bank account of Mr K's which was opened with his genuine ID and a live selfie he took of himself, and the subsequent spending took place in Mr K's local area using the card and PIN he was sent.

On that basis, I find that it's fair for MBNA to hold Mr K liable for this credit card account, to pursue him for the outstanding balance he owes them, and to record this on his credit file. I appreciate that this is not the outcome Mr K was hoping for. But given the evidence I have, and the balance of probabilities, I'm unable to reasonably reach any other conclusion.

My final decision

For the reasons I've explained, I do not uphold Mr K's complaint.

This final decision marks the end of our service's consideration of the case.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 3 July 2024.

Adam Charles
Ombudsman