

## **The complaint**

Mr F has complained MBNA Limited is asking him to repay a personal loan he didn't take out.

## **What happened**

In November 2023, Mr F fell for a scam. Mr F, after seeing an advert on social media, applied for an investment account with a company (who I'll refer to as V). This was to trade cryptocurrency online. Mr F initially invested £250 using money on his credit card account.

Under V's instruction, Mr F downloaded software allowing remote access to his phone. He did this, he believed, only to start up his investment account with V.

Mr F then took out a loan with his bank (N1) to help finance his trading. He was convinced by V that his trading was going well, and credits were being made to his account. To ensure he was able to respond to what he believed was a successful trading period, he transferred money from N to an account he held with another bank (R1). There were a considerable number of large deposits in N1, which were in fact seven personal loans taken out in Mr F's name. Mr F has said he didn't notice these were loans but continued to make transfers to R1.

Mr F is unsure how payments could have been made from his account with R1. What he does know is that to be able to access his investment funds, he was told by V he had to invest a further £50,000 with an overseas bank. He had no further funds. Mr F realised he'd been the victim of a scam and contacted N1.

N1 blocked Mr F's account and cancelled direct debits for the loans that had been set up on Mr F's current account, although the first payment for the MBNA loan had already been made. In December 2023 Mr F phoned seven loan companies, including MBNA.

A loan had been completed with MBNA for £20,000. This application was completed with all of Mr F's personal information and money was credited to his N1 account. Letters and emails confirming the loan were sent to Mr F's email and home address. MBNA wouldn't cancel the loan as they confirmed the application process had been completed without any indication that anything was wrong. As the funds had all been paid into his account with N1, MBNA believed Mr F had had the benefit of the loan money.

Mr F brought his complaint about this loan to the ombudsman service. Six other complaints were also opened.

Our investigator was able to note the small amount of correspondence Mr F held with V and his evidence that he'd received nothing about the personal loan.

Based on technical data from MBNA as well as the evidence that Mr F transferred the funds from N1 as no other entity had access to his accounts, our investigator believed it was most likely that Mr F had made the application despite obviously being the victim of a known investment scam. He wasn't going to ask MBNA to do anything further.

Mr F was extremely upset as he understood he was to be held liable for more than £140,000 worth of loans. He's asked an ombudsman to make a decision on his complaint.

### **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 reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

A lot of the detail of what happened to Mr F was covered in detail in our investigator's views of June 2024. I don't intend to repeat more of what happened as the details must be distressing for Mr F. I'm aware this has taken a dreadful toll on Mr F's mental health and all the loan companies, by virtue of a letter dated 9 January 2024, will be aware of this. I would be expecting all of these companies to note and act upon Mr F's vulnerability appropriately.

I can confirm I have read all of the evidence carefully. But unfortunately for Mr F I have to note some differences between what he has told different loan companies at different times, and our service. Whilst I will be referring to this, I appreciate that at the time Mr F was raising his complaints, he was just realising what had happened, that he'd been a victim of an investment scam and the nature of the liabilities he was left with.

Overall, I am satisfied Mr F did take out the credit agreement himself. I say this based on the following issues:

- In the case of the MBNA loan, I have seen the personal information provided to support his application. Mr F has confirmed no other party, including V, had access to his personal data. Oddly in the case of this loan, made earlier than at least six other loans, the address Mr F used was a former family address rather than his current address. I see no way a third party would have known this to make this application.
- Mr F has confirmed he made an application for a personal loan with his own bank, N1. He also admitted that he confused the funds from that loan with the R2 loan, although the timing is very different. But he told us that's why he transferred the money to his account with R1.
- I've seen evidence from MBNA, as well as the six other loan companies, that confirmation of the loan agreement, copies of the loan agreement, as well as in some cases digital codes to enable signature, were all sent to Mr F's email address, home address by mail and mobile telephone numbers. I find it hard to believe that Mr F never saw or received any of this, particularly taking into account the volume of this correspondence.
- The technical data provided by MBNA confirms that this application was made from the same IP address as the other loans. I've seen nothing to indicate this isn't Mr F's normal IP address.
- I've seen evidence from another loan company (T) which suggests that remote access technology was used when the loan application was made. I've also noted the timing of the loan applications. Most – but not all – seem to have been made at a very similar timing – during the evening of 14 November 2023. I note Mr F's most

recent testimony being clear that remote technology was used for these applications, and these were being made by V. That may well be true but that fact alone wouldn't mean that Mr F was unaware of or hadn't benefitted from the loans. It's also worth noting that the MBNA loan wasn't taken out on 14 November.

- Mr F has only been able to provide us with a tiny amount of evidence showing his relationship with V. This includes one WhatsApp discussion setting up an initial call and a copy showing the statement of his online trading account. I'd have expected to see considerably more evidence. Like MBNA I wonder whether this may suggest Mr F is hiding something.
- There's nothing to suggest Mr F wasn't the individual making payments from his account with N1 which is where all the personal loans were paid into. Even if Mr F was paying little or no attention to the narrative on current account statements, when using his mobile banking service to make the subsequent payments I believe he'd not have been able to miss that the credits into his account were all the proceeds of loans. Most of them state that they're personal finance or loans.
- It's often understandable that customers stories about what happened changes slightly as they get a better understanding of how they've become a scam victim. That would generally explain the differences in Mr F's narrative between some of the different loan companies (particularly R2 and N2). I've listened to the calls Mr F made to N2 specifically. It's difficult to ignore his statement "*I've taken out loans to invest*". I note that later on he changed this testimony.

As I believe it's most likely Mr F took out this loan, and was able to use the funds, I don't think it would be fair to ask MBNA to do anything further.

However, all loan companies will be aware of the level of debt that Mr F now has. This is a considerable amount of money and if it wasn't for the initial scam and the promise of financial returns, then I'm confident Mr F wouldn't have taken out these loans. As stated above, I would expect all loan companies to ensure that a suitable repayment plan is agreed with Mr F.

### **My final decision**

For the reasons given, my final decision is not to uphold Mr F's complaint against MBNA Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 28 August 2024.

Sandra Quinn  
**Ombudsman**