

## **The complaint**

Mrs M complains that National Westminster Bank Plc is holding her personally liable for a bounce back loan ("BBL") that she did not apply for.

## **What happened**

Mrs M had been a NatWest customer for more than a decade, holding both personal and business accounts. The sole trader business account was used in relation to Mrs M's part-time self-employed work.

NatWest told us:

- In May 2020, they received an online application for a £50,000 BBL in Mrs M's name, using her existing business account details. The funds were paid into her business account three days later and spent via a series of lump sum transfers over the next week.
- A month later, they received an online application for a new loan servicing account in Mrs M's name. The application said it was for a business with a new trading name that had been trading through her personal account since 2010, with a turnover of up to £500,000.
- Once the new loan servicing account was opened, they received an application for another £50,000 BBL in Mrs M's name, which was paid into the new servicing account. The funds were transferred from there to Mrs M's old business account and spent like the first loan via a series of lump sum transfers over the next week.

In 2023, Mrs M wrote to NatWest's debt collection agents. She said she had never applied for a BBL and wouldn't know how to do so. She said the loan had been applied for by someone known to her. The debt collection agency passed this on to NatWest.

NatWest looked into what had happened but said they did not have evidence of identity theft so could not agree that the second BBL had been taken out fraudulently.

Mrs M asked for the Financial Ombudsman to look into the matter. She told us:

- She only realised she had a loan in her name in mid-2022 when the bank began sending her correspondence regarding repayments. She had written to NatWest then and told them she hadn't taken out the loan.
- The truth was that the loan had been taken out by a person known to her and in a position of trust. She had been taken in and was too ashamed to tell anyone this information until 2023, so she hadn't told NatWest when she had first contacted them.
- This individual had made her believe he had her best interests at heart. He had said she might be eligible for a grant, so she had given him her personal and bank

account details.

- Once the money was paid into her account, she was coerced by this individual into transferring the loan funds according to instructions he had given her. He had made her feel like a criminal and she had deleted all the texts he had sent her immediately.
- The individual had also convinced her that the money would be paid back in full to the bank.
- She was very vulnerable at the time the loans were taken out. She was a pensioner, had just lost her part-time employment, was undergoing cancer treatment and dealing with the death of her father.

One of our investigators looked into what had happened. He thought it was more likely than not that Mrs M knew about the loan application in advance because of the use of her “memorable word”. He also thought she would have seen the loans and the loan servicing account via her online banking. And had she informed the bank she had received a loan she wasn’t expecting, the bank could have taken the funds back and there would have been no loss to anyone.

Mrs M disagreed and asked for an ombudsman’s decision. She made the following points for me to consider:

- The bank should have done more checks because it was not fair to expect someone who earned so little to pay back £800-£900 a month. She had only earned around £8,000-£10,000 from her part-time business before the pandemic. The bank had let her down by letting the individual get away with things.
- The loan(s) had been taken out without her authority, knowledge or signature. She had also only ever applied for one business account.
- She had filed a police report because this was a crime.
- The individual who took out the loans had also taken out a phone contract in her name, but the phone company had believed her and cleared her name.
- This individual had exploited a pensioner who was going through a difficult time.
- She didn’t have any money and had no means to pay the bank back.

### **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.

### **Is this complaint about one BBL or two?**

I will start by setting out what I am looking at in this decision. NatWest’s records show that two BBLs were taken out in Mrs M’s name, each linked to a different business current account. I will refer to these as “the first BBL” and “the second BBL” respectively.

Mrs M first complained to the bank in June 2022, which is when she has said that she first became aware there was a loan in her name. Her phone call and letter only mentioned one loan and used the reference attached to the first loan. NatWest treated her complaint as about the first loan only and responded accordingly. They sent a formal response to her complaint in September 2022. Their letter gave Mrs M the right to refer that complaint to the Financial Ombudsman if she did so within six months, which she did not. That means that I cannot look into her complaint that the first BBL was taken out fraudulently, because she did not refer it to our service in time.

In 2023, Mrs M wrote to NatWest's debt collection agents, in response to a letter from them about the second BBL. Her letter was passed on to NatWest, who interpreted it as a complaint relating to the second BBL and responded accordingly. Mrs M referred this complaint to the Financial Ombudsman Service within six months and this is the complaint I am considering here.

Although I cannot look at Mrs M's complaint about the first BBL, it is clear that the existence of it is relevant to the complaint I am considering here. So I will be referring to it in reaching this decision.

### **Did Mrs M take out the second BBL?**

The bank argue that Mrs M's story has been inconsistent. I'm not sure that is entirely fair, although it would be fair to say the original information she gave the bank was incomplete. She has consistently said that she didn't take out a BBL and wouldn't have known how to do so. She only later said that she knew who did take out the loans and that she had transferred the funds on his instructions. But this doesn't contradict her initial assertion that she did not take out any loans.

If Mrs M didn't take out the loan, then she isn't party to the agreement, so she hasn't signed a legal contract. That's a relevant factor for me to consider. But I also need to think about what's fair and reasonable in all the circumstances. That includes thinking about whether NatWest ought reasonably to have lent and whether they ought reasonably to have known that Mrs M was acting under coercion when she transferred the money. It also includes thinking about the forbearance NatWest ought to show now they are aware of how the loan came about and of Mrs M's vulnerability more widely.

It was only possible to apply for a BBL online, via NatWest's website. An applicant wasn't required to "log on" to internet banking to make the initial application, but rather to fill in an online form that asked questions relating to themselves and their existing NatWest accounts.

I have looked carefully at the information given in the application for both the loan servicing account and the second BBL. Much of the information provided on both applications is accurate for Mrs M. It provides her correct name, address and date of birth. It also provides the account number for one of her NatWest accounts.

However, as our investigator pointed out, there are discrepancies too. Chiefly, the email address given in the application does not match the bank's records or the email address given to our service. Neither does the business' trading name or stated activity match any information Mrs M had previously provided.

Once received, the process was that the bank sent out a loan agreement to the email address given on the application and the applicant then signed electronically. There was no requirement to sign a physical document. This process means that it was entirely possible for Mrs M not to have known anything about the application, as all communications were to an email address that there is no evidence is hers.

There is, however, another piece of evidence that I consider is relevant to deciding whether Mrs M made - or was aware of – the second BBL application. This is the matter of the memorable word. When the application for the loan servicing account was first made, a memorable word was supplied that was different from Mrs M's usual memorable word. At some point between the application first being made and the second BBL being provided, the bank has shown that this memorable word was updated – and it was updated to the same word that Mrs M had used for some time for her other accounts.

Mrs M has said that she did not divulge her memorable word to anyone. But the only explanations that seem possible to me are that she either told the individual she says applied for the loans her memorable word, or she updated the application herself. In either case, this would mean that Mrs M had knowledge of the application before it was agreed.

Where versions of events differ and the evidence is not entirely clear, I need to make my decisions based on the balance of probabilities, that is, what I think is more likely than not to have happened. In this case, I think it is more likely than not that the loan applications were made by a third party and not by Mrs M, because of both her testimony and the different contact details. But because of the use of Mrs M's memorable word, I think it's more likely than not that she knew of the application before the loan funds were drawn down.

Finally, even if I'm wrong about Mrs M knowing about the application, then by her own evidence, she knew as soon as the funds arrived in the account. I say this because she saw the money in her account, which appeared on her statements as "loan disbursement". She has also told us that she googled what a BBL was at that point.

### **Should NatWest have made the decision to lend?**

The bounce back loan scheme was a unique scheme for unique times. It was brought in to provide businesses with urgent funds to stay afloat in the pandemic. Because of the urgency of delivering those funds, banks weren't expected to do all the verification that would normally be expected for a lending application. Essentially, applicants self-certified that they were eligible and able to repay and banks were not expected to check what they said.

Specifically, one of the declarations required was "I/we understand that the lender will not conduct any form of credit or affordability checks and accepts no responsibility, whether arising in contract, tort (including negligence) or otherwise, for my/our decision to borrow."

This means that, for this particular type of loan, NatWest was generally entitled to rely on what the application said without interrogating it further. It follows that, whilst I fully appreciate Mrs M's point about the affordability of the loan to someone in her circumstances, it would not be fair for me to uphold her complaint on the basis that it was unaffordable, because the bank simply didn't have to check.

I have considered whether I think it was fair for the bank to accept a second BBL application from the same sole trader, given that multiple applications were not permitted under the scheme. But it was possible for a sole trader to own two different businesses, both of which were eligible. And in this case, the second application came from an alleged entirely separate business operating in entirely different markets and with a separate trading name and a separate servicing account. Given that, as I've said, it was a self-certified scheme, I think these details would have reasonably led the bank to consider that Mrs M had two separate businesses that were each eligible for a BBL.

### **Should NatWest have noticed that Mrs M was being coerced?**

Mrs M's version of events is that an individual known to her applied for both loans and then, when the funds arrived, made her feel that she had no choice but to follow his instructions regarding the disbursement of the proceeds. She has no evidence for this coercion, as she says she deleted all the text messages sent to her with the instructions for how to transfer the money. However, she has provided evidence that she has also made a police report about the matter. I will consider next whether NatWest should have noticed what was happening.

Once the loan proceeds were put into Mrs M's account, the money was moved, over a seven day period, into her old business account. It was transferred out from that account via a series of six payments to four different recipients. Mrs M admits that she made those payments. I've thought about whether NatWest should have considered this as unusual account activity. But the bank knew Mrs M had just drawn down a £50,000 loan. So NatWest was fully aware of where the funds came from. It would not be unusual for someone to then disburse those funds over the next week.

The phone calls for the telephone transfers are no longer available. But Mrs M does not dispute that she made them. My conclusion is that there was nothing in the way the funds were used that ought reasonably to have led the bank to know that Mrs M was acting under coercion when she transferred the money.

### **Is it fair for NatWest to hold Mrs M liable for the loan?**

Even if I disregard the evidence regarding the memorable word and accept Mrs M's testimony that she didn't know about the loan applications, I think it's clear that she knew that the funds had arrived in her account and that they came from some kind of loan.

Mrs M also had internet banking and NatWest have confirmed that all the accounts were correctly linked together. That means that she would have seen the loans and the new business account when she went into internet banking.

At the point that the first set of funds arrived in Mrs M's account, she had control of them. She has told us that she didn't apply for a loan and didn't even know what a BBL was. Had she telephoned the bank and told them she had received money that wasn't hers, I think it's likely that the bank would have reclaimed the funds and there would have been no -or few - adverse consequences for Mrs M.

However, Mrs M didn't tell the bank but rather says she followed the instructions she'd been given to move the money. A month later, having had a month to think about what had happened, she did the same thing again with the second BBL.

I have a great deal of sympathy for the difficult circumstances Mrs M found herself in during 2020. As an older person, she was vulnerable to Covid, and doubly so as she was also suffering from cancer. She was also dealing with her father's death and had just lost all her work. That is a lot to deal with at once for anyone and I can see why that might have made it hard to think straight.

Nevertheless, I'm afraid that the consequences of Mrs M's decision to go along with the instructions she was given and not tell the bank, were that NatWest had no reasonable way of knowing what was happening.

As far as the bank were concerned, they had provided a BBL to a sole trader applicant, who had then had use of the money. I've explained why NatWest were not at fault for providing the loan as requested. And I've found that they had no way of knowing Mrs M was being coerced. Given these circumstances, I think it's fair for NatWest to expect Mrs M to repay the loan.

NatWest have said that both BBLs are with their Recoveries function, but that they have put all recovery action on hold while we conducted our investigation.

Mrs M has told us that she is suffering from stress and anxiety, which has affected her health over the past four years. For that reason, she would understandably like this matter to be finalised as soon as possible. She has also told us she is a pensioner and doesn't have any money to repay the loans. However, I can't see that she has made NatWest aware of her health or financial situation so far.

With that in mind, the best way forward would be for Mrs M now to communicate with the bank and make them fully aware of her circumstances, so that a way forward can be agreed for both parties. The bank is likely to require details of her financial position, but if it is as she says, I would expect the bank to show forbearance and offer Mrs M assistance, once she has explained her situation.

### **My final decision**

For the reasons set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 5 February 2025.

Louise Bardell  
**Ombudsman**