

The complaint

Miss S complains MBNA Limited are unfairly holding her responsible for a £20,000 loan she says she didn't apply for.

What happened

Miss S fell victim to an investment scam following an advertisement she'd seen on social media which was reportedly being endorsed by two well-known celebrities. Miss S believed she was going to be learning how to make money from trading cryptocurrency. Miss S was contacted by a "mentor" and downloaded a remote desktop access application at his instruction – which gave him access to her phone and laptop so he could show her what to do. As part of the scam, Miss S says the scammer took out several loans in her name, including the £20,000 MBNA loan.

The proceeds of the loan were paid into Miss S' account and then transferred, via another account in Miss S' name, to the scammers. Miss S said the scammer took out the loans without her permission, but he'd reassured her that these would easily be paid back with what she would be earning from trading in a few months' time. She complained MBNA were holding her responsible for the loan since she says it was taken out without her permission – she wanted it written off and removed from her credit file.

MBNA responded to Miss S' complaint to say the loan was taken out using her information and the funds were paid directly to her. So they thought it was fair that they held her responsible for it.

Miss S referred her complaint to our service. An Investigator considered the circumstances. She said, in summary, she thought Miss S had made the application for the loan, albeit likely on the scammer's instructions. So she didn't think MBNA had treated Miss S unfairly by holding her responsible for the loan.

Miss S didn't agree with the Investigator's view – she maintained she hadn't applied for the loan. At this point, she also appointed a representative to communicate with our service on her behalf. So the complaint was passed to me to decide.

I issued a provisional decision. I've set out my findings again here and they form part of this decision.

Provisional Findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I'm aware that Miss S has made a request directly to MBNA for further information related to the circumstances of the loan application, she's not yet received that information and has made a complaint about that to the ICO. Her representative has asked that I either draw an adverse inference about MBNA's lack of response to this request or await the outcome of her complaint to the ICO before giving my decision.

This complaint concerns whether MBNA can hold Miss S liable for the loan she says was taken out by the scammer without her consent. Any other issues Miss S may have had with MBNA do not form part of this decision. And, having reviewed the file, I'm satisfied I have sufficient information to consider her complaint.

Generally, a customer cannot be held to the terms of a loan agreement they didn't enter into or was entered into by someone else without their consent. In this case, Miss S says she did not take out the loan with MBNA and she didn't know about it until after the scammer had made the application.

Miss S has told us that the scammer mentioned taking out loans as part of the trading process and that she had specifically said she didn't want to do that because she was worried about how they would be repaid. Miss S also said she gave a lot of her personal information such as her name, address and date of birth to the scammer as part of her initial sign up to the trading course. She said she had further personal information such as bank statements, a copy of her driving license and passport saved on her laptop. The scammer had access to her laptop using the remote desktop access application to show her how to trade and Miss S says this is how he was able to access her information to take out the loan.

Miss S has said she opened a bank account with another bank under the scammer's guidance. But has insisted that she didn't make any loan applications herself and she's been consistent about this from the outset of her complaint and in the other complaints she's made to our service about the scam.

Miss S said she knew about the MBNA loan after the application had been made.

Based on what Miss S has said, on balance, I don't think Miss S took out the MBNA loan herself or consented to the scammer making the application. I say this because of Miss S' reluctance to take out a loan when this was first suggested by the scammer and because the scammer had access to her laptop via the remote desktop access application. The scammer had access to sufficient information to make the application because he had access to her laptop and Miss S had already given a significant amount of personal information to the scammers in order to sign up to the trading course in the first place.

However, it's clear Miss S was aware that the MBNA loan had been applied for almost immediately. I say this because she's told us she was aware and that she expressed her concerns to the scammer about the loan needing to be paid back but was reassured by him that these would be paid back in a few months. Miss S has told us that she transferred the loan proceeds to another account in her name and then on to the scammer. So I find Miss S has made use of the funds in that she sent them elsewhere with the intention they be used for investment purposes.

As I'm satisfied Miss S did not enter into the loan agreement, I don't think it's fair or reasonable for MBNA to hold her to the terms of that agreement. So I intend to require MBNA to remove all interest and charges from the loan and remove details of it from Miss S' credit file.

However, Miss S appears to accept that she knew the loan had been taken soon after the application was made and certainly by the time it was paid into her account. And based on what she's told us she knew it was a loan – and would therefore need repaying - when she was sending the money on to her other account. Because of this, I find it's fair for Miss S to repay the principal sum to MBNA.

MBNA should keep in mind, when agreeing any repayment plan with Miss S, their obligations to treat her positively and sympathetically.

Responses to my Provisional Decision

MBNA said they were prepared to accept my provisional decision to resolve the case.

Miss S' representative replied to say he and Miss S didn't agree she should be responsible for repaying the principal sum. He said in summary:

- Evidence from MBNA contradicts their own position.
- The provisional decision overlooked Miss S' vulnerabilities, the out of character nature of the application and MBNA's failure to conduct proper verification.
- Knowledge of the loan does not equate to liability.

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.

MBNA's evidence obtained by Miss S' representative does not include a copy of the application. A copy was provided to our service as part of our investigation. I explained in my provisional findings why I didn't think Miss S completed this application herself, so I didn't think she should be held to the terms of the loan agreement. There are references to the loan being "fraudulent" in MBNA's notes. The first reference mentioned by Miss S' representative clearly refers to what Miss S has told MBNA – that the loan was taken out fraudulently. I agree the second appears to suggest MBNA accept it was fraudulent, though I don't think that's the intention of the note. But I don't think this changes the outcome of her complaint at this stage. Since MBNA have now said they're prepared to accept my provisional findings in which I concluded Miss S didn't make the application anyway.

Miss S' representative highlights MBNA has obligations under the Consumer Duty to protect customers from foreseeable harm. I haven't seen anything to suggest Miss S had an existing relationship with MBNA at the time of the application. And, unsurprisingly, the application makes no reference to Miss S' vulnerabilities. So it seems unlikely that MBNA would have been aware of Miss S' vulnerabilities or that the application was out of character for her – and I don't think this is unreasonable in the circumstances. And I don't think there was anything else about the application that ought reasonably to have alerted MBNA, at the time, that it hadn't been made by Miss S. So in these circumstances, I don't think MBNA has made a mistake in respect of their obligations under the Consumer Duty.

Miss S' representative says MBNA should have conducted further verification checks as part of the application – for example a verification call. Miss S' representative also says she should not be held responsible for the principal sum of the loan simply because she knew about it, since she remained under the influence of the scammer when sending the funds onwards.

Based on the information MBNA had at the time, I don't think a verification call was necessary. In any case, I accept that Miss S was "under the manipulation and control of sophisticated scammers". But I don't think further checks from MBNA or a verification call would have changed the position she's now in. I say this because, given what we know about these scams, it's common for victims to be told to answer questions from lenders in accordance with the information in the application. So I think had MBNA contacted Miss S to ask further questions about the application, she would have – under the significant influence of the scammer – have answered in the way the scammer had told her to. And had she done

so, MBNA wouldn't have known that those answers weren't true at that point and any warning they might have given would have been unlikely to resonate with Miss S, again because she remained under the scammer's influence.

I can see from the other complaints Miss S made to our service, there were multiple interventions by the financial businesses involved in the onward transmission of the funds which Miss S provided inaccurate information in response to and ignored the warnings that were given. So I find it more likely than not that Miss S would have behaved in the same way had MBNA contacted her about the loan.

Miss S' representative has suggested we have not considered the involvement of Miss S' bank in this matter. But this complaint is about MBNA and, in any event, a complaint about Miss S' bank in relation to the same scam has already been considered and decided by another Ombudsman.

I've thought carefully about the scammer's influence in the context of whether it's fair and reasonable for Miss S to repay the principal amount, particularly since I've decided she shouldn't be bound by the terms of the loan agreement.

Having done so, I'm satisfied that in the circumstances Miss S was aware that it was a loan and would need repaying when she transferred it on, albeit under the influence of the scammer. Bearing in mind she hadn't applied for the loan, she had an opportunity at that point, not to transfer it on – particularly since she told us she expressed her concerns about repayment of the loan to the scammer. But she chose to do so, presumably, believing she would benefit from the onward investment she believed she was making at that time. As such Miss S has made use of the funds, so I remain satisfied that it's fair and reasonable in the circumstances for Miss S to repay the principal amount of the loan.

If Miss S has particular concerns that the loan was unaffordable for her, then she will need to raise this specific point with MBNA directly as it doesn't appear it formed part of her original complaint. So MBNA hasn't had an opportunity to reply to this complaint point.

My final decision

For the reasons I've explained, I uphold Miss S' complaint.

To put things right, I require MBNA Limited to:

- Remove interest and charges from the loan.
- Remove any reference to the loan from Miss S' credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 24 July 2025.

Eleanor Rippengale
Ombudsman