

complaint

Mr W complains that Lloyds Bank PLC is holding him responsible for a debt on a credit card account. Mr W says he is the victim of fraud and did not apply for the account. He also says Lloyds has provided poor customer service in dealing with the matter. Mr W wants Lloyds to accept responsibility for the debt (effectively to write it off).

background

A credit card account was opened in Mr W's name in 2010. Mr W said he did not know anything about the account – he found out about it in late 2012 when his marriage broke down – and complained to Lloyds. The bank provided a copy of the application form and Mr W said it had almost certainly been opened fraudulently by his estranged wife, whom I refer to as Mrs W.

The account was in arrears and Lloyds used its right of set off by taking money from Mr W's savings account. Mr W was upset he had not been given notice of this and Lloyds agreed to refund the money to his savings account and paid him a modest amount of compensation.

But Lloyds rejected Mr W's complaint. The bank said Mr W was responsible for the debt in his name and he should report the matter to the police so the person responsible for the fraud could be prosecuted. Mr W said he was not willing to do this. Lloyds continued to hold Mr W responsible for the debt and it started (its normal) collections activity. Mr W was unhappy at how Lloyds' solicitors contacted him about the debt.

Our adjudicator did not recommend Mr W's complaint should be upheld. She considered that Lloyds had not followed any incorrect procedure in opening the account. There was no activity on the account that would have given the bank cause to suspect the account was being used by an unauthorised party. The adjudicator concluded it was fair for Lloyds to hold Mr W responsible for – and was entitled to continue to contact him to arrange repayment of – the debt.

Mr W did not agree with the adjudicator's view, so the matter has been referred to an ombudsman for a final decision. Mr W has provided further information about the signatures used on various documents to support his case.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision based on the balance of probabilities – that is, what I consider is most likely to have happened in light of the available evidence and the wider surrounding circumstances. Mr W has made a similar complaint about another bank (Bank C). While that complaint has been considered separately, I have referred to all the information available to make sure I consider the full circumstances of the matter.

Having done so, I have reached the same conclusion as the adjudicator, for broadly the same reasons. I am sorry to disappoint Mr W.

Deciding which party is responsible for any debts is normally taken into account as part of the financial settlement under divorce proceedings or any separation arrangements. It is possible the responsibility for the debt with Lloyds has been – or can still be – dealt with through this route.

I have no reason to doubt Mr W's belief that his estranged wife opened the account, or that she may have carried out the spending on it. And I can understand the reason behind his reluctance to prosecute Mrs W. But the key issue I have to consider is whether Lloyds can continue to hold Mr W responsible for the debt on his credit card account. I believe it can.

I am not a handwriting expert but I can see some variation in the signature on the credit card application form and other examples of Mr W's signature. I can see some similarities between the style of the signature on the application form and the example of Mrs W's signature that Mr W has provided. But I must consider the wider circumstances of the matter – and not rely solely on concerns about the signature on the application form.

Lloyds sent statements for the credit card account to Mr W's address each month. I note from the statements for Mr W's Lloyds' current account (jointly held with Mrs W) that monthly payments were being made to the account, along with payments to other credit card accounts. So I find it difficult to believe that Mr W was not aware of what was going on. And I note that a significant amount of the spending on the account was at retailers where purchases were also made using:

- debit card(s) from Mr W's (joint) current account; and
- to a lesser extent, the credit card account with Bank C that Mr W is disputing.

This indicates to me that Mr W has benefitted from the spending on the credit card account.

While I understand Mr W's concern about the signature of the application form, I consider that he should reasonably have been aware of the account. After all, monthly statements were sent and payments made from his (joint) current account. As it is more likely than not he benefitted from (at least some of) the spending on the account, I do not believe it would be fair for Lloyds to accept responsibility for the debt.

It is possible Mr W may (still) be experiencing some financial difficulties as a result of his debts. So – particularly being aware of Mr W's concerns about the bank's actions in this regard – it is important that I remind Lloyds that it should respond positively and sympathetically to his situation.

my final decision

For the reasons I have given, my final decision is that I do not uphold Mr W's complaint.

Andrew Davies
ombudsman