

complaint

Mrs B is unhappy that Barclays Bank UK PLC are holding her responsible for four loans which she says she didn't take out.

background

The parties are aware of the background to this complaint. So, I don't intend to set it out in detail here. In summary though, four loans were taken out in Mrs B's name between 2010 and 2014, totalling almost £39,000.

Mrs B has told us that she thinks her husband took these loans out in her name without her consent. They have since split up, following which she discovered that Barclays were holding her responsible for the amounts that remained outstanding. She's also discovered that these loans have been recorded on her credit file as defaults. And this continues to add to the financial problems that she's experienced since the end of her marriage.

Our investigator looked into Mrs B's complaint. And concluded that she had, more likely than not, been the victim of economic abuse during her marriage. Her husband had dealt with all of the finances. And although Mrs B would appear to have had some benefit from the loans, as they were partially used to pay for domestic expenses, she'd been unaware that they'd been taken out in her name. So, he thought Mrs B should bear some responsibility for the principal sums outstanding on the loans, but not have to pay for all of them. In that regard, he agreed that Barclays goodwill offer to give Mrs B a 50% discount was fair.

Neither Barclays nor Mrs B agreed with the investigator's recommended outcome. Barclays didn't think this was a case of economic abuse. And it thought that the loans should remain recorded on Mrs B's credit record. Mrs B didn't think it was fair for her to still be held responsible for loans that she hadn't consented to and knew nothing about.

Prior to this final decision, I issued a provisional decision to the parties. Barclays had by then already charged off the loans and said it wouldn't be pursuing Mrs B for the remaining debt. So that aspect of Mrs B's complaint has been settled. And there's no need for me to consider the repayment of the loans themselves in this final decision.

Before my provisional decision, Barclays hadn't agreed to remove references to the loans from Mrs B's credit file. It said that it hadn't accepted that these loans were taken out fraudulently, so it didn't think it should be removing them from Mrs B's credit record. So that aspect of Mrs B's complaint remained outstanding. I considered it in my provisional decision, where I provisionally found that Mrs B had experienced economic abuse, and I thought that the loans should be removed from her credit record.

Both Mrs B and Barclays agreed with the findings in my provisional decision.

my findings

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

In my provisional decision, I said:

'I was very sorry to hear about Mrs B's split with her husband. This cannot have been easy. And Mrs B's subsequent discovery that she was in significant debt will of course have made this all the worse.

Barclays believes that Mrs B knew about the debts that had been taken out in her name. And as they were paid into her joint account with her husband, she has had some benefit from them over the years, particularly as the money appears to have been spent in part on household expenses.

Mrs B has said that she wasn't involved in the family finances at all. She rarely used a computer and her husband handled everything concerning money. When Mrs B's husband left her and the children, it came to light soon after that the family's financial situation was very poor. Mrs B has told us that her husband had intercepted all of her post. So, she'd not been aware of the debt that they'd been in.

At least three of the loans that were taken out in Mrs B's name appear to have been applied for through an online loan comparison website. No wet ink signatures will have been required on the applications. And everything will have been concluded on the web. It strikes me as strange that these loans from Barclays were taken out through a third-party website, when Mr and Mrs B had both been long-term customers of the bank. So, it's unusual that Mrs B didn't go to Barclays direct to borrow the money (if it was her), as clearly she was deemed to have been an acceptable credit risk at the time.

Mr and Mrs B also had their mortgage with Barclays. And this had a secured mortgage current account facility on it that had also been maxed out. Again, Mrs B has told us that this was something that she wasn't aware of. It has also transpired that Mr B took out a £25,000 loan secured by a second charge over their house from another lender. This was also something that Mrs B has said she didn't know about, the witness signature on the mortgage being that of someone she doesn't know.

As Mr B was in control of all the finances, he'd applied for online banking for Mrs B to which only he had access. This came to Mrs B's notice only when she herself came to apply for a personal account after the split with her husband. Using this, Mrs B has said that she's since found out that Mr B had spent both her savings and that of their children, in addition to running up the other debts outlined in this complaint. Whilst that's not something that I consider Barclays to be responsible for, the money seemingly having gone on day to day expenses and been part of many movements in and out of those accounts, it does add to the picture of economic abuse that was taking place over a number of years.

After Mr B left, he appears to have asked his creditors to agree to an individual voluntary arrangement (an 'IVA'). This is a type of insolvency process where an individual agrees with their creditors to either pay a lower amount than they owe, and/or to make payments over time. We've asked Barclays if they have a copy of the IVA and Mr B's statement of affairs showing the extent of his debts. Unfortunately, Barclays have been unable to find this.

But I do consider that the existence of this IVA supports Mrs B's contention that her husband had additional debts other than those of which Mrs B is now aware. Given he clearly needed to take out an IVA, it's reasonable to presume that those debts must have been considerable. And that they were with creditors other than Barclays too. So, the extent of Mr B's debts may well have been such to have given him a significant motive to apply for debts in Mrs B's name without her knowledge.

When Mrs B discovered what her husband had been doing with their finances, she reported him to the police. We've contacted the police officer involved. And he has told us that Mrs B was a credible witness, although there wasn't sufficient evidence to be sure of obtaining a successful criminal prosecution.

Barclays' records indicate that Mr B admitted to one of their cashiers that he'd taken out the four loans in Mrs B's name without her consent. Although Barclays continue to doubt whether or not Mrs B was aware of the loans anyway.

Having taken all of the evidence into account, it's my finding that Mrs B more likely than not didn't know about these loans when they were taken out in her name. They were all applied for online. And Mrs B has given a persuasive account of how the family finances were handled by her ex-husband. The subsequent IVA also lends to the conclusion that Mr B had a motive to take out these loans without Mrs B's knowledge. So, it's my finding that's more likely than not what happened here.

Whilst Mrs B may have benefitted in part from the principal sums borrowed, given that the money went into her joint account with her ex-husband, she won't have had sight of, or agreed to, the terms and conditions of the loans. Her husband made the loan payments over the years, and it would appear he may have funded these from debts he was incurring with Barclays and others – noting of course the IVA and the possible extent of other debts Mr B may have had too.

As I've found that Mrs B didn't agree to the loans, I don't consider that these should remain recorded on her credit file. The loans weren't Mrs B's. And so shouldn't be recorded against her name.'

As both Mrs B and Barclays have accepted my provisional decision, I see no need to change the findings above that I made in it, which I adopt in full in this final decision.

my final decision

It's my final decision to uphold this complaint in part. I require that Barclays Bank UK PLC arrange with the credit reference agencies to which it reports, for all records of these four unsecured loans, and any defaults relating to them, to be removed from Mrs B's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 5 August 2021.

James Kennard
ombudsmano