

complaint

Ms D complains that Lloyds Bank PLC is wrongly holding her liable for a debt incurred by her ex-partner. She says she has never been his business partner and did not know she had signed an agreement to be jointly and severally liable for any debts he raised. She would like to be released from any liability.

background

During the course of her relationship with her ex-partner, Ms D allowed him to trade from business premises she owned. She was not involved in her ex-partner's business, but in April 2003, she signed a partnership agreement and authority on a business account for that business. This account allowed either signatory to carry out transactions and apply for finance without restriction.

In November 2007, Lloyds agreed to provide a loan of £25,000 to the business. The loan agreement was signed by Ms D's ex-partner. Ms D says she had no knowledge of the loan or overdraft facility on the account and would not have agreed to them had she known she would be liable for them. She says she only learned of the debts in November 2012.

Ms D's ex-partner wrote to the bank to accept liability for the debt and to request that Ms D's name be removed from the account. However, Lloyds has refused to do this and continues to hold both Ms D and her ex-partner liable for the debts.

The adjudicator did not recommend that the complaint should be upheld. He noted that the terms and conditions of the partnership agreement make it clear that the signatories will be jointly and severally liable for transactions on the account. He considered that the terms allowed Ms D's ex-partner to apply for the loan and use the overdraft facility, but that the bank could seek full or part repayment of these debts from Ms D alone.

The adjudicator considered that it was clear from the layout of the partnership agreement that Ms D was signing as a partner, and that she should reasonably have known what she was agreeing to.

Ms D does not agree, saying that she had never been in a business partnership with her ex-partner, and should not be responsible for his debts. She has offered to pay the overdraft, but not the loan.

my findings

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

I do sympathise with Ms D, and I appreciate this has been a very difficult and distressing situation for her to deal with. However, I have looked at the forms she signed when she and her ex-partner opened the business account, and I consider these did make it quite clear that the account was for a partnership. The form is headed "Partnership Authority" and signatories are referred to as "partners" throughout. It also contains information about the liability of partners and I consider this information should reasonably have alerted Ms D to the liability she agreed to when she signed the document.

This agreement gave the bank the authority to process transactions and applications made by both or either of the partners. This means that when Ms D's ex-partner made his loan application, the bank was authorised to assess and accept it without seeking Ms D's approval. However, the terms of the account also mean that each partner is jointly and severally liable – that the bank can seek repayment from each or both partners, regardless of whether they used the money or not.

Because the loan was raised before Ms D told the bank of her dispute with her ex-partner, the agreement applies to that loan, and the bank does not have to release her from liability for it. I understand that Ms D's ex-partner contacted the bank to ask for her to be released, but this is at the bank's discretion. Similarly, the bank is not required to accept her offer of part payment of the debt, though it is required to respond positively and sympathetically to any financial difficulties she may be experiencing.

The terms of the partnership authority were clear, and were agreed to by Ms D. Because of this, I cannot find that the bank acted unreasonably in acting according to them, and in holding Ms D liable for the debt now. I realise this will be a very unwelcome outcome for Ms D, but I am afraid I am not able to conclude otherwise.

my final decision

My final decision is that I do not uphold this complaint.

Catherine Wolthuizen
ombudsman