

The complaint

Mr W is unhappy that Madison CF UK Limited, trading as 118 118 Money, didn't accept he'd been the victim of a scam and that he'd applied for a loan with them as a result of that scam. Mr W is also unhappy that 118 118 continue to hold him liable for the loan instalments he didn't pay while his fraud claim was being investigated by 118 118 and that his credit file has been adversely affected as a result.

What happened

Mr W successfully applied for a £4,000 personal loan with 118 118. He received the loan funds into his current account held with a third-party bank, from where it was transferred to what Mr W believed was a legitimate investment opportunity but which he soon after discovered was a scam.

Mr W contacted 118 118 and explained he'd been the victim of a scam. 118 118 placed Mr W's account on hold while they conducted a fraud investigation, during which time Mr W didn't make any monthly repayments towards the loan. Several months later, 118 118 concluded that no evidence of fraud was present, and they advised Mr W that the loan payments he'd missed while the investigation was ongoing were considered as being in arrears and would be reported as such to the credit reference agencies. Mr W wasn't happy about this, so he raised a complaint.

118 118 looked at Mr W's complaint, but they confirmed that they hadn't accepted Mr W's fraud claim and they didn't feel that they'd acted unfairly by reporting the arrears that had accrued on Mr W's account while the fraud claim had been ongoing to Mr W's credit file.

Mr W wasn't satisfied with 118 118's response, especially as his current account provider had accepted that he had been scammed and had reimbursed in full the money Mr W had transferred to the scammers. So, he referred his complaint to this service.

One of our investigators looked at this complaint. But they didn't feel that 118 118 money had acted unfairly in how they'd managed the situation, and so they didn't uphold the complaint. Mr W remained dissatisfied, so the matter was escalated to an ombudsman for a final decision.

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.

I issued a provisional decision on this complaint on 14 November 2022 as follows:

I can appreciate why 118 118 might not have felt that there was any evidence discernible to themselves which suggested that Mr W might have been the victim of a scam. However, it's unfortunately the case that the perpetrators of such scams may often guide their victims into obtaining credit 'legitimately' and will then later induce their victims into forwarding the credit proceeds to them from a third-party source.

This appears to be what happened in this instance. Mr W applied for a loan with 118 118, the proceeds of which were received by Mr W into his current account which he holds with a reputable third-party bank. And it was from Mr W's current account that the scammers induced Mr W to transfer the proceeds of the 118 118 loan to them.

But while the signs of a scam may not have been directly available to 118 118, they were directly available to Mr W's current account provider, which has accepted that Mr W was scammed, and which has reimbursed the full value of the money which Mr W forwarded to the scammers to Mr W. And given that Mr W's current account provider was the best placed party to assess whether Mr W was or wasn't the victim of a scam here – given the money movements as I've described them above – I'm happy to accept the position of Mr W's current provider that Mr W was in fact the victim of a scam.

Notably, Mr W's current account provider confirmed in writing to Mr W that they were satisfied he was the victim of a scam approximately two months before 118 118 reached their own conclusion that there was no evidence that Mr W had been scammed. And Mr W has confirmed that he forwarded the letter from his bank, confirming their acceptance that he had been scammed, to 118 118.

As such, I find it difficult to understand how 118 118 also didn't accept, either during their initial investigation or following Mr W's subsequent complaint, that Mr W had in fact been scammed – given that the financial institution best placed to make that assessment had agreed that a scam had taken place.

All of which means I'm satisfied that Mr W has been the victim of a scam here. And given that Mr W applied for the 118 118 loan because of that scam, it seems fair to me that Mr W should be put back in the position he would be in had he never applied for that loan.

This includes that Mr W should pay back the capital balance of the loan – which it's my understanding that Mr W has already done – and not be charged any interest on it. And I also feel that this loan, and any credit searches undertaken on Mr W by 118 118 during the application process, should be deleted from Mr W's credit file as if the loan had never been applied for.

As such, I'll be provisionally upholding this complaint in Mr W's favour, and instructing 118 118 as follows:

- It's my understanding Mr W has made payments to this loan totaling £4,400, which is £400 more than the £4,000 capital balance of the loan, and with the date of the most recent payment made by Mr W being 13 August 2021. 118 118 must therefore reimburse this £400 overpayment to Mr W along with 8% simple interest on that amount calculated from 13 August 2021 to the date of the reimbursement to Mr W.*
- 118 118 must also remove all credit reporting relating to this loan from Mr W's credit file, including any credit searches that 118 118 undertook on Mr W as part of the loan application process.*
- Finally, 118 118 must make a further payment of £200 to Mr W to compensate him for the trouble and upset that he's incurred here as a result of 118 118 not fairly recognising that he has been the victim of a scam, which I feel that 118*

118 reasonably should have done, given the information presented to them by Mr W as described above.

In my provisional decision letter, I gave both Mr W and 118 118 the opportunity to provide any comments of new information they might wish me to consider before I move to issue a final decision. Mr W confirmed he was happy to accept my provisional decision, whereas 118 188 did provide some further comments for my review.

The first point 118 118 raise is that they have no record of Mr W providing them with the letter he received from his bank which confirmed that his bank was accepting that he'd been the victim of fraud.

It's notable that the letter Mr W received from his bank is dated 12 April 2021. Mr W therefore received this letter before June 2021, which was when 118 118 rejected the fraud claim he'd submitted to them, and before 5 August 2021, which was when 118 118 communicated to Mr W that hadn't upheld his subsequent complaint about his fraud claim.

Mr W confirmed to this service that he did provide a copy of the letter from his bank to 118 118, and it seems very unlikely to me that Mr W wouldn't have done so, given that he had raised a fraud claim with 118 118 on a similar basis to that which he'd raised with his bank.

Additionally, it isn't in dispute that Mr W raised a fraud claim with 118 118 and provided 118 118 with details as to the fraud claim he was raising. These details included that the 118 118 loan proceeds had been forwarded to the fraudsters from his bank, who had subsequently accepted that Mr W had been defrauded.

As such, if 118 118 didn't have a copy of the letter in question from Mr W's bank on file, for whatever reason, it's difficult to understand why 118 118 didn't ask Mr W to provide one, or how 118 118 arrived at an outcome in regard to their own fraud investigation without it.

118 118 have also expressed their concerns with the overall position of my provisional decision and maintain that Mr W applied for a loan with them which they approved in good faith, and that Mr W then received the loan funds and used them as he saw fit. And because of this, 118 118 maintain that this complaint shouldn't be upheld.

I find 118 118's position here to be highly concerning. This is because 118 118 seem unable to accept that Mr W was the victim of a scam here. And because 118 118 also seem unable to accept that Mr W should be protected against the negative consequences of such a scam, even if the nature of that scam was such that the movement of money to the fraudsters took place from Mr W's bank account – rather than being directly from 118 118 themselves.

Mr W isn't asking 118 118 to write off the balance of the loan he took with them. Rather, he's only asking to be allowed to return the capital balance of the loan to 118 118 so that he doesn't incur the financial detriment of having to pay the loan interest for a loan he was coerced into taking out on false pretenses by fraudsters, or be unduly punished for not making payments towards the loan while 118 118 were arriving at the perplexing result to the fraud claim he raised with them that they did. And given that I'm satisfied that Mr W has been the victim of a sophisticated fraud here, his requests in this regard seem entirely fair and reasonable to me.

All of which means that I will be upholding this complaint in Mr W's favour on the same basis as outlined in my provisional decision letter.

Putting things right

118 118 must reimburse to Mr W any amount that Mr W has paid to them above the £4,000 capital balance of the loan, along with 8% simple interest on that reimbursed amount for the time that 118 118 have held it.

For instance, it's my understanding that Mr W has made payments to this loan totaling £4,400. This is £400 more than the £4,000 capital balance of the loan, with the date of the most recent payment made by Mr W being 13 August 2021. If this understanding is correct, 118 118 must reimburse this £400 overpayment to Mr W along with 8% simple interest on that amount calculated from 13 August 2021 to the date of the reimbursement back to Mr W.

118 118 must also remove all credit reporting relating to this loan from Mr W's credit file, including any credit searches that 118 118 undertook on Mr W as part of the loan application process.

Finally, 118 118 must make a further payment of £200 to Mr W to compensate him for the trouble and upset he's incurred here as a result of 118 118 not fairly recognising that he has been the victim of a scam, which I continue to feel 118 118 reasonably should have done, given the information available to them.

My final decision

My final decision is that I uphold this complaint against Madison CF UK Limited, trading as 118 118 Money, on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 16 January 2023.

Paul Cooper
Ombudsman