

The complaint

Mr M complains that Metro Bank PLC (trading as RateSetter) is holding him liable for a loan he says he did not consent to.

Mr M has a representative in this matter.

What happened

The circumstances of this complaint are well known to both parties, so I will not repeat them all again here in detail. But I will provide an overview of events below.

In summary, in October 2022, Mr M says scammers coerced him into providing his personal information so they could take out a £12,000 RateSetter loan in his name without his consent. Mr M argues that because this loan was taken out fraudulently, RateSetter should not hold him liable for it. He also argues that he is a vulnerable person; and that the loan should not have been approved as it was unaffordable.

RateSetter refused to write-off the loan but, said it would waive the fees and interest. Unhappy with this, Mr M raised a complaint which he referred to our Service.

One of our investigators considered the complaint and did not uphold it. As Mr M disagrees with the investigator's findings, this matter has been passed to me to make a decision.

What I have 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 would like to say at the outset that I have summarised this complaint in far less detail than the parties involved. I want to stress that no courtesy is intended by this. If there is a submission I have not addressed, it is not because I have ignored the point. It is simply because my findings focus on what I consider to be the central issues in this complaint.

The first point I need to consider in this matter is – whether Mr M consented to the loan in question?

Based on the evidence before me, I can see that prior to the approval of the loan, RateSetter sent an email to Mr M's email address asking about the purpose of the loan. I can see that RateSetter received a response from Mr M's email address stating, in short, that the purpose of the loan was for a new car. Thereafter, RateSetter says the loan was approved and Mr M logged into his online portal and accepted the loan agreement. In Mr M's submissions, amongst other things, he accepts that he received an email from RateSetter which contained a link to, '*... authorise the loan and deposit funds.*' This is the link Mr M accepts he clicked-through.

Whilst Mr M may not have filled in the loan application himself, I am satisfied – based on the above – that he had knowledge of the loan and took the required steps to ensure it was approved. Therefore, I am satisfied that Mr M consented to the RateSetter loan.

Mr M argues that the scammers pressured and manipulated him to do what he did (set out above). Whilst this may well be the case, it would not be fair of me in the circumstances to direct that RateSetter write-off the loan for this reason. I say this because I cannot see any evidence which suggests that RateSetter was aware that Mr M was being coerced at the time the loan was taken out. In fact, it had received an email from Mr M's email address providing a reason for the loan (see above). Mr M says he would like RateSetter to consider the fact that he is a vulnerable person. However, again, I cannot see any evidence to suggest RateSetter was aware of this at the time. So, I cannot rely on this as a reason to say RateSetter should write-off the loan.

With the above in mind, I am satisfied that it is fair and reasonable for RateSetter to hold Mr M liable for the loan under the associated agreement, as he consented to it.

Mr M argues that RateSetter should not have approved the loan as it was unaffordable, so, he should not be held liable for it. Whilst I acknowledge this point, it is not necessary for me to make a finding on it for two reasons.

First, RateSetter has said it will waive the fees and interest on the loan and only pursue Mr M for the outstanding principal sum of the loan. Therefore, even if I found that the loan was unaffordable and should not have been approved, I would only direct that RateSetter refund Mr M the interest and fees on the amount irresponsibly lent. But, as RateSetter has agreed to waive these – I do not need to take this point further.

Secondly, it is not disputed that Mr M transferred out some or all of the loan funds to a third-party. So, even if I found that the loan was unaffordable and should not have been approved – it does not follow that Mr M should not be held liable for it. I say this because even if RateSetter erred in approving the loan, this does not negate the fact that it was processed and the loan funds were credited to Mr M's bank account, which he then transferred out to a third-party. Ultimately, some or all of the loan funds have been spent, so whilst it may be the case that RateSetter should not have approved the loan – it is fair that it should be entitled to pursue Mr M for the principal sum of the loan if it so wishes.

Finally, I can see Mr M has made reference to the Contingent Reimbursement Model. However, this code does not apply in the circumstances of Mr M's complaint against RateSetter.

Taking all the above points together, I find that Mr M consented to the £12,000 RateSetter loan. It follows that I find it is fair and reasonable for RateSetter to hold Mr M liable for the loan under the associated agreement. RateSetter has said it will waive the fees and interest on the loan. So, I expect RateSetter to do this if it has not done so already; and only pursue Mr M for the outstanding principal sum of the loan if it so wishes.

My final decision

For the reasons set out above, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 September 2023.

**Tony Massiah
Ombudsman**