

The complaint

Mr O has complained North Edinburgh and Castle Credit Union Limited, trading as Castle Community Bank is asking him to repay a personal loan he didn't take out.

What happened

In September 2023, Mr O fell for a scam after being told his personal information had been involved in a data breach. Beforehand Mr O had been in a touch with someone on social media who provided financial information. He'd been in a car accident in July and had thought he may need a personal loan which didn't end up being the case. This involved Mr O providing his personal information to this person on social media, which was then used to secure two personal loans. One was with Castle Community Bank for £10,000.

The extent of the scam was that Mr O was coached in his discussions with his own bank (who I'll call L) and then made a series of payments from his account with them which meant all the money from the loan went to a third party. Mr O recalls using an app about credit reports (which he was already signed up to) and this resulted in the loans being approved.

Mr O realised within a short period that he'd been a victim of a scam and contacted the two loan companies involved. This was Castle Community Bank and another loan company, who I'll call V. V confirmed in a letter dated 18 September 2023 that they accepted this loan had been taken out fraudulently.

Castle Community Bank continued to ask Mr O for further detail about what had occurred, but Mr O wasn't able to. Partly this was because all his discussions on social media were, by virtue of the app used, only ever temporary. However, Castle Community Bank were concerned Mr O wasn't being honest with them. He only seemed to question how they'd provided a loan to someone when there were some small errors within the application.

Mr O brought his complaint to the ombudsman service. He also brought a complaint about L.

Our investigator believed as there was no evidence to show the discussions between Mr O and the scammer, and Castle Community Bank had already agreed to remove interest and charges from the loan, this was the right answer. Mr O would remain liable for the capital amount of £10,000.

Mr O's complaint has been referred to an ombudsman for decision.

In the meantime, L has confirmed that they believe Mr O was the victim of a scam. In their final response to him dated 28 June 2023 they agreed to refund some of the payments Mr O had made to the scammer. This will amount to £4,942.37. Mr O has already received a small amount of compensation from L, but he believes Lloyds will only share the refund directly with Castle Community Bank.

I completed a provisional decision on 9 September 2024. I believed Mr O had not consented to this loan and that, on the basis of a refund promised by L, Castle Community Bank should write off the remainder of the loan and stop asking Mr O to repay anything.

Mr O accepted this outcome.

Castle Community Bank didn't. They believed their status as a credit union should be taken into account.

I now have all I need to complete my 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.

Having done so, I've reached the same outcome as I did in my provisional decision. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

Firstly, I can see the credit agreement was taken out in September 2023. How this happened isn't really in dispute and was covered in detail in our investigator's view of May 2024. I don't intend to repeat what happened specifically as I don't disagree with what was outlined there.

I can confirm I have read the evidence carefully and am satisfied Mr O didn't take out the credit agreement himself. However, Mr O's real email address was used so I do wonder how he didn't notice when Castle Community Bank sent him the loan correspondence.

On the other hand, I believe Castle Community Bank's approach ignores what was happening at the time and that Mr O was being viciously scammed. And it's key to note that as I believe Mr O didn't take out the agreement, then he has no contractual agreement with Castle Community Bank.

The evidence indicates that this loan was taken out without Mr O's consent. However, like our investigator I believe Mr O could have been more alert to how the money appeared in his account and what that meant. I appreciate the success of scammers is to persuade people who are vulnerable in that moment and ensure they ignore what is really going on.

So, on balance I'm satisfied he wasn't aware this was a loan and why he was being asked to make payments to the scammers.

I've not seen anything which would indicate Castle Community Bank could have known this application was fraudulent. I'm aware some of the application details differ from Mr O's actual personal information but I see no reason why Castle Community Bank would have identified those, despite knowing Mr O has a different view.

Putting things right

I note Castle Community Bank has agreed to only require the capital amount of £10,000 to be repaid by Mr O. However, taking all the evidence into account, including the amount of £4,942.37 which L is willing to repay, I will be asking them to write off the loan in full as I believe this is fair.

I'd also like Castle Community Bank to remove all information relating to this loan from Mr O's credit record.

Castle Community Bank has received a copy of the final response L sent to Mr O. I leave it to them to liaise direct with them to ensure they have £4,942.37 repaid to them.

On receipt of those funds, Castle Community Bank will need to write off this loan in full. I confirm the £4,942.37 is the amount in total to be repaid to Castle Community Bank.

My final decision

For the reasons given, my final decision is to instruct North Edinburgh and Castle Credit Union Limited, trading as Castle Community Bank, to:

- On receipt of £4,942.37, write off the loan of £10,000 taken out in Mr O's name in September 2023;
- Stop asking him to repay anything from this loan, including halting any collection of a third-party agency that has been subsequently engaged; and
- Remove all data about this loan from Mr O's credit records.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 9 October 2024.

Sandra Quinn
Ombudsman