

The complaint

Mr C complains that Metro Bank PLC trading as RateSetter (“RateSetter”) is holding him liable for the debt on a loan which he says he neither applied for nor consented to.

What happened

The background to this complaint is well known to both parties, so I won’t repeat everything here. In brief summary, in May 2023 a loan was taken out with RateSetter in Mr C’s name for £10,000. Mr C subsequently got in touch with RateSetter to let it know he hadn’t applied for the loan. RateSetter investigated things and ultimately couldn’t reach agreement with Mr C, so he referred his complaint about RateSetter to us. As an Investigator here couldn’t resolve the matter informally, the case has been passed to me for a decision.

I sent Mr C and RateSetter my provisional decision in May 2024. Now both parties have had fair opportunity to respond, I’m ready to explain 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.

RateSetter has said it accepts my provisional decision. And Mr C didn’t reply to my provisional decision. So I see no reason to depart from my provisional decision – having reviewed everything again, I’ve reached the same conclusions and for the same reasons. I’ve explained my reasons again below.

First, let me clarify exactly what this decision is about. This decision won’t address RateSetter’s responsibility to lend responsibly in an affordability aspect, because that is not the complaint made or referred for final decision here. Instead, this decision concerns only whether it’s fair for RateSetter to hold Mr C liable for the loan bearing in mind what he’s said about it being applied for by fraudsters without his knowledge or consent.

The first question is: did Mr C enter into this loan agreement, or was it done without his knowledge and consent as he alleges?

Having considered this carefully, I think it’s most likely the loan was taken out in Mr C’s name without his knowledge and consent, and he therefore did not enter into the loan agreement. I say this because:

- Mr C has said fraudsters contacted his girlfriend through a social media platform claiming to be part of a government-backed scheme that could potentially recoup a percentage of their monthly outgoings to help with the cost-of-living crisis. He’s said the fraudsters said they needed their ClearScore login details to check their eligibility, and that after they provided them with these, the fraudsters took out loans in their names, and then started calling them constantly making threats and demanding that they give them the loan funds. Mr C has said, with children in the house, they were terrified and panicked, and consequently they did what the fraudsters said.

- To support this, Mr C has provided a copy of an email dated September 2023 from the police sent to his girlfriend which appears to confirm that she reported she'd been the victim of crime on 3 May 2023 in circumstances that align with what Mr C has said. Mr C has also provided a copy of a letter dated July 2023 from Vanquis which appears to be addressed to his girlfriend confirming it considered a Vanquis loan had been fraudulently taken out in her name and it would therefore remove the account from her name. Mr C has also provided two screenshots (one dated July 2023, the other undated) which appear to be communications from Experian saying it had found his email address being sold online. Mr C has also submitted a Ring doorbell video showing what I understand he alleges is a third party (fraudster) collecting cash he'd left for them under his rubbish bin, in accordance with how the fraudsters demanded that he gave the loan funds to them.
- I can also see that after the loan was applied for and approved, and prior to disbursement, an SMS was then sent to the mobile number recorded for the loan at that time, which appears not to have been Mr C's. So, whilst the email address recorded against the loan application was Mr C's, the mobile number (access to which was required for disbursement of the loan funds) appears not to have been.
- Bearing all of this in mind, I accept that what Mr C has said happened, most likely did happen – that he was tricked into providing the fraudsters with the information they needed to apply for the loan in his name, and that they likely applied for the loan using a mobile number that wasn't Mr C's that enabled them to arrange disbursement of the loan funds into Mr C's bank account – which he only realised after they landed, and when the fraudsters threatened him and demanded that he give them the money.

Since I'm persuaded Mr C most likely didn't apply for or agree to this loan, I don't think it would be fair for RateSetter to hold him to the terms of the loan agreement he never agreed to. So, RateSetter shouldn't hold Mr C liable for interest and charges, neither should there be a record of the loan on Mr C's credit file – so if there currently is, this should be removed.

At the same time, I don't think RateSetter was reasonably to know, at the time, that the application hadn't come from Mr C or that he hadn't consented to it. So, it doesn't automatically follow that it would be fair for me to tell RateSetter that it should not be able to pursue Mr C for any of the loan funds that are still outstanding, or that it should be required to refund to Mr C any repayments to the loan he has already made, if any. I take on board what Mr C has said about the fraudsters' threats and them demanding that he give them the money. But RateSetter paid the loan funds to Mr C in good faith and I don't think this was RateSetter's fault. On the day the loan was applied for and approved, it sent an email to him confirming this, four days before the loan funds landed in his bank account. And whilst Mr C may not have seen this in time (and even if he did, this wouldn't mean he consented to the loan), I haven't seen anything that persuades me RateSetter has done anything wrong with regards to the loan funds, or that it would therefore be fair for me to tell RateSetter, in the circumstances of this case, that it should not be able to pursue Mr C for any of the loan funds that are still outstanding, or that it should be required to refund to Mr C any repayments to the loan he has already made, if any. Naturally, however, I'd expect RateSetter to agree a reasonable repayment plan with Mr C, and to be sympathetic to any financial constraints that may materialise.

My final decision

For the reasons explained, I uphold this complaint in part and I direct Metro Bank PLC trading as RateSetter to:

- remove all interest and charges on the loan;
- take any repayments already made to the loan by Mr C to date, if any, as having reduced the loan balance;
- remove reference to the loan from Mr C's credit file; and
- not pursue Mr C for more than the outstanding amount of the principal loan of £10,000.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 July 2024.

Neil Bridge
Ombudsman