

The complaint

Mr D complains that Metro Bank PLC trading as RateSetter was irresponsible when it offered him a loan.

What happened

RateSetter agreed a loan of £5,000 for Mr D in January 2023. The total amount owed was £5,883.12 to be repaid at £163.42 a month over 36 months. Mr D met his repayments until March 2024.

Mr D complained to RateSetter in June 2024 that it didn't adequately assess his financial situation before agreeing a loan for him. He said his existing financial commitments included several credit cards and loans totalling over £10,000 and that taking out this loan put a significant strain on his finances. Mr D told RateSetter that he wasn't working and was struggling with his repayments.

RateSetter didn't agree that it had been irresponsible to lend to Mr D and didn't uphold his complaint. In a final response letter to him in June, it said it verified Mr D's income and checked his credit file when he applied for a loan. There was no negative information shown on his credit file, such as defaults or county court judgements, and it concluded that the loan would be affordable for him.

Mr D contacted RateSetter in early July 2024 to discuss his circumstances. He said that the situation was having a serious impact on his mental health and asked it to write off the loan. RateSetter declined to write off the outstanding balance on his loan but offered Mr D the option of placing a further hold on his account for a period of six months to allow time for his circumstances to improve.

Mr D declined RateSetter's offer and brought his complaint to us. Our investigator assessed the complaint and didn't recommend that it be upheld. They found that RateSetter had carried out proportionate checks before opening the account for Mr D, that there wasn't anything in the checks which suggested that the credit would be unaffordable for him or that its lending decision was unfair. They didn't find that RateSetter had treated Mr D unfairly by not writing off the debt.

Mr D disagreed with our investigator's recommendation and asked for his complaint to come to an ombudsman to decide. I sent out a provisional decision on 14 February 2025, explaining why I wasn't planning to uphold Mr D's complaint and sharing the information I'd relied on with both parties.

RateSetter agreed with my decision but Mr D did not, and provided further comments for me to consider.

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 reviewed everything again, including what Mr D said in response to my provisional decision, my view of his complaint remains unchanged. I appreciate this will be very disappointing for Mr D and I am sorry I cannot provide the outcome he is seeking. I'll explain again my reasons for not upholding his complaint in this final decision, and refer to his responses where appropriate.

As before, when making my decision, I've had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as RateSetter, need to abide by. RateSetter will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise them.

Before entering into a credit agreement, RateSetter needed to check that Mr D could afford to repay the credit out of his usual income, without having to borrow further and without experiencing financial difficulty or other adverse consequences. The checks needed to be proportionate to the nature of the credit, for example the amount offered, and to Mr D's particular circumstances. RateSetter needed to treat Mr D fairly and take full account of his interests when making its lending decision. After entering into the agreement, RateSetter needed to treat Mr D with forbearance and due consideration if he fell into arrears or defaulted on his payments.

With this in mind, my considerations are did RateSetter complete reasonable and proportionate checks when it opened the account for Mr D to satisfy itself that he would be able to repay the credit offered? If it didn't do this, what would reasonable and proportionate checks have shown and did RateSetter make a fair lending decision? Did RateSetter treat Mr D unfairly or unreasonably in any other way, including whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974?

I said in my provisional decision:

"RateSetter provided the information it relied on in making its lending decision, including Mr D's application form and reports from credit reference agencies. It also provided copies of email correspondence with Mr D.

Mr D's application form stated that his annual income was £42,000, or £2,613.51 net a month, and that his monthly rent was £345. I've borne in mind that the regulations state that it is not generally sufficient to rely solely on a statement of current income made by the customer without independent evidence (for example, in the form of information supplied by a credit reference agency or documentation supplied by a third party or by the customer).

RateSetter said that it verified what Mr D said about his income electronically using a credit reference agency report. The report provided confidence that Mr D received the level of income he'd declared, with a variation of 5% in the previous year.

RateSetter checked Mr D's credit file which showed he had existing debts of £325 across four active credit cards with a combined limit of £3,450. I note that these accounts were all opened within the previous 12 months, however as Mr D had used around 10% of the available credit I can't say this in itself indicated that he was having difficulties with his finances. Mr D also held three current accounts and two telecoms accounts, with no adverse information showing from the last 12 months, at least.

Mr D also held a credit card account taken out in 2017 with a defaulted balance of £249. There's no default date showing but the record shows that the first missed payment was 39

months prior. So it seems this default was over three years old and so I don't think this would, or should, have caused concern for RateSetter.

Altogether, in this case, I think RateSetter's checks were proportionate. Mr D's existing debts were low and the loan repayments would not take up such a large part of his declared income that they would have been clearly unaffordable for him. I don't think there was anything in the information RateSetter had gathered that should have raised concerns that Mr D was in financial difficulty or that he might struggle to meet his repayments.

As mentioned above, Mr D met his repayments on time for the first 13 months. When he didn't make his payment in March 2024 he told RateSetter this was because he'd lost a contract and wasn't working, though he was trying to secure a new contract. I don't think this was reasonably foreseeable by RateSetter. I haven't found that RateSetter was irresponsible to have entered into the agreement or treated Mr D unfairly by doing so.

Mr D has also complained about how he was treated after he stopped making his repayments to the loan in March 2024. He told us that RateSetter hadn't agreed to write off the balance, and told him that it would report his account as defaulted and sell the debt to a collection agency. Mr D said he found this approach to be unfair and lacking in empathy.

RateSetter said it put a short term hold on Mr D's account when he got in touch in March 2024. In June, RateSetter told Mr D it could arrange an affordable repayment plan with him and asked him to complete an income and expenditure form and provide supporting evidence of arrears on priority debts, which he provided. When Mr D asked to have the loan written off and told RateSetter about the impact his debt was having on his mental health, RateSetter asked Mr D to provide supporting information, such as medical or appointment letters, that reflected his circumstances or mental health diagnosis. Mr D said he was unable to provide any.

RateSetter assessed the information Mr D had provided and offered him a six month hold on his account, to allow time for his circumstances to improve. RateSetter told Mr D that it would report the account as defaulted and in a payment arrangement to the credit reference agencies; it wouldn't issue any arrears communications apart from statutory notices, and would stop interest charges. RateSetter did say that the loan might end up being passed to a debt collection agency at the end of this period.

Mr D told RateSetter that he didn't accept this offer. RateSetter said it couldn't proceed without his consent, given the impact that it would have had on his credit file. I understand that RateSetter and Mr D have not been in touch since he referred his complaint to this Service. The outstanding balance has been incurring interest, and as of early February this year the balance stood at over £3,600.

The regulations in place at the time said that a lender should allow a customer reasonable time and opportunity to repay the debt, and an example of forbearance when a customer was in arrears might be to consider suspending, reducing, waiving or cancelling any further interest or charges when they provided evidence of financial difficulties. The regulations also stated that a lender must suspend the pursuit of recovery of a debt from a customer when it's been notified (or understands or ought reasonably to be aware) that a customer might not have the mental capacity to make relevant financial decisions about the management of their debt and/or to engage in the debt recovery process.

It seems to me that RateSetter's actions were in line with these regulations when it put a hold on Mr D's account in March 2024 and when it offered him a further six month's hold in June. RateSetter is obliged to accurately report account activity to the credit reference agencies, so I don't think it was wrong or unfair to let Mr D know what would happen with his

credit file. And it offered to stop all communications, bar those it was required to send.

I appreciate that this will be disappointing for Mr D, but it isn't clear to me from the available information, including what Mr D has shared about his circumstances, that his financial and health difficulties are ongoing, and that it is unlikely he will be unable to engage with RateSetter to discuss his debt within a reasonable period of time. I don't think RateSetter treated Mr D unfairly when he couldn't meet his repayments, and I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here."

Mr D made several points in response to my provisional decision. I want to reassure Mr D that I have considered everything he said in response, even if I don't refer to any specific point.

In summary, Mr D said that:

- RateSetter did not conduct sufficiently robust affordability checks;
- It failed to take into account his pre-existing financial difficulties;
- Its handling of his financial hardship was not fully in line with regulatory expectations;
- The combined effect of the above points could create an unfair lending relationship.

The regulations aren't prescriptive about what checks a lender ought to carry out and don't suggest that any one method is preferred to another. They state that "certain factors may point towards a more rigorous assessment and others towards a less rigorous one in which case the firm should weigh up the factors before deciding what type of creditworthiness assessment is required".

As I'd said in my provisional decision, evidence can include information supplied by a credit reference agency or documentation supplied by a third party and I don't think RateSetter got anything wrong by relying on credit reference agency data on this occasion. I also said that RateSetter's check provided confidence that Mr D received the level of income he'd declared, with a variation of 5% in the previous year, so I can't say the information RateSetter had suggested that Mr D's income was unstable or at risk.

The regulations say that RateSetter had to make a reasonable estimate of Mr D's non-discretionary expenditure (payments needed to meet priority debts and other essential living expenses, including contractual payments) and it estimated this as a percentage of his declared income, taking into account his rent and his debt repayments. Mr D said he had debts totalling over £10,000 when he took out this loan but the evidence RateSetter relied on, being Mr D's credit file, showed he had debts of less than £600.

As I explained in my provisional decision, I found RateSetter's checks to be proportionate in the context of this level of debt and the amount of the loan repayments relative to Mr D's declared income. I also found that there wasn't anything in the information RateSetter had gathered that should have raised concerns that Mr D was in financial difficulty or that he might struggle to meet his repayments, which might have prompted a more rigorous assessment.

CONC 7.3.4R states that a lender must act with forbearance and due consideration when a borrower has difficulty meeting repayments. CONC 7.3.3G stated that lenders could consider allowing a longer period for repayment, *as long as they have no reason to believe that doing so will increase the total amount payable to be unsustainable or otherwise cause a customer to be in financial difficulties* [my emphasis]. CONC 7.3.5G stated that forbearance might include accepting token payments for a reasonable period of time.

As I said in my provisional decision, RateSetter told Mr D it could arrange an affordable repayment plan with him and asked him to complete an income and expenditure form and provide supporting evidence of arrears on priority debts. Mr D told RateSetter that his household budget was short every month by more than the loan repayment and that he and his partner had debts of almost £50,000. It seems unlikely any arrangement to pay would have been sustainable for Mr D at that point in time, given the circumstances. RateSetter did however offer to suspend payments for six months, which doesn't seem to me to be an unreasonable period of time, after which it would review his circumstances again.

I also mentioned CONC 7.10 in my provisional decision, which states that a lender must suspend debt recovery where it's been notified or understands that a borrower does not have the capacity to engage with the process at the time. When Mr D asked RateSetter to consider writing off the debt and shared the impact it was having on his mental health, it explained that it had an internal process to investigate customer vulnerability and asked him for medical evidence to support his request. To be clear, I do not consider that the lack of medical evidence absolved RateSetter of its obligations under CONC 7.3, but I don't think it was unreasonable or unfair of RateSetter to seek to understand Mr D's capacity to engage with its debt recovery process before considering his request to write off the debt.

In summary, I've concluded that RateSetter wasn't irresponsible to have entered into the agreement, nor did it treat Mr D unfairly after that regarding the agreement or in any other way. Given these findings, I can't say that the relationship arising out of the agreement was unfair under s.140A of the Consumer Credit Act 1974 and I haven't seen anything else which might suggest otherwise.

My final decision

For the reasons I've explained above I am not upholding Mr D's complaint against Metro Bank PLC trading as RateSetter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 17 April 2025.

Michelle Boundy
Ombudsman