

complaint

Mr A complains that Retail Money Market Ltd (trading as RateSetter Lenders) was irresponsible to provide a peer-to-peer loan when he couldn't afford to pay it back.

background

Mr A borrowed £4,500 in February 2016 and agreed to repay nearly £5,750 over 48 months at about £120 a month. Mr A says he couldn't afford this. He had financial problems at the time. And RateSetter would have realised that if it had considered affordability properly before lending.

Mr A says RateSetter hasn't provided enough information about the way it assessed affordability. He thinks it failed to take his expenditure into account. He says about 95% of his monthly income went towards repaying debt at the time - and he had had to borrow from family and friends to keep up.

Mr A has agreed payment plans with several lenders. He feels this loan made his financial situation worse. He wants RateSetter to acknowledge there's been a breach of the lending code and apologise. And he'd like it to write off the loan and pay compensation for the distress caused and the negative impact on his credit file

RateSetter says it carried out credit, affordability and identity checks and Mr A met the relevant lending criteria. It considers these checks generally work well – and Mr A made two more applications which were rejected because he didn't meet the requirements. RateSetter thinks this loan was provided properly. And it offers to work with Mr A to assist him during his financial hardship.

Our adjudicator says RateSetter had to carry out reasonable and proportionate affordability checks before approving this loan - taking into account factors such as the cost of credit, Mr A's existing financial commitments and his financial position at the time

He's satisfied that RateSetter verified Mr A's income as being around £1,730 – which is close to his salary (according to payslips). And it did a credit check which found no missed payments (in the six months before the application) and no defaults or county court judgments (CCJs).

He accepts Mr A spent a large proportion of his income repaying debts – including his mortgage, loans and credit cards. He thinks Mr A probably had between £200 and £300 a month left for other essentials. He acknowledges this might be considered a bit low - so it's arguable that RateSetter should have asked for more details of Mr A's expenditure to assess affordability.

Our adjudicator looked at Mr A's bank statements - to get a better idea of his financial circumstances at the time. But, he doesn't think we'd necessarily expect RateSetter to have done so when it assessed this application.

He's satisfied the statements he's seen show a third party contributed to the cost of car finance of about £160 per month. And Mr A had some relatively high, non-essential expenditure at times – which is something we wouldn't expect RateSetter to have been reasonably aware of.

He notes Mr A was able to maintain the loan repayments until April 2017. He thinks that suggests they were probably affordable at the outset. He acknowledges Mr A says he was only able to do this by borrowing from other sources and missing priority debt payments. But he can't see evidence of that in his bank statements.

Our investigator looked at Mr A's credit file to try and get some more insight into his finances. He says Mr A began to miss payments to some accounts in September 2016 and from January 2017 onwards. He notes Mr A began to take out consecutive payday loans around this time – which might indicate a change in circumstances.

Overall, our adjudicator doesn't think it's likely to have made much difference if RateSetter had taken a closer look at Mr A's outgoings when it assessed affordability here. He considers RateSetter is unlikely to have considered the lending was unaffordable - even if it had done more checks. And he doesn't recommend the complaint should be upheld.

Mr A is disappointed with this outcome. He thinks our adjudicator didn't take some essential expenses such as the cost of clothing, prescriptions, personal grooming and fuel – of about £40 a week – into account. He says he only managed to keep up with the loan repayments for as long as he did with help from family and friends - or by missing payments on essential bills. He said he'd try and provide more bank statements. And he asked for an ombudsman to review the matter.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've reached much the same conclusions as our adjudicator for substantially the same reasons.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

I am sorry to hear about Mr A's difficult financial situation. I want to assure him that I have looked at all of the information and considered everything he has said carefully. Mr A hasn't supplied any additional bank statements but I'm satisfied I've got enough information to reach a fair and reasonable decision here.

I'm sorry to disappoint Mr A but I don't think there's a great deal I can add to what our adjudicator has said already. For me to uphold this complaint, I'd have to be satisfied that Mr A couldn't afford the repayments due under this loan when he took it out. And I'd have to be persuaded that RateSetter is likely to have realised that if it had carried out reasonable and proportionate checks before lending.

Like our adjudicator, I've considered the checks RateSetter did. I'm satisfied it asked Mr A for information about his personal situation, verified his income and reviewed Mr A's credit file to check his payment history and existing commitments.

As far as I can see, Mr A had a fairly good credit record at the time. He seems to have kept up with repayments and there are no defaults or CCJs. I think his existing account balances look generally within relevant limits and there's no evidence of any significant short term borrowing.

I appreciate Mr A says he was struggling at this stage. He thinks nearly all of his income went towards servicing existing debt, leaving very little left for essentials. And our adjudicator says RateSetter should perhaps have asked Mr A for more information about his monthly outgoings.

Looking at Mr A's credit file I don't think RateSetter had any obvious cause for concern. But, even if I accept that it should reasonably have done some further checks, this doesn't necessarily mean it was irresponsible of RateSetter to agree to the loan.

I have considered what RateSetter is likely to have found if it had asked Mr A about his regular outgoings – aside from debt repayments. RateSetter wasn't obliged to ask to see bank statements, in this situation. But I've reviewed the bank statements Mr A has supplied to get some idea of his routine expenditure at the time.

I don't think the percentage of income Mr A spent repaying debt was quite as high as he has suggested. Mr A has acknowledged that his partner was responsible for some essential payments – such as finance for a car and council tax. And I'm satisfied he spent relatively large amounts on non-essentials at times.

I have considered the utility bills Mr A provided - but I can't see any missed priority debt payments in his bank statements around the time he applied for this loan. I accept Mr A had other regular monthly expenses in addition to the credit commitments RateSetter took into account - including things like food, insurance and fuel. But, I note Mr A told RateSetter he intended to use the money he borrowed to pay off some existing debts - which would have reduced his monthly outgoings. I can't say it was unreasonable to take that into account.

I appreciate Mr A says he had to borrow from friends and family to meet day to day living expenses and repay debts. I don't doubt what he says. But I don't think RateSetter could reasonably have known about that at the relevant time, from the evidence I've seen.

On balance, taking everything into account, I'm not persuaded RateSetter should reasonably have concluded that Mr A wasn't likely to be able to repay the £120 a month required under this loan sustainably - even if it had done more checks. So, I can't fairly find it was irresponsible of RateSetter to approve this loan. And I'm unable to require it to write off the balance or provide a refund.

I realise this decision is likely to disappoint Mr A. I know it's not the outcome he hoped for and I'm sorry about that. I encourage Mr A to contact a free source of debt advice, if he hasn't done so already, if he'd like some help with his financial difficulties. I can see our adjudicator has already provided some information about these organisations. And I remind RateSetter of its obligations to treat Mr A positively and sympathetically going forward.

my final decision

My decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 14 May 2018.

Claire Jackson
ombudsman