

The complaint

Mrs B has complained Metro Bank PLC, trading as RateSetter, is asking her to repay a personal loan she didn't take out.

What happened

In January 2023, Mrs B fell for a scam supposedly supported by a well-known influencer. This was to enable her to get additional payments as she was on universal credit. After being approached by a third party, she followed their instructions to download an app and then provided her login details to the third party. As the app was all about credit reports and she'd checked out the company online, she was persuaded everything was above board.

She then received three large sums into her bank account (with a business I'll call B). One was from RateSetter for £10,000. And two other loans (from businesses I'll call F and A) for £10,000 and £7,000 were also credited to Mrs B's account with B. These were very much more than she'd expected but she was calmed by the scammer reassuring her. She then arranged transfers for the full amount. It was only later after a direct debit failed from a business claiming loan repayments that Mrs B started to doubt what had happened. It still took a bit longer – after a further direct debit failed – for her to realise she'd been the victim of a scam. Even when an initial direct debit hit her account, the scammer was able to calm Mrs B and reassure her that this was a part of the process.

It took her a bit of time to sort herself out mentally, but she realised there was an outstanding loan with RateSetter for £10,000. In March 2023 she asked them to cancel this, but they confirmed they'd accepted her application after carrying out their normal checks and saw no reason why she shouldn't continue to be liable. They'd transferred the money to her and only had her word for what had subsequently happened. RateSetter was also concerned that it had taken Mrs B about two months to be in touch with them. They would, however, require her only to repay the loan amount and not ask her to repay any interest or charges.

Mrs B brought her complaint to the ombudsman service. She has also brought complaints about B, F and A.

Our investigator had the benefit of copies of Mrs B correspondence with the scammer and RateSetter's application evidence as well as the checks they carried out.

She believed Mrs B hadn't made the application but considered Mrs B should have been aware that loans had been applied for and the large funds in her account with B were the result of this. In the interim RateSetter had confirmed they'd asked credit agencies to remove this loan from Mrs B's credit records. She asked Mrs B whether she was willing to accept RateSetter's resolution to her complaint.

Mrs B was in a desperate financial state and had had to approach a debt charity to help her out with what had happened. She was also struggling mentally to cope with the after effects. She didn't feel she should pay anything towards a loan she didn't take out or benefit from.

Mrs B's complaint has been referred to an ombudsman for decision.

In the meantime, an investigator has reviewed Mrs B's complaint with B. She's asked B to refund some of the funds lost to Mrs B as she was the victim of the scam. B has confirmed they will be willing to repay the amount we believed was fair. They are prepared to pay specific amounts to the three loan companies direct if Mrs B accepts the outcome of the loan complaints.

I completed a provisional decision on 27 August 2024 confirming I would be asking RateSetter to write off the loan after being paid an amount of £4,722.

RateSetter and Mrs B both accepted this outcome.

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 January 2023. How this happened isn't really in dispute and was covered in detail in our investigator's view of December 2023. I don't intend to repeat what happened as the details are distressing for Mrs B. However, I can confirm I have read the evidence carefully and am satisfied Mrs B didn't take out the credit agreement herself. Nor would she have initially been aware of this as her email address wasn't being used so she'd have received no direct notification from RateSetter.

RateSetter appears to accept Mrs B didn't take out the credit agreement but argues her use of the app, along with her sharing of personal details, means she contributed to the loan being taken out. I don't dispute this, but I believe RateSetter's approach ignores what was happening at the time and that Mrs B was being viciously scammed. And it's key to note that as I believe Mrs B didn't take out the agreement, then she has no contractual agreement with RateSetter.

The evidence indicates that this loan was taken out without Mrs B's consent. However, like our investigator I believe Mrs B could have been more alert to how the money appeared in her 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.

We are talking about three large sums of £10,000, £10,000 and £7,000 paid into Mrs B's account within three days. The narrative on Mrs B's bank statement identifies the payment from RateSetter as a loan. Despite her being persuaded otherwise by the scammer, I feel a small amount of online research would have alerted Mrs B to what was going on. However, we don't consider aspects of contributory negligence when reviewing cases where credit has been taken out fraudulently. And Mrs B has confirmed that whilst she was aware of the credits through her banking app with B, they didn't provide her with a full narrative of where the funds came from.

Mrs B was very nervous about ending up in debt and asked the scammer more than once whether these were loans. I note that she was willing to accept their statements despite her

concerns. I'm also aware that since this happened Mrs B has been diligent in trying to do all she can to manage her finances carefully and sort out the consequences of the fraud. Her credit history, before the fraudulent loans were taken out, showed Mrs B had limited funds but carefully managed what she had and looked after her family carefully.

So, on balance I'm satisfied she wasn't aware these were loans.

I've not seen anything which would indicate RateSetter could have known this application was fraudulent but as I say above there remains the issue that there is no contractual agreement between themselves and Mrs B. I'm aware some of the application details differ from Mrs B's personal information. Specifically, the fraudulent application claimed Mrs B earned a salary of £30,000 a year whilst RateSetter could see that this wasn't the case by virtue of their credit search.

This does make me wonder whether RateSetter could have been more alert to a scam happening. Particularly as this is not an unknown scam.

The scammers managed to apply for three loans in Mrs B's name practically at the same time. This ensured that the companies involved weren't aware of the other applications and assessed her financial capability in isolation. Having reviewed Mrs B's bank statements and noting the financial assessment she's had carried out by a debt charity, I'm satisfied that if any of the companies involved had been aware of other applications, then this would have tipped the balance otherwise. However, Mrs B's financial capability isn't relevant to the decision I'm making.

I do have some questions about the credit score company, whose app Mrs B downloaded as this was the mechanism used by the scammers to make three fraudulent applications. And as I state above this has been used in other fraudulent loan cases.

Putting things right

I note RateSetter has agreed to only require the capital amount of £10,000 to be repaid by Mrs B. They've also indicated they would enter a repayment plan with Mrs B. However taking all the evidence into account, I will be asking them to write off the loan in full as I believe this is fair.

RateSetter previously stated they would remove all information on this loan from Mrs B's credit record.

I confirm B has agreed to refund the loan companies in part for the payments Mrs B made to the fraudsters in January 2023.

I will be asking B to pay £4,722 of those funds to RateSetter, which is a pro-rata portion of the amount B has agreed to repay. On receipt of those funds, RateSetter will need to write off this loan in full.

When Mrs B confirms she accepts the outcome of this complaint, our investigator will be able to confirm to RateSetter the contact details for Mrs B's bank which will enable them to be paid.

My final decision

For the reasons given, my final decision is to instruct Metro Bank PLC, trading as RateSetter, to:

- On receipt of £4,722 from B, write off the loan of £10,000 taken out in Mrs B's name in January 2023; and
- Stop asking her to repay anything from this loan, including halting any collection of a third-party agency that has been subsequently engaged.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 24 October 2024.

Sandra Quinn
Ombudsman