

## **Complaint**

Miss S has complained about a personal loan Metro Bank PLC (trading as “Ratesetter”) which she says was unfairly lent to her. She says the loan was unaffordable.

## **Background**

Ratesetter provided Miss S with a loan for £5,000.00 in December 2021. This loan had an APR of 12.4% and the total amount to be repaid of £6,294.72, which included interest fees and charges of £1,294.72 (made up of interest of £649.72 and a loan charge of £600), was due to be repaid in 48 monthly instalments of £131.14.

One of our investigators reviewed what Miss S and Ratesetter had told us. He thought that Ratesetter unfairly provided this loan to Miss S and recommended that the complaint be upheld. Ratesetter disagreed and asked for an ombudsman to review the complaint.

## **My provisional decision of 12 February 2024**

I issued a provisional decision – on 12 February 2024 - setting out why I was not intending to uphold Miss S’ complaint.

In summary, I wasn’t intending to uphold Miss S’ complaint because I thought that Ratesetter had carried out reasonable and proportionate checks before lending. And as these checks indicated that Miss S could afford to make the required payments to this loan, I was satisfied that it was reasonable for it to lend in this instance.

## **Responses to my provisional decision**

Ratesetter responded to confirm that it accepted my provisional decision. It also said that it provided Miss S with a 30-day breathing space when she got into contact about experiencing financial difficulty and then stopped charging interest before crystallising Miss S’ balance in July 2023.

Miss S disagreed with my provisional decision stating:

- Ratesetter knew that she was a contractor;
- It accepted her previous year’s tax return as there were gaps in her employment;
- Ratesetter ought to have been aware of other applications for credit;
- She has had other complaints upheld by investigators and ombudsmen at this service.

## **My findings**

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on

our website. And I've used this approach to help me decide Miss S' complaint.

Ratesetter needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice, what this means is that Ratesetter needed to carry out proportionate checks to be able to understand whether Miss S could afford to make her repayments before providing this loan.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to provide loans to a customer irresponsibly.

Ratesetter says it approved Miss S' application after she provided details of her monthly income and some information on her expenditure. It says it cross-checked this against information on a credit search it carried out which showed Miss S' existing commitments were relatively well maintained at the time.

In Ratesetter's view all of the information it gathered showed that Miss S could comfortably afford to make the repayments she was committing to. On the other hand, Miss S has said she was already in difficulty and couldn't afford this loan.

I've carefully thought about what Miss S and Ratesetter have said.

It's clear that Ratesetter did obtain a reasonable amount of information before it decided to proceed with Miss S' application. Indeed Miss S herself says that she was asked to provide quite a bit of information regarding her income to support what had been declared. Furthermore, I have to bear in mind that Miss S was providing information to show that she could afford the loan and what was provided does appear to suggest that the loan repayments were affordable.

I accept that Miss S' actual circumstances may not have been fully reflected either in the information she provided, or the information Ratesetter obtained. And I know that both Miss S and our investigator were concerned that further checks should have been made into Miss S' income because she was self-employed. But Miss S has said that she was asked to provide further information regarding her income in the form of payslips and tax returns. And I don't think that a lender has to work on the basis that a self-employed individual won't be able to make their payments. It merely needs to factor this into its lending decision.

In this case, Ratesetter not only knew that Miss S was self-employed but it didn't just rely on the income information that Miss S provided, as a result. It took additional steps by also cross-checking this against information from credit reference agencies on the funds going into Miss S' account each month. And this suggested that there was only a low risk of Miss S having made an inaccurate declaration of income.

So, although Ratesetter may not have obtained copies of Miss S' bank statements, it's difficult for me to reasonably conclude that it didn't take adequate steps to validate Miss S' income. And I think that Ratesetter was entitled to proceed on the basis of Miss S' income in these circumstances.

Our investigator was also concerned that Ratesetter didn't provide sufficient funds for all of Miss S' debts to be consolidated. But the balances he highlighted were the balances which Miss S was likely to consolidate, rather than Ratesetter's understanding of Miss S' total debts. And given the interest rate for this loan, which is likely to have been significantly lower than the rate on an overdraft or credit card, I don't think that it was unreasonable for Ratesetter to reach this conclusion.

I don't know if Miss S did repay these debts as she suggested she would. But Ratesetter could only make a reasonable decision based on the information it had available at the time. It won't have known whether Miss S would go on to make these payments or re-establish balances on these accounts – all it could do was take reasonable steps and rely on assurances from Miss S that the balances would be repaid with these funds. So I'm satisfied that the proceeds of this loan could and should have been used to clear some of Miss S' existing debts.

As this was a first loan Ratesetter was arranging for Miss S, there wasn't a history of Miss S obtaining funds with it and then failing to consolidate debts elsewhere in the way she committed to either. Miss S has said that Ratesetter ought to have seen all of her existing debts. It did see some of it. But as Miss S was also proposing to consolidate some of her other debt on better terms, Ratesetter was reasonably entitled to believe that Miss S would be left in a better position after being provided with this loan.

It's possible that if Ratesetter had gone into the depth of checks Miss S and our investigator appear to be saying it should have – such as obtaining bank statements – it might have reached a different answer. But the key here thing is that I don't think the circumstances of the lending warranted obtaining bank statements. Ratesetter was providing Miss S a loan for a relatively small sum – especially when compared to what it reasonably believed Miss S' income to be at the time – at a reasonable interest rate and with low monthly payments.

Given the circumstances, I'd expect Ratesetter to have a reasonable idea of Miss S' income and committed non-discretionary spending, which it did here, rather than a complete review of Miss S' finances.

Equally, it's only fair and reasonable for me to uphold a complaint in circumstances where a firm did something wrong. Given the circumstances here, and the lack of obvious inconsistencies, I don't think that reasonable and proportionate checks would have extended into the level of checks Miss S and our investigator has suggested.

In reaching this conclusion, I've considered Miss S arguments regarding having other complaints upheld and that she has queried how it is possible for me not to uphold this complaint in these circumstances.

I can understand why Miss S might find it strange that she's received different outcomes on complaints which she perceives to be materially the same. But we consider complaints on an individual basis and looking at the individual circumstances. And what will constitute a proportionate check will very much depend on the particular circumstances of the individual application – a proportionate check – even for the same customer - could look different for different applications.

I'm not bound by the outcomes reached by investigators or even other ombudsmen. Ultimately, I'm required to consider the facts of a case and reach my own conclusion. That said and with a view to providing some clarity and reassurance to Miss S, it might help for me to explain that there are some key differences between this complaint and Miss S' other ones.

Firstly, there were instances where the lender concerned was making more than one lending decision. And on at least one other complaint the amount being lent was significantly more than the amount in this case. This will have affected the level of information that will have needed to have been obtained to begin with and in those cases it looks like there was no attempt to verify the income information provided either. Whereas in this case I've already explained why I think it is, Ratesetter took reasonable steps to verify Miss S' income.

So while I'm not required to replicate the outcomes reached by other investigators and ombudsmen, nonetheless I don't consider that my answer here is incompatible or inconsistent with the one Miss S received on her other cases, notwithstanding the differing outcomes.

In any event and most importantly of all, it's probably worth me stating as some of Miss S' complaints have been upheld, the compensation she's received has effectively placed her in the position she would be had she not been provided with the credit in those cases in the first place.

As this correction has been made and that is effectively the position that Miss S is now in, it would not be fair and reasonable for me to now 'double count' this, by considering whether she could afford the payments for this loan as well as payments to the commitments she's already been placed in the position of not having.

To do so would seek to place Miss S in the position she would be in if she shouldn't have been provided with any of her credit at all, because Miss S was in a position where she couldn't afford any repayments at all to any of her lenders. I don't think that this is the position that reasonable and proportionate checks will have shown that she was in. And therefore I don't think that the outcomes in some of Miss S' other cases mean that it should follow that this complaint should also be upheld.

Overall and having carefully considered everything, I don't think that Ratesetter did anything wrong when providing this loan to Miss S - it carried out proportionate checks and reasonably relied on what it found out which suggested the repayments were affordable. So I don't think that it acted unfairly or unreasonably in relation to this matter.

I now turn to Miss S' complaint regarding Ratesetter's actions once she ran into difficulty making her payments. Miss S initially asked Ratesetter to consider refunding interest it already added from November 2022 and also remove adverse information from her credit file as a result of a separate matter which has not been referred to this service. So I will not be commenting on this matter.

Nonetheless, as Miss S did say that she was in financial difficulty, she was asked to complete a further income and expenditure assessment to find out how much, if anything, she could pay in repayments. This assessment showed that Miss S' outgoings were more than she was receiving (as she wasn't working at the time) and as a result she was unable to pay anything.

Ratesetter has acknowledged this. It has confirmed that no interest has been added since then and Miss S' debt has in effect been crystallised since July 2023. So Ratesetter has responded to Miss S' inability to make her payments by stopping further interest being added to her balance. I'm satisfied this was a proportionate measure in response to Miss S' circumstances and it follows that I'm satisfied that it did exercise forbearance and due consideration in a fair and reasonable way.

With regard to credit file reporting as Miss S has missed payments and a balance will be outstanding irrespective of whether interest was and remains frozen, I don't think that it

would be fair and reasonable for this to be removed. So I'm not requiring Ratesetter to do this. Finally, Miss S has indicated that she is now in a position to make increased payments. I would therefore encourage her to contact Ratesetter and co-operate with it so that an affordable plan to repay any arrears can be set up.

Overall and having considered everything, I'm satisfied that Ratesetter didn't treat Miss S unfairly or unreasonably when lending to her and that it did exercise forbearance and due consideration in line with its obligations. So I'm not upholding Miss S' complaint.

I appreciate this is likely to be very disappointing for Miss S – especially bearing in mind she's had other complaints, which she perceives to be similar, upheld. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

### **My final decision**

For the reasons I've explained above and in my provisional decision of 12 February 2024, I'm not upholding Miss S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 8 April 2024.

Jeshen Narayanan  
**Ombudsman**