

The complaint

Mr T complains that Madison CF UK Limited trading as 118 118 Money held him liable for a £5,000 loan that he says was taken out as part of a scam. Mr T says the loan has now been sold to a collections company.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Our investigator felt the complaint should be upheld in part. She said that Mr T had given scammers personal information that enabled them to take out the loan on his behalf. The scammers had attempted to take other loans out before which were rejected. The investigator said that Mr T was more than likely aware of the loan after it was taken out. That's because Mr T said he received the application confirmation e-mail and the funds into his account. And he then transferred the loan funds to the scammers after being told he didn't need to pay it back. So, she felt the fairest thing to do would be to only hold Mr T liable for the capital sum of £5,000. And that Madison had to remove any record of the loan from Mr T's credit file and couldn't ask Mr T to repay any interest and charges because he never agreed to the terms and conditions.

Mr T and Madison disagreed with the investigator and asked for an Ombudsman's review.

Mr T said that the full loan should be cleared because he was scammed and didn't agree to take it out. He said more weight should be given to the fact that the loan was only taken out as a result of a scam and that he was following the instructions of the scammers when he transferred the money. Mr T added that the loan has been sold to a collections company who now want him to repay around £8,000.

Madison said that Mr T was aware he was applying for a loan and that he was under the impression from the scammers that it didn't need to be paid back because of a 'loop-hole'. So, Mr T should be held liable for the capital sum, interest and charges.

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'm upholding the complaint in part.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

To decide this complaint, I need to consider whether Mr T agreed to take out this loan and to be bound by the terms and conditions.

Mr T downloaded software to his phone that enabled the scammers to apply for loans in his name. He also provided the scammers with the necessary personal information when he set up an account with them. So, I'm satisfied Madison didn't do anything wrong when it accepted the loan here. The fraudster was able to obtain the necessary personal details in order to pass the checks that Madison reasonably carried out.

The issue here is that when Mr T received the application confirmation e-mail and funds into his account he spoke to the scammer and then transferred the money to the scammers. That means that Mr T subsequently benefited from the loan in that he was happy to accept liability for it under the promise that he wouldn't have to pay it back.

I accept Mr T says he was told by the scammers that the money was being given to him by the scammers company. But he was aware of two failed loan applications with other companies at the same time. So, I think it would've been reasonable for him to check who the money was coming from before sending this to the scammers. And if he had done so he would've seen that the money he received into his account was from a loan company and not the scammers.

Putting things right

So, having considered everything that's happened here I believe Mr T should be held responsible for the capital sum - £5,000. But it was the scammers who applied for the loan and agreed to the terms and conditions – not Mr T. As a result, Madison can't fairly hold Mr T liable for the interest and charges. It should remove the loan from his credit file and buy it back from the collection company.

My final decision

My final decision is that I uphold this complaint in part. Madison CF UK Limited trading as 118 118 Money can ask Mr T to repay the capital sum of £5,000. But it cannot add any interest or charges to the loan. And it must remove the loan from Mr T's credit file and buy it back from the collections company.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 14 November 2023.

Mark Dobson
Ombudsman