

The complaint

Mr B complains that Zopa Bank Limited irresponsibly approved a fixed sum loan agreement that he couldn't afford.

What happened

In October 2016, Mr B took out a fixed sum loan agreement from Zopa for £10,000, which was to be used to consolidate some of his existing debts. The total repayable under the agreement was around £16,600. He was required to make 60 monthly repayments of around £277.

In November 2019, Mr B complained to Zopa about the loan. He said that he couldn't afford it from the outset and that Zopa hadn't carried out adequate checks before approving the loan. He said that it should have carried out more due diligence and asked relevant questions about his financial circumstances. He said that if Zopa had done this it would have seen he couldn't afford the loan.

Zopa didn't think it had done anything wrong. It said that based on the information Mr B had declared during the application and what it had gathered from completing a credit check, it was satisfied the loan was affordable.

Our investigator didn't recommend the complaint be upheld. She didn't think Zopa had carried out reasonable and proportionate affordability checks, but she thought that if they had, it would have likely shown the lending was affordable.

Mr B didn't agree, so the complaint has been passed to me for a 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.

In doing so, I've considered – amongst other things – the rules and guidance for lenders set out in the Consumer Credit Sourcebook ("CONC") within the Financial Conduct Authority's handbook.

I think there are two overarching questions I need to consider in order to decide what's fair and reasonable in all of the circumstances of this complaint. These questions are:

1. Did Zopa complete reasonable and proportionate checks to satisfy itself that Mr B would be able to repay the borrowing in a sustainable way?
 - a. If so, did it make a fair lending decision?
 - b. If not, would reasonable and proportionate checks have shown that Mr B could sustainably repay the borrowing?
2. Did Zopa act unfairly or unreasonably in some other way?

Did Zopa complete reasonable and proportionate checks to satisfy itself that Mr B would be able to repay the borrowing in a sustainable way?

Zopa were required to carry out reasonable and proportionate affordability checks before providing Mr B with the loan. There isn't a set list of checks Zopa were required to complete. Instead, it needed to ensure any check was borrower-focused and relevant to Mr B's specific circumstances.

What's considered reasonable and proportionate will therefore vary for each individual borrowing situation, as there isn't a one-size-fits-all approach. Some of the things that will impact what is reasonable and proportionate include (but aren't limited to) the following:

- The amount of credit;
- The total repayable and the size of the regular repayments;
- The duration of the agreement;
- The cost of the credit; and
- The consumer's individual circumstances.

As part of the application process Zopa asked Mr B for details of his employment, including his income. It also asked some basic questions about his expenditure, this included asking him about what he spent on rent and whether he was required to pay any child support. Mr B declared his income to be around £1,880 per month, and that his monthly rent was £100 as he was living with his parents. However, he declared he wasn't paying any child support although he says he was actually paying around £330 per month. Mr B says he didn't declare this figure as he'd misunderstood the question and thought it was asking what he received in child support.

Zopa also carried out a credit check. In summary this showed that Mr B had around £18,000 in existing credit commitments. This was broken down as a car finance loan, a personal loan and several revolving credit accounts (credit cards and mail order accounts). The credit check didn't reveal any missed or late payments or payment difficulties on his existing commitments. Mr B didn't appear to have any historic repayment difficulties either.

Zopa's underwriting notes show that it noticed Mr B was around £20 over his credit limit on one of his credit cards at the time of application. Further, it had seen he'd taken out a number of cash advances on his credit card accounts in the previous 12 months.

While it noted these two things as a potential concern and a possible sign of some financial difficulty, it said that the lending was approved because Mr B had said the purpose of the Zopa loan was to consolidate his existing debts and therefore this credit card balance would likely be cleared. It said that in addition to this it calculated that Mr B had a monthly disposable income of around £1,000 and based on this, the lending was affordable.

Given that Zopa had found that Mr B was displaying some potential signs of financial difficulty, I don't think it was reasonable to assume he had a monthly disposable income of around £1,000. Clearly if Mr B had that much disposable income, it would be unlikely that he'd need to rely on cash advances. Further, it knew that Mr B was taking out the loan to consolidate existing debts, which also might indicate he was struggling with his existing commitments.

In the circumstances I think it would have been reasonable and proportionate for Zopa to have done more before lending to Mr B. I think it would have been proportionate for it to have found out more about Mr B's committed monthly expenditure and to have asked about which debts Mr B was intending to clear with the loan and how that would impact his financial situation.

Would reasonable and proportionate checks have shown that Mr B could sustainably repay the borrowing?

Mr B has told us about his committed expenditure and I've also reviewed copies of his bank statements in the months leading up to the application to understand what he would likely have told Zopa if they'd asked.

I'm not suggesting Zopa were required to ask for bank statements as part of the application process. I think it was sufficient in the circumstances for it to have asked Mr B about his expenditure. I've reviewed the statements in order to get a better understanding of what Mr B would likely have declared if asked.

The application form had already asked Mr B to declare any child support payments he was making, so I don't think it would have been necessary for Zopa to have asked again or to have questioned Mr B further when he declared he didn't pay any. However, it's possible he would have willingly declared this information if he'd been asked to list his committed expenditure. Giving him the benefit of doubt, I've included that in the expenditure I think he would have likely declared.

On top of his credit commitments, rent and child maintenance payments, Mr B appears to have had few regular payments. These included: two mobile phone contracts, a payment to DVLA and an insurance payment. On average, Mr B was paying around £120 per month towards these commitments and I think it's likely he would have declared these if asked.

It seems Mr B did use the Zopa loan to clear a number of his credit commitments, including the personal loan, a credit card and a mail order account. I think this is what he would have likely declared to Zopa if they had asked. Zopa therefore wouldn't have needed to consider those credit commitments as part of its assessment of affordability.

This means that Mr B's committed monthly expenditure, excluding his travel, food and essentials came to around £950 per month, this figure takes into account the credit commitments the Zopa loan won't have repaid and what a sustainable debt repayment (not just the minimum payment) would be towards those. After taking into account the monthly repayment to Zopa, this would have left Mr B with around £650 towards travel, food and other essentials.

I think given Mr B declared he lived at home with his parents, I think it would have been reasonable for Zopa to conclude that the loan appeared affordable to Mr B. I therefore don't think Zopa has acted unfairly in granting the loan to Mr B, even though it didn't carry out reasonable and proportionate affordability checks.

I note Mr B has provided a detailed breakdown and analysis of his account activity and what he considers to be essential expenditure. His calculations demonstrate that the loan wasn't affordable to him. While I don't doubt Mr B has struggled to make the repayments towards this loan, Zopa wasn't required to obtain bank statements from Mr B it was simply required to get an understanding of his normal expenditure. And I don't think it's likely it would have obtained this level of detail about Mr B's expenditure at the point of application.

I say this particularly as some of the expenditure he has labelled as essential are arguably due to lifestyle decisions rather than necessary and essential expenditure. Further, given when he applied for this loan he had seemingly hoped of getting it approved, I think it's unlikely many of the things he's included now in hindsight would have formed part of the expenditure assessment.

Did Zopa act unfairly or unreasonably in some other way?

I haven't seen anything to make me think Zopa acted unfairly or unreasonably in some other way.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 April 2021.

Tero Hiltunen
Ombudsman