

Complaint

Mr W has complained that Zopa Limited ("Zopa") unfairly and irresponsibly arranged unaffordable loans for him.

Background

Zopa operated the electronic system in relation to lending which led to Mr W being provided with a first loan in March 2016. The loan was for £18,900.00, had an APR of 23.53% and meant a total amount of £29,413.91 was due to be repaid in 60 instalments of £490.23. Mr W settled this loan early with some of the proceeds from a second loan for £25,280.00 which Zopa arranged in September 2016. Mr W's second loan had an APR of 19.54% and the total amount payable of £35,027.51 was due to be repaid in 60 instalments of £583.79.

Mr W's complaint was reviewed by one of our investigators. She didn't think that reasonable and proportionate checks would have shown Zopa that Mr W wasn't in a position to sustainably repay either of these loans at the time it arranged them. And so she didn't recommend Mr W's complaint be upheld.

Mr W disagreed with our investigator's view and asked for an ombudsman to look at his complaint.

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 set out our general approach to complaints about unaffordable/irresponsible lending - including the key rules, guidance and good industry practice - on our website. And I've referred to this when deciding Mr W's complaint.

Having carefully thought about everything, I think that there are three overarching questions that I need to answer in order to fairly and reasonably decide Mr W's complaint. These three questions are:

These three overarching questions are:

- Did Zopa complete proportionate checks to satisfy itself that Mr W would be able to meet his obligations under the P2P agreements in a sustainable way?
 - If so, did it fairly conclude that Mr W could sustainably make his repayments?
 - If not, would such checks have shown that Mr W would've been able to do so?
- Bearing in mind the circumstances, at the time of each application, was there a point where Zopa ought reasonably to have realised Mr W's indebtedness was

being increased in a way that was unsustainable or otherwise harmful and so it shouldn't have arranged further loans?

- Did Zopa act unfairly or unreasonably in some other way?

If I determine that Zopa didn't act fairly and reasonably in its dealings with Mr W and that he has lost out as a result, I will go on to consider what is fair compensation.

Did Zopa complete proportionate checks to satisfy itself that Mr W would be able to meet his obligations under the P2P agreements in a sustainable way?

The rules, regulations and good industry practice in place when Zopa brought about these P2P agreements with Mr W required it to carry out a proportionate assessment of whether he could afford to repay his loan in a sustainable manner. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so Zopa had to think about whether repaying the loan sustainably would cause difficulties or adverse consequences *for Mr W*. In practice this meant that Zopa had to ensure that making the payments to the loan wouldn't cause Mr W undue difficulty or adverse consequences.

In other words, it wasn't enough for Zopa to simply think about the likelihood of Mr W making payments, it had to consider the impact of loan repayments on Mr W.

Checks also had to be "proportionate" to the specific circumstances of the application. In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *longer* the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make payments for an extended period); and
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances.

I've carefully thought about all of the relevant factors in this case.

Were Zopa's checks proportionate?

Zopa has said that it completed an income and expenditure assessment with Mr W before arranging both of these loans. Its underwriting notes also suggest that it carried out credit checks to work out what Mr W's existing credit commitments were as well requesting and receiving bank statements from him too. Having seen the notes from the time and bearing in mind Mr W's recollections of the applications, I'm satisfied Zopa received this information.

So bearing in mind Zopa obtained a significant amount of information on Mr W's circumstances, I'm satisfied that it did carry out fair proportionate checks – at least in terms of the information requested – before providing these loans to Mr W.

Did Zopa fairly conclude that Mr W could sustainably make his repayments?

It isn't enough for an operator of an electronic platform in relation to lending to simply request information from a consumer before approving a loan. So even where the platform requested a proportionate amount of information, it might still end up being the case that it will not have acted fairly and reasonably towards that consumer if it didn't carry out a fair and reasonable evaluation of the information it obtained.

I say this because an operator of a platform is also required to carry out an assessment of the borrower's ability to repay any credit advanced. And any assessment requires an evaluation, judgement, appraisal and scrutiny of any information obtained. Zopa says its assessment of the information obtained led it to conclude that Mr W's loan was affordable for him as he'd be able to sustainably make his repayments. I've carefully considered what Zopa has said.

- Loan 1

Having reviewed the notes for loan 1, I can see that Zopa approved Mr W's application on the basis that his bank statements confirmed that he had a monthly income of around £1,350.00. So it's fair to say that almost £500 a month for this loan was taking up a significant portion of Mr W's income – especially as he already had a loan which required payments of approaching £540 a month.

However, Zopa has said that Mr W made it clear during the application that he would be using some of the funds from this loan to repay the hire-purchase agreement and so he wasn't going to be making the £540 a month payment he was previously making to this agreement. And crucially the monthly payment Mr W would be making to this loan going forward was lower than what he was making to the hire-purchase agreement.

This was a first loan that Zopa was arranging for Mr W. He was going to consolidate some of his existing debts and Mr W didn't have much else in the way of any other obvious committed regular expenditure, or anything else obvious suggesting it would have been unfair to proceed showing on his statements. So I don't think that it was unreasonable for Zopa to proceed with the application in these circumstances.

Bearing all of this in mind, I'm satisfied that not only did Zopa carry out reasonable and proportionate checks for loan 1, it was reasonably entitled to conclude that Mr W could make the loan payments he was committing to make.

- Loan 2

Mr W approached Zopa for loan 2 some six months after loan 1 was provided. And once again the purpose given for this loan was debt consolidation. It's important to note that the credit searches Zopa carried out did show that Mr W settled the hire-purchase agreement which he said he's settle during the application for loan 1. So although I accept the proximity between the applications for loans 2 and 1 might have been a warning sign, especially given the increased monthly payment, I don't think Zopa had any obvious reason to disbelieve or doubt Mr W's intentions.

Mr W's bank statements also show less in the way of committed regular expenditure at the time of loan 1 (the payments to the hire-purchase agreement was replaced by the lower monthly repayment to loan 1). And there wasn't anything in the bank statements which obviously contradicted what Mr W told Zopa about his circumstances or expenditure. For example, he was still living with his parents and he still had relatively low living expenses. I do accept and fully appreciate that Mr W was overdrawn but the additional funds he was given would have allowed him to clear his overdraft in full.

So overall the information I've been provided with about Mr W's circumstances does appear to show that when his committed expenditure and existing credit commitments were deducted from his monthly income, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I've seen what Mr W has said about not having enough left each month to meet his living expenses. It's not in dispute that Mr W went on to experience difficulty making his payments. And I'm sorry that Mr W had difficulty repaying this loan. That said, the information I've seen suggests that this was, in part at least, because Mr W stopped living with his parents not too long after loan 2 was arranged and this led to a drastic increase to his living costs.

I know this change in circumstances happened relatively soon after the application. But there isn't anything to suggest that it was clear from the information gathered, or that Mr W told Zopa, that Mr W's circumstances were about to change. So I can't reasonably say that this is something Zopa ought to have accounted for when deciding whether Mr W could afford the monthly payments for loan 2.

As this is the case, I think that Zopa was reasonably entitled to conclude Mr W could make his loan payments when it brought about loan 2 for him - it carried out proportionate checks and the information gathered suggested the repayments were affordable.

Bearing in mind the circumstances, at the time of each application, was there a point where Zopa ought reasonably to have realised Mr W's indebtedness was being increased in a way that was unsustainable or otherwise harmful and so shouldn't have arranged further loans?

Even though Zopa might have reasonably concluded that Mr W could make the repayments to the loans it brought about, this doesn't on its own mean that it will have acted fairly and reasonably here. I say this because in addition to assessing the circumstances behind the *individual* loans arranged for Mr W by Zopa, I also think it is fair and reasonable to consider the *overall pattern* of lending during the course of Mr W's history with Zopa.

Zopa arranged loan 2 a mere matter of months after loan 1. In the circumstances, and bearing in mind the increased proportion of Mr W's income going towards repaying loan 2, I think that Zopa needed to be alert to the possibility that it might have been increasing Mr W's indebtedness unsustainably and take reasonable steps to ensure this didn't happen.

When Mr W applied for loan 2, his largest existing debt was to Zopa. And by automatically closing loan 1, by using some of the funds advanced for loan 2 to repay it, Zopa mitigated the risk of Mr W's debts increasing in a way that was unsustainable. Furthermore, as the

bulk of the funds for loan 2 went towards repaying loan 1, I'm also satisfied that the loan purpose captured during the application was accurate.

So overall and having considered everything, I'm satisfied that Zopa took reasonable steps to ensure that it wasn't increasing Mr W's existing indebtedness in a way that was unsustainable or otherwise harmful, as well reasonable steps to ensure the monthly repayments were affordable.

Did Zopa act unfairly or unreasonably towards Mr W in some other way?

I've carefully thought about everything provided. Having done so, I've not seen anything here that leads me to conclude Zopa acted unfairly or unreasonably towards Mr W in some other way. So I find that Zopa didn't act unfairly or unreasonably towards Mr W in some other way.

Conclusions

Overall and having carefully thought about the three overarching questions, set out on pages one and two of this decision, I find that:

- Zopa *did* complete fair and reasonable and/or proportionate checks on Mr W to satisfy itself that he was able to repay his loans;
- Zopa *did* reasonably decide to approve loans 1 and 2 as the information gathered demonstrated that Mr W was more likely than able to sustainably make the repayments for these loans;
- It *isn't* the case that Zopa ought fairly and reasonably to have realised that these loans were unsustainable or otherwise harmful for Mr W and so shouldn't have been arranged, as it took reasonable steps to ensure these loans wouldn't unfairly and excessively increased his overall indebtedness;
- Zopa *didn't* act unfairly or unreasonably towards Mr W in some other way.

The above findings leave me concluding that Zopa didn't act unfairly or unreasonably towards Mr W. And this means I'm not upholding Mr W's complaint.

My final decision

For the reasons I've explained, I'm not upholding Mr W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 5 August 2021.

Jeshen Narayanan
Ombudsman