

The complaint

Miss M complains about a loan she took out with Zopa Limited ("Zopa"). In particular Miss M complains she could not afford the lending so Zopa acted irresponsibly in giving her the loan.

What happened

In September 2019 Miss M tells us she was not looking to apply for a loan. Rather she was browsing on websites trying to see how much she could borrow should she, in future, decide to take out a loan.

Miss M also tells us she filled in her details on Zopa's website, and, much to her surprise, she found she had been accepted for a loan and the money had been deposited into the account she had designated.

Miss M's stance is that she had misgivings about this not only because she had not realised she had applied for a loan with Zopa but because she did not think she could afford the loan. Therefore, she tells us she contacted Zopa to ask it if she could really afford to borrow this much from it, she tells us, it said yes. Feeling reassured Miss M decided to go ahead with the loan.

The loan was an unsecured personal loan for £7,000 to be paid back over a term of 36 months, the monthly repayments were £280.86. Miss M suggests that very soon she was finding it a struggle to make the monthly repayments and had to use other forms of credit in order to be able to afford the repayments. Moreover, Miss M told us that since she took out the loan she has bought her own home and got married.

Miss M wanted the interest wiped from the loan and "*some assistance*", she added "*I don't want to be paying this loan off for another three years*". Miss M suggests that Zopa can't have done proper checks before lending to her because if it had, it would have seen she couldn't afford the loan and would not have lent to her. Miss M complained to Zopa.

Zopa responded to say that Miss M had to go through its application process in order to get the loan. As part of this process she had to have filled in her details, read the terms and conditions and confirm she'd read them, and sign the agreement confirming she was applying for a loan. It pointed out she could have abandoned the application at any point before she received the money. Further, she could have returned the money interest free within 14 days of receiving it.

Zopa added when it checked Miss M's credit file as part of the application process it found no adverse data, further Miss M's credit accounts were all in good order. It said it checked what she had said about her income and outgoings as part of the application process. It found that based on the information it had that she had a monthly disposable income of £999.39. Therefore, based on all of this, it concluded she could afford to repay £280.86 per month. It pointed out that her payment history was good and did not suggest she had struggled to repay it. But it did say if her circumstances had changed since she took out the loan it would look at this point separately.

Dissatisfied with Zopa's response Miss M came to our service.

One of our investigators looked at Miss M's complaint. As part of their investigation they asked Miss M about her monthly expenditure. Miss M told us it was around £465 per

month and set out the payments she made each month. She explained she lived at home with her extended family and did not pay rent. But she said her main expenses were food, transport and her contribution (paid in cash) to household bills. Later Miss M contacted us and said her monthly expenditure was in fact around £1,161 and she listed additional monthly costs that she'd not mentioned previously such as contributions to her parents' mortgage.

Miss M added that Zopa should have anticipated that within the life of the loan her situation would change, in particular, it should have realised that she would have rent or a mortgage of her own. She indicated that given how quickly she was accepted for the loan she was unsure about what checks Zopa could actually have done. Miss M complained about how Zopa had treated her during the Covid pandemic.

Zopa reiterated its stance that it had acted appropriately. It added it had carried out all the checks it is obliged to carry out. Further, it tested what Miss M told it about her income and about her other borrowing by using independent sources. It pointed out the information Miss M sent to us does not show any payments she made towards her housing or household bills. It wonders how it would have seen that she had these costs even if it had checked her bank statements. It also questioned how we had established Miss M did have such outgoings.

I issued a provisional decision. I summarise below what I said in the provisional decision. Before I looked at the substance of Miss M's complaint I dealt with two preliminary points. Miss M had raised a new issue in relation to Zopa's behaviour towards her during the Covid pandemic. This issue had not been raised with Zopa before it investigated Miss M's complaint. As a consequence, it was not mentioned in Zopa's final response, it followed that I had no power, in this decision, to look at this new point.

I also noted that Miss M had told us that she had not intended to take out a loan with Zopa. That said, I did not think this was something Miss M was mentioning as a complaint point. Rather she was just telling us this to give us some background. On that basis I made no finding about this point.

I looked at Zopa's responsibilities towards Miss M. At the time it lent to her, it was a regulated business providing regulated finance. On that basis it needed to comply with its regulatory obligations. I set out what these were, namely, in brief, it was obliged to ensure that its lending was affordable and responsible. In particular, it was required to carry out checks that were proportionate in the circumstances, which might include considerations about the amount borrowed and Miss M's borrowing history.

That said, exactly what a lender should consider was for each lender to decide, however, the rules listed a number of factors which a lender such as Zopa might have wished to take into account. Further, Zopa had to be able to demonstrate that it did enough to ensure that Miss M could repay the borrowing in a sustainable manner without it adversely impacting on her financial situation. This assessment needed to be borrower focused.

Taking into account the relevant rules, guidance, good industry practice and law, I thought there were some overarching questions I need to consider in order to decide what's fair and reasonable in the circumstances of this complaint. I explained that these questions are:

- Did Zopa complete reasonable and proportionate checks to satisfy itself that Miss M would be able to repay the loan in a sustainable way? If so, did it make a fair lending decision?
- If not, would those checks have shown that Miss M would've been able to repay the loan in a sustainable way?
- Did Zopa act unfairly or unreasonably in some other way?

I looked at the checks that Zopa carried out. Zopa indicated that it had requested and reviewed information about Miss M from credit reference agencies, it looked at how her pre-existing debt had been managed by her and also it took into account debt to income ratios based on the data Miss M had provided. Moreover, it said that its *“system is able to verify whether the income and expenditure information on [the applicant’s] credit file matches the information provided on [the loan] application”*.

According to Zopa, Miss M’s credit file showed she had a satisfactory repayment history in relation to her pre-existing debt and she was operating these accounts within her credit limits. Based on all the information it had, it concluded that Miss M *“had a monthly disposable income of £999.39, so [it] had no concerns about the affordability of the monthly repayments of £280.86”*.

Zopa pointed out that Miss M’s payment history in relation to the loan she had with it did not suggest to it that she had struggled to repay it.

Miss M had borrowed a relatively large sum which was to be paid back over a three year period. Given the amount she was borrowing and the term together with the size of the monthly repayments I said I think there was clearly potential for the repayments to have a substantial impact on Miss M’s financial situation. In these circumstances I would reasonably have expected Zopa to have looked closely at Miss M’s financial situation at the time. In particular, I would have expected any reasonable lender to check her income and expenditure. I recognised that Zopa tells us it verified her income and expenditure, but it has not told us how it did this. Although it is clear it did not check her bank statements. Given this is so, and in the absence of further information about how this information was verified, I found that I could not agree that its checks went far enough in the very particular circumstances of this complaint.

That said, I pointed out that it is not enough for me to say that I do not think Zopa carried out proportionate checks before it lent in order to tell Zopa it has to do something to put things right. I also have to be satisfied that if it had carried out proportionate checks it would most likely have found that Miss M could not afford to borrow from it.

When I looked at Miss M’s financial situation at the time there were some difficulties. As I mentioned earlier Miss M had given us varied accounts about her expenditure at the relevant time. With such discrepancies in mind I had some difficulty accepting the accuracy of Miss M’s recollections.

Further, given that Miss M tells us that a considerable portion of her monthly expenditure was made up of cash payments I am not able to check that payments did go to the payees as she suggests so that means I have to place even more reliance on her account of events as there is no audit trail in relation to those payments, as far as I am aware.

Moreover, on the face of it, looking at what she was earning and what she told us at some points about her outgoings it does appear the lending was affordable.

In the circumstances, I did not agree that Zopa ought to have taken into account that in the three years that she had the loan her life circumstances would change as they did. It had no way of knowing, simply based on her age that she would make these life choices and that they would decrease her available income.

In the circumstances, for all of these reasons I did not find, on balance, that the lending was unaffordable. It followed that I found I had no proper grounds for saying that Zopa need to do anything further.

I invited both Miss M and Zopa to respond to the provisional decision. As far as I am aware we have received no response from Zopa. Miss M did respond. In summary, she let us know that the provisional decision had impacted on her mental health. Miss M did not agree that she had provided any information that was contradictory. She suggested that at the time she took out the loan and at the time we asked her about her finances she was in what she

describes as a “*bad mental state*”. Moreover, given the passage of time she indicated it was unfair to expect her to remember such detail. Miss M asked that I avoid using a certain word as it had a negative impact on her mental health.

Further, Miss M suggested that the information Zopa gave was inaccurate and demonstrated that the checks it did were insufficient. Miss M told us that she did not agree that she had told us that her expenses per month at the relevant time were £465 per month. She gave us some more detail about what she said were her actual monthly expenses and income.

Miss M added Zopa was incorrect to indicate that her payment history with it did not suggest that she struggled to repay it. On the contrary, she told us about receiving emails from it about missed payments.

Miss M told us she is now only looking for the interest on the loan to be written off. Miss M also told us she has now repaid the balance.

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.

I thank Miss M for her detailed response to the provisional decision.

I've reviewed the complete file again and revisited my provisional decision.

First, once again, I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

I regret that Miss M was upset by the provisional decision, that was not my intention, far from it. It seems not only was she unhappy with the outcome, but she also appeared to be unhappy that I highlighted some variances in the information she had provided. However, it is my role to weigh up the information I have got and that includes thinking about inconsistent information and the weight I can give it.

I found in my provisional decision that Zopa's checks did not go far enough in the very particular circumstances of this complaint. This point no longer seems to be in dispute. I say this because Zopa could have responded and told me it disagreed with this finding, but we have received no such response, as far as I am aware. That being so I don't think I need to revisit this point, although I acknowledge that Miss M has sent in further comments about this in her response to the provisional decision. Rather, the only issue now for me to look at again, is whether if it had carried out the checks it ought to have done Zopa would have found that Miss M could not afford to borrow from it and did it act unfairly or unreasonably in some other way.

In the provisional decision, and above I set out the reasons why I did not agree that, on balance, the lending was unaffordable.

Miss M does not recall telling us about her monthly expenses and telling us that they were around £465 per month and then later telling us her monthly expenditure was in fact around

£1,161. She gave us this information in telephone calls with our service which we documented. I don't reasonably expect Miss M to know in fine detail what her expenses were when she took out the loan, it was years ago. But I would expect her to know in broad detail. I take on board what she has told us about her mental health at the relevant times. But I also note she was able to provide us with other accurate information about her complaint at the same time. The difference in the figures is so substantial that it impacts significantly on the affordability of the loan. So, it is important that this information is persuasive, and I do not find it persuasive in the circumstances.

Miss M and Zopa have differing accounts about Miss M's payment history. I don't have full details of this. But typically, if a loan is unaffordable this would be apparent from the pattern of repayments very early in the lifetime of the loan. From the information I have these early payments were not missed.

I've not been persuaded by Miss M's response to the provisional decision. It follows that I have come to the same conclusions for the same reasons as I set out in the provisional decision and again in this decision. For all of these reasons I find I have no proper basis for requiring Zopa to take any further action.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 28 December 2021.

Joyce Gordon
Ombudsman