

## **The complaint**

Mr O complained that Zopa Bank Limited ('Zopa') provided him with a personal loan that was unaffordable, and later unfairly applied a default.

## **What happened**

The background to this complaint is well known to both parties. So, I'll only provide an overview of key events here.

Mr O was provided with a £10,500 loan by Zopa in March 2017. The repayment term was 36 months.

Mr O made the agreed repayments until around November 2017, after which three of the monthly repayments were missed. When Zopa contacted him about the arrears Mr O let it know his wife was unwell and that he'd had difficulty making payments online. Zopa reported the late payments to credit reference agencies, but when Mr O complained it agreed to have the missed payment removed from his credit file. Mr O resumed making the contractual monthly repayments.

Mr O didn't make his monthly repayment in July 2019 and so Zopa wrote to him to remind him that it was overdue. When he also missed the August 2019 repayment, Zopa issued a notice of arrears. This letter asked Mr O to contact Zopa to discuss his account.

Zopa issued a default notice in September 2019, after Mr O failed to make the agreed repayment that month. It then issued a formal demand for payment letter in October 2019, for the total outstanding amount, which was around £3,200. Zopa said the period during which Mr O could have remedied the default had expired. It asked Mr O to contact its recoveries team to arrange repayment of the debt.

Mr O contacted Zopa the following day. He said he had a serious health condition, was having tests and wouldn't be in a position to sort things out for at least another week.

Zopa responded the following day. It put Mr O's account on hold for 30 days and said it would do what it could to help. It asked Mr O to complete and return an income and expenditure form to help it understand his situation and see if a reduced payment plan could be set up. It also asked Mr O to provide medical documents.

Zopa then emailed Mr O on approximately a monthly basis between November 2019 and June 2021. It reminded Mr O when the 30 day hold had passed; encouraged him to provide the information it requested about his medical situation; asked him to get in touch to consider options and let him know it would go back to collecting payments for the loan in the usual way in March 2020 if it did not hear from him.

Mr O contacted Zopa at the end of June 2021 and said as a result of defaults issued by Zopa and others while his mental health was suffering, he had a breakdown. He said the default means he can't borrow money to pay Zopa what's owed.

Zopa responded the following day. It sympathised but said defaults are issued automatically after three or more missed contractual payments. Zopa said no more interest will be applied to the loan as a result of the default. It asked Mr O to complete an income and expenditure so it could work with Mr O towards a long-term payment solution.

Mr O complained in September 2021 about whether the loan was affordable and whether his health problems were taken seriously.

Zopa responded and said it considered a range of factors before offering Mr O the loan, including information from credit reference agencies, an income check and maintenance of repayments on an active loan. So it didn't think it had lent irresponsibly. Zopa said it could see Mr O's mental health and difficult personal circumstances had been discussed with it in the past and it was confident it provided him with the necessary support regarding this and the management of his account.

Mr O then brought his complaint to this Service. He said the default was causing him the most distress. Mr O said he had tried to negotiate a settlement with Zopa. He said he'd tried every possible avenue to borrow elsewhere to pay it back, but couldn't because of the default.

Our Investigator didn't uphold Mr O's complaint, and as Mr O didn't agree, this has come to me for a 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.

I first of all want to make it clear that this decision will only address the question of whether the loan was affordable and whether Zopa dealt sympathetically and positively with Mr O when he wasn't able to make repayments from July 2019 and it subsequently issued a default. That's because these are the issues Mr O complained to Zopa about, and which it responded to in the final response letter issued in September 2021. So I'm not looking at issues that arose later, or the issues that arose earlier which were dealt with by Zopa when it issued a final response letter in February 2019.

I've looked at whether Zopa did enough to check that the loan was affordable when Mr O applied for it in 2017. As a regulated business, Zopa is required to carry out proportionate and reasonable affordability checks when a consumer applies for borrowing with it. And carrying out proportionate checks means the checks undertaken can vary according to the amount of money being borrowed, the term of the borrowing and the level of indebtedness the borrowing would create for the consumer.

In this case I can see that Zopa asked Mr O for information about his net income, homeowner status, employment, disposable income and the purpose of the loan. It also looked at Mr O's credit file in relation to his level of indebtedness and how he was managing existing borrowing. From this information it was clear that Mr O had a high disposable income, a low debt to income ratio and was managing existing debt without late payments or defaults. So given this, I think it was reasonable for Zopa to consider it had carried out proportionate checks and that the loan was affordable for Mr O. I sympathise with Mr O that he later experienced difficulties with managing this and other debts, but Zopa can only consider information that was available to it at the point in time that Mr O made the application for the loan.

Mr O also complained that Zopa didn't take his health problems into consideration when it applied the default to his account. It's certainly the case that this service would expect lenders to deal sympathetically and positively with a consumer when they let it know about issues such as financial difficulties and health problems. So I've looked at whether Zopa did enough to support Mr O.

I can see that Zopa sent the appropriate reminder letters to Mr O when he missed the July 2019 repayment and subsequent repayments. At this early stage Zopa asked Mr O to contact it to discuss his account and suggested that an affordable short term repayment plan could be worked out. Zopa then issued a default notice in September 2019, following the third missed payment.

At that stage Mr O hadn't informed Zopa that he was unwell – he didn't let it know until around October 2019 that he was undergoing tests in relation to a serious health condition. It's the case that Mr O didn't respond at all to the letters and emails sent to him by Zopa from July 2019 to October 2019. So at the point in time that Zopa issued the default, it wasn't aware that Mr O was unwell and so couldn't have taken this into consideration prior to issuing the default notice.

I've considered whether Zopa could have dealt differently with Mr O's account once he let it know he was unwell. But I don't think it needed to. From what I can see, the default was correctly issued and Zopa has an obligation to accurately report to credit reference agencies how debts are being managed by consumers, which is what it did here.

I can also see that when Mr O contacted Zopa in October 2019 it put his account on hold for 30 days and the hold then remained on his account for significantly longer than 30 days. During this time Zopa was contacting Mr O on at least a monthly basis and suggested he could complete an income and expenditure form with a view to working out an affordable repayment plan. When Zopa didn't hear from Mr O, and normal collections were resumed on his account, Zopa continued to check with Mr O whether further support was needed. So I think Zopa did what it could to offer support to Mr O once it became aware that he was unwell. I think it's fair to say that there are limits to what a lender can do to support a borrower when, as was the case here, the borrower regularly doesn't respond to correspondence.

I understand why Mr O is very keen to have the default removed from his credit file and I sympathise with him. But I could only ask Zopa to remove it if I thought it had been applied unfairly or in error, and I'm satisfied that's not the case here.

### **My final decision**

It's my final decision that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 7 June 2022.

Martina Ryan  
**Ombudsman**