

## **Complaint**

Mr W has complained about a loan Zopa Bank Limited (trading as “Zopa”) provided to him. He says the loan was unaffordable and was therefore irresponsibly lent to him.

## **Background**

Zopa provided Mr W with a loan for £10,000.00 in April 2021. This loan had an APR of 16.7% and a term of 24 months. This meant that the total amount to be repaid of £11,700.84, including interest, fees and charges of £1,700.84, was due to be repaid in 24 monthly instalments of approaching £500.

One of our investigators reviewed Mr W’s complaint and she thought Zopa ought to have realised that it shouldn’t have provided Mr W his loan. So she thought Mr W’s complaint should be upheld.

Zopa disagreed with the outcome and so the case was passed to an ombudsman for a final decision.

## **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 explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr W’s complaint.

Having carefully considered everything I’ve decided to uphold Mr W’s complaint. I’ll explain why in a little more detail.

Zopa needed to make sure it didn’t lend irresponsibly. In practice, what this means is Zopa needed to carry out proportionate checks to be able to understand whether Mr W could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower’s income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we’d expect a lender to be able to show that it didn’t continue to lend to a customer irresponsibly.

The information Zopa has provided suggested that it carried out credit checks before it provided this loan. The results of which showed that Mr W was close to his limit on his revolving credit accounts. I don’t think that this in itself means that Zopa shouldn’t have lent. But given the amount being advanced and the size of the monthly payments, which were

going to be taking up a reasonable proportion of Mr W's income, I do think that Zopa ought to have carried out further enquiries into Mr W's circumstances.

Mr W has now provided us with evidence of his financial circumstances at the time he applied for this loan. Of course, I accept different checks might show different things. And just because something shows up in the information Mr W has provided, it doesn't mean it would've shown up in any checks Zopa might've carried out.

But in the absence of anything else from Zopa showing what this information would have shown, I think it's perfectly fair, reasonable and proportionate to place considerable weight on what this information says as an indication of what Mr W's financial circumstances were more likely than not to have been at the time.

I also think it's important for me to set out that Zopa was required to establish whether Mr W could sustainably make his loan repayments – not just whether the loan payments were technically affordable on a strict pounds and pence calculation. The information provided shows that Mr W spending well in excess of his income on gambling and that his ability to make the repayments to this loan would in large part be dependent on his success as a gambler.

As this is the case, I think that proportionate checks are likely to have shown Zopa that Mr W was unlikely to be able to afford the payments to this loan, without undue difficulty or borrowing further. So I'm satisfied that reasonable and proportionate checks would more like than not have shown Zopa that it shouldn't have provided this loan to Mr W. As Zopa provided Mr W with this loan, notwithstanding this, I'm satisfied it failed to act fairly and reasonably towards him.

Mr W has ended up paying (and is being expected to pay) interest, fees and charges on a loan he shouldn't have been provided with. So I'm satisfied that Mr W lost out because of what Zopa did wrong and that it should put things right.

### **Fair compensation – what Zopa needs to do to put things right for Mr W**

Having thought about everything, Zopa should put things right for Mr W by:

- removing all interest, fees and charges applied to this loan from the outset. The payments Mr W made, whether to Zopa directly or any third-party, should be deducted from the new starting balance – the £10,000.00 originally lent. If once all adjustments have been made this shows that Mr W has made overpayments, these overpayments should also be refunded to Mr W together with interest at 8% simple a year from the date they were made by Mr W to the date of settlement†
- if once all adjustments have been made this shows that Mr W still has an outstanding amount to repay, Zopa should contact Mr W to arrange a suitable repayment plan. Mr W is encouraged to get in contact with and cooperate with Zopa to reach a suitable agreement for this.
- if no outstanding balance remains after all adjustments have been made then Zopa should remove any adverse information it recorded on Mr W's credit file.

† HM Revenue & Customs requires Zopa to take off tax from this interest. Zopa must give Mr W a certificate showing how much tax it has taken off if he asks for one.

**My final decision**

For the reasons I've explained, I'm upholding Mr W's complaint. Zopa Bank Limited should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 24 February 2023.

Jeshen Narayanan  
**Ombudsman**