

Complaint

Mr H has complained about a personal loan Zopa Limited (trading as “Zopa”) which he says it unfairly brought about for him. He says the loan was unaffordable and he had to take out another loan to repay this one.

Background

Zopa operated the electronic system in relation to lending which led to Mr H being provided with a loan for £3,000.00 in November 2019. This loan had an APR of 22.9% and the total amount to be repaid of £3,693.75, which included interest fees and charges of £693.75, was due to be repaid in 24 monthly instalments of around £153.

One of our investigators reviewed what Mr H and Zopa had told us. She thought that Zopa unfairly brought about this loan for Mr H and recommended that the complaint be upheld. Zopa disagreed and asked for an ombudsman to review the complaint.

My provisional decision of 9 January 2023

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

I issued a provisional decision – on 9 January 2023 - setting out why I wasn’t intending to uphold Mr H’s complaint. I won’t copy that decision in full, but I will instead provide a summary of my findings.

I started by saying that we’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And that I used this approach to help me decide Mr H’s complaint.

I went on to explain that Zopa operated an electronic system in relation to lending which resulted in Mr H being provided with a loan. In these circumstances, Zopa needed to take reasonable steps to ensure that this loan wasn’t brought about irresponsibly. In practice, what this meant was that Zopa needed to carry out proportionate checks to be able to understand whether Mr H could afford to make his repayments before arranging this loan.

Our website sets out what we typically think about when deciding whether a lender’s (or P2P operator – such as Zopa here) 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 P2P platform operator to be able to show that it didn’t continue to arrange loans for a customer irresponsibly.

Zopa said that it approved Mr H's application after he provided details of his monthly income and some information on his expenditure. It says it cross-checked this against information on a credit search it carried out which showed his existing commitments were relatively well maintained at the time of the application. In Zopa's view all of the information it gathered showed that Mr H could comfortably afford to make the repayments he was committing to. On the other hand, Mr H said he was already in difficulty and couldn't afford this loan.

I carefully thought about what Mr H and Zopa had said.

I thought that it was clear Zopa did obtain a reasonable amount of information before it decided to proceed with Mr H's application. And this information did appear to suggest that the loan repayments were affordable for Mr H. I accepted that Mr H's actual circumstances may not have been fully reflected either in the information he provided, or the information Zopa obtained. And I saw that our investigator was concerned that Mr H could re-establish balances on his credit cards as they remained open after this loan was arranged.

However, in my view that Zopa could only make a reasonable decision based on the information it had available at the time. It won't have known whether Mr H would go on to re-establish balances on his credit cards – all it could do was take reasonable steps and rely on assurances from Mr H that the balances would be repaid with these funds. So I was satisfied that the proceeds of this loan could and should have been used to clear Mr H's existing credit balances at a cheaper interest rate.

I also explained that Zopa couldn't close Mr H's credit card accounts to prevent further spending because they were held with other providers. It was Mr H's responsibility to close his credit card accounts once he'd repaid them. And as this was a first loan Zopa was arranging for Mr H, there wasn't a history of Mr H obtaining funds and then failing to consolidate debts elsewhere in the way he committed to either. So I was satisfied that Zopa was reasonably entitled to believe that Mr H would be left in a better position.

I went on to explain that if Zopa had gone into the depth of checks Mr H appears to be saying it should have – such as obtaining bank statements – it was possible that it might have reached a different answer. But the key thing here was that I didn't think the circumstances of the lending here warranted obtaining bank statements. Zopa was arranging a loan for a relatively small sum – especially when compared to Mr H's income.

Given the circumstances, I would have expected Zopa to have had a reasonable idea of Mr H's income and committed non-discretionary spending, which it did here, rather than complete a review of Mr H's finances. Furthermore, Mr H hadn't provided anything which clearly demonstrated that further checks would have shown the loan payments were clearly unaffordable either.

Equally, it was only fair and reasonable for me to uphold a complaint in circumstances where a firm did something wrong. Given the circumstances here, and the lack of obvious inconsistencies, I didn't think that reasonable and proportionate checks would have extended into the level of checks Mr H was suggesting. As this was the case, I didn't think that Zopa did anything wrong when arranging this loan for Mr H - it carried out proportionate checks and reasonably relied on what it found out which suggested the repayments were affordable.

So overall and having considered everything, I concluded by saying that was minded to find that Zopa didn't treat Mr H unfairly or unreasonably when arranging this loan for him. And as a result it wasn't my intention to uphold Mr H's complaint.

Responses to my provisional decision

Zopa didn't provide anything further or request any additional time to do so.

Mr H didn't provide anything further or request any additional time to do so either.

My findings

I've read and considered all the evidence and arguments available to me from the outset, in order to decide what is, in my opinion, fair and reasonable in all the circumstances of the case.

In my provisional decision, I set out in some detail why I wasn't intending to uphold Mr H's complaint. And as neither party has provided any further evidence or arguments for me to consider, I've not been persuaded to alter my conclusions.

So I remain satisfied that Zopa didn't treat Mr M unfairly or unreasonably when arranging this loan. And I'm still not upholding Mr H's complaint. I appreciate this is likely to be very disappointing for Mr H – especially bearing in mind our investigator's initial assessment said that he shouldn't have been provided with this loan. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained above and in my provisional decision of 9 January 2022, I'm not upholding Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 28 February 2023.

Jeshen Narayanan
Ombudsman