

The complaint

Miss D complains Plata Finance Limited trading as “Zopa” (then trading as Zopa Limited) irresponsibly provided her with a loan that was unaffordable for her.

What happened

Zopa provided Miss D with a loan of £4,000 in August 2018. The loan was for over a term of 48 months, with repayments of around £130. The total repayable value was around £6,200 which included interest and fees.

Miss D complained to Zopa saying it had irresponsibly arranged the loan because it didn't complete reasonable and proportionate checks; and that had it done so it would have identified the loan was unaffordable for her. Zopa didn't uphold Miss D's complaint.

Our investigator reviewed Miss D's complaint and upheld it. Zopa didn't agree with our investigator's findings, so the complaint was passed to me to decide.

I recently issued a provisional decision where I set out, with reasons, my initial thoughts on this case and what I was intending to decide. The following is an extract from that provisional decision:

“We’ve set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website. I’ve used this approach to help me decide Miss D’s complaint.

The relevant rules, regulations and guidance at the time Zopa lent required it to carry out reasonable and proportionate checks to assess Miss D’s ability to afford the loan and repay it sustainably over its term, without having to borrow to repay the loan or cause her financial difficulties.

There isn’t a set list of checks a lender needs to carry out, but they should be proportionate, taking into account things like the type, amount, duration and total cost of the credit, as well as the borrower’s individual circumstances.

And it isn’t sufficient for Zopa to just complete proportionate checks – it must also consider the information it obtains from these checks to go on and make a fair lending decision. This includes not lending to someone in financial hardship; and ensuring repayments can be made sustainably without the need to borrow further.

I’ve taken all of this into account when thinking about Zopa’s lending decision.

Zopa has said Miss D declared her income as around £1,700 which it verified via an online credit check. It says it took details of Miss D’s regular expenses and conducted a credit check. It says the information it obtained from these checks didn’t cause it any concerns or require further investigation; and that it therefore completed reasonable and proportionate checks before going on to make a fair decision to arrange this lending.

I've carefully considered the checks Zopa completed and the information it obtained from these checks; and having done so I'm not persuaded its checks were proportionate in this instance.

I say this because I consider the loan and interest repayable over four years represented a significant commitment for Miss D. The credit check Zopa completed showed Miss D's total indebtedness at the time stood at around £12,400. She had a number of revolving credit accounts and had recently obtained two new lines of credit. I consider the increase in Miss D's indebtedness in the months leading up to her application – £2,240 on a credit card and a £8,600 personal loan – was a cause for concern and Zopa needed to satisfy itself she wasn't becoming overdependent on credit.

I acknowledge that the purpose of this loan was for debt consolidation, but as our investigator has already explained, the total amount of this borrowing wouldn't consolidate all of Miss D's existing debts – as a maximum around 30%. So, Miss D would still have needed to make payments towards the majority of her existing debt, as well as this new loan. And, given that the credit file check Zopa obtained suggested the loan taken around eight months prior had been used to consolidate a number of Miss D's other credit commitments, I consider this ought to have raised concerns with Zopa that Miss D was looking to obtain further lending in such a short space of time for further debt consolidation.

So, I consider Zopa needed to obtain a thorough understanding of Miss D's financial situation – by verifying her actual regular expenditure, as well as verifying her income and completing a credit check as it did – to ensure in the individual circumstances this lending was sustainably affordable for her over the full term

Zopa could have verified the information in a number of ways. Miss D has provided our service with her bank statements covering the period leading up to this loan. In the absence of any other information, I've considered these statements to obtain an understanding of Miss D's financial circumstances around the time of this lending.

Miss D's income is £1,570 averaged out across the three months leading up to this loan, less than she declared and that Zopa took into account in its affordability calculations. Miss D's income is significantly less in one of the months and does fluctuate across each of the months; and in any event it is a relatively modest income, given her total outstanding and available borrowing.

Miss D's expenditure is relatively consistent across the three months leading up to this loan. I can see a payment for rent of around £650, however I note Miss D receives a regular credit from another party for around £200 each month referenced as rent, suggesting her share is around £450; which corresponds with the information she declared to Zopa. I've also seen regular payments for travel, subscription services and a payment to a union, as well as payments towards her credit commitments. Averaged out across the three months Miss D's non-discretionary expenditure and payments towards credit commitments total around £1,300, however, this doesn't take into account any costs for food.

This means Miss D was already running her finances to a pretty tight budget and didn't have as much disposable income as Zopa appears to have calculated within its checks; so I consider it is fair to say that at this level of disposable income, an income shock (such as the one I've detailed above) or an unexpected big expense would likely disrupt Miss D's ability to cover all her commitments.

Zopa appears to have calculated Miss D's payments to her credit commitments to be around £540 per month. However, this loan was to consolidate existing debt, and while it wouldn't consolidate all of Miss D's debts, the loan was sufficient to consolidate her credit card and

mail order accounts, leaving the loan she'd taken around eight months prior to this application. I've not seen that Zopa explored which debts Miss D intended to consolidate with the loan she was applying for. But having reviewed Miss D's statements in the days that followed the loan being approved, I've seen she did use most of the funds to repay what appears to be her credit card and mail order accounts. I think it more likely than not that Miss D would have told Zopa this is what she intended to do if it had asked. So, Miss D's total monthly credit repayment would have been lowered to around £460, a saving of around £80 compared to her total repayments at the time of application. However, as Miss D was managing her finances to such a tight budget, I'm not persuaded this saving would have benefitted Miss D as much as Zopa believed would have been the case.

I say this because Zopa's calculations don't appear to have taken account of Miss D's £1,290 overdraft facility, which it was aware of from the credit check it completed. Miss D's statements show that her bank account is in an overdraft position for a significant period of time each month. In fact, across May and July 2018, two of the three months leading up to this loan, Miss D's balance didn't ever enter a credit position. And in June 2018 it only did so as her rent payment was made later than usual.

In May 2018 Miss D's balance went above its agreed overdraft limit for a number of days. And across all three months the use generally followed the same pattern, once Miss D's salary was credited and all bills were paid, the balance returned close to the overdraft limit, and stayed at that level until Miss D's salary was credited. So, it's reasonable to say Miss D spent most of the time between salary credits overdrawn on her current account, often to its full extent. I consider this shows she was reliant on her overdraft to cover all of her regular monthly expenditure, including non-discretionary expenses and her existing credit commitments.

While I accept this loan was to consolidation a proportion of Miss D's existing credit and would clear certain accounts as I've found above; the monthly saving Zopa calculated of around £80 was insufficient to have stopped Miss D's reliance on her overdraft facility to maintain her regular expenses and credit commitments over the term of the loan she was applying for.

I've seen from the credit check that within days of the previous loan being approved Miss D repaid and closed four credit card accounts and a loan account. So, I think that Miss D's recent attempt to better manage her finances using debt consolidation hadn't worked because she remained reliant on the overdraft facility. And, because Miss D was coming to Zopa to secure £4,000 to consolidate further debts within eight months of consolidating previous lending; and within six months of getting a credit card account which, at the time of this application, had an outstanding balance of £2,240 (around 80% of its available limit).

As Miss D's pattern of increased indebtedness suggests to me that she was relying on credit to meet her existing credit commitments, I consider it's fair to say she was in some financial difficulty. Whilst I accept Zopa's loan would give Miss D some relief, for the reasons that I've explained, I don't think it went far enough that I can reasonably say Miss D was left in a financial position where she could be expected to sustainably repay the new commitment.

It therefore follows that I'm satisfied Zopa acted unfairly by arranging this loan for Miss D, and it needs to take action in resolution of this complaint."

Both Miss D and Zopa responded to my provisional decision, accepting the findings.

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.

Having done so, and as both parties are accepting of my provisional findings and have provided no further evidence for my consideration, I see no reason to depart from them.

So, in summary I consider Zopa acted unfairly when arranging this loan for Miss D. I say this because:

- Zopa didn't complete proportionate checks based on the information it had available to it about Miss D's individual financial circumstances;
- Had it completed proportionate checks I consider it ought reasonably to have identified Miss D was already using borrowing to repay existing credit commitments; and that a recent consolidation to help Miss D better manage her finances hadn't worked; and
- Even by using this loan for its intended purpose, to further consolidate debt, I can't reasonably be satisfied that Miss D would be in a position where she would be able to sustainably meet the commitment.

Putting things right

As Miss D has had the use of the capital amount advanced, I consider it's fair and reasonable that she repays this amount. But Miss D has paid interest and charges on a loan that shouldn't have been provided. So, I think Miss D has lost out and Plata Finance Limited trading as Zopa needs to take action to put things right.

Plata Finance Limited trading as Zopa has confirmed this debt has been sold to a third party, and that the current level of repayments received don't cover the capital amount advanced. So, Plata Finance Limited trading as Zopa needs to ensure the following action is taken by liaising with the third party or buying back the debt:

- Remove all interest, fees and charges applied to the loan from the outset. Any payments made by Miss D should then be deducted from the new starting balance;
- If this results in a capital balance remaining outstanding, then Plata Finance Limited trading as Zopa should attempt to arrange an affordable/suitable payment plan with Miss D;
- After all adjustments have been made and once there is no outstanding balance, Plata Finance Limited trading as Zopa need to remove any negative information recorded on Miss D's credit file as a result of this loan.

*HM Revenue & Customs requires Plata Finance Limited trading as Zopa to deduct tax from this interest. Plata Finance Limited trading as Zopa should give Miss D a certificate showing how much tax it's deducted, if she asks for one.

My final decision

My final decision is to uphold Miss D's complaint about Plata Finance Limited trading as Zopa and I direct it to resolve this complaint as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 3 May 2023.

Richard Turner
Ombudsman