

## **The complaint**

Mr S complains that Zopa Bank Limited are pursuing him for a £13,000 loan that he says was taken out as part of a scam.

## **What happened**

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here.

Our investigator felt the complaint should be upheld in part. She said that Mr S had given scammers personal information that enabled them to take out the loan. And she said it was reasonable for Zopa to hold Mr S liable for the capital amount of £13,000 as Mr S was more than likely aware of the loan after he said he received the application confirmation e-mail and the funds, before he then transferred the funds to the scammers. So, she felt the fairest thing to do would be to only hold Mr S liable for the capital sum of £13,000. And that Zopa couldn't ask Mr S to repay any interest and charges.

Mr S accepted that he was aware of the loan after it was taken out by the scammers but said due to his personal circumstances it was very difficult to pay back the loan.

Zopa disagreed and asked for an Ombudsman's review. It said it hadn't seen any evidence that the loan was taken out as a consequence of a scam. So, it maintained that Mr S should be deemed liable for the full outstanding amount of the loan – including interest and charges.

I reviewed the complaint and said I was minded to ask Zopa to clear the interest and charges on the loan and that Mr S should repay the capital amount of £13,000.

Zopa hasn't responded any further.

## **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, I'm going to uphold this complaint in part.

I've read and considered the whole file. But I'll concentrate my comments on what I think is relevant. If I don't mention any specific point, it's not because I've failed to take it on board and think about it, but because I don't think I need to comment on it to reach what I think is a fair and reasonable outcome.

I'm satisfied Zopa didn't do anything wrong when it accepted the loan here. The fraudster was able to obtain Mr S's personal details in order to pass the checks that Zopa reasonably carried out.

The issue here is that when Mr S received the application confirmation e-mail and funds into his account, he spoke to the scammer and then transferred the money to them. That means

that Mr S subsequently benefited from the loan in that he was happy to accept liability for it under the premise of repaying it with the profits he was promised (albeit that this wasn't going to happen due to him falling victim to a scam). So, I think that Zopa asking him for that money to be paid back would be fair.

However, the investigator has correctly pointed out that Mr S never agreed to the terms and conditions of the loan. That means he can't be held to the terms of an agreement he didn't enter into and so Zopa cannot ask him to repay any interest and charges or fees associated with the loan. As a result, I believe Zopa should also remove any record of the loan and negative payment history from Mr S's credit file.

I note Mr S has been struggling financially due to losing his job, as well as suffering with his mental health. So, Zopa should treat Mr S fairly and reasonably when discussing any financial repayment plans in the future.

### **Putting things right**

Zopa is entitled to receive the capital sum back from Mr S (£13,000) but it cannot fairly charge Mr S interest or charges. It should also remove any record of the loan from Mr S's credit file.

### **My final decision**

My final decision is that I uphold this complaint in part. Zopa Bank Limited can ask Mr S to repay the capital sum of £13,000. But it cannot add any interest or charges to the loan. And it must remove the loan from Mr S's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 18 September 2023.

Mark Dobson  
**Ombudsman**