

The complaint

Mrs C complains Plata Finance Limited trading as Zopa (at the time trading as Zopa Limited) irresponsibly arranged a loan that was unaffordable for her.

What happened

In January 2019 Zopa arranged a loan for Mrs C of £5,000 with a fee of £140. The loan was to be repaid over a term of 60 month with equal instalments of around £102 and a total repayable value of around £6,130.

Mrs C complained to Zopa about irresponsible lending in April 2023. She said had Zopa completed reasonable and proportionate checks it would have identified the loan wasn't affordable for her. She said she was in financial difficulties and persistent debt at the time this loan was approved and that she already had a high level of debt with other lenders.

Zopa issued its final response in May 2023 not upholding Mrs C's complaint. It said its checks were reasonable and proportionate and that it made a fair lending decision when arranging the loan. Unhappy with Zopa's response Mrs C brought her complaint to our service for review.

Our investigator considered the details and upheld Mrs C's complaint. He said Zopa's checks hadn't gone far enough, and he went on to consider what reasonable and proportionate checks at the time would likely have identified. Based on his review of Mrs C's bank statements in the months leading up to this loan, he concluded Zopa hadn't made a fair lending decision when arranging this loan.

Mrs C accepted the outcome; Zopa didn't agree. It maintained its argument that its checks were reasonable and proportionate and that it went on to make a fair lending decision when arranging this loan. It said that the rate of this loan was likely lower than the lines of credit Mrs C was looking to consolidate; and that if Mrs C still had existing debts to pay after the loan had been approved, then it hadn't been used as had been declared in the application, which was to consolidate existing debts.

Zopa asked for an ombudsman's review, so the complaint's been passed to me to decide.

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.

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.

Zopa needed to take reasonable steps to ensure the lending it arranged was responsibly lent to Mrs C. The relevant rules, regulations and guidance at the time Zopa arranged the loan required it to carry out reasonable and proportionate checks. These checks needed to

assess Mrs C's ability to afford the loan being approved and repay it sustainably, without causing her financial difficulties or harm.

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 obtained from these checks to make a fair lending decision when arranging this loan.

Zopa has said its checks included verifying Mrs C's income via an online credit tool and obtaining her declared monthly payment towards her mortgage. It also completed a credit check to identify her existing credit commitments and details about her credit management. It said this information enabled it to calculate the monthly disposable income Mrs C had available in order to cover her non-discretionary expenditure and other living costs.

Zopa says it considers these checks were reasonable and proportionate and that it went on to make a fair decision when arranging this loan for Mrs C.

I've carefully considered Zopa's argument, but I'm not persuaded its checks were reasonable and proportionate in this instance; or that it went on to make a fair lending decision when arranging this loan for Mrs C.

I say this because while I accept the loan purpose was declared as debt consolidation, the loan value wasn't enough to effectively consolidate all of Mrs C's existing revolving credit, of around £8,500; it would still have left her with around £3,500. And as Zopa has pointed out, it's likely these other debts would have been at a higher rate so Mrs C would have still needed to contribute a considerable amount each month towards these other credit commitments in order to look to reduce them down and pay them off over a reasonable period of time, as well as making payments towards this loan.

Zopa's checks also led it to conclude that Mrs C would be left with around £1,500 disposable income per month. However, taking into account non-discretionary expenditure and general living costs this amount would have reduced. The credit check Zopa completed identified Mrs C had two current accounts with a combined outstanding debt by way of overdraft facilities of over £2,100. This appears to contradict Zopa's calculations that Mrs C would be left with such a high level of disposable income, and I don't consider it was reasonable for Zopa to have accepted its calculations at face value given the contradictory information it had available to it; especially given it was tying Mrs C into this loan for a lengthy term of 60 months.

The credit check also showed Mrs C's total outstanding debt at around £25,000. While I can see Zopa verified Mrs C's income at around £48,000, this level of unsecured outstanding debt was still relatively high.

For these reasons I consider Zopa needed to obtain a full understanding of Mrs C's actual financial position, by verifying her regular non-discretionary expenditure, as well as verifying her income and outstanding credit commitments as it did.

In order to look to understand what Zopa would have seen had it completed further checks, Mrs C has provided us with her bank statements. I've reviewed these from around three months before this lending decision to determine what I consider Zopa would likely have identified had it completed reasonable and proportionate checks.

Mrs C's bank statements show that across the three months leading up to this loan her salary was lower than she had declared and that Zopa had verified. In one of the months it was just over £1,500, around 50% lower than Zopa had taken into account for its affordability calculations.

Mrs C's sole account is also consistently in an overdrawn position. And at times within each of the three months Mrs C's utilisation gets as high as 99% of the £3,000 facility and within single digits of this limit before funds are paid in. While I accept this loan purpose was detailed as consolidation, and I consider Zopa may reasonably have accepted that Mrs C was looking to consolidate the overdraft debt she had across two accounts with this loan, it does paint a picture that this appears to be someone who is already in financial distress on a monthly basis and who is struggling to maintain their existing living costs and credit commitments.

Mrs C declared to Zopa that she contributed more towards household costs than her partner, and her statements appear to support this as transfers averaging just over £1,500 are made to the joint household account across the three months.

Zopa needed to complete its assessment taking into account the worst monthly position Mrs C could find herself in based on the information it would likely have obtained, to ensure this loan was sustainably affordable for her across the full 60 months term.

The transfers do fluctuate across the three months leading up to this loan, largely following the fluctuation in salary received. In the month where Mrs C received the lowest salary of around £1,500, the payment into the joint account to cover essential bills and living costs was £1,000 – leaving Mrs C with around £500 to cover payments towards her credit commitments, other living costs and any unexpected costs that may occur.

Taking into account payments towards this loan, payment towards the non-consolidated outstanding revolving debt (at a level to ensure the debt would be repaid within a reasonable period of time), as well as repayments towards the existing loan Zopa had identified in Mrs C's name; she'd be left with less than £50 per month for other living costs like food, travel and clothing, as well as any unexpected costs that could occur. And as this loan was over a term of 60 months, I don't consider this would have been sustainable or affordable for Mrs C across this substantial term.

Had Zopa completed a more detailed review I consider it ought reasonably to have identified this loan, no matter its purpose, wasn't sustainably affordable for Mrs C; and it therefore follows it shouldn't have gone on to arrange this loan.

Putting things right

Mrs C's had the benefit of this loan, so I consider it's fair that she repays the capital amount lent. But Mrs C has paid interest and fees on a loan that shouldn't have been provided. So, Mrs C has lost out and Plata Finance Limited trading as Zopa need to put things right by taking the following action:

- Remove all interest, fees and charges applied to the loan from the outset. Any payments made by Mrs C should then be deducted from the new starting balance.
 - a. If the payments Mrs C has made total more than the amount she was originally lent, then any surplus should be treated as overpayments and refunded to her, together with 8% simple interest* calculated on any overpayments made, from the date they were paid by Mrs C to the date the complaint is settled.

- b. If after the adjustments have been made there is still a balance to pay Plata Finance Limited trading as Zopa should discuss arranging a suitable/affordable payment arrangement with Mrs C for the remaining balance.
- Remove any adverse information recorded on Mrs C's credit file as a result of this loan once any outstanding balance has been repaid.

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

My final decision

I'm upholding Mrs C's complaint about Plata Finance Limited trading as Zopa and require it to take action as set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 15 January 2024.

Richard Turner
Ombudsman