

The complaint

Mr S complains that Zopa Bank Limited irresponsibly gave him a fixed sum loan agreement he couldn't afford to repay.

What happened

In March 2021, Mr S applied for a fixed sum loan with Zopa. He declared the loan was to be used to consolidate existing debts. The loan was for £20,000 and Mr S was required to repay 18 monthly repayments of around £1,300.

In March 2023, Mr S complained to Zopa to say that the loan should not have been given to him. He said that at the time he had a gambling problem which had resulted in him accumulating large unsecured debts with credits cards of around £20,000. Zopa responded to say it didn't think it had acted unfairly when lending to Mr S.

I sent Mr S and Zopa my provisional decision on 9 November 2023. I explained why I didn't think the complaint should be upheld. I said:

Prior to lending to Mr S, Zopa needed to ensure it completed reasonable and proportionate affordability checks. There isn't a set list of checks Zopa needed to complete because what is considered proportionate will vary with each lending decision. When deciding what level of checks ought to have been reasonable and proportionate Zopa needed to take into account things such as (but not limited to): the amount borrowed, the term, the cost of credit, the size of the regular repayments and Mr S' circumstances.

This was a loan for £20,000 to be repaid in a relatively short timeframe with significant monthly repayments of around £1,300. Therefore, my starting point is that proportionate affordability checks ought to have been quite thorough.

As part of the application Mr S declared that he was employed earning an annual income of £75,000. Zopa calculated this to be around £4,300 per month. Mr S said that he was renting and paying £600 per month for this.

Zopa also completed a credit check which showed that Mr S had around £20,500 in outstanding unsecured debts. These were four credit cards and a mail order account. It calculated that his monthly debt repayments to these was around £1,000. There was no indication from the credit check that Mr S was struggling to manage these debts.

While I'm mindful that this was a large loan over a short term with a large monthly payment, I have to also consider that Mr S declared he was using it for debt consolidation. The amount he was seeking to borrow was almost exactly the amount of his outstanding debt. Therefore, it seemed likely that all of Mr S' existing debts would be repaid by the Zopa loan meaning his overall unsecured debt would be unlikely to increase.

I have to also consider that Mr S had an above average income with what appeared to be a healthy amount of disposable income available to him after all his essential costs were taken into consideration. This, coupled with no evidence from his credit file of an inability to sustainably manage a debt of £20,000 would understandably have given Zopa some comfort about the affordability of the loan. However, from what I can see, Zopa didn't attempt to verify in any way what Mr S declared regarding his income.

The rules and guidance within the regulator's handbook set out that it is generally not sufficient to rely on a statement of income from the applicant without some independent evidence. While there will be exceptions to that, I don't think those are likely to apply in circumstances such as this where the loan amount is large, as are the regular repayments. Notwithstanding some of the points I made earlier in this provisional decision, I don't think Zopa carried out proportionate affordability checks. I think it ought to have at least verified Mr S' income in some way and asked Mr S about some of his other essential expenditure, such as bills, food and travel expenses.

Had Zopa sought to verify Mr S' income, I don't think it's likely it would have uncovered any concerns. It appears Mr S' regular monthly pay was around £200 less each month (£4,100) than what Zopa had estimated based on his declared annual income. I don't think this discrepancy would have made any meaningful difference to the lending decision.

I can't be sure exactly what Mr S would have declared if Zopa had asked him about his essential expenditure. However, I've relied on the information contained in his bank statements from the time of the lending as a reliable indicator of what he would have likely declared. Having done so, I've not seen anything to indicate that Mr S' essential committed living costs and expenditure would have caused Zopa any concerns about his ability to repay the loan. It seems he had sufficient disposable income (when taking into consideration essential living costs) to make the loan repayments even if he didn't use the loan proceeds to clear his existing debts. I therefore don't think Zopa made an unfair lending decision when it granted the loan to him.

I note that Mr S' bank statements demonstrate he was gambling significant amounts each month and he has told us he had a gambling problem. I'm sorry to hear that Mr S was struggling with this at the time. In order to say that Zopa acted unfairly I'd need to be satisfied that it either knew or should reasonably have known this about Mr S' circumstances. However, from everything I've seen, I'm not persuaded that it did or should have known.

This is because I don't think it would have been reasonable or proportionate in the specific circumstances of this case for Zopa to have manually reviewed Mr S' bank statements before lending (this would have been the only reasonable way it could have known). While I accept Zopa didn't complete proportionate affordability checks, I consider that proportionate checks wouldn't have likely led to a different lending decision.

Zopa had no further comments or evidence to provide. Mr S didn't agree with the provisional decision. In summary, he said:

- The interest rate on the Zopa loan was high at 22.9%. Zopa must therefore have known this wasn't a low risk loan.

- His credit card debt of around £20,000 had not decreased during the previous 18 months before the loan application. If Zopa believed he had significant disposable income each month it ought to have been concerned by the fact his debt hadn't decreased as would be expected.
- There were numerous cash advances on his credit cards in the year prior to the loan application. This should have suggested to Zopa he was in some financial distress.
- He was utilising the majority of his credit limits on most credit cards and transferring balances between credit cards.
- The size of the loan, the short term of it, and no evidence he'd reduced his overall debt all should have prompted further affordability checks.

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've reached the same outcome I did in my provisional decision and for broadly the same reasons. However, I'll address the additional points Mr S has made and explain why they don't change the outcome I've reached.

The interest rate on the loan was 22.9%. However, this appears to be the representative APR Zopa advertises. In other words, this is the APR that at least 51% of its customers will receive. Although I've not seen copies of the exact screens Mr S was presented with when he applied for the loan, it seems likely this is what he would have seen too. As Mr S received the representative APR, I don't think it automatically follows that Zopa didn't consider this a low risk loan. It seems that its interest rates are just set at this level as a starting point.

Zopa was under no obligation to offer him a lower APR than the representative one, nor do I know if it even made one available to anyone. But I don't think that matters because by virtue of Mr S receiving the representative rate, I think this demonstrates that Zopa didn't consider it a high risk loan.

Mr S says that his credit file shows that his credit card debt had remained at roughly the same level (£20,000) for the 18 months prior to him applying for the loan with Zopa. He says this ought to have caused Zopa to be concerned about his ability to repay credit. He says that if he had £1,000 in disposable income, Zopa ought to have expected that credit card debt to have reduced. While I don't disagree that Mr S' overall credit card debt had remained steady for quite some time, I'm not persuaded this ought to have caused any concern for Zopa. At least not to the extent that would have made it reasonable and proportionate for it to have manually reviewed his bank statements before lending to him.

I've noted that Mr S' credit file also shows that he was regularly and consistently paying much more than the required minimum payments towards his credit card debts during that time. This would therefore have given Zopa the opposite impression to what Mr S has sought to argue. It appears Mr S had sufficient disposable income to make large overpayments on his credit card debts over a prolonged period of time, but he chose to also make further discretionary purchases using that credit.

I think it is also worth noting that Mr S wasn't utilising the entire credit limits available to him and on some cards was significantly under his maximum limit (although I accept at least two were close to the limit). All of this, combined with the fact his overall debt hadn't significantly increased during that time (and what it knew about Mr S' circumstances) would have

understandably not caused Zopa any affordability concerns.

Mr S says there were a number of cash advances on his credit cards prior to the application. I agree that in some circumstances this might be a sign of financial difficulty. But given that everything else Zopa could see about Mr S' circumstances didn't suggest that it was very likely he was struggling, I don't think the cash advances on their own were enough to suggest Zopa's affordability checks ought to have extended to a manual review of his bank statements.

I've noted that Mr S says he was transferring balances between credit cards. But again, this isn't something that in and of itself is concerning behaviour, particularly where (as was the case here) Mr S' debt wasn't increasing, he was making frequent and significant overpayments and there were no obvious signs of financial difficulty. Further, it isn't uncommon for consumers to frequently transfer credit card balances, for example, to benefit from 0% interest offers.

In some circumstances, some of the things Mr S has highlighted might have prompted Zopa to do more thorough affordability checks than I have suggested was reasonable and proportionate. However, for all the reasons I've given here and in my provisional decision, I don't think that applied in this case.

I accept what Mr S has told us about his gambling, and I don't underestimate the impact this had on him. However, I'm not persuaded, for all the reasons I've given, that Zopa knew or ought reasonably to have known about those issues, or any other issues which might have caused it not to lend to him. For those reasons, I don't think it acted unfairly or unreasonably when lending to Mr S.

My final decision

For the reason given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 19 December 2023.

Tero Hiltunen
Ombudsman