

The complaint

Mr B has complained Zopa Bank Limited, trading as Zopa, is asking him to repay a personal loan he didn't take out.

What happened

In July 2023, Mr B fell for a scam. This was to enable him to get interest-free loan quotes. After being approached by a third party on WhatsApp who told them they were employed by an app he held, he followed their instructions to provide them with login details for his app, as well as his personal details. This app is all about credit reports and financial information, so Mr B believed what he was being told. He accepts he took no action to verify what was going on but saw no reason to doubt being approached by a financial company using WhatsApp.

An initial loan for £12,500 was taken out with Zopa in Mr B's name. He was then asked by the fraudsters to share the emails he received. Two other loans were then taken out in Mr B's name, including one with his own bank (who I'll call H).

This scam then proceeded with Mr B being told he could keep part of the loan proceeds but needed to make transfers and part pay in cash. Despite Mr B's concerns that this didn't seem right, he proceeded to make payments from his bank account with H. Over a period of a week, Mr B made various payments both electronically and in cash. He'd also been physically threatened by the fraudsters and felt he was forced to continue making payments.

In August as the scammers disappeared, Mr B complained to H and then followed this complaint up with complaints to Zopa and the other loan provider. H cancelled the £17,460 loan which had been taken out in Mr B's name and also refunded the personal money Mr B had lost from his own account as a result of the scam. Funds relating to the two other loans were not refunded.

Mr B brought his complaints to the ombudsman service.

Our investigator was able to view some of Mr B's correspondence with the scammer and Zopa's application evidence as well as the checks they carried out. He also got a full report from H about their fraud investigation.

He believed Mr B hadn't made the application but considered Mr B should have been aware that loans had been applied for and the large funds in his account with H were the result of this. He asked Zopa to remove interest and charges from the loan as well as remove any negative information from Mr B's credit record.

Zopa disagreed with this outcome as did Mr B.

Mr B's complaint has been referred to an ombudsman for decision.

I issued a provisional decision on 11 March 2024. I believed the evidence showed Mr B had not applied for the loans himself or benefitted in any way. In fact he'd initially lost further

funds which H had agreed to refund. I told Zopa I would be asking them to write off the loan in full.

Mr B accepted this outcome. Zopa continued to disagree as they didn't believe Mr B's testimony alone was enough to suggest he was the victim of a scam.

I now have all I need to complete my final decision.

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 as I did in my provisional decision. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

Firstly I can see the credit agreement was taken out July 2023. How this happened isn't really in dispute and was covered in our investigator's view of January 2024. I don't intend to repeat what happened as the details are understandably distressing for Mr B. However, I can confirm I have read the evidence carefully and am satisfied Mr B didn't take out the credit agreement himself. However he would have been aware, and admits he was, that loans were being taken out as his genuine email address was being used by Zopa.

I'm not sure whether Zopa accepts Mr B didn't take out the credit agreement, but I will confirm I'm satisfied he did not. I appreciate, however, his use of the app, along with his sharing of personal details, meant he contributed to the loan being taken out. I don't dispute this, but I believe this ignores what was happening at the time and that Mr B was being viciously scammed and physically threatened.

Zopa has questioned whether there is evidence that Mr B was the victim of a scam and I can confirm I'm satisfied I've seen this. I also note this has been clearly accepted by H and by the other loan company. So I disagree with them and believe I am able, as our rules allow, to take account of the customer's testimony.

As I believe Mr B didn't take out the agreement, then he has no contractual agreement with Zopa.

I note that it's most likely Zopa will have been aware that this loan was applied for using the app. And based on this app's increased use within third party scams, they could have taken further action to check what may be going on.

The scammers managed to apply for three loans in Mr B's name within five days but the loan with Zopa was taken out first on 22 July. So I accept they will not have known about other loans being applied for in Mr B's name around the same time.

From Mr B's testimony that he was concerned about loans being taken out – and I can see he already had an existing personal loan with H so I believe would have been concerned about the impact on his credit record – I'm satisfied the evidence indicates that this loan was taken out without Mr B's consent.

Like our investigator I believe Mr B could have been more alert to what then followed and the

actions he took in transferring money to the scammers and the cash withdrawals he made from his account with H. But I can see that Mr B was under physical threat at this stage and did try to get out of the arrangement but by this time, those scamming him had met him and held all his personal details. This resulted in Mr B being very conscious of the threats being made against himself and his family.

It's important to note that we don't consider aspects of contributory negligence when reviewing cases where credit has been taken out fraudulently.

In the evidence provided to us by H, I can see they wrote off the loan applied in Mr B's name on 28 July and agreed that he was the victim of a scam. Accordingly they repaid money that was Mr B's – as opposed to money credited to his account from the other two loan companies, including Zopa. I find this difficult to ignore when reviewing Mr B's complaint against Zopa particularly as this loan with H took place after the earlier loan applications.

I'm satisfied Mr B has in no way benefitted from what happened. In fact as can be seen by the evidence provided by H, Mr B used his own funds to pay the scammer.

Putting things right

Taking all the evidence into account, I am instructing Zopa to write off the loan in full as I believe this is fair.

All information must be removed from his credit record. As Mr B didn't take out this credit agreement, I don't believe there's any basis for Zopa placing any data about this loan on his credit record at all.

I note Zopa has offered £50 to Mr B for their service during the investigation of his complaint. If this hasn't been paid already, this will also now need to be paid to Mr B.

My final decision

For the reasons given, my final decision is to instruct Zopa Bank Limited, trading as Zopa, to:

- Write off the loan of £12,500 taken out in Mr B's name in July 2023;
- Stop asking him to repay anything towards this loan agreement;
- Pay Mr B £50 in compensation (if not paid already); and
- Remove all data about this credit agreement from Mr B's credit record.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 1 May 2024.

Sandra Quinn
Ombudsman