

The complaint

Ms M complains that Zopa Bank Limited (“Zopa”) is holding her liable for the debt on a loan taken out in her name as the result of a scam.

What happened

The background to this complaint is well known to both parties, so I won’t repeat everything here. In brief summary, in February 2023 a loan was taken out with Zopa in Ms M’s name for £4,500. Ms M subsequently got in touch with Zopa to let it know she’d been severely pressured by scammers into taking out the loan and she then lost the funds to the scam. Zopa investigated things and ultimately couldn’t reach agreement with Ms M, so she referred her complaint about Zopa to us. As an Investigator here couldn’t resolve the matter informally, the case has been passed to me for a decision.

I sent Ms M and Zopa my provisional decision last month explaining why I wasn’t minded to uphold this complaint. Zopa didn’t respond. Ms M disagreed with my provisional decision. Now the parties have had a fair opportunity to respond, I’ve reviewed everything again and I’m now ready to explain 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 materially the same conclusions as in my provisional decision and for the same reasons. That is, I’ve decided not to uphold this complaint. I’ve explained my reasons again below, with some further comment, where I have deemed this appropriate, to address Ms M’s response to my provisional decision.

I’m very aware that I’ve summarised this complaint briefly, in less detail than has been provided, and in my own words. No discourtesy is intended by this. Instead, I’ve focussed on what I think is the heart of the matter here. If there’s something I’ve not mentioned, it isn’t because I’ve ignored it. I haven’t. I’m satisfied I don’t need to comment on every individual point or argument to be able to reach what I think is the right outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

The first question is: did Ms M enter into this loan agreement, or was it done without her knowledge or consent? Having considered this carefully, I think it’s most likely the loan was taken out in Ms M’s name *with* her knowledge and consent, and she therefore did enter into the loan agreement. In deciding this, I take on board what Ms M has said about what happened and her feeling severely pressured by scammers into taking out the loan, and that she says they led her to believe they’d pay the loan straight back. Ms M has my sympathy. But this is not the same thing as Ms M being unaware of, or not consenting to enter into, this loan agreement with Zopa. In this case, Zopa called and spoke to Ms M before the loan was granted and Ms M said she understood the application was for a personal loan and that she’d be liable for it. So I’m satisfied she knew about it, and consented to it, albeit in

circumstances where it appears scammers tricked her into feeling pressured to take it out and that they'd pay it back.

I don't think Zopa was reasonably to know at the time there was anything untoward sitting behind the application. The loan funds were paid into Ms M's HSBC account. And whilst I understand these funds were then paid on from the HSBC account and lost to scammers, I can't see Zopa did anything wrong in granting the loan. And I don't think having this debt and being liable for it can fairly be blamed on Zopa's decision to grant the loan.

Ms M has raised the issue of affordability. For clarity, our usual approach, if we were to uphold a complaint about unaffordable lending, is that interest and charges should be removed but the consumer should still pay back the principal amount of the loan they had the benefit from. But here, I don't think the loan was irresponsibly lent. Ms M presented in the application with an annual income of £27,000 with monthly housing costs of £300. In response to my provisional decision, Ms M has said she didn't have an annual income of £27,000 but instead around £1,430 per month. But Zopa's credit searches validated for it the declared income and took monthly housing costs of £330 (slightly higher than Ms M declared) into account; Ms M's credit file also showed no other reason to be concerned. And here, bearing this in mind, and that the loan was for £4,500, I don't think this was unreasonable. So whilst I appreciate that if Zopa had seen Ms M's bank statements it would have seen her monthly rental costs were very significantly higher than this, I don't think reasonable and proportionate checks in this case extended this far. Given the amount being borrowed, and how things lined up, I think Zopa carried out reasonable and proportionate checks.

I also don't think there are any grounds on which I could reasonably ask Zopa to remove interest or charges due to current affordability. I understand that this Zopa loan for £4,500 and a separate loan with a different lender for £5,000 were paid into Ms M's HSBC bank account from where she then sent and lost them to scammers as part of a £10,000 payment she made out of her HSBC account. However, HSBC managed to recover £6,000 of these lost funds and Ms M was credited back this amount (£6,000). I also note as part of the settlement of Ms M's complaint about HSBC about the same £10,000, Ms M received back 50% of the loss, meaning of the remaining £4,000 (given the payment was for £10,000 and £6,000 was recovered), Ms M has received back a further £2,000 of the £10,000. As I understand things, using the £6,000 recovered, Ms M paid £3,000 to the third-party lender loan which has now settled that separate matter, and £2,000 to Zopa. Bearing in mind then that Ms M has already paid the £4,500 loan down to £2,500, and she received a further £2,000 back from HSBC as I've explained, I don't think I can reasonably say Zopa should be required to do anything now in terms of the affordability of the loan, other than, naturally, to treat any financial constraints sympathetically.

I appreciate Ms M is unhappy with the service she's received from Zopa. And I think that at times Zopa could have done things better, as it has acknowledged. However, for the reasons I've said, I don't think it's unfair Zopa is seeking to hold Ms M liable for the loan. And I think this was always going to be an extremely distressing period for Ms M given what she's said about how she was scammed, which was ultimately the scammers' fault, not Zopa's. I'm therefore satisfied Zopa's offer to pay £50 for service issues was fair and reasonable.

Finally, in her response to my provisional decision Ms M has said she has been in touch with Zopa. But Zopa hasn't said anything about this, and I've not seen anything that persuades me this ought to change my mind. I'm satisfied, for the reasons I've explained, that aside from service issues for which Zopa already fairly and reasonably offered £50 compensation, Zopa hasn't acted unreasonably in granting the loan or pursuing Ms M for repayment of it. If Ms M has any disputes about the accuracy of the amount still showing as payable on the loan, that would be something for her to take up as a separate matter.

My final decision

For the reasons explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 3 April 2024.

Neil Bridge
Ombudsman