

## **The complaint**

Miss T complains that Zopa Bank Limited irresponsibly agreed a loan for her.

## **What happened**

Zopa agreed a loan of £7,000 for Miss T in November 2019. The total amount owed was £10,744.92 to be repaid in 36 instalments of £298.47.

Miss T complained to Zopa that it was irresponsible to have agreed the loan for her because it was unaffordable. She said she couldn't afford the monthly repayments and the interest rate was too high.

Zopa said it carried out an affordability assessment before lending to Miss T to check she could afford the repayments. It relied on information she provided, information from her credit file and her bank transactions and concluded that the loan would be affordable for her. When Miss T complained, Zopa reviewed her loan application and confirmed that she had met all its minimum lending requirements. It didn't uphold Miss T's complaint and she referred it to us.

One of our investigators looked into Miss T's complaint. They found that Zopa should have looked into Miss T's finances in more depth before lending to her but, had it done so, would likely have found the loan to be affordable.

Miss T didn't agree with this conclusion and asked for the complaint to come to an ombudsman to decide. The complaint came to me and I issued a provisional decision on 9 April 2024 explaining why I thought Miss T's complaint should be upheld. I shared the information I'd relied on with both parties and allowed time for any comments or new information from either.

Both parties confirmed they'd received my provisional decision and Miss T accepted it.

## **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 reviewed everything again, and having no comments or new information from either party to consider, I've seen no reason to depart from my provisional conclusions. I'll set out my reasons again for upholding Miss T's complaint in this final decision.

As before, in making my decision I've had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as Zopa, need to abide by. Zopa will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise them.

Before entering into a credit agreement, Zopa needed to check that Miss T could afford to

meet her repayments out of her usual means for the term of the loan, without having to borrow further, while meeting existing commitments and without the repayments having a significant adverse impact on her financial situation. The checks needed to be proportionate to the nature of the credit (the amount borrowed or the term, for example) and to Miss T's circumstances and Zopa needed to have proper regard to the outcome of its assessment in respect of affordability risk. The overarching requirement was that Zopa needed to pay due regard to Miss T's interests and treat her fairly.

With this in mind, my main considerations are did Zopa complete reasonable and proportionate checks when assessing Miss T's application to satisfy itself that she would be able to make her repayments without experiencing adverse consequences? If not, what would reasonable and proportionate checks have shown and, ultimately, did Zopa make a fair lending decision?

Zopa provided some of the information it relied on in its assessment including what Miss T said in her application form and its affordability estimates. Zopa said it checked this information against Miss T's bank account transactions and used information from her credit file to estimate her monthly debt repayments.

Miss T said in her application form that her monthly net income was £1,543 and that her rent was £500. The credit file information Zopa relied on showed that Miss T had an existing loan balance of £2,621 with monthly repayments of £131 and a credit card balance of £908 with repayments of £45. Zopa said that Miss T had no adverse payment history on her credit file at the time of the application. It estimated that after meeting her rent and existing debt repayments Miss T would have around £865 a month to meet any other expenses including the loan repayments of £298. It concluded that the loan would be affordable for her.

Agreeing this loan potentially committed Miss T to spending almost a third of her declared income repaying her debts. Given this, and the loan amount and term, I think it would have been proportionate in this instance for Zopa to have gathered a full picture of Miss T's circumstances, including what her usual expenses were, before agreeing to lend to her.

Miss T has provided us with her bank statements for the three months prior to the loan and a copy of her rental agreement for 2022. The statements confirm that the figure Zopa relied on for Miss T's monthly income was reasonable and that it comprised wages and child benefit payments. As mentioned, Zopa estimated Miss T's existing debt repayments as £176, which her bank statements confirm. Miss T's other monthly living costs including rent and council tax, utilities, media and mobile payments and insurances came to around £840. I've estimated Miss T's average monthly supermarket spending conservatively at £200. This doesn't include any travel, household or child-related costs.

CONC 5.2A.25G states that potential indicators that the level of affordability risk arising out of the agreement may be high include circumstances where there is a high likelihood that the customer will not make repayments under the agreement by their due dates, and it may be the case that a high risk that one repayment will be missed or will be late is, in the individual circumstances, indicative that the level of affordability risk arising out of the agreement is high.

I think a proportionate check would have shown Zopa that the affordability risk arising out of this agreement was high and it was unlikely Miss T would be able to afford to meet her repayments each month for the loan term without borrowing again or experiencing other adverse impacts. I currently think it's likely that Zopa would have declined Miss T's application had it carried out such checks and so I can't say it was responsible to have entered into the agreement on the basis of the information it had.

I have considered that Miss T said in her application that the loan was for consolidation. Zopa's underwriting notes show that it spoke with Miss T before agreeing to lend to her but I haven't been provided with a call recording or transcript and so I don't know what was discussed. Even if Miss T intended to use the loan to clear her credit card balance, for example, she wouldn't have been left with enough money each month to meet any unexpected or unaccounted for expenses. Miss T confirmed to us that she didn't use the loan for consolidation but to pay for home improvements. Altogether, I can't say Zopa treated Miss T fairly or with due regard to her interests when it approved the loan.

I understand from the account history that within a few months Miss T had problems meeting her repayments for the loan, and has arranged various payment plans with Zopa since then.

### **Putting things right**

I've concluded that Zopa was irresponsible to have agreed this loan for Miss T in 2019. I think it's fair that she repays the capital amount she borrowed as she's had the use of the money. However, I don't think it's fair that Miss T pays any interest, fees or premiums associated with the loan or has her credit file adversely impacted.

To put things right for Miss T, Zopa should:

- Cap the amount she needs to repay at the capital amount she borrowed, this being £7,000 in total;
- Consider all payments she's made as payments towards this capital amount; and
  - If Miss T has repaid more than the capital she borrowed, then Zopa should refund these overpayments to her along with 8% simple interest per annum\*\* from the date the overpayments were made to the date this complaint is settled; or
  - If Miss T hasn't yet repaid the capital then Zopa needs to treat her fairly and with forbearance which might mean agreeing an affordable repayment plan with her or amending an existing one.
- Remove any adverse information about this loan from Miss T's credit file once settled.

If Zopa has sold an outstanding balance to a third party debt collector it must either buy it back or work with the third party to bring about the above steps.

\*\* HM Revenue & Customs requires Zopa to take off tax from this interest. Zopa must give Miss T a certificate showing how much tax it's taken off if she asks for one.

### **My final decision**

For the reasons I've explained above I am upholding Miss T's complaint about Zopa Bank Limited and it now needs to put things right for her as I've set out.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 10 June 2024.

Michelle Boundy  
**Ombudsman**