

The complaint

Mr A says that Zopa Bank Limited ('Zopa') hasn't administered his account correctly. He complains that it has defaulted it without notice when his repayments were up to date. He says he can continue to make the loan repayments and Zopa should help him do this.

What happened

Mr A took out a hire purchase agreement to purchase a car in July 2022. He borrowed £17,500 over a term of 60 months. His monthly repayment was £382.29.

I'll outline some of the problems that Mr A has had making the loan repayments, I won't detail everything as I don't need to refer to all of it in this decision, and this would also make it difficult to make the decision anonymous. But I have looked at everything, and listened to the telephone call recordings, that have been provided by both parties.

From this information, I can see that Mr A first missed a loan repayment in March 2023. He also missed payments in June and July 2023. Mr A was able to clear these arrears over the coming few months.

Mr A again missed the repayment that was due in August 2023. He told Zopa that he was experiencing financial difficulties and it was agreed that he would repay £100 a month for the next three months. Mr A did this in September and October 2023 but failed to make a payment in November 2023. This arrangement then ceased. I have seen that Zopa was in contact with Mr A throughout this period and it issued missed payment and overdue balance letters in September and October 2023.

And going forward, due to the amount of arrears that had built up, Zopa issued Mr A with a default notice in December 2023 which said that he needed to clear the arrears to avoid the loan defaulting. The arrears were now £1,329.18.

Mr A then agreed to make the contractual payments plus additional payments of £47.71 to reduce the arrears. But Mr A was unable to pay his contractual repayment in December 2023 and so this new arrangement was cancelled. A second default notice, with arrears of £1,663.76, was issued to Mr A in January 2024.

Mr A made an additional repayment of £47.71 in January 2024. And he paid one of the missed contractual repayments of £382.29. However, he again missed the scheduled payment at the end of January 2024. The loan was then defaulted at the start of February 2024. Mr A did make a repayment in February 2024 a short time after the default process had started, but Zopa has said that it was unable to stop the default at that time.

In March 2024, Mr A complained to Zopa. He said that despite a payment arrangement being put in place to clear some arrears, which he had stuck to, his debt was passed to a third-party debt collection agency. He said the car was essential to his work and he should not be subject to repossession.

Zopa considered Mr A's complaint, but it did not uphold it. In its final response letter sent in February 2024 it outlined the missed payments and remedial action that had been undertaken on Mr A's account so far. It noted that the account had been defaulted in February 2024 and it thought that this was reasonable. It said it would be unable to reverse the default or stop the repossession of the vehicle.

Mr A didn't agree with this and brought his complaint to the Financial Ombudsman Service. One of our Investigator's considered it but didn't think Zopa had made any errors. She said that she thought Zopa had recorded Mr A's missed payments fairly and issued reasonable correspondence about this. It hadn't maladministered his account and it wasn't unreasonable when it defaulted the account and repossessed the car.

Mr A responded and didn't agree. A summary of what he has said about this complaint is that:

- Zopa had allowed a repayment holiday and reduced payments, but these were not properly reflected in his account. The account still showed that he had missed payments despite these arrangements.
- The payments should be recorded as late, rather than missed, as they were made within the billing cycle
- He did not receive adequate and timely notices before Zopa defaulted his account. This lack of communication prevented him from taking action to correct his account.
- The lack of car would significantly impact his livelihood.
- He does have the capacity to pay and should be allowed to do so.

As no agreement has been reached the complaint has been passed to me to make a 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.

Mr A has said that he can now make the repayments and that Zopa has not treated him fairly when it has acted on the basis that he can't do this. But I think it's reasonable to say that, from September 2023 onwards, Mr A was unable to reliably make the contractual loan repayments. He was significantly in arrears by the end of 2023 and in the telephone calls he had with Zopa around this time he was told that he must make the contractual repayments, at the agreed time, or the loan would default. As I've outlined above, he couldn't do this.

So, I don't think it's reasonable to say that Mr A had the ability to pay the car finance. By this I mean it's clear that Mr A was unable to pay the contractual loan repayments on time and when they became due and make up the payments he had missed. By February 2024, he'd missed a significant number of contractual repayments and he also hadn't been able to fully stick to the agreed plan to repay some of the arrears.

I don't think this was unfair of Zopa to recognise this and take the appropriate action. So, I don't think that Zopa was acting unfairly when it defaulted the loan.

Mr A thinks that, as he was making regular payments and he had agreed to pay alternative amounts, then Zopa shouldn't have acted as if he missed the loan repayments, as he was paying these alternative agreed amounts.

But when entering into the loan agreement he had agreed pay a certain amount each month, until the end of the agreement. When he didn't make these contractual loan repayments, at the time they were agreed, then he had missed the repayments. This is the case even if he has agreed to make lower payments for a time. As the full contractual repayments are not made his is still 'missing' these payments. There wasn't a new contract formed when Zopa acted with forbearance, and allowed Mr A to pay a lower amount. He was still not paying the contractual loan amounts.

And I have seen that Zopa informed Mr A about this in the telephone calls that they had. And the written (and email) information I've seen also informed him about this.

Mr A says that it's incorrect to classify the repayments as 'missed' if they are made before the end of the 'billing period'. But this was a hire purchase agreement and there isn't a billing period as such. So, I don't think this applies here.

Overall, I've not seen any persuasive evidence that Zopa has incorrectly categorised or recorded his payment history. Mr A had clearly missed several of his contractual loan repayments and he was significantly in arrears with his loan. Zopa had a responsibility to report this to the credit reference agencies.

Mr A says that he wasn't properly notified that his loan may default. As I've said I haven't reproduced all the correspondence and I don't think I need to. I have looked at it all and have noted that there were numerous telephone conversations between Mr A and Zopa that concern the arrears and he was told of the risk of a default. And he received two default notices before the default went into place and Zopa took steps to repossess the car. I think Zopa fully informed Mr A about all of this.

I appreciate this will not be the answer that Mr A is looking for and I hope his circumstances have improved and losing the car did not have too great an impact on him. But overall, I'm not upholding this complaint.

My final decision

For the reasons set out above, I don't uphold Mr A's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 27 November 2024.

Andy Burlinson
Ombudsman