

The complaint

Mr M has complained Zopa Bank Limited is asking him to repay a fixed-sum loan he didn't take out.

What happened

In January 2024, Mr M's partner, Ms M, died suddenly. As Mr M was sorting out her affairs, he discovered Ms M had been gambling secretly and had taken out loans and credit cards in his name.

He realised Ms M had spent money they'd been saving for her daughter and had then taken out loans to cover what she'd done. Mr M had allowed Ms M to manage their family finances, and this included giving her access to his sole bank account (with L) to do this.

Mr M found a loan had been taken out with Zopa for £10,000 in October 2023. Along with interest this would cost £15,122.99 and the loan agreement meant that repayments of £315 would be made every month for four years. But as Mr M hadn't taken this out, he asked Zopa to cancel the agreement.

Zopa felt as the agreement had been taken out in Mr M's name, he must have been aware of this. The funds had also been paid into his sole account with L with the money being spent soon after. They would continue to expect Mr M to repay the loan.

Mr M brought his complaint to the ombudsman service. He also brought a complaint about a credit card that Ms M had also taken out in his name.

Our investigator believed the evidence shows the loan was taken out in Mr M's name and that based on the checks they undertook, she wasn't going to ask Zopa to do anything further.

Unhappy with this outcome, Mr M has asked an ombudsman to consider his complaint.

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 a slightly different outcome to our investigator. Where I've done so, I've ensured that Zopa and Mr M have been informed in advance and given an opportunity to provide further evidence. I'll explain further.

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 in October 2023. This was completed online and Zopa has confirmed the email and phone details belonged to Ms M. Mr M has explained that he found out a load of post being held by the post office which is a method

Ms M used to stop him from finding out what has gone on.

Based on the evidence both Zopa and Mr M have provided, I'm satisfied that he didn't take out this loan nor was he aware of this. I appreciate how distressing it must have been for him following Ms M's sudden death to find out debts and commitments he'd not been aware of.

However, that fact alone doesn't mean that Zopa is required to stop asking Mr M to repay what was borrowed. I've also had to consider whether Mr M had the benefit of the funds.

I note – and Mr M accepts this – that he allowed Ms M to manage their family affairs. He only registered for online banking for his own account with L after she died as he'd not needed to do this previously.

In allowing Ms M to use his account – and essentially masquerade as him whilst making transactions on the account – he was in effect giving her apparent authority to use his account. This means he was authorising the transactions – whether for his benefit or not – Ms M made. I am sure he'll be aware this is against the terms and conditions of his bank account, but I know that Mr M won't be the only person who comes to this type of domestic arrangement between couples.

However, this does mean it is impossible to tell what benefit Mr M personally or as a family unit had. I've reviewed the transactions on his account which followed the £10,000 credit from Zopa. The same day I can see there was a payment out for £7,800 to a third party and then there are payments for what I'm sure were family commitments. The full amount was used quite swiftly.

I don't think it would be fair to say that Mr M had no benefit from the money.

However, I must consider what else has happened. So, I'm satisfied that Mr M had no prior knowledge of the loan being taken out or how Ms M would have been likely to use it. This has all come as a big shock.

I have let Zopa know that on this basis, I think it's fair and reasonable that Mr M only be asked to repay the loan capital – £10,000 – of the loan. They will need to write off the interest and fees related to this loan.

Ms M obviously intended to repay the loan when she took this out. There's no hint that she took out this loan to defraud Zopa, although it's clear she was trying to hide what she was doing from those closest to her. A direct debit arrangement set up for repayments has been met on a regular basis.

Zopa will need to recalculate what's owed on the loan after crediting those direct debit payments to the capital amount and let Mr M know.

I'm sure Mr M will remain unhappy with this outcome, and I can understand why. However, I'm satisfied this is fair and reasonable in the circumstances.

My final decision

For the reasons given, my final decision is to instruct Zopa Bank Limited to only require Mr M to repay the capital amount of the loan taken out in his name, and therefore write off the interest and fees due.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 26 November 2024.

Sandra Quinn
Ombudsman