

Complaint

Mr W has complained about a personal loan Zopa Bank Limited (“Zopa”) which he says it unfairly lent to him. He says that this loan was provided when he already had significant existing debts and poor credit.

Background

Zopa provided Mr W with a loan for £6,000.00 in November 2022. This loan had an APR of 19.5% and the total amount to be repaid of £7,804.15, which included interest fees and charges of £1,804.15, was due to be repaid in 36 monthly instalments of around £216.78.

One of our investigators reviewed what Mr W and Zopa had told us. He thought that Zopa hadn’t acted unfairly and didn’t recommend that the complaint be upheld. Mr W disagreed and asked for an ombudsman to review the complaint.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr W complaint.

Having carefully considered everything, I’m not persuaded to uphold Mr W’s complaint. I’ll explain why in a little more detail.

Zopa needed to take reasonable steps to ensure that it didn’t lend irresponsibly. In practice, what this means is Zopa needed to carry out proportionate checks to be able to understand whether Mr W could afford to make his repayments before lending to him.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower’s income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we’d expect a lender to be able to show that it didn’t continue to lend irresponsibly.

Zopa says it approved Mr W application after he provided details of his monthly income and some information on his expenditure. It also carried out a credit search which showed Mr W’s existing commitments were relatively well maintained at the time of the application.

In Zopa’s view all of the information it gathered showed that Mr W could comfortably afford to make the repayments he was committing to. On the other hand, Mr W has said he was already in significant debt and couldn’t afford this loan.

I've carefully thought about what Mr W and Zopa have said.

It's clear that Zopa did obtain a reasonable amount of information before it decided to proceed with Mr W application. This information does appear to suggest that Mr W had some existing debts. But I'm afraid that I don't agree that these were excessive in comparison to his income. And it is also worth noting that Mr W didn't have any significant adverse information – such as defaulted accounts or county court judgments recorded against him.

Furthermore, I know that Mr W said that he was going to consolidate some of his existing borrowing too. Zopa could only make a reasonable decision based on the information it had available at the time. It won't have known whether Mr W would go on to repay his debts, or even if he did whether he might re-establish a balance on his credit card – in the way that it appears he did - all it could do was take reasonable steps and rely on assurances from Mr W that the balances would be repaid with these funds.

So I'm satisfied that the proceeds of this loan could and should have been used to clear some of Mr W's existing credit - at a cheaper interest rate and with payments that would reduce what was owed more rapidly, which wouldn't have happened if Mr W had made the minimum repayments on his credit card. And as this was a first loan Zopa was providing Mr W with, Zopa was reasonably entitled to believe that Mr W would be left in a better position.

It's possible that if Zopa had gone into the depth of checks Mr W appears to be saying it should have – such as obtaining bank statements – it may have reached a different conclusion. For example, I've seen what Mr W has said about him using his overdraft and his hardcore borrowing. But I don't think the circumstances of the lending here warranted obtaining bank statements.

In any event, it wasn't for Zopa to monitor Mr W's overdraft usage. This was a matter for the bank that he had his overdraft with. And if Mr W is unhappy at having been allowed to continue using his overdraft in the way that he did, this is a matter that he needs to take up with his bank, rather than Zopa.

Given the circumstances here, and the lack of obvious inconsistencies, I don't think that reasonable and proportionate checks would have extended into the level of checks Mr W is suggesting. As this is the case, I don't think that Zopa did anything wrong when lending to Mr W - it carried out proportionate checks and reasonably relied on what it found out which suggested the repayments were affordable.

In reaching this conclusion I've also considered whether the lending relationship between Zopa and Mr W might have been unfair to Mr W under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Zopa irresponsibly lent to Mr W or otherwise treated him unfairly. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here. So I'm not upholding this complaint.

I appreciate this is likely to be very disappointing for Mr W. But I hope he'll understand the reasons for this decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr W complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 30 August 2024.

Jeshen Narayanan
Ombudsman