The complaint

Mrs W complains that Zopa Bank Limited (Zopa) acted irresponsibly by agreeing to two loans that Mrs W said she couldn't afford to repay.

What happened

In August 2023 Mrs W applied for a £3,000 loan with Zopa repayable over 48 months at £105.33 a month. She said the loan was for home improvements. In March 2024 Mrs W applied for a further loan of £5,100 for the purpose of debt consolidation. This was repayable over 36 months at £189.08 a month. Mrs W said she was already struggling financially and if Zopa had properly checked they would have seen the loans weren't affordable. Mrs W complained to Zopa.

Zopa said they used Mrs W's application data, checked her credit file, used statistical data and for the second loan, internal data to assess the affordability of each loan. Zopa said their checks showed that both loans were affordable for Mrs W.

Mrs W wasn't happy with Zopa's response and referred her complaint to us.

Our investigator said the checks done by Zopa showed that Mrs W was already overly indebted. And Zopa had acted irresponsibly by increasing her debt, so they shouldn't have lent to Mrs W.

Zopa didn't agree and asked for an ombudsman to decide.

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.

We've set out our approach to complaints about unaffordable and irresponsible lending on our website. I've taken this into account in deciding Mrs W's complaint. Having done so, I uphold this complaint as I'm not persuaded it was reasonable for Zopa to agree to lend – I'll explain why.

All lenders have an obligation to lend money responsibly. The relevant guidance is within the Financial Conduct Authority (FCA) rules on creditworthiness assessment as set out in its handbook, (CONC) section 5.2. These say that a firm must undertake a reasonable assessment of creditworthiness, considering both the risk of the customer not making the repayments, as well as the risk to the customer of not being able to make repayments.

So, in reaching my decision I need to consider:

1. Did Zopa complete reasonable and proportionate checks to satisfy themselves that Mrs W would be able to sustainably repay the borrowing?

a. If they did, was the decision to then lend to Mrs W fair?

b. If they didn't, would reasonable and proportionate checks have shown that Mrs W could sustainably repay the borrowing?

2. Did Zopa act unfairly or unreasonably in some other way?

The affordability checks should be "borrower-focused", meaning Zopa need to think about whether repaying the loan sustainably would cause difficulties or adverse consequences for Mrs W. In other words, it wasn't enough for them to think only about the likelihood that they would get their money back without considering the impact of repayment on Mrs W herself.

Zopa carried out a credit search before they agreed to lend to Mrs W and have provided a copy of the results. From this I can see Zopa would have known that Mrs W had six credit cards, six unsecured loans, a hire purchase agreement, a mail order account and a communications account.

Before the loan was granted Zopa said they took account of what Mrs W told them about her income. Mrs W declared a gross income of around £43,066 which Zopa considered to be a net monthly income of around £2,745. Mrs W said her mortgage each month was £400. Zopa have also shown Mrs W had unsecured debt of £22,015 and a hire purchase commitment of around £37,000. I can also see that Mrs W had taken out a loan for £4,866 only four months prior to her application for the £3,000 loan with Zopa.

Zopa said they used this and the results from the credit search and statistical data to work out whether Mrs W could afford the repayments. This showed Mrs W's outgoings to be around £1,504 and with her mortgage this would have meant Mrs W had enough disposable income to sustain her repayments.

Given the amount Mrs W was looking to borrow, £3,000 for a first loan I don't think there was a need for Zopa to carry out a full verification of Mrs W's circumstances, as they were already aware of her income and they'd a good understanding of her existing credit commitments from the credit reference agency. But I think the evidence they gathered showed Mrs W was already overly indebted, and that she was regularly taking on further debt. Based on this Mrs W's existing credit commitments excluding her mortgage equated to 55% of her monthly income, the new lending would have increased Mrs W's overall indebtedness further when the new loan repayments were factored in – 59%.

While Mrs W's credit search showed she was managing her monthly repayments, Zopa in their assessment haven't shown they factored in any other non-discretionary spending other than Mrs W's mortgage. And with her existing credit commitments, including her mortgage and the new loan amount, she'd have been left with around 25% of her monthly income to cover food, car running costs, insurance, and other essential spending, as well as any unforeseen event.

I think based on what Zopa found from their checks, Mrs W was already indebted with several credit cards, loans and hire purchase including a loan that had been taken out relatively a short time before. This meant she was utilising most of her income in managing her credit commitments. I can also see from the credit file Zopa has provided that this showed Mrs W had a history of settling some of her credit commitments only to take on further credit shortly after, which I consider shows Mrs W's reliance on credit.

By lending to Mrs W Zopa was increasing her indebtedness further. And given she would be incurring living costs and other non-discretionary spending over each month, I'm not satisfied Zopa made a fair lending decision as on balance I don't think Mrs W's level of borrowing was sustainable.

I think this is further supported by Mrs W applying for a second loan with Zopa around six months later when she was looking to consolidate her existing debt. The second loan was for £5,100 repayable over 36 months at £189.08. Zopa carried out similar checks, application data, credit search, statistical data as well as the internal data as Mrs W now had a loan account with them.

Before the loan was granted Zopa said they took account of what Mrs W told them about her income. Mrs W declared a gross income of around £40,195 (which is less than the previous declared income) which Zopa considered to be a net monthly income of around £2,584. Mrs W said her mortgage each month was again £400. Mrs W now had unsecured debt of £23,575 and a hire purchase commitment of around £34,000. Zopa said they used this and the results from the credit search and statistical data to work out whether Mrs W could afford the repayments. This showed Mrs W's outgoings to be around £1,495 and with her mortgage this would have meant Mrs W had enough disposable income to sustain her repayments.

Mrs W had around of £7,200 revolving credit – such as credit cards and a mail order account and she was paying around £360 per month. She still had six existing loans, her hire purchase commitment and communications account. Each month Mrs W was paying around £1,135 for these. So, in total Mrs W had credit commitments, not including her mortgage of around £1,495, which is the figure Zopa also reached. This meant Mrs W's credit commitments equated to 58% of her income each month. Once the new lending was factored in – around £189 a month Mrs W's debt to income would have increased to 65%.

While Mrs W's credit search showed she was managing her monthly repayments, Zopa in their assessment haven't shown they factored in any other non-discretionary spending other than Mrs W's mortgage. And with her existing credit commitments including her mortgage she'd have been left with less than 20% of her monthly income to cover food, car running costs, insurance and other essential spending, as well as any unforeseen event.

Mrs W has said she intended to use the loan for debt consolidation, with the intention to settle some of her credit cards. I can't see that Zopa asked Mrs W specifically what debts she intended to settle. Based on the information Zopa has shown us Mrs W's credit card and mail order account balances amounted to around £7,200 with her monthly repayments being around £360. But Mrs W wouldn't have had enough to settle all her accounts, so I think if Mrs W had used the loan as she said she could potentially have reduced her monthly commitments by around £250 a month. The new lending was for around £189 a month thereby only reducing Mrs W's commitments by around £60 a month and her debt to income to around 56%.

Overall given Mrs W's existing level of indebtedness, her reliance on borrowing and the other costs that she'd likely incur during the month, such as petrol and food costs I don't think Zopa made a fair lending decision.

I've also considered whether Zopa acted unfairly or unreasonably in some other way given what Mrs W has complained about, including whether their relationship with Mrs W might have been viewed as unfair by a court under Section 140A of the Consumer Credit Act 1974. But, I'm satisfied the redress I have directed below results in fair compensation for Mrs W in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

Putting things right

Having thought about everything, Zopa Bank Limited should put things right for Mrs W for both loans by:

- Removing all interest, fees and charges applied to each loan from the outset. The payments Mrs W has made, should be deducted from the new starting balance for each loan. If Mrs W has already paid Zopa more than the £3,000 and £5,100, then this should be treated as overpayments. And any overpayments should be refunded to her;
- Adding interest at 8% per year simple on any overpayments from the date they were made by Mrs W to the date of settlement*
- if no outstanding balance remains after all adjustments have been made, all adverse information Zopa has recorded about each loan should be removed from Mrs W's credit file.
- Should any outstanding balance remain due, I'd expect Zopa to agree with Mrs W an affordable repayment plan. And once settled all adverse information recorded against each loan should be removed. I would remind Zopa of their obligation to treat Mrs W fairly, with forbearance and consideration should she be experiencing financial difficulties.

*HM Revenue & Customs requires Zopa to take off tax from this interest. Zopa must give Mrs W a certificate showing how much tax they've taken off if she asks for one.

My final decision

I uphold this complaint. And ask Zopa Bank Limited to put things right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 22 April 2025.

Anne Scarr
Ombudsman