

The complaint

Mr B's complaint is about two credit cards issued to him by Zopa Bank Limited in 2021 and 2023 respectively. Mr B says Zopa acted irresponsibly when it gave him the credit cards. To resolve the complaint Mr B would like Zopa to write off the balances, remove all information about the accounts from his credit file and pay him compensation.

What happened

I don't need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here. In addition, our decisions are published, so it's important I don't include any information that might lead to Mr B being identified. So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision.

In November 2021 Mr B opened a credit card account with Zopa. It had a limit of £300. A second account was opened in September 2021, this time with a credit limit of £1,000. Neither account is still operating. The first has been closed down, having been well-managed. The second was sold on to a third party in 2024 after payments stopped being made.

In August 2024 Mr B complained to Zopa that the bank had acted irresponsibly in offering him the credit cards.

The essence of Mr B's complaint was that at the time he took out the cards, he had a history of poor credit management, including a substantial County Court Judgement (CCJ).

Zopa didn't uphold the complaint, saying in its final response letter that it had assessed Mr B's financial circumstances before issuing the cards, and at the relevant times, his existing credit commitments (one in 2021, two in 2023) were up to date and that it considered that he enough income to cover the payments that would be required.

Dissatisfied with the bank's response, Mr B referred his complaint to the Financial Ombudsman Service. An Investigator looked at what had happened. She concluded that the granting of both facilities was fairly assessed, She considered whether Zopa's treatment of Mr B in any other way might have resulted in an unfair relationship under s140.A of the Consumer Credit act 1974 (CCA), but didn't find anything.

Mr B asked for the complaint to be reviewed by an ombudsman.

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.

Before I set out my findings, I've noted that In asking for the case to be reviewed, Mr B asked which credit reference agency Zopa had used, which we confirmed. It was a different agency from that which compiled the credit file Mr B had sent us. We've given Mr B time

(over two months) to obtain a copy of his credit file from the agency Zopa used, but it hasn't been received.

Before entering into the credit agreements, Zopa needed to check that Mr B could afford to repay the credit out of his usual means, within a reasonable period of time, without having to borrow further and without experiencing financial difficulty or other adverse consequences. The checks needed to be proportionate to the nature of the credit, for example the amount offered, and to Mr B's particular circumstances. In addition Zopa needed to have proper regard to the outcome of its risk assessment in relation to affordability. The overarching requirement was that Zopa needed to pay due regard to Mr B's interests and treat him fairly.

With all this in mind, I have to consider whether Zopa carried out reasonable and proportionate checks when it opened the accounts for Mr B to satisfy itself that he would be able to repay the credit offered within a reasonable period of time. If it didn't do this, what would reasonable and proportionate checks have shown? Was there anything of concern in the checks Zopa carried out, and did it make fair lending decisions? Did Zopa treat Mr B unfairly or unreasonably in any other way, including whether the relationship might have been unfair under s.140A Consumer Credit Act 1974 (s.140A CCA)?

At the time of the first application Mr B told Zopa that he employed full time on a salary of £45,000. A credit check showed no CCJs, and Mr B was neither in an Individual Voluntary Arrangement with his creditors, nor had he been declared bankrupt. After taking account of Mr B's household expenses, and a single credit commitment (a hire purchase agreement) Zopa considered a credit limit of £300 to be affordable.

As far as the second account is concerned, this time Mr B declared his annual income as £50,000. This time, the checks Zopa conducted revealed Mr B to have two credit facilities running, the aforementioned hire purchase agreement and another (most likely the first card from 2021) with a balance of £22. That being the case, Zopa considered a credit limit of £1,000 to be affordable.

It seems to me that in both cases, Zopa carried out proportionate checks when it opened the accounts. It considered what Mr B said on his applications and checked his credit file. I've reviewed the information Zopa gathered and I haven't seen anything which suggests that Mr B would have any difficulty meeting his repayments for the levels of credit offered in either case out of his stated income. I also don't think there was anything in the information Zopa had gathered about Mr B's circumstances that should have led it automatically to decline his applications, or prompted it to complete further checks before entering into the agreements.

Bearing in mind there wasn't anything in the information provided by Mr B that was inconsistent or difficult to explain, I don't think that it was unreasonable for Zopa to rely on what Mr B provided about his income and expenditure during his applications. In the circumstances, the information obtained suggested that Mr B could repay balances of £300 and £1,000 within a reasonable period of time. The checks Zopa carried out were reasonable and proportionate.

Altogether, considering the information about Mr B's income from the applications, what Zopa saw on Mr B's credit file, and the amount of credit it was offering, I can't say that Zopa made irresponsible or unfair lending decisions when it opened the credit card accounts for Mr B in 2021 and 2023.

In reaching my conclusions, I've also considered whether the lending relationship between Vanquis and Mr B might have been unfair to Mr B under s.140A of the Consumer Credit Act 1974 ('Section 140A').

In the context of this complaint, the law relating to unfair relationships is described in Section 140A. It says a court may make an order under Section 140A if it determines a relationship between the creditor and the debtor is unfair. The consumer is the debtor and Section 140A defines the creditor as *“the person to whom his rights and duties under the agreement have passed by assignment or operation of law.”*

So where a debt has been sold, as is the case with the second card, it follows that the debt purchaser is now the creditor for the purposes of the credit agreement. That means a claim about an unfair relationship can't be brought by a consumer against the original lender as they are no longer the creditor.

That exclusion doesn't apply to the first card, which wasn't sold to another creditor but simply repaid. However, for the reasons I've explained, I've not been persuaded that Vanquis lent irresponsibility to Mr B, or otherwise treated him unfairly. Given this, I'm not persuaded that Section 140A would, given the facts of this complaint, lead to a different outcome.

My final decision

My final decision is that I don't uphold this complaint.

My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 26 May 2025.

Jeff Parrington

Ombudsman