

complaint

Mr B complains that Zopa Limited (Zopa) was irresponsible when it lent him money in July and September 2016. Mr B is represented in this complaint by Ms C.

background

In mid July 2016, Mr B applied for a loan from Zopa for just over £2,000 to be repaid over two years. In early September 2016, Mr B applied for a second loan from Zopa for just over £7,000. Part of this was used to pay off the July loan from Zopa.

Zopa says Mr B told it that both loans were for home improvements.

Later in 2016, Ms C contacted Zopa through our service to say it shouldn't have lent Mr B the money because he had a gambling problem.

Zopa responded to say it doesn't agree that it lent to Mr B irresponsibly. It has very strict lending criteria that take into account many things including information from the Credit Reference Agencies, how any old debt has been maintained and debt to income ratios. In Mr B's case, it says it also reviewed bank statements, payslips and identification before making its decision.

So it says it'd carried out proper checks when it lent Mr B money in July and September 2016. And there were no signs of gambling transactions on the bank statement given to support Mr B's loan applications. Nor was there any negative repayment history on Mr B's credit file that'd raise any concerns. Zopa also says that, by the time Mr B applied for the second loan, it took into account how Mr B had managed his earlier loan with it. And there weren't any late payments or discussions of financial difficulties. It adds that, until recently, all the monthly loan repayments were made on time. And Mr B even made an overpayment of £300 in October 2016 which reduced his monthly payments.

Ms C doesn't agree with this. She says the loan in September 2016 was given to Mr B at the worst time in his gambling. She says the searches from gambling organisations on the credit report should've been a red flag to Zopa. But Zopa didn't treat the September loan in the same way as the first loan application and failed to carry out the same checks including the latest bank statements from Mr B. And, if it had, it would've realised that Mr B has a gambling problem and the loan wasn't affordable. Also, she feels Zopa should've asked why Mr B would pay off one loan and want another so quickly.

Ms C wants Zopa to write off the loan or recover it from a gambling company instead. And she'd like Zopa to have stricter criteria for loans so it doesn't happen again to other people.

One of our adjudicators looked into Mr B's complaint. Firstly, she explained to Ms C that the criteria which might be used when deciding whether to give a loan was down to Zopa (or any other lender). And it's not something we normally get involved in.

Turning to Mr B's complaint, our adjudicator didn't think Zopa had done anything wrong when it lent money to Mr B in July and September 2016. She was satisfied it'd carried out appropriate checks before lending to Mr B. And thought it was reasonable for Zopa to rely on the information on Mr B's credit file which didn't show anything that would've reasonably prevented Zopa from lending to him.

Ms C didn't agree with the adjudicator's view. She thinks Zopa should, at least, write off interest and any arrears on the loan. So the complaint has been passed to me for a decision.

my findings

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

I accept what Ms C says about Mr B's overall financial position and gambling addiction as well as how anxious and worried he's feeling about this. I can only begin to imagine the strain this has put on Mr B and those close to him. But that doesn't necessarily mean Zopa shouldn't have lent money to him.

I also accept it's possible that other financial businesses shouldn't have given loans to Mr B or other forms of lending. But each complaint is considered on its own particular facts so, in this case, I'm focusing on the two loans to Mr B from Zopa.

Having looked at the information Ms C and Zopa have sent to us, I'm afraid I agree with the adjudicator here. I don't think Zopa has to write off the loan or arrears or refund any interest to him. In fact, there's very little I can add to what the adjudicator's already said. I can see she's set out the position quite clearly.

As the adjudicator's explained, it's for a financial business to decide what its lending criteria are. That's not something our service would normally get involved in. We wouldn't say how a business should exercise its commercial judgement – as long as it's done so legitimately.

In a complaint about irresponsible lending, it's important to think about whether the lender made a fair assessment of the borrower's ability to repay what he borrowed at the time he took it. An important part of this is to consider whether the checks that were carried out were proportionate.

Here the amounts being borrowed weren't small – and it was going to be repaid over quite a long period of time. So I'd expect the lender to be able to show that it'd carried out reasonably detailed checks. And I've discussed this below in relation to each loan Mr B had with Zopa.

loan July 2016

Before it lent the money to Mr B in July 2016, I can see Zopa obtained Mr B's:

- identification;
- a bank statement from June 2016; and
- payslip, which roughly fitted with the figure paid into his bank in June 2016.

It also checked his credit file which showed that Mr B's only current monthly commitment was his mortgage of just over £300 a month. And that he'd maintained this, as well as older loans, without any problems.

I think the checks Zopa carried out were appropriate and proportionate to the loan amount applied for as well as the fact that this was Mr B's first and only loan with it. And they didn't reveal any particular reason why Zopa shouldn't lend to Mr B. So I don't think it acted irresponsibly in approving the July 2016 loan to Mr B based on the information it had at the time.

loan September 2016

This loan seems to be the greater concern for Ms C out of the two. And I can understand why. It's a bigger loan and it was taken out when Mr B was spending a great deal of money with a gambling company.

Before Zopa lent the money to Mr B in September 2016, I can see it carried out the same checks that it'd done in July 2016.

However, Mr B sent it his bank statement from June 2016. This was the same one that he used when he applied for the July 2016 loan. Mr B's more recent statements would've shown a serious pattern of gambling which, I think, looks as though it was completely out of control. So it seems likely to me that Mr B deliberately sent Zopa a bank statement that he knew was completely free from this type of spending. Clearly that wouldn't help matters. But that's down to Mr B, not Zopa.

Even so, Zopa says it realised it was the same statement that Mr B submitted with the July application but still decided to lend to Mr B. It says the underwriter didn't need to see a more up to date statement because it had a copy of his most recent wage slip and the debt to income ratio was fine. It also ran a credit check which didn't show any adverse information which could've been a cause for concern since the last credit check in July. In fact, the only other debt, apart from Mr B's mortgage, was the Zopa loan from July 2016. And that was going to be repaid in full on completion of the September 2016 loan.

I do, however, appreciate that the results of the checks carried out by Zopa didn't reflect the reality of the situation. Looking at Mr B's credit file now tells a different story – by September, he'd recently taken out other finance and was about to apply for another loan with a different bank too. But Zopa didn't know this because information on the credit file usually takes around four to six weeks to update. And I think it was entitled to rely on what Mr B told it as well as the checks it carried out.

Zopa also took some comfort to know that Mr B had kept up with his loan repayments before it agreed to his second loan and that his first loan was being repaid in full using part of a new loan.

I think the checks Zopa carried out were appropriate and proportionate to the loan amount applied for. And, again, they didn't reveal any particular reason why Zopa shouldn't lend to Mr B. It wasn't under an obligation, for example, to ask to see Mr B's latest bank statement. It was entitled to rely on the information he gave and the other checks it carried out to make a commercial decision whether to lend the money to Mr B. So I don't think it acted irresponsibly in approving the September 2016 loan to Mr B based on the information it had at the time.

Finally, Ms C has mentioned the various credit searches carried out by gambling companies and other lenders. I don't know if this type of information was visible to Zopa. I can't see it on the documents I have been sent by it. Even so, a lender doesn't base its lending decision on this alone. And just because someone has a number of searches on their credit file, it doesn't necessarily mean a lender shouldn't agree to give that person a loan. And, as I've already mentioned, none of the other checks carried out by Zopa revealed an issue.

I'm sorry to disappoint Mr B (and Ms C) at what must be a challenging time. But my decision brings to an end what our service, in trying to resolve his dispute with Zopa informally, can do for him.

I'm sure it's already aware but I just mention to Zopa that it's under a continuing obligation to treat Mr B positively and sympathetically while he continues to experience financial difficulties. But I also remind Mr B that he needs to communicate with Zopa, either himself or by properly authorising Ms C, in order to allow it to understand his position and how it can best assist him.

my final decision

For the reasons I've given, my final decision is that I don't uphold Mr B's complaint against Zopa Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 June 2017.

Rebecca Ellis
ombudsman