

The complaint

Mr K complains that Zopa Bank Limited (Zopa) unfairly terminated his finance agreement and has negatively impacted his credit file.

What happened

In May 2021, Mr K acquired a used car through a hire purchase agreement with Zopa. The cash price of the car was £16,495. Mr K paid a deposit of £1,000 so the total amount financed on this agreement was £15,495 payable over 60 monthly repayments of £353.24

Mr K said he arranged a payment plan with Zopa, due to experiencing financial difficulties. He said Zopa failed to update his bank account details which led to one of his payments being missed. Mr K said he received a default about four days after the missed payment. He felt Zopa hasn't been helpful, and the default has impacted his mental health and believes it will affect his ability to maintain his car or get a mortgage.

In July 2023, Zopa issued their final response to Mr K's complaint which they didn't uphold.

Zopa explained that Mr K contacted them on 26 June 2023 due to the arrears on his agreement and arranged a repayment plan of £70 in addition to the normal monthly repayments. However, Zopa said the first payment was returned unpaid, and they were unable to contact Mr K. Zopa said they applied the default to Mr K's account because his agreement remained in arrears of around £1,172.

Zopa confirmed in a demand letter dated 21 July 2023, addressed to Mr K, that the agreement had been terminated.

Unhappy with their decision, Mr K brought his complaint to our service for investigation. Mr K said he wasn't given enough time to make the payment and felt that it only occurred because Zopa hadn't setup the correct payment account.

Having reviewed all the information on file one of our investigators recommended that Mr K's complaint should not be upheld. The investigator explained that Zopa had acted fairly as per the terms of the agreement. And as Mr K hadn't complained to Zopa about the incorrect account details we weren't able to consider this part of the complaint without Zopa having done so in the first instance.

Mr K didn't accept the investigator's outcome and so asked that his complaint be referred to an ombudsman for a final decision.

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.

In considering what is fair and reasonable, I've thought about all the evidence and information provided afresh and the relevant law and regulations, regulators' rules, guidance

and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr K complains about a hire purchase agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Mr K's complaint about Zopa.

So, to decide if Zopa have acted fairly here, I've considered whether it was right for them to issue a default notice to Mr K and to then terminate his finance agreement. I must also decide what, if anything, Zopa should do to resolve this complaint.

According to Zopa's system notes, and statement of account, I can see that Mr K started to falter with his repayments and enter Zopa's collections and recoveries around six to seven months after entering into the agreement. This pattern of missed or late payments continued every few months throughout the course of the agreement.

Zopa's system notes also confirm that arrears correspondence was issued to Mr K in January, March, April, May, June and July of 2023. In addition, I can see that Zopa issued default notices in 2023, with the last being on 23 May 2023. The default notice in May 2023 gave Mr K around three weeks to repay the arrears on his account which at that point was £846.45.

Within the finance agreement under the section missing payments warning, it says: *'if you miss any payments due under this agreement, it may make it harder to get credit in the future. We will also report your non-payment to credit reference agencies. We may also end your agreement and take steps to repossess the vehicle'*

The Consumer Credit Act 1974 (CCA) is relevant in this case. It requires a lender to give borrowers notice of sums in arrears where there are at least two missed payments under the agreement. From the information provided I'm satisfied that Zopa issued arrears correspondence to Mr K as described above from January 2023, advising that the agreement was in arrears. In consideration of the rules set out in the CCA and of the terms on the agreement, I'm persuaded Zopa were acting fairly.

The CCA also requires businesses to serve notice on a borrower before they can become entitled to take certain actions, including terminating an agreement or recovering possession of any goods. In addition to the arrears notifications referred to above, I can see that Zopa issued Mr K with a default notice in May 2023 advising his agreement may be terminated if he failed to repay the arrears by a certain date. I can see this ultimately led to the termination of Mr K's agreement and the issue that is being complained about. However, having considered all the information provided, I'm satisfied that Zopa were acting fairly under the CCA when they ended Mr K's agreement.

Mr K told our investigator that the missed payment in July 2023 of £70, which preceded the account being defaulted, was a result of his account details not being updated by Zopa. Mr K didn't complain to Zopa about this. I acknowledge this point is linked to the main complaint of the agreement being terminated and the default being issued, however, I've considered that Zopa weren't given the opportunity to consider this point independently or provide us with any mitigating evidence.

Having said that, in consideration of the conduct of Mr K's agreement throughout 2022 and specifically in the first half of 2023, I've considered that the missed payment of £70 in July wasn't the only event that brought rise to the default. The account was already in arrears for many months, and a default noticed had already been issued.

In addition, I'm persuaded Mr K could have taken more action when he received the default notice in May 2023, if he was in a position to bring his account back in order. I think it's reasonable to say he could have acted sooner to put things right. Zopa showed the attempts they made at contacting Mr K and although he says he was abroad it wouldn't be fair to hold Zopa to account for this.

The Information Commissioner's Office (ICO) Principles for the Reporting of Arrears, Arrangements and Defaults at Credit Reference Agencies, says *'If you fall into arrears on your account, or you do not keep to the revised terms of an arrangement, a default may be recorded to show that the relationship has broken down'*.

In consideration of this I'm also satisfied that Zopa are acting fairly in their reporting of Mr K's credit information in relation to the agreement.

On review of the submissions made by Mr K, I recognise the challenging personal circumstances he's experienced during the latter stages of the agreement, and I acknowledge this would likely have been a particularly difficult time for him. However, from the information and evidence provided, I'm satisfied that Zopa have acted reasonably and fairly in how they've treated Mr K.

My final decision

Having thought about everything above along with what is fair and reasonable in the circumstances I don't uphold Mr K's complaint about Zopa Bank Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 23 February 2024.

Benjamin John
Ombudsman