

## The complaint

Mr S complains Zopa Bank Limited provided him with an unaffordable credit card.

Mr S is represented by a claims management company, but for ease I'll refer to all submissions as though they are his own.

## What happened

Zopa Bank provided Mr S with a credit card with the following details:

Lending decision	Date	Credit Limit
Original limit	April 2021	£300
1 <sup>st</sup> limit increase	November 2021	£700
2 <sup>nd</sup> limit increase	October 2022	£1,000

Mr S complained to Zopa Bank in August 2023 saying the credit card and limit increases were all irresponsibly lent. He said had Zopa Bank conducted reasonable and proportionate checks it would have identified each of the credit limits were unaffordable for him.

Zopa Bank issued its final response in August 2023. It didn't uphold the complaint saying its checks were proportionate and that it went on to make fair lending decisions.

Our Investigator considered Mr S's complaint and upheld it in part. She considered Zopa Bank's lending decisions in 2021 were fair. But she considered Zopa Bank hadn't made a fair lending decision when increasing Mr S's limit to £1,000 in 2022.

It's not clear if Mr S accepted the outcome; Zopa Bank disagreed. It provided no rationale for not agreeing with our Investigator's outcome, but it asked that the case be referred for an Ombudsman's review. So, the complaint has been passed to me 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.

Having done so I've reached the same outcome as our Investigator; for broadly the same reasons.

We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website; both Mr S and Zopa Bank are aware of this approach.

Zopa Bank needed to take reasonable steps to ensure the lending it provided was responsibly lent to Mr S. The relevant rules, regulations, and guidance at the time of each of Zopa Bank's lending decisions required it to carry out reasonable and proportionate checks. These checks needed to assess Mr S's ability to afford the credit limit being approved and repay it sustainably, without causing him financial difficulties or harm.

There isn't a set list of checks a lender needs to carry out, but they should be proportionate, considering things like the type, amount, duration, and total cost of the credit, as well as the borrower's individual circumstances.

And it isn't sufficient for Zopa Bank to just complete proportionate checks – it must also consider the information it obtained from these checks to make fair lending decisions. This includes not lending to someone in financial hardship; and ensuring repayments can be made sustainably without the need to borrow further.

#### The original limit in April 2021

Zopa Bank has said at account opening it obtained Mr S's declared income which it verified via an online credit reference tool. It also obtained Mr S's declared housing costs and completed a credit check. It's said the results of these checks didn't suggest any concerns and it concluded the initial limit was sustainably affordable for Mr S.

I've carefully considered Zopa Bank's argument; and I'm persuaded its checks were proportionate and that it made a fair lending decision in this instance.

I say this because Zopa Bank obtained Mr S's declared income of around £24,000 which it reasonably verified. It also obtained details of Mr S's monthly housing cost of around £450 and completed a credit check. This reported no adverse information such as bankruptcy, CCJs, defaults or missed payments. Mr S's existing credit commitments were relatively modest with a total outstanding debt of under £1,000. Based on these checks, which I consider were proportionate for the type and value of lending, together with the information Zopa Bank obtained about Mr S; I'm satisfied Mr S would be left with a reasonable monthly disposable income which suggested this original limit would be sustainably affordable.

So, I'm satisfied Zopa Bank made a fair lending decision when providing this original limit.

#### The 1<sup>st</sup> limit increase in November 2021

Zopa Bank has said at the point of the 1<sup>st</sup> limit increase it reviewed Mr S's management of this account; and it completed a new credit check. It's said it was satisfied from the results of these checks that Mr S was maintaining his existing lines of credit well and could sustainably afford the limit increase.

Having carefully considered Zopa Bank's argument; I'm not persuaded its checks were proportionate in this instance, but I do consider it would reasonably have still reached the same decision to lend had its checks been more detailed.

I say this because as our Investigator ultimately identified, Mr S had used his Zopa Bank card across the previous seven months since it had been approved to make cash withdrawals on ten separate occasions; and she identified Mr S had been making cash withdrawals on another credit card account as well. The data Zopa Bank obtained also showed Mr S had opened a number of other lines of credit within the 12 months leading up to this lending decision. And, although Mr S's outstanding revolving balances had reduced slightly, he now had an unsecured lending balance of around £1,700 reporting.

Zopa Bank and our Investigator mentioned a missed payment to this account at some point. But I can't be satisfied, based on the information I have on file, that this was before the 1<sup>st</sup> limit increase; however, I don't consider this changes my findings here. I say this because I consider Mr S's management and use of this account across the relatively short period it had been active suggested Mr S may be under financial stress, and I consider Zopa Bank ought

reasonably to have had some concerns. As such I consider it needed to have completed more detailed checks to have satisfied itself that this increase was sustainably affordable.

Our Investigator asked Mr S for bank statements covering the three months leading up to this limit increase. Mr S hasn't provided these statements, but we do have Mr S's credit file. In the absence of any other contrary information, I consider the credit file allows me to obtain a reasonable understanding of what Zopa Bank would likely have identified about Mr S's financial situation at the time had it completed proportionate checks.

I've considered the information within Mr S's credit file; and I haven't seen anything at the point of this lending to suggest further checks at the time would reasonably have led Zopa Bank to reach a different decision to lend.

So, I'm persuaded proportionate checks would more likely than not have led to Zopa Bank reasonably concluding this limit increase was sustainably affordable for Mr S; and it therefore follows I consider it made a fair lending decision in this instance.

#### The 2<sup>nd</sup> limit increase in October 2022

Zopa Bank has said it completed the same checks at the 2<sup>nd</sup> limit increase as it did at the 1<sup>st</sup>.

It's said it was satisfied from the information it obtained from its checks that this further limit increase was sustainably affordable for Mr S.

As I didn't find Zopa Bank had completed proportionate checks at the 1<sup>st</sup> limit increase – and Mr S's financial circumstances haven't significantly improved, in fact they appear to have deteriorated based on the information Zopa Bank did obtain – it follows I don't consider its checks were proportionate here either.

Having considered the evidence Mr S has provided at the point of this increase, I'm not persuaded Zopa Bank went on to make a fair lending decision in this instance.

I say this because by this limit increase Mr S's revolving credit balances had increased to around £5,000; and he had a balance of around £3,000 in unsecured lending. This was a considerable increase within the 12 months since Zopa Bank's last lending decision. Zopa Bank had also identified Mr S had opened a number of accounts in this time. I've also seen Mr S had continued to use this Zopa Bank card for cash withdrawals; making a further 12 cash withdrawals since the previous limit increase, eight of which were within the past two months. I've seen from Mr S's credit file that he had defaulted on a utility account around four months before this increase, and that his total revolving credit utilisation appears to be around 75%. Mr S was also using his other credit card accounts to make cash withdrawals. In addition to the Zopa Bank withdrawals, Mr S had made a further 20 across his other cards totalling around £1,500 across the previous 12 months, the majority of which had been made within six months of this limit increase.

I consider the evidence I have does suggest Mr S was showing signs of financial difficulties: he'd very recently defaulted on a utility account, opened other credit cards to increase his available credit, and was making a large value of cash withdrawals on credit products leading up to this increase. I accept that some of this information may not have been evident to Zopa Bank at the time, depending on what evidence it obtained from Mr S to have completed more detailed checks; but I do consider it provides me with a reasonable overall picture of Mr S's financial situation, and I consider it more likely, on balance, that had Zopa Bank completed more detailed checks it would have identified Mr S wasn't a suitable candidate to provide further credit to.

It therefore follows I don't consider Zopa Bank made a fair lending decision in October 2022.

### **Putting things right**

I don't consider Zopa Bank Limited should have increased Mr S's credit limit above £700, so it therefore follows it's not fair for it to apply any interest or charges on any balances which exceeded that limit. However, Mr S has had the use of all the money he spent on the account, so I think he should pay this back. Therefore, Zopa Bank Limited should:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied to balances above £700.
- If the rework results in a credit balance, this should be refunded to Mr S along with 8% simple interest per year\* calculated from the date of each overpayment to the date of settlement. Zopa Bank Limited should also remove any adverse information recorded from October 2022 regarding this account from Mr S's credit file.
- Or, if after the rework the outstanding balance still exceeds £700, Zopa Bank Limited should arrange an affordable repayment plan with Mr S for the remaining amount. Once Mr S has cleared the outstanding balance, any adverse information recorded from October 2022 in relation to the account should be removed from his credit file.

\*HM Revenue & Customs requires Zopa Bank Limited to deduct tax from any award of interest. It must give Mr S a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

### **My final decision**

My final decision is that I'm upholding Mr S's complaint about Zopa Bank Limited and I direct it to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 5 April 2024.

Richard Turner  
**Ombudsman**