

The complaint

Mr P complains Zopa Bank Limited (“Zopa”) won’t allow him access to the fixed term saving account he holds with them.

What happened

Mr P opened a five year fixed term savings account with Zopa in June 2021. The term is due to end on 4 June 2026. In early 2024 Mr P contacted Zopa requesting to end the fixed term save early as he was experiencing financial difficulty. He said he was living off his credit cards. He told Zopa this was due to losing his job in November 2023 and his wife had also lost hers some months before then. He was referred to Zopa’s savings team, who on reviewing the evidence Mr P sent refused the request to access the account early. Mr P contacted Zopa again on 4 February 2024 and gave further information to do with health concerns for his daughter and wife and other care commitments for members of his family. The savings team reviewed this but didn’t change the decision.

Mr P complained as he didn’t think Zopa hadn’t dealt with the request properly, they’d failed to give him any reason why his request to access the funds was rejected. Zopa didn’t uphold the complaint. It sent Mr P a Final Response letter (“FRL”) on 13 February 2024. In that it told him the terms and conditions in Section 1 and 10.1 clearly outline the fixed term savings account is a fixed term and cannot be broken when you take the account out. Zopa told Mr P as he’d agreed to these terms they couldn’t release him from the account early. They said they were unable to uphold the complaint as he’d entered into a five year fixed term agreement and his request to end that early had been declined. Mr P brought to complaint to us.

Our investigator didn’t think Zopa had dealt with the complaint fairly. Specifically, that it hadn’t referred Mr P to the part of the terms and conditions allowing for the early closure or part withdrawal from the account in the event of “exceptional circumstances” despite this being relevant to Mr P’s case. The investigator thought the complaint should be upheld and Zopa should pay Mr P £100 compensation for failing to identify that and commit to a review of Mr P’s difficult circumstances to determine whether they could be considered exceptional.

Zopa didn’t agree. It said would not disclose to a customer that the pot could be broken in exceptional circumstances, as this would cause unnecessary customer detriment. It said it would assess the customers circumstances to determine if it would be fair to break the pot. But advising them that this provision was available, when it’s not available for them, would provide false hope. Zopa also said it would suggest to the customer that the circumstances that they are experiencing would not be considered difficult enough. They failed to see what detriment was caused by them not advising the customer the pot could be broken when they were unable to do this for the customer.

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.

There's no dispute between the parties that this is both a fixed rate and fixed term account. Or that Mr P has no *right* to cancel this fixed term investment. Our investigator has already set out Section 1 and 10.1 and 10.5 of the terms and conditions in his view, so I shan't repeat them here. The FRL specifically referred Mr P to section 10.1 of the terms highlighting the fixed term stating "*the fixed term savings is fixed term and cannot be broken when you take the account out. As you have agreed to those terms we cannot release you from the account early*".

Although Zopa's FRL notes Mr P making a request to end the fixed term saver and that their savings team reviewing and declining the request twice, it made no reference in that FRL to the provision in section 10.5. which is that in *exceptional circumstances* withdrawals could be made or the account could be closed. Like our investigator I think this something which should have been identified and referred to as it was relevant.

The central point to Mr P's complaint is Zopa haven't dealt with this properly and haven't given a reason why his request was rejected. Without explaining or mentioning the provision for exceptional circumstances - which is of course subjective - it's hard to see how a customer can understand the process and what information will be required as part of that decision making process.

Zopa told us it's rationale for not raising this is they think it was unnecessary and would've been detrimental if they had. I'm not persuaded that's the case. Whilst it's not the role of this service to decide upon what circumstances Zopa should consider to be exceptional, we do look at whether the business treated a customer fairly. And here, Zopa failed to refer to the exceptional circumstances provision during its communication with Mr P, despite it being relevant - if not central - to the decision making here.

I disagree with Zopa's view that there's no benefit to advising a customer who hadn't qualified - for exceptional circumstances - that there are exceptional circumstances they may allow it in. I understand there are commercial sensitivities at play here for Zopa in terms of defining what might amount to an exceptional circumstance. I'm not suggesting they do that. But simply setting out, as the investigator proposed, that although the terms and conditions state that this is available, this particular customer's circumstances don't meet Zopa's criteria of exceptional circumstances, would be a fairer and more balanced approach than the one taken.

The investigator's suggestion of £100 compensation for failing to identify that under exceptional circumstances withdrawals could be made or the account closed is the sort of award I'd have made had it not been suggested. I also think the commitment to a review of Mr P's circumstances to determine whether they can be considered exceptional is reasonable here.

Putting things right

Zopa Bank Limited should pay Mr P £100 compensation for failing to identify that under exceptional circumstances withdrawals could be made or the account closed. They should also review Mr P's circumstances to determine whether they can be considered exceptional.

My final decision

My final decision is that I uphold this complaint. Zopa Bank Limited should pay Mr P £100 compensation for failing to identify that under exceptional circumstances withdrawals could be made or the account closed. They should also review Mr P's circumstances to determine whether they can be considered exceptional.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 24 October 2024.

Annabel O'Sullivan
Ombudsman