

The complaint

Mr D says Zopa Bank Limited irresponsibly lent to him.

What happened

Mr D took out a credit card from Zopa in February 2023. He was given a credit limit of £1,000.

He says he should not have been given the card as he had recently opened four new accounts and he had defaulted on other accounts. And if Zopa had carried out better checks it would have seen that he was gambling large amounts on a daily basis.

Zopa says it carried out proportionate checks that showed the credit would be affordable for Mr D.

Our investigator upheld Mr D's complaint. She said as Zopa's checks showed Mr D had opened four new credit agreements in the last 12 months, and had used most of the credit available, it ought not to have lent to him.

Zopa disagreed and asked for an ombudsman's review. It said, in summary, Mr D's other lending within the 12 months prior to the card application was all well-maintained with no cause for concern. And it had approved the application without knowledge of Mr D's gambling - he has confirmed he had not made Zopa aware of this vulnerability.

I reached the same conclusion as the investigator but my findings differed so I issued a provisional decision. An extract follows and forms part of this final decision. I asked for any comments and new evidence by 4 September 2024.

Extract from my provisional decision

Mr D applied for a Zopa credit card in February 2023. On his application form he declared that he was employed with a gross annual income of £22,000 and had no housing costs as he lived with his parents. Zopa says it verified his income and carried out a credit check. It has shared the results. They show Mr D had £2,414 of revolving debt and no loans. From the results of these checks combined Zopa concluded a limit of £1,000 would be affordable for Mr D.

I am not persuaded these checks were proportionate given some of the information they revealed, and Mr D's income relative to the limit. I'll explain why.

The credit checks showed Mr D had opened four new accounts in the last 12 months. Zopa argues this was not concerning. But on two of the accounts there was only three months' payment history to review; one credit card was over limit and one was 90% utilised. In addition, there was evidence Mr D had struggled with his finances in the past as he had defaulted on three accounts. Whilst this adverse data was historic, in the context of Mr D's more recent uptake and use of credit I think Zopa needed to carry out a fuller financial review prior to lending to get the assurances it needed that its credit card would not be

financially harmful to Mr D.

In cases like this we look at bank statements from the three months prior to application. I am not saying Zopa had to do exactly this but it is a reliable way for me to understand what better checks would most likely have shown Zopa. And I think Zopa, as a responsible lender, would not have lent to Mr D had it carried out proportionate checks. I say this as it was evident he was gambling problematically and any credit offered would most likely cause financial harm.

It follows I currently think Zopa was wrong to lend to Mr D.

I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Mr D in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

I then set out what Zopa would need to do to put things right if I went on to uphold the complaint.

Both parties responded before the deadline. Mr D said he had nothing further to add. Zopa said it maintains that its decision to lend to Mr D was not irresponsible. It agrees there were historic missed payments, but the card was maintained well following these. It said it was sorry to hear about Mr D's problematic gambling but it was not aware of this as the card was affordable based on the information submitted by Mr D. It did not require additional evidence to confirm affordability and most businesses have the same approach with auto-approved lending.

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.

Zopa will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint about unaffordable and irresponsible lending. So, I don't consider it necessary to set all of this out in this decision. Information about our approach to these complaints is set out on our website.

To decide if Zopa lent responsibly I need to consider if its checks were proportionate; if not what would better checks most likely have shown; then did it make a fair lending decision; and finally did it treat Mr D unfairly in some other way.

I've thought carefully about Zopa's response to my provisional decision but it does not change my conclusion. When we consider whether a business has lent responsibly we are not constrained by what its processes allow and how they currently operate. The fact the card was auto-approved does not change Zopa's obligations to get the assurances it needs that any credit offered is not likely to go on to cause financial harm to the borrower. And here I think it missed signs that Mr D's finances might not have been stable and so it ought to have sought additional evidence to confirm affordability.

It follows for the reasons set out above I find Zopa was wrong to lend to Mr D

Putting things right

Zopa must:

1. Refund all the interest and charges Mr D has paid on his credit card account.

2. If the borrowing is still in place, Zopa should reduce the outstanding capital balance by the amount calculated at step 1.
3. If, after step 2, there remains an outstanding capital balance, Zopa should ensure that it isn't subject to any historic or future interest and/or charges and if needed agree an affordable repayment plan with Mr D. But if step 2 leads to a positive balance, the amount in question should be given back to Mr D and 8% simple interest* should be added to the surplus.
4. Once Mr D has cleared any outstanding capital balance, any adverse information recorded in relation to the account should be removed from his credit file.

*HM Revenue & Customs may require Zopa to take off tax from this interest. If it does, Zopa must give Mr D a certificate showing how much tax it's 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

I am upholding Mr D's complaint. Zopa Bank Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 2 October 2024.

Rebecca Connelley
Ombudsman