

The complaint

Mr P complains that Zopa Bank Limited (Zopa) won't refund money he was coerced to pay.

What happened

Mr P has a credit card from Zopa. Mr P was in a relationship with woman in another country. He met her a few times, but the relationship failed and she made threats if he didn't pay her money.

Mr P made four payments to a money transfer service (which I call 'A') as follows:

Date	Payment	Amount
5 January 2023	Credit card to money transfer service (A)	£230.00
22 January 2023	Credit card to money transfer service (A)	£55.00
26 April 2023	Credit card to money transfer service (A)	£117.28
27 April 2023	Credit card to money transfer service (A)	£170.00
Total		£572.28

He then paid the money to the woman in cash from an ATM to stop the threats.

Mr P says he was blackmailed into paying the money and says Zopa should've protected him and not made the payments. He says Zopa should refund the money. He also sent money from some of his other accounts.

What Zopa said:

Zopa looked at what happened and considered a 'chargeback' claim – but it didn't qualify for that under the card scheme rules– as the payments were authorised by Mr P and were cash transfers. They also told us they didn't agree that a refund should be given to Mr P as he made the transfers willingly and to a known person – so this wasn't a 'scam' as such.

Zopa agreed that there had been some service failings in dealing with Mr P's complaint – as they hadn't replied to some emails or returned his calls as they'd agreed to. For that, they offered compensation of £250.

Our investigation so far:

Mr P didn't accept the offer and brought his complaint to us. Our investigator said Zopa didn't have to refund the money. This was because Mr P authorised the payments and they were too small to be considered something that Zopa should've questioned.

He agreed that Zopa should pay the compensation for the poor service.

Mr P didn't agree and asked that his complaint be looked at by an ombudsman, and so it has come to me to make 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.

I'm sorry to hear that Mr P has lost money. It's not in question that he authorised and consented to the payments in this case. So, he is presumed to be liable for the loss in the first instance.

So, in broad terms, the starting position in law is that a bank is expected to make payments and withdrawals that a customer asks it to make, in line with the Payment Services Regulations and the terms and conditions of the customer's account. And I have taken that into account when deciding what is fair and reasonable in this case.

But that is not the end of it. Taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, Zopa should fairly and reasonably:

- Have been monitoring accounts and any payments made or received to prevent various risks, including anti-money laundering, preventing the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in clever fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, their doesn't matter what payment channel used, have they taken other steps, or make extra checks, before processing a payment, or in some cases declined a payment altogether, to help protect customers from the risk of financial harm from fraud.

What this means is that in some circumstances, firms such as Zopa can stop a payment or withdrawal if they think there is a fraud or scam involved. So - I need to decide if Zopa acted fairly and reasonably with Mr P, or whether it should have done more than it did. I have thought about this carefully.

I know Mr P has said the Contingent Reimbursement Model Code (CRM 'Code') applies – and this gives refunds in some circumstances where a scam takes place. I've considered what he's said here.

But: (1) The CRM Code doesn't apply in this case because Zopa hasn't signed up to it. And (2) the CRM Code doesn't apply in any case as it provides guidance for 'push' payments, e.g. payments made online from a bank account, or by cheque. And in this case, the funds were transferred to the money transfer service (A) by linking Mr P's Zopa credit card to it – and then the money transfer service 'pulled' the money from his credit card. And – as he was well within his credit limit, the money was sent to the money transfer service (A).

And – it was from the money transfer service that Mr P then made the payments to the woman in question. In this case, Zopa's role was to do what Mr P asked and authorised - to send the funds to the money transfer service.

And – as it was then that Mr P made the payment to the woman from the money transfer service (in his call to us, he said he withdrew the money in cash from an ATM), I can't reasonably hold Zopa responsible or liable. As that is where Mr P's losses occurred – not as a result of Zopa transferring money to A.

I then considered whether the amount of money involved was such that should've caused Zopa to be concerned. And here, because the amounts were low, and were within Mr P's credit limit, I don't think Zopa should've questioned the transfers. I say that as there's a balance to be made: Zopa has certain duties to be alert to fraud and scams and to act in their customers' best interests, but they can't be involved in every transaction as this would cause unnecessary disruption to legitimate payments.

Zopa apologised for some service problems in dealing with Mr P's complaint – as they didn't respond to some emails or return some calls as they'd promised, and for that, offered compensation of £250. This is separate from the consideration of the refund of the amounts Mr P lost. Mr P rejected the offer, but it still stands and I think it is right for what happened.

I was sorry to learn of what happened to Mr P and of his experience. So, he will be disappointed by my decision – which is that Zopa don't have to do anymore, other than pay the offered compensation of £250.

My final decision

Zopa Bank Limited has already made an offer to pay £250 to settle the complaint and I think this offer is fair in all the circumstances.

So my decision is that Zopa Bank Limited should pay £250.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 6 February 2024.

Martin Lord
Ombudsman