

The complaint

Miss S says Shop Direct Finance Company Limited (“Shop Direct”) irresponsibly lent to her.

What happened

Miss S opened a shopping account with Shop Direct in March 2019. Her account limit was initially £250. It was then increased on three occasions between September 2019 and September 2020, until it reached £1075. The account fell into arrears in November 2020 with Miss S subsequently agreeing a payment plan with Shop Direct in January 2021. The account however remained in arrears.

Miss S says that Shop Direct shouldn’t have lent to her and that the loan became unsustainable for her, given that she couldn’t keep up with the payments.

Miss S lost her job after opening the account.

Shop Direct says it did all the necessary checks before it lent to Miss S – and each time when it increased her credit limit. It also says that Miss S was given her first credit limit increase in September 2019 after she requested it and the second one in May 2020 after she’d placed an order that exceeded her credit limit.

Our adjudicator thought that Miss S’s complaint should be partially upheld. They thought that the initial credit and first credit limit increase given to Miss S were acceptable, but that by the time her credit was increased for the second time, in May 2020, Shop Direct didn’t act fairly or reasonably in doing so. So our adjudicator said that Shop Direct should pay back interest and charges it made as a result of the credit that was unfairly extended to Miss S.

As Shop Direct disagreed with our adjudicator the complaint has been passed to me for a 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.

We’ve set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I’ve taken that into account when considering Miss S’s complaint.

Shop Direct needed to take reasonable steps to ensure that it didn’t lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Miss S could afford to repay what she was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and Miss S’s income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Shop Direct should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the frequency of borrowing, and the longer the period of time during which a customer has been indebted (reflecting the risk that prolonged indebtedness may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

When Miss S opened her account in March 2019, Shop Direct has told us there were no signs of financial difficulties based on the checks it did. Having reviewed the checks, and based on the information Miss S has given us, I don't think there is anything to suggest that it would have been unreasonable for Shop Direct to have approved the account. Shop Direct didn't ask about Miss S's income, and this may have helped it begin to build a picture of Miss S's financial circumstances. But even if it had, at this stage, I don't think it would have made a difference to its decision to extend the credit.

Our adjudicator thought that the first increase to the credit limit on the account, in September 2019, didn't amount to irresponsible lending. Both parties have seen that assessment and Miss S has not raised any objection to those findings. I have reviewed the case in its entirety and have reached the same outcome as the adjudicator and for the same reasons. I haven't seen enough to make me think Shop Direct should have been concerned about Miss S's ability to afford the credit limit given before the increase in May 2020. In the absence of any argument about that I will turn to the increase of May 2020.

Our adjudicator set out in some detail why they thought Shop Direct shouldn't have provided Miss S with any further increases in credit from May 2020 onwards. Shop Direct didn't agree. It said that the checks it completed when Miss S's credit were sufficient and it monitored the account to ensure that the lending was suitable. It also said that Miss S didn't fully use her credit limit and that prior to May 2020 some of the payments she was making were more than the minimum payment due.

I've therefore looked at the overall pattern of Shop Direct's lending history with Miss S to see if there was a point at which Shop Direct should reasonably have seen that further lending was likely unsustainable, or otherwise harmful. If so, that would mean Shop Direct should have realised that it shouldn't have further increased Miss S's credit limits. Miss S was able to provide us with bank statement information to assist us with finding out about her financial situation at the time.

In September 2019, Shop Direct increased Miss S's credit limit to £650. The account history shows that Miss S was meeting and sometimes making payments above the minimum amount due. While I think it would have been appropriate for Shop Direct to have verified Miss S's income for these limit increases (to help build a picture of her circumstances) at this point I haven't seen enough to suggest that Shop Direct ought to have thought the credit was unaffordable for Miss S at this time.

However, by May 2020, when Miss S's credit limit was increased to £775, Miss S was no longer working and therefore receiving no income to help with her account payments. Miss S had been using increasingly more of her available credit whilst still making what tended to be only minimum payments to her account. So I think at this point it would have been proportionate for Shop Direct to do more to find out about Miss S's verified income and committed expenditure, such as her living costs. I say this given that Shop Direct appears to not have appreciated that Miss S wasn't working and that her monthly account payments were being funded by her partner, who I note took out a short term loan in June 2020 to help meet Miss S's account payments. So I think that proportionate checks will have likely shown Shop Direct that Miss S was by May 2020 struggling to manage the credit she already had and that there was a significant risk that increasing her credit limit in these circumstances would lead to her indebtedness increasing unsustainably.

It follows that I don't think it was fair or reasonable for Shop Direct to have increased the limit from May 2020. In my view, Shop Direct's actions unfairly prolonged Miss S's indebtedness by allowing her to use credit she couldn't afford over an extended period of time and the interest being added got her into further debt. So Shop Direct should put things right.

Putting things right – what Shop Direct needs to do

- Rework Miss S's account to ensure that from May 2020 onwards interest is only charged on balances up to £650, including any buy now pay later interest (being the credit limit in place before that date) to reflect the fact that no further credit limit increases should have been provided. All late payment and over limit fees should also be removed; and
- If an outstanding balance remains on the account once these adjustments have been made Shop Direct should contact Miss S to arrange an affordable repayment plan. Once Miss S has repaid the outstanding balance, it should remove any adverse information recorded on her credit file from May 2020 onwards.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Miss S, along with 8% simple interest per year on the overpayments from the date they were made (if they were) until the date of settlement. Shop Direct should also remove any adverse information from Miss S's credit file from May 2020 onwards.†

†HM Revenue & Customs requires Shop Direct to take off tax from this interest. Shop Direct must give Miss S a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons set out, I'm partially upholding Miss S's complaint. Shop Direct Finance Company Limited should put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 28 April 2022.

Michael Goldberg

Ombudsman