

The complaint

Mr B has complained that Studio Retail Limited, trading as Ace, irresponsibly lent to him.

What happened

Mr B opened a shopping account with Studio Retail in April 2017. His account limit was initially very low - £125. Over the course of the next 14 months Mr B's account limit was increased four times until, in June 2018, it was £425.

Mr B says that he couldn't afford the credit and that he ended up in serious debt as a result. Mr B says that Studio Retail shouldn't have lent to him and that Studio Retail should have completed affordability checks.

Studio Retail says it did all the necessary checks before it lent to Mr B – and when it increased his credit limit. Studio Retail says that it acted appropriately and fairly when Mr B got into difficulty and that it didn't need to have done anything more.

Our adjudicator thought that Mr B's complaint should be partially upheld. They thought that the initial credit given to Mr B was acceptable, including the various increases. But they thought that when it became clear Mr B was struggling to meet his repayments, Studio Retail didn't treat him fairly or act appropriately.

Our adjudicator said that Studio Retail shouldn't have allowed new purchases at all from December 2018 and that Mr B's account should have been frozen at that point. Studio Retail disagrees, so 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.

lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when considered Mr B's complaint.

Studio Retail 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 Mr B could afford to repay what he 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 Mr B'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 Studio Retail should fairly and reasonably have done more to establish that any lending was sustainable for Mr B. These factors include:

- Mr B'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 amount due to be repaid, reflecting that it could be more difficult to meet a higher repayment from a particular level of income;
- The frequency of borrowing and the length of time Mr B had 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.

Studio Retail has said it obtained credit reference data about Mr B at the time of the account opening and prior to each credit limit increase. I've not seen anything to suggest that the credit checks would have shown anything on its own which would have stopped it from approving the opening account. Similarly, in July 2017 when Mr B's credit limit was increased, there was nothing to suggest he couldn't afford the increase.

By the time Studio Retail increased Mr B's limit to £225 in August 2017 I think it would have been proportionate for Studio Retail to have at least verified Mr B's income. Mr B was using a large proportion of his available credit. So, I agree with our adjudicator that Studio Retail should have checked the lending remained affordable.

By November 2017 Mr B was using 97% of his available credit. At this point I think it would have been proportionate for Studio Retail to have found out more about Mr B's committed expenditure. Mr B says that his expenditure was greater than his income.

I cannot say what Studio Retail would have seen if it had completed these checks at the time. Mr B was asked to provide evidence which would have helped me understand this, but he didn't respond. So I can't know what Studio Retail would have seen if it had run these checks, or that at this point it irresponsibly lent to Mr B.

By March 2018, when Mr B's credit was increased to £300, he seemed to be managing his account well. There was nothing to suggest that he couldn't afford the increase in his credit. In June 2018 Studio Retail increased Mr B's credit for the final time, to £425. Again, there was nothing to suggest that he couldn't afford the increase in his credit. However, in August 2018 Mr B missed a payment, making it up later the same month. He paid the minimum repayments in September, October and November 2018. He didn't make a payment at all in December 2018. Instead, he rang Studio Retail to say he had forgotten to pay and would pay that day. Mr B didn't pay. He didn't return a direct debit mandate sent to him, either. And he continued to miss payments until he defaulted on the account and Studio Retail sold his debt to a third party in July 2019.

I think it was clear by December 2018 that Mr B was in financial difficulty. I think that at this point Studio Retail should have frozen Mr B's account and not applied any further charges or interest.

Studio Retail disagrees. It says it supported Mr B by continuing to provide account statements on a monthly basis which had contact details for those experiencing financial difficulties and by writing to him on a monthly basis between February and May 2019 telling him it had noticed the position on his account and asking him to contact it. Studio Retail says that because Mr B didn't respond, it couldn't take action to help him.

I do not agree that Studio Retail were prevented from acting on Mr B's account without contact from him. I think Studio Retail had an obligation to take action, regardless of Mr B's

lack of contact. On this basis, I think Studio Retail acted unfairly to Mr B and I partially uphold his complaint.

Studio Retail remains obligated to treat Mr B fairly if he is having difficulties meeting the repayments. If Mr B feels he has been treated unfairly he should discuss this with Studio Retail first, and this service can consider this as a separate complaint if he is unhappy with the response.

Putting things right

Studio Retail has explained that Mr B made no further purchase on his account from October 2018. As I uphold this complaint in part Studio Retail should:

- Remove all interest and charges incurred on the account since December 2018.
- Work out how much Mr B would have owed after the above adjustments. Any repayment made by Mr B should be used to reduce the adjusted balance.
- If this clears the adjusted balance any funds remaining should be refunded to Mr B along with 8% simple interest* - calculated from the date of overpayment to the date of settlement.
- If after all adjustments have been made Mr B no longer owes any money then all adverse information regarding this account should be removed from the credit file from December 2018.
- Or, if an outstanding balance remains, Studio Retail should look to arrange an affordable payment plan with Mr B for the outstanding amount. If the debt was sold to a third party (which I understand it was), Studio Retail are to either repurchase the debt or liaise with the third-party to ensure the above steps are undertaken. Once Mr B has cleared the balance, any adverse information should be removed from the credit file.

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

My final decision

I think Studio Retail Limited acted unfairly when it did not freeze Mr B's account in December 2018. To put this right I direct Studio Retail Limited, trading as Ace, to pay compensation as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 25 May 2022.

Sally Allbeury
Ombudsman