

The complaint

Mr A complains that Shop Direct Finance Company Limited ("Shop Direct") lent to him irresponsibly. He says the lending was unaffordable for him.

What happened

Mr A opened a catalogue shopping account with Shop Direct April 2016. It had an initial credit limit of £250. He opened a second one in November that year with a credit limit of £500.

Mr A says that Shop Direct shouldn't have provided him with the credit because it was clear that he had financial difficulties. He says he was struggling on a very low income which was less than he needed for his essential expenditure.

Our adjudicator partially upheld Mr A's complaint. They didn't think Shop Direct had done anything wrong in its initial lending decision or in the following credit increase. But they did think that Shop Direct hadn't taken action quickly enough to help Mr A when it became obvious that he was struggling. The adjudicator said that action should have been taken in December 2017 to prevent Mr A's financial situation deteriorating further.

Mr A agreed with this view but Shop Direct didn't. It said that it wasn't reasonable to say that it should have intervened in December 2017. It says that it wasn't clear until June 2018 that it should have done anything to help Mr A and that when it did become clear it took steps to help including 'suspending interest and charges where possible.'

Because Shop Direct didn't agree, the case was passed to me to make a decision. When I reviewed the case I came to a slightly different conclusion to the adjudicator. I thought that Shop Direct should have intervened later – in June 2018.

I wrote to both parties to explain this and invited their comments. Mr A agreed with my decision. Shop Direct repeated that it didn't allow Mr A to spend any more on his account from June 2018 and it agreed to refund the interest and charged applied after June 2018. However, it didn't think there should be a requirement to update Mr A's credit file as it considered its lending 'proportionate'. Because Shop Direct didn't agree with the way I proposed it should put things right, I have issued this 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.

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 Mr A's complaint. Having done so, I came to a different conclusion to our adjudicator. I think that Shop Direct didn't have a reason to take any action until June 2018. I'll explain why I have reached this decision.

Shop Direct needed to take reasonable steps to ensure it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr A 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, Mr A's lending history and Mr A's income and expenditure.

Shop Direct says it completed checks when opening Mr A's accounts and that it made checks each month when it reviewed his lending limits. It says these show that when Mr A applied for his credit that it didn't see anything that should have stopped it lending to Mr A. Specifically, Shop Direct told Mr A in its final response to him that the checks it conducted included information provided by a credit reference agency. I think that such a check was an appropriate and proportionate step for Shop Direct to take.

Shop Direct has provided a copy of the outcome of those checks to this service. When Mr A opened the first account he had no CCJs and no accounts currently in default. However, the information also suggests that Mr A had only had four months in the preceding 24 months where he hadn't been in arrears in other credit accounts. I think this should have caused Shop Direct to make more enquiries of Mr A's financial circumstances. But although we asked Mr A to supply copies of his bank statements and his credit file from the time he wasn't able to do this. So I don't know what Shop Direct would have seen if it had done more checks.

When Mr A opened his second account in November 2016 he had more credit available to him elsewhere, but he was managing his first account well, with no arrears or late payments. Shop Direct hasn't supplied the same data about the checks it did for this account opening, but even at its best Mr A would only have had a maximum of eleven months where he hadn't been in arrears in other accounts in the preceding two years. Again, it would have been appropriate and proportionate for Shop Direct to have made further checks in these circumstances, but I don't have further information from Mr A to help me understand his financial position at the time.

In November 2016 Shop Direct increased Mr A's credit limit on his first account to £750. I don't know what checks were done at this stage. But it wasn't a very large increase and Mr A had been managing his first account well up to that point, paying more than the minimum repayments required in each month. And it continued in this way for some time.

In January 2017 Shop Direct reduced Mr A's credit limit on his second account from £500 to £425 and in February 2017 it reduced Mr A's credit limit on his first account from £750 to £675. In June 2017 it reduced the credit limit on Mr A's second account again, to £375. And in October 2017 it reduced the limit further to £250.

It's not clear why Shop Direct did this, because Mr A was still managing his payments well. He was not in arrears and he was meeting or exceeding his minimum repayments each month. It's likely that Shop Direct saw something in its external checks which raised concern, but it hasn't provided these checks. Again, I can't know what was happening in Mr A's finances because I don't have any records from him.

Our adjudicator thought that by December 2017 Shop Direct should have taken action to prevent Mr A's situation becoming worse. They thought this because Mr A's balance on his first account was over its credit limit by about £50 and because he was also using about 80% of his credit limit on his second account. They thought that as Mr A wasn't reducing his balance significantly that this should have been the point at which Shop Direct intervened.

Shop Direct disagrees. It said Mr A only went over his limit because Buy Now, Pay Later (BNPL) interest of £111.27 became due. Shop Direct said it doesn't deduct potential interest

from a consumer's credit limit made available to them because this would be unfair. And Mr A wasn't charged for going over this limit. Within two months Mr A brought his account back under the limit.

Shop Direct said that it wasn't fair to say Mr A was also using a very high proportion of his credit limit because Shop Direct deliberately reduced his credit limit to prevent further spending. I agree.

In June 2018 Mr A missed the minimum repayments on both accounts. Mr A contacted Shop Direct and set up an arrangement to pay £15 on one account and £10 on the other. He paid this for two months, but he made no further payments. In October 2018 Mr A contacted Shop Direct to inform them that he had been speaking with a debt management company. However no further repayments were made on either account and in December 2018 Shop Direct sold Mr A's debt to an external debt recovery agency.

I think at the point Mr A contacted Shop Direct it should have taken steps to show forbearance to Mr A. I appreciate it did this by allowing lower minimum payments for two months, however it is not clear whether it froze Mr A's account or stopped charging him interest or administration charges. Shop Direct said that it did this 'where possible', but I can't see that it did this on both accounts, or why it would not have been possible. In responding to my provisional decision Shop Direct did not comment further on this.

Shop Direct, in its response, repeated that it did not allow Mr A to make further purchases after June 2018. I accept this was the case, but it is not relevant to how it managed his existing debt. I think it should have stopped making administration and interest charges on both accounts in June 2018 when Mr A told it he was struggling to meet the repayments and manage his debts.

Putting things right

As I uphold this complaint in part, I think to put things right it is fair and reasonable for Shop Direct to refund any interest and charges incurred by Mr A on both accounts since June 2018. This is because I think Shop Direct should have frozen Mr A's accounts at that time. To reflect this Shop Direct should:

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

any adverse information should be removed from the credit file.

*HM Revenue & Customs requires Shop Direct to deduct tax from any award of interest. It must give Mr A a certificate showing how much tax has been taken off if he asks for one.

Shop Direct has indicated that it does not agree that the credit file should be updated as I have described above because I have not found that any credit limit increases were unfair and Mr A did not experience any detriment as a direct result of its lending decisions.

However, I am satisfied that adjusting his credit file in the way I have described above is fair and reasonable. It reflects the point at which Shop Direct should have shown forbearance to the extent I consider appropriate and it only need be adjusted if Mr A would no longer owe any money once the adjustments to take account of that lack of forbearance have taken place.

My final decision

I partially uphold Mr A's complaint and direct Shop Direct Finance Company Limited to put things right in the way I have described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 29 June 2022.

Sally Allbeury
Ombudsman