

The complaint

Ms J, who is represented by a third party, says Freemans Plc ("Freemans") irresponsibly lent to her. She has requested that the interest and late payment charges she paid on her accounts be refunded.

What happened

This complaint is about two catalogue shopping accounts provided by Freemans to Ms J in January 2013 – a Kaleidoscope and a Curvissa account, both with an opening credit limit of £100. The Curvissa account went on to have a credit limit increase to £300 on 12 June 2015 and then to £500 on 12 April 2016.

The balance on the Kaleidoscope account was cleared and it was closed in February 2014.

In October 2016 Freemans reduced the credit limit from £500 down to £250 on the Curvissa account. Due to the unpaid arrears the account was passed to debt recovery in September 2017.

Ms J says she was already struggling financially when Freemans granted her the accounts and that it should have conducted better checks. The accounts were therefore unaffordable from the outset.

Freemans says it carried out enough checks when it agreed to give Ms J these accounts and also each time it increased her credit limit on the Curvissa account.

Our adjudicator partially upheld Ms J's complaint and thought that Freemans ought to have realised that Ms J wasn't in a position to sustainably repay any further credit on her account when it offered her the first credit limit on her Curvissa account.

As Freemans didn't agree, the complaint has been passed to me.

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.

Freemans 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 Ms J 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 the Ms J'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 Freemans should fairly and reasonably have done more to establish that any lending was sustainable for the Ms J. These factors include:

- the *lower* a Ms J'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 Ms J opened these accounts, Freemans carried told us it was aware that Ms J had experienced financial difficulties in the past due to having had historic defaults and also a recent missed payment. Having reviewed the checks, and taking into account the low opening credit limit of £100 she was given for each account, I don't think there's enough to suggest that it would have been unreasonable for Freemans to have approved them on that basis. Freemans didn't however ask about Ms J's income, which would have been proportionate to help Freemans build a picture of her financial circumstances at that point.

I now turn to the credit limit increases, which is relevant only for the Curvissa account. Our adjudicator noted that Ms J never spent more than £300 on her account. That means that there's no financial loss arising from the second credit limit increase and I will therefore only look at the first credit limit increase of £300 in June 2015.

Our adjudicator found that, whilst credit checks carried out by Freemans may not have suggested Ms J was getting into difficulty with credit she had elsewhere, the way she was dealing with her account did suggest she might be struggling financially. The account records provided by Freemans clearly show that Ms J was already getting into difficulty at the time she was given the first credit limit increase. Whilst her account balance was around £7 at the time, she had already missed seven out of a total of 16 repayments and also underpaid on two repayments. As a result, she'd also had to pay at least ten sets of administration fees. And whilst I can see that Ms J on occasion made overpayments, given the amounts involved I think it's unlikely that this demonstrates a significant improvement in her overall financial situation.

Taken together, these factors strongly suggest there was a risk that Ms J would become unable to continue meeting her monthly payments. So no credit limit increases should have been applied to the account.

I think that had Freemans applied greater scrutiny to the way Ms J was managing her account, it likely would have realised there was a significant risk that Ms J would be unable to deal with the higher level of credit being made available to her. It follows that I don't think it was reasonable for Freemans to increase Ms J's credit limit at this point. Ms J has lost out because Freemans should have realised by that point that Ms J was

getting into financial difficulty and was likely to experience problems in paying back even a modest amount of credit.

It follows that I agree Freemans should put things right.

Putting things right – what Freemans needs to do

- Rework Ms J's account to ensure that from 12 June 2015 onwards interest is only charged on balances up to the total credit limit of £100, 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 also
- Rework Ms J's accounts to ensure that from 12 June 2015 all interest or charges be removed, including any buy now pay later interest (being the credit limit in place before that date), to reflect the fact that access to any remaining credit on the accounts shouldn't 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 Freemans should contact Ms J to arrange an affordable repayment plan for this account. Once Ms J has repaid the outstanding balance, it should remove any adverse information recorded on Ms J's credit file from 12 June 2015 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 Ms J, along with 8% simple interest per year on the overpayments from the date they were made (if they were) until the date of settlement. Freemans should also remove any adverse information from Ms J's credit file from June 2015 onwards.†

†HM Revenue & Customs requires Freemans to take off tax from this interest. Freemans must give Ms J 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 Ms J's complaint. Freemans Plc should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 23 November 2022.

Michael Goldberg

Ombudsman