

The complaint

Mrs H has complained that Shop Direct Finance Company Limited, trading as Very, irresponsibly lent to her.

What happened

Mrs H opened a shopping account with Shop Direct in March 2011. Her account limit was initially low - £250. Over the course of the next few years Mrs H's account limit was increased 12 times until, in February 2020, it was £4,150.

Mrs H says that Shop Direct shouldn't have lent to her. She says that Shop Direct should have consulted her credit file and asked her more questions to find out if the credit was affordable for her.

Shop Direct says it did all the necessary checks before it lent to Mrs H – and when it increased her credit limit.

Our adjudicator thought that Mrs H's complaint should be partially upheld. They thought that the initial credit given to Mrs H was acceptable, but that by the time her credit was increased in October 2012, Shop Direct didn't act fairly or reasonably in doing 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 Mrs H.

Shop Direct didn't completely agree. It said that Mrs H didn't miss any payments and that the management of her account was generally good until much later in the relationship, indicating that the lending was affordable. It said that the increase in October 2012 was modest at £100. It did, however, agree that from July 2019 Ms H was experiencing financial difficulties and it agreed to pay back interest and charges from that point.

Mrs H didn't agree with this outcome; she thought her complaint ought to have been fully upheld.

As neither party agreed with the adjudicator's view, the case has been passed to me to make 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 considered Mrs H'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 Mrs H 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 Mrs H's income and expenditure. There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

When Mrs H opened her account in March 2011, Shop Direct has told us there were no signs of financial difficulties based on the checks it did. Shop Direct has provided a copy of what it found out at the time. It shows that Mrs H had no outstanding credit commitments elsewhere. It showed that she had a County Court Judgment made against her about eight years prior and that she had arrears on lending in five out of the preceding 24 months. Given that the checks showed that Mrs H didn't have any lending at all at the time of her application it's likely that those missed payments weren't recent.

While it may have been *better* if Shop Direct had asked Mrs H about her income, I think given the other information it had and the low credit limit offered I think Shop Direct's lending decision was fair.

Mrs H's credit limit was increased by £100 in March 2012 – a year after Mrs H took out the account. There was no material change in the results of the checks Shop Direct did and Mrs H had managed her account well up to that point. There was no information to suggest that Mrs H couldn't afford the increased credit limit.

In May 2012 Mrs H's credit limit was more than doubled to £850 and Mrs H had bought goods under Buy Now, Pay Later (BNPL) terms. Although Mrs H wasn't yet paying interest on this amount it was something that Shop Direct needed to be mindful of when providing more credit. At this point, I think it would have been proportionate for Shop Direct to make more checks on Mrs H's financial situation. I agree with our adjudicator that it ought to have checked her income.

While I can't know for sure what Shop Direct would have seen if it checked Mrs H's income, I think it's reasonable to place significant weight on the information provided by Mrs H in the form of her bank statements, which show an income of between £830 and £970 a month. Taking into account her credit history and the way she'd managed the account up until then, along with how much she'd need to pay each month if she used all of the new credit limit I haven't seen anything to suggest that even if Shop Direct had checked Mrs H's income it would have made a different decision about lending more to Mrs H, or that Mrs H wouldn't have been able to manage the credit.

In October 2012 Shop Direct increased Mrs H's credit limit again by £100 to £950. Mrs H had held the account for over 18 months and Shop Direct intended to increase her credit limit for the third time but it still didn't have any detailed information about Mrs H's financial circumstances. I think at this point it ought to have checked her income and expenditure to establish whether the increased credit was affordable.

Again, I can't know for sure how Shop Direct might have chosen to achieve this, but in the absence of any further information I think it's reasonable to rely on the evidence in the form of Mrs H's bank statements from the months leading up to the increase to show what it might have seen if it had checked. Having reviewed these, it is clear that Mrs H's essential

expenditure was very close to – or exceeded – her income each month. So, I don't think Mrs H was in a position to sustainably repay any increase in her credit limit.

Shop Direct doesn't agree with this position. It points out that Mrs H wasn't using all of her credit limit and that Mrs H didn't get into financial difficulties until many years later. Both of these points are true, but it's clear that when Mrs H did spend beyond her £850 credit limit (which she didn't do until a number of years later) that she began to get into difficulties.

Shop Direct also says that the increase was modest at £100 and to find out about Mrs H's circumstances for such a small increase would have been disproportionate. But Shop Direct needed to look holistically at the lending it was providing to Mrs H. Just because each incremental increase was relatively small, doesn't mean that it made it affordable when the whole of Mrs H's circumstances were taken into account. Although Mrs H had seemingly managed her credit with Shop Direct well up to that point didn't mean it was affordable in the future or that she was managing all of her credit in a sustainable way.

Shop Direct has also said that it had recorded Mrs H's income in 2019 as £17,500 and an income and expenditure assessment completed in 2021 provided a disposable income of £725. I haven't seen how this was assessed, but I don't think it's relevant to Mrs H's circumstances in October 2012. Similarly, while Shop Direct says that Mrs H's external data showed no derogatory information, it hasn't provided evidence of that data. And just because Mrs H *wasn't* in financial difficulty at that point doesn't mean that the credit was affordable in the long term.

So, on balance, on the information available to me, I don't think Shop Direct did reasonable or proportionate checks when it increased Mrs H's credit limit to £950 in October 2012 and so I think it acted unfairly and Mrs H lost out as a result.

I haven't seen anything to suggest Mrs H's circumstances changed significantly in the following years, so I am satisfied that Shop Direct shouldn't have provided her with the seven later increases, either.

Having said this, this outcome makes little or no material difference to the outcome that Shop Direct sought (to agree to uphold Mrs H's complaint from July 2019) because Mrs H didn't spend above £850 (the limit which I have said was reasonable) or incur any late payment charges on balances over £850 until December 2019.

Putting things right

I think it's fair and reasonable for Shop Direct to refund any interest and charges incurred by Mrs H as a result of the credit unfairly extended to her. I don't think the limit should have been increased from October 2012 onwards, therefore Shop Direct should rework the account and:

- remove any interest and charges incurred after October 2012 as a result of any increases (including any buy now pay later interest). That is, Shop Direct can only add interest accrued on the balance up to the credit limit of £850 – this being the credit limit before October 2012.
- Shop Direct should work out how much Mrs H would have owed after the above adjustments. Any repayment Mrs H made since October 2012 should be used to reduce the adjusted balance.
- If this clears the adjusted balance any funds remaining should be refunded to Mrs H along with 8% simple interest per year* - calculated from the date of overpayment to the date of settlement.

- If after all adjustments have been made Mrs H no longer owes any money then all adverse information regarding this account should be removed from the credit file from October 2012.
- Or, if an outstanding balance remains, Shop Direct should look to arrange and affordable payment plan with Mrs H for the outstanding amount. If any debt was sold to a third party, Shop Direct should either repurchase the debt or liaise with the third-party to ensure the above steps are undertaken. Once Mrs H had cleared the balance, any adverse information as a result of the unfair lending should be removed from the credit file.

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

My final decision

I uphold Mrs H's complaint in part and direct Shop Direct Finance Company Limited, trading as Very, to pay compensation as described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 24 May 2023.

Sally Allbeury
Ombudsman