

## **The complaint**

Miss W has complained that Studio Retail Limited (“Studio”) irresponsibly lent to her.

## **What happened**

Miss W opened a shopping account with Studio in March 2019. Her account had an initial limit of £150 which was increased on five later occasions, eventually reaching £700 in November 2021.

Miss W says that Studio shouldn’t have lent to her. She says that she was in financial difficulty and Studio should have done more to find out if the credit was affordable for her. Studio says it did all the necessary checks before it lent to Miss W – and when it increased her credit limit.

Our investigator thought that Miss W’s complaint should be upheld. Miss W was in an Individual Voluntary Arrangement (IVA) when she took out the credit which indicates that she wasn’t able to sustainably repay her existing credit.

Our investigator said that Studio should pay back interest and charges it made as a result of the credit that was unfairly extended to Miss W.

Miss W agreed with this outcome. Studio didn’t agree. It said that Miss W met its lending criteria and none of her account activity indicated any financial pressure or material financial difficulty.

As Studio didn’t agree, 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 Miss W’s complaint.

Studio 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 W 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 W’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 should fairly and reasonably have done more to establish that any lending was sustainable for Miss W. These factors include Miss W's income, her existing borrowing, the frequency of borrowing and the length of time Miss W had been indebted. There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Studio has provided a copy of the checks it did at the time it opened Miss W's account. The data showed that Miss W didn't have any credit accounts in arrears and that there was no negative publicly recorded information, such as bankruptcy or an IVA. The checks were unable to verify Miss W's declared income of £12,000 but Studio used Office of National Statistics data to model Miss W's disposable income and concluded that she would have had £250 a month.

Studio submitted that Miss W's application was automatically accepted. The implication by Studio was that if Miss W's application was automatically accepted there was nothing in its automatic checks which caused concern and therefore its checks were proportionate. Studio says it balanced the negative information against the positive information it held.

However, Studio wasn't able to verify Miss W's address with its checks. And there were other concerning indicators; Miss W was relatively highly indebted and seemed to have at least a month of arrears on another credit account. Miss W had five other revolving credit accounts, which I think on her relatively low income ought to have given Studio pause for thought. And as Studio hadn't been able to locate Miss W on the electoral roll at her declared address it couldn't have confidence that it had all publicly available information to hand when it made its decision to lend to her.

I think Studio ought to have done more to establish that Miss W could repay the borrowing sustainably. I don't think it conducted reasonable and proportionate checks. While I can't know for certain what further checks would have shown in practice, I am satisfied that Miss W's absence from the electoral roll was something it could query relatively easily and quickly by asking Miss W about previous addresses. Had it done so, it would have become aware of an IVA registered at another address which was still active at the point of her application. And I can see that two months after account opening, Studio had more complete information which it didn't have at the point Miss W applied for the account and this indicated she was at risk of financial difficulties. I think if it had completed reasonable and proportionate checks at the time of account opening this same information would have been available to it (although it did not prevent Studio providing a credit limit increase of £50 the following month).

An IVA is an arrangement used as a last resort for someone in financial difficulties. To enter into such an arrangement Miss W would have had a full assessment of her income and expenditure to work out how much she could pay to creditors and over what period. Any additional borrowing during the IVA is unlikely to have been affordable without a significant change in circumstances and I haven't seen anything to suggest this was the case with Miss W.

I think reasonable and proportionate checks would have revealed Miss W's IVA and would have demonstrated to Studio that Miss W was unlikely to be able to make sustainable repayments on any additional credit. I think Miss W lost out as a result – by paying interest and charges on the lending. So, I think Studio acted unfairly when it lent to Miss W. In relation to Miss W's subsequent credit limit increases, I haven't seen anything to suggest that Miss W's financial circumstances improved significantly in the intervening periods. I am not satisfied that the credit limit increases were affordable or the repayments sustainable either.

## **Putting things right**

I think it's fair and reasonable for Studio to refund any interest and charges incurred by Miss W as a result of the credit unfairly extended to her. Therefore, Studio should rework the account and:

1. Refund all the interest and charges Miss W has paid to date.
2. If the borrowing is still in place, Studio should reduce the capital balance by the amount calculated at step 1.
3. If, after step 2, there remains an outstanding capital balance, Studio should ensure that it isn't subject to any historic or future interest and/or charges. But if step 2 leads to a positive balance, the amount in question should be given back to Miss W and 8% simple interest \* should be added to the surplus.
4. Studio should remove any adverse information recorded on Miss W's credit file as a result of the interest and charges.

\*HM Revenue & Customs requires Studio to deduct tax from any award of interest. It must give Miss W 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 think Studio Retail Limited acted unfairly when it extended credit to Miss W. To put this right I direct Studio Limited to pay compensation as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 12 June 2023.

Sally Allbeury  
**Ombudsman**