DRN-3977652

The complaint

Mrs L has complained that Studio Retail Limited, trading as Studio, irresponsibly lent to her

What happened

Mrs L opened two shopping accounts with Studio; one in May 2008 and the other in November 2016. There is very little information still available about the first account opened. Her November 2016 account had an initial limit of £300 which was increased on five later occasions, eventually reaching £1,000 in June 2000.

Mrs L 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 Mrs L – and when it increased her credit limit.

Our investigator thought that Mrs L's complaint should be partially upheld. They didn't have enough information about the first account opened in May 2008 to say that the lending had been irresponsible, but they thought that the November 2016 account shouldn't have been opened at all.

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

Mrs L agreed with this outcome. Studio didn't agree. It said that Mrs L 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 Mrs L'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 Mrs L 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 L'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 Mrs L. These factors include:

- Mrs L's income, reflecting that it could be more difficult to make any repayments to a given credit 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 Mrs L 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 that the lending was unsustainable.

Neither party holds any information about the account opened in May 2008. So I can't know what the original account opening limit was, or any future credit limit increases were. And I don't know what checks Studio did or what Mrs L's circumstances were at the time. So I can't fairly say that Studio did anything wrong.

Studio has provided a copy of the checks it did at the time it opened Mrs L's November 2016 account. Studio also submitted that Mrs L's application was automatically accepted. The implication by Studio was that if Mrs L's application was automatically accepted there was nothing in its automatic checks which caused concern and therefore its checks were proportionate. Studio said that Mrs L had an *estimated* income of £23,100 per year and that she didn't have any delinquent accounts at her current address.

Our investigator thought that because Mrs L's account was a 'revolving credit' account that Studio ought to have done more checks to ensure Mrs L could pay back any credit in a sustainable way within a reasonable period of time. I don't think this specifically applied to revolving credit accounts over other types of lending – I think it applies to all lending. But I do agree that Studio ought to have done more checks. I say this because Studio had reliable information to suggest Mrs L had financial difficulties only a year or so earlier. Mrs L's 2008 Studio account had defaulted in March 2015 and the £1,620 debt had been sold to a third-party debt collector. This information was readily available to Studio. And I can see from the information Studio later provided that it had information to show that Mrs L had missed a payment on an active revolving credit account within the preceding six months. Mrs L had a high number of revolving credit accounts at nine accounts and she was using more than 50% of her credit limit on three of them, with one utilising more than 90%. It wasn't clear from the checks which it did how much outstanding credit Mrs L had.

On the basis of this information, I think Studio ought to have done more checks before it lent to Mrs L. I consider it ought to have checked her income and expenditure before it lent to her.

I don't know exactly what Studio would have seen if it hadn't automatically accepted Mrs L's application and had completed checks on her income and expenditure. In the absence of this information, I think it's fair to place weight on the information Mrs L has been able to provide about her circumstances at the time. This includes information from her bank statements and her own credit file.

Those bank statements show that she was in receipt of benefits and earning an additional £400 a month, giving her a monthly income of around £1,430 a month. This is clearly considerably below the income Studio estimated for Mrs L. Her credit file showed an additional missed payment to another revolving credit provider seven months earlier as well as the one Studio was aware of about five months earlier.

Having reviewed Mrs L's bank statements I can see that she was paying about £150 to other credit providers, although it's not clear whether this was enough to sustainably repay her borrowing. Mrs L explains that she spent about £650 a month on essential outgoings. And I can see that she was gambling relatively heavily for her income. She spent approximately £620, £400 and £100 in the three consecutive months leading up to the lending decision. While gambling is an entirely legal activity, it can be an indication that someone may experience financial difficulties.

Had Studio taken a holistic view of Mrs L's income and expenditure, along with the information it already held about missed payments and her default on another account with Studio only the previous year, I think it ought to have concluded that Mrs L wasn't in a position to sustainably afford the repayments on her new account. I think Mrs L lost out as a result of what Studio did wrong.

Putting things right

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

- remove any interest and charges incurred on the November 2016 account.
- Studio should work out how much Mrs L would have owed after the above adjustments. Any repayment Mrs L made should be used to reduce the adjusted balance.
- If this clears the adjusted balance any funds remaining should be refunded to Mrs L 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 L no longer owes any money then all adverse information regarding this account should be removed from the credit file.
- If an outstanding balance remains, Studio should look to arrange an affordable payment plan with Mrs L for the outstanding amount. As the debt was sold to a third-party, Studio Retail Limited should either repurchase the debt or liaise with the debt owner to ensure the above steps are undertaken.

*HM Revenue & Customs requires Studio to deduct tax from any award of interest. It must give Mrs L 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 Mrs L in November 2016. 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 Mrs L to accept or reject my decision before 3 April 2023.

Sally Allbeury
Ombudsman