

The complaint

L, a firm, complains on behalf of Mrs D that Studio Retail Limited irresponsibly issued her with, and raised the limit on, a credit account.

What happened

Mrs D successfully applied to Studio for a credit account in May 2020. The initial credit limit was £300, which was raised to £600 in May 2021.

At the time of applying for the account Mrs D has told us she was in a debt management plan with a debt advice charity and had been since 2011. She used most of the limit on the card and could only afford the minimum payments. After the limit was increased she obtained a consolidation loan to pay it off, but soon used the account up to the limit again. She is now in an Individual Voluntary Arrangement (IVA) and the balance owing to Studio is in that IVA.

Studio said that it is a responsible lender and carefully follows the rules and guidelines set out by the Financial Conduct Authority (FCA). Based on its policies and the regulatory guidelines at the time of the application in May 2020, Studio undertook creditworthiness and affordability assessments. The checks were proportionate to the type and amount of credit available, their financial situation at the time and her existing and any known future financial commitments.

Studio says it undertook detailed checks on Mrs D's credit history. It found that she was on a debt management plan. But she had no accounts in arrears or any CCJs (County Court Judgments) or Bankruptcies. Having assessed her income and expenditure it determined that she would be able to afford the minimum recommended monthly payment of £18 for a £300 limit.

When increasing the limit Studio noted that Mrs D had used on average 90% of the limit and had gone over the limit twice, but by a minimal amount. It says it carried out proportionate checks using internal and external data. It assessed that the increase in limit was affordable.

On referral to the Financial Ombudsman, our Investigator noted that Mrs D's use of the limit remained at 90% up until the increase. She had also gone over the limit twice, and only paid the minimum payment each month. So whilst she thought the original issue of the account was fair, Studio shouldn't have increased the limit, so should repay all interest and charges beyond the original £300 limit.

Studio didn't agree. It pointed out that Mrs D's use of the account was going well until it received notification that she was in an IVA (in July 2022).. She had a very low risk score from the Credit Reference Agency (CRA) and an extremely low indebtedness index. It used a second CRA which assessed an affordable limit of £1,600.

The matter has been passed to me for further consideration. I asked to see Mrs D's bank statements, and she has produced these for March to May 2021.

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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've taken that approach into account in considering Mrs D's complaint. So, before providing credit, lenders need to complete reasonable and proportionate affordability checks.

There isn't a set list of checks a lender is required to carry out, but it needs to ensure the checks are proportionate when considering things like: the type and amount of credit being provided, the size of the regular repayments, the total cost of the credit and the consumer's circumstances. As a lending relationship continues over time and the level of credit increases, lenders may need to obtain further information from a borrower to check whether they're lending responsibly and that the repayments are sustainable for the customer.

Considering the relevant rules, guidance, and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did Studio complete reasonable and proportionate checks to satisfy itself that Mrs D would be able to repay the credit advanced in a sustainable way?
- If not, would those checks have shown that Mrs D would have been able to do so?
- Bearing in mind the circumstances at the time of each application or increase in credit limit, was there a point where Studio ought reasonably to have realised it was increasing Mrs D's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further credit?

I note Studio's response to our Investigator's view. From the information I have seen I think Mrs R was able to afford the payments on the account with a £300 credit limit. She was in a debt management plan though she tells us she had been in one from 2011. The credit limit was modest and I think Studio carried out proportionate checks. From her use of the account, although she went over the limit twice this was by a minimal amount and generally she seemed to be just able to cope with the £300 limit, albeit that she was using 90% of it for the most part.

For the increase in the limit, it appears that Studio carried out credit checks with two CRAs, which it says showed that she was able to afford the increase. As it was a 100% increase I think Studio was right to carry out the credit checks. I do think that going over the limit, even by a minimal amount, and using most of the limit for a year whilst making the minimum payments, does indicate that she might have had difficulty coping with a doubling of the limit.

From my knowledge of such checks, they would also show if her current bank account was, and had been, overdrawn. From her bank statements, it appears that Mrs D's bank account was constantly overdrawn, by up to £1,200, only reduced when she was paid her income and benefits, or at times by loan monies. The statements also show a £226 monthly payment to a debt advice charity which would indicate a high level of indebtedness. And I note she later went into an IVA.

Whilst Studio isn't required by the rules to look at bank statements I do think that it would have been aware of Mrs D's use of her overdraft through the credit search it had carried out, and should have made further enquiries regarding her income and expenditure. I think that

that would have shown that she was unable to afford the increase in the credit limit.

So, in respect of the increase in the credit limit, I don't think that Studio made a fair lending decision.

Putting things right

As I don't think Studio should have increased Mrs D's credit limit above £300, I don't think it's fair for it to charge any interest or charges on any balances which exceeded that limit. However, Mrs D has had the benefit of all the money they spent on the account so I think she should pay this back. Therefore, Studio should take the following actions:

Rework the account removing all interest and charges that have been applied to balances above £300.

If the rework results in a credit balance, this should be refunded to Mrs D along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Studio should also remove all adverse information recorded after 15 May 2021 regarding this account from Mrs D's credit file.

Or, if after the rework the outstanding balance still exceeds £300, Studio should arrange an affordable repayment plan with Mrs D for the remaining amount, subject to the provisions of her IVA. Once Mrs D has cleared the outstanding balance, any adverse information recorded after 15 May 2021 in relation to the account should be removed from their credit file.

If Studio has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.

*HM Revenue & Customs requires Studio to deduct tax from any award of interest. It must give Mrs D 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.

Mrs D should be aware that as she is subject to an IVA, any payment she receives as a result of this decision would need to be paid to the supervisor of the IVA, and she should inform them.

My final decision

I uphold the complaint in part and require Studio Retail limited to provide the redress set out under "Putting things right" above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 21 July 2023.

Ray Lawley
Ombudsman