

The complaint

Mrs K has complained that Studio Retail Limited irresponsibly lent to her.

What happened

Mrs K opened a shopping account with Studio Retail in July 2019. Her account limit was initially low - £100. Over the course of the next few years Mrs K's account limit was increased several times until in July 2022 it was £1,200.

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

Studio Retail says it did all the necessary checks before it lent to Mrs K – and when it increased her credit limit. It says there wasn't anything to suggest Mrs K couldn't afford the credit.

Our investigator thought that Mrs K's complaint should be partially upheld. They thought that the initial credit given to Mrs K was acceptable, but that by the time her credit was increased to £575 in June 2021, Studio Retail didn't act fairly or reasonably in doing so.

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

Studio Retail didn't agree. Mrs K didn't respond to our investigator's view. As neither party agreed with the investigator'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 K's complaint.

Studio Retail 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 K 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 K'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. There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

When Mrs K opened her account in July 2019, Studio Retail has told us there were no signs of financial difficulties based on the checks it did. In fact, there wasn't much information at all. It seems that Studio Retail understood Mrs K's income to be £9,600 and that she had a disposable income each month of £483. It's not clear to me where this information came from, and Studio Retail didn't verify the information. It seems that the only information Studio Retail had about Mrs K was that her husband worked full time and that she had an up to date mobile phone contract.

While this wasn't ideal, the credit offered was only £100 which would have meant repayments of around £5 or £6 a month. Given the low level of the credit provided I don't think it was unreasonable for Studio Retail to lend to Mrs K in these circumstances.

In November 2019, Studio Retail increased Mrs K's credit limit to £350. Again, it had very little information about her circumstances, although it did know that she wasn't borrowing elsewhere, and she was only utilising about 55% of her credit. While Mrs K had missed her first payment on the account she had made this up and had paid more than the minimum repayments required.

In June 2020 Studio Retail increased Mrs K's limit by a further £100 to £450. Studio Retail's checks identified an income of around £21,000 and she had maintained payments reasonably well. She had made an order which took her account over the limit on one occasion seven months earlier but had then made a large payment to bring her account significantly under her limit. So, taking into account the relatively low credit limits, the management of Mrs K's account and the absence of any concerning external data in relation to both the November 2019 and June 2020 increases, Studio Retail acted fairly.

In June 2021 Studio Retail increased Mrs K's credit limit by a further £125 to £575. By this point Studio Retail still didn't have a great deal of information about Mrs K's circumstances. And in the intervening 12 months since the last credit limit increase Mrs K had managed her account less well. She had missed payments, seemingly in a dispute with Studio Retail about whether goods she had bought had been returned, although the disputed amount did not account for Mrs K's entire outstanding credit. Two charges for non-payment were reversed by Studio Retail. In six of the nine months preceding the increase Studio Retail noted that Mrs K was in financial difficulties or at risk of financial difficulties. She was regularly failing to keep within her account limit (although I accept some of this was caused by the dispute) and she was never using less than 97% of her available credit. I think at this point Studio Retail needed to do more to understand Mrs K's financial circumstances before increasing her limit.

I don't know how Studio Retail might have chosen to do this; there is no prescriptive list of checks that need to be done. But in the absence of any other evidence, I think it's reasonable to rely on information supplied by Mrs K.

Mrs K's bank statements show that she didn't have an income of her own. In the three months leading up to the credit limit increase her balance was never higher than £22 and there were no significant deposits. Her credit report confirms that this was her only bank account.

While the bank statements show that following the credit limit increase she began to receive deposits from her husband's account of around £1,000 a month and there was evidence of some ad hoc payments, Mrs K was then paying household bills which meant that her bank account balance remained very low. Mrs K explains that she had four dependent children. Her retired parents lived with her family and were only entitled to minimum pension credit. Her husband's income in April 2022 was only £2,450 a month. I haven't seen any evidence to suggest Mrs K's financial circumstances improved later in the lending relationship.

On this basis, I am satisfied that if Studio Retail had completed proportionate checks it would have realised that Mrs K wouldn't be able to sustainably repay any further credit. I think Mrs K lost out as a result of the credit limit increases in June 2021 and beyond.

Putting things right

I think it's fair and reasonable for Studio Retail to refund any interest and charges incurred by Mrs K as a result of the credit unfairly extended to her. I don't think the limit should have been increased from 8 June 2021 onwards, therefore Studio Retail should rework the account and:

- remove any interest and charges incurred after 8 June 2021 as a result of any increases (including any buy now pay later interest). That is, Studio Retail can only add interest accrued on the balance up to the credit limit of £450 – this being the credit limit before 8 June 2021.
- Studio Retail should work out how much Mrs K would have owed after the above adjustments. Any repayment Mrs K made since 8 June 2021 should be used to reduce the adjusted balance.
- If this clears the adjusted balance any funds remaining should be refunded to Mrs K along with 8% simple interest per year* - calculated from the date of overpayment to the date of settlement.
- Or, if an outstanding balance remains, Studio Retail should look to arrange an affordable and sustainable payment plan with Mrs K for the outstanding amount.
- If after all adjustments have been made Mrs K no longer owes any money then all adverse information regarding this account should be removed from the credit file From 8 June 2021.

*HM Revenue & Customs requires Studio Retail to deduct tax from any award of interest. It must give Mrs K 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 further credit to Mrs K on 8 June 2021. To put this right I direct Studio Retail Limited to pay compensation as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 7 November 2023.

Sally Allbeury
Ombudsman