

The complaint

Miss S complains that Shop Direct Limited trading as Ace ('Shop Direct') irresponsibly gave her a revolving credit account that she couldn't afford.

What happened

In June 2019, Miss S's revolving credit account was opened by Shop Direct with an initial credit limit of £500. The credit limit was increased to £1,000 in December 2019, to £1,500 in June 2020, to £2,000 in January 2021 and to £3,000 in August 2021.

On 22 December 2022, Miss S complained to Shop Direct to say that the account shouldn't have been opened because it wasn't affordable and that Shop Direct ought to have made a better effort to understand her financial circumstances before it provided her with credit. Shop Direct did not agree. Miss S brought her complaint to this service.

Our investigator thought the lending on the account was reasonable initially but thought that Shop Direct ought not to have increased the credit limit in August 2021. Miss S agreed that outcome. Shop Direct didn't agree. So, the complaint has been passed to me to decide.

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. After reviewing all of the information provided in this complaint, I intend to partially uphold Miss S's complaint. I explain why below.

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 Miss S 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 the consumer'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 Shop Direct should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the lower a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the higher 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 greater the frequency of borrowing, and the longer the period of time during which a customer has 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 the lending was unsustainable.

Our investigator set out in some detail why she thought the early credit limits were reasonable. As both parties have agreed to those findings, I will concentrate on whether Shop Direct should have provided Miss S with any additional credit in August 2021 and thereafter. Shop Direct said the credit limits it set were affordable for Miss S. Shop Direct told us it obtained credit reference data about Miss S at the time of the account opening and prior to each credit limit increase and that it took into consideration how the account was being managed.

I have noted that Miss S's management of her existing account had been largely good up to the January 2021 credit limit increase. I note that in the months between that and the August 2021 increase to the credit limit there were a number of administrative charges which in this case denote late payments or breach of the credit limit. And there were three of those in the four months before Shop Direct chose to increase Miss S's credit limit.

So, I think that this pattern of Shop Direct's lending history with Miss S should have put Shop Direct on notice that it might need to make more searching enquiries into Miss S's financial circumstances before increasing her potential indebtedness further.

And I have noted the credit checks that Shop Direct performed before the increase to the credit limit in August 2021. They showed a marked increase in the amount of other debt that Miss S had collected since the January increase. In July 2021 Miss S's other debts had risen to over £9,000 which was triple the amount seen before the previous credit increase. And most of that had been accrued in the two months prior to the August increase. So, I think that the sheer size of the unsecured credit Miss S was already responsible for ought to have caused Shop Direct to question her ability to take on more credit, especially a relatively significant sum such as £3,000.

So thinking about that and Miss S's management of her account before the August credit limit increase, I think that at the very least any basic affordability checks ought to have prompted a more thorough enquiry of Miss S's financial circumstances before Shop Direct agreed to lend. Had Shop Direct done more, which I consider they ought to have here, what would they have seen?

I can't be sure exactly what Shop Direct would have seen had their checks been more proportionate. But I've considered the evidence Miss S has been able to provide. This includes her current account statements. I'm not suggesting that Shop Direct needed to obtain these specific documents Miss S has now provided, but I think these give a good indication of at least what basic information Shop Direct would have been likely to have found out (or ought to have found out) about her income and existing credit commitments.

These show that Miss S's income was modest and inconstant. They also show that Miss S's committed expenditure towards things like rent, food, bills, regular transfers, and travel was around the same amount as her income. I have considered this information in addition to the Shop Direct's credit search that showed the sharp increase in Miss S's indebtedness and Miss S's most recent management of her account with Shop Direct. Having done so, I am persuaded that had Shop Direct conducted a more thorough investigation into Miss S's circumstances, which I think it should have done, I fail to see how they could possibly have

concluded anything other than the new credit they offered in August 2021 was unaffordable and unsustainable.

I think that by August 2021, Shop Direct should have been on notice that putting up the credit limit any further was unsustainable as Miss S would not have been able to afford to repay what she was being lent in a sustainable manner, most likely.

So, I am persuaded that Shop Direct should reasonably have seen that further lending was likely unsustainable, or otherwise harmful, and it shouldn't have further increased Miss S's credit limit in August 2017, the date of the last credit increase. It follows that I think that Miss S lost out because Shop Direct provided her with further credit from August 2017 onwards.

In my view, Shop Direct's actions unfairly prolonged Miss S's indebtedness by allowing her to use credit she couldn't afford over an extended period of time and the interest being added would only have the effect of putting her into further debt. It follows that Shop Direct should put things right.

Putting things right

- Rework Miss S's accounts to ensure that from August 2021 onwards interest is only charged on balances up to the total credit limit of £2,000, including any buy now pay later interest, (being the credit limit in place before that date) to reflect the fact that no further credit limit increases should have been provided. All late payment and over limit fees should also be removed;

and

- If an outstanding balance remains on the accounts once these adjustments have been made Shop Direct should contact Miss S to arrange an affordable repayment plan for these accounts. Once Miss S has repaid the outstanding balance, it should remove any adverse information recorded on Miss S's credit file from August 2021 onwards for each account.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Miss S, along with 8% simple interest per year on the overpayments from the date they were made (if they were) until the date of settlement. Shop Direct should also remove any adverse information from Miss S's credit file from August 2021 onwards.†

†HM Revenue & Customs requires Shop Direct to take off tax from this interest. Shop Direct must give Miss S a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons set out, I'm partially upholding Miss S's complaint. Shop Direct should put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 27 November 2023.

Douglas Sayers
Ombudsman

