

Complaint

Ms M has complained that J D Williams & Company Limited (trading as “Simply Be”) irresponsibly provided her with a catalogue shopping account and increases to the credit limit despite the fact that they were unaffordable.

Ms M is being represented in her complaint by a Claims Management Company (“CMC”).

Background

Ms M was initially provided with a catalogue shopping account by Simply Be, which had a credit limit of £200, in December 2013. Ms M’s credit limit was increased on eight occasions until it reached £2,750.00 in November 2016.

One of our investigators looked at everything provided and felt that he didn’t have enough to reasonably conclude that proportionate checks would have shown Simply Be that it shouldn’t have provided this account or the subsequent credit limit increases to Ms M. So he didn’t think that the complaint should be upheld.

The CMC, on Ms M’s behalf, disagreed with our investigator’s conclusions and asked for an ombudsman’s review of the complaint.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having carefully considered everything, I’ve decided not to uphold Ms M’s complaint. I’ll explain why in a little more detail.

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.

Simply Be 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 Ms M 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 Simply Be 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.

I've kept all of this in mind when deciding Ms M's complaint.

Ms M's account was opened in December 2013 with a credit limit of £200. The catalogue shopping account Simply Be provided Ms M with was a revolving credit facility. This meant that Simply Be was required to understand whether Ms M could repay £200 within a reasonable period of time.

I understand that Simply Be carried out a credit check before initially agreeing to provide this account. Simply Be has been unable to provide the output of its credit check. But given this credit check was carried out a number of years ago (more than a decade), I don't find this too surprising and I've not drawn any adverse inferences from this.

What is important to note is that a credit limit of £200 required relatively small monthly payments in order to clear the full amount owed within a reasonable period of time. And I've not been provided with any clear evidence to show that Ms M's circumstances were such that I could reasonably conclude that she didn't have the funds to make the very low monthly payment required.

As this is the case, I'm satisfied that it wasn't unreasonable for Simply Be to have agreed to provide this account to Ms M. And I find that Simply Be didn't treat Ms M unfairly when it initially opened Ms M's account with a credit limit of £200 in December 2013.

As I've explained in the background section of this decision, Simply Be increased Ms M's credit limit on six occasions until it eventually reached £2,750.00 in November 2016. The first three of these limit increases were modest. So I wouldn't have expected Simply Be to have done too much more for these increases than it did when determining whether to initially provide the account. And, for much the same reasons, my findings in relation to the first three limit increases are the same as those for when the account was originally opened.

However, by the time of the fourth limit increase in October 2014, Ms M's credit limit was being increased to an amount well in excess of £1,000.00 (£1,300.00). So irrespective of what the credit check may or may not have shown, I would have expected Simply Be to have found out more about Ms M's income and expenditure (particularly about her regular living expenses) before providing this and any further credit limit increases.

As Simply Be has been unable to evidence having done this in this instance, I don't think that the checks it carried out before it provided the October 2014 limit increase and the ones subsequent to this were reasonable and proportionate.

Ordinarily, where a firm failed to carry out reasonable and proportionate checks before providing credit or increasing the amount available to a customer, I'd usually go on to

recreate reasonable and proportionate checks in order to get an indication of what such checks would more likely than not have shown.

However, Ms M's CMC says she is unable to provide us with all of the information we've asked her for in order to be able to assess what her circumstances were like at the time she was provided with these limit increases. And without this information I'm unable to ascertain whether proportionate checks would have prevented Simply Be from lending to her.

Furthermore, bearing in mind the amount of the monthly repayments required and Ms M made them for around two years after the last increase, I can't reasonably conclude that the repayments in themselves were demonstrably unaffordable at the time either, notwithstanding being unable to recreate what proportionate checks are likely to have shown.

So overall and having carefully considered everything, I've not been provided with enough such that I'm persuaded proportionate checks would have shown that Simply Be that it shouldn't have provided this account, or any of the subsequent credit limit increases to Ms M. And I'm therefore not upholding Ms M's complaint.

I appreciate this will be very disappointing for Ms M. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 20 February 2024.

Jeshen Narayanan
Ombudsman