

The complaint

Mr C complains that Creation Financial Services Limited (Creation) lent to him irresponsibly.

What happened

Mr C applied for a credit card from Creation in February 2020 and it was agreed with a limit of £7,500. In July 2021, Creation increased the limit to £9,000.

Mr C complained. He said Creation lent to him irresponsibly. He was only earning £1,000 per month. He had many other debts at the time and was gambling. The new lending from Creation meant he was borrowing too much money and couldn't make the payments to all his debts. He was now in a spiral of debt which he can't get out of.

Mr C says Creation should refund the interest and fees he has paid on the credit card.

Creation said they made all the necessary checks at the time – including their own risk assessment and external information from Credit Reference Agencies (CRAs). They were satisfied Mr C passed their checks at the first issue of the card and at the time of the limit increase.

Mr C brought his complaint to us and one of our investigators looked at what happened. He said:

- Creation gave Mr C a high credit limit compared to his income. The limit was 50% of his annual income. Mr C's bank statements showed that in the few months leading up to the issue of the card, Mr C's income was almost entirely taken up by his outgoings – and Creation should've asked for bank statements to see this. If they had, he said it's unlikely Creation would've issued the card.
- Therefore, Creation should refund all fees and interest from when the credit card was issued in February 2020.

Creation didn't agree. They argued the issue of the card was responsible. They completed all the relevant checks. They took into account the other debts Mr C had at the time, and they were being serviced satisfactorily – he appeared to be making the payments each month. So his credit file (showing other debts) was in good order. Creation also noted that Mr C lived with his parents and paid no rent.

On the limit increase, Creation said that Mr C was running his account with them well and was paying more than the minimum each month – so they concluded that the decision to increase the limit was responsible.

Creation asked that an ombudsman look at Mr C's complaint, and so it has come to me to do that.

I issued a provisional decision which said:

All lenders have an obligation to lend money responsibly. We have to check whether Creation acted in line within the Financial Conduct Authority (FCA) rules on creditworthiness assessment as set out in its handbook, (CONC) section 5.2. These say that a firm must undertake a reasonable assessment of creditworthiness, considering both the risk to it of the customer not making the repayments, as well as the risk to the customer of not being able to make repayments. We look at:

- Whether the lender completed reasonable and proportionate checks to satisfy itself that the borrower would be able to repay any credit in a sustainable way?
- If reasonable and proportionate checks were completed, did the lender make a fair lending decision bearing in mind the information gathered and what the lender knew about the borrower's circumstances?
- And a reasonable and proportionate check would usually need to be more thorough:
 - the lower a customer's income, and the higher amount to be repaid.
 - the greater the number of loans and frequency of loans.
 - the longer the term of the loans.

It's important to note that the checks must be proportionate to the amount being lent – so the higher the amount, the greater the checks must be, and the lower the amount, then fewer checks can be made.

I looked at the initial issue of the credit card and the limit increase in turn.

February 2020 - Issue of the credit card: (limit £7,500):

I disagree with our investigator here – I consider that Creation completed sufficient checks when deciding to issue the card. I accept that the investigator obtained bank statements from Mr C – which show his outgoings were almost as much as his income – but we can only expect a firm to ask for more information (such as bank statements, and more information about income and expenditure) if their reasonable and proportionate checks show they needed to. And here – the information that Creation had (at this time) showed that Mr C was managing his finances well. I say that as Creation could see:

- Mr C told Creation he earned about £1,000 each month, lived with his parents and didn't pay any rent or utility bills. Creation used a formula to work out that his outgoings were £527 per month – so he had enough spare money to make payments to his debts.
- Creation could see information about Mr C's other debts at the time – and this showed he had no defaults or CCJs, had no payday loans, and there had been no new searches in the last month (i.e. no new borrowing was being asked for). All accounts were paid up to date. The total month payments to other lenders were only £11.
- Mr C provided his credit file to us – and this showed that as at February 2020, he only had a small debt with another lender of around £500 to £1,000. So – that confirms to me what Creation could also see.
- Taking all this into account, it looked to Creation that Mr C was managing his finances well – and therefore I can see why they issued the card, and didn't need to ask more questions of Mr C.

So here – Creation carried out reasonable and proportionate checks in issuing the card to Mr C in February 2020.

July 2021 - Limit increase from £7,500 to £9,000:

I don't think Creation acted responsibly in increasing Mr C's limit to £9,000 – without asking him for more information. I say this as:

- Mr C's credit file was (by that time) showing debts to eight other lenders – totalling about £16,000; in addition to a new loan for £3,300 from Creation (April 2021) and the Creation limit of £7,500. So – Mr C's borrowing had increased a lot since he took the card in February 2020.
- That meant that (with the new limit from Creation) – Mr C had debts of £28,000. This was more than twice his annual income.
- Creation have argued that he was making payments to his Creation credit card satisfactorily – and I can see he was. He was making the contractual minimum payments and paid more in some months in 2021.
- I can also see that Mr C was making payments to all of his debts at the time – there were no late payments or defaults showing in his records. Having looked at Mr C's bank statements – it looks to me as if he was 'juggling' his balances and debts to ensure all his monthly commitments were being met.
- But - Mr C also sent to us evidence that two payments to his Creation account had been returned unpaid – one on 9 July 2021 – just before Creation increased his limit. This should have been a red flag to Creation.
- And - Mr C also showed us evidence that Creation had turned him down for a personal loan in May 2021. The decision correspondence said this was due to the information Creation had got from the CRAs. So – it looks like Creation were then aware of Mr C's worsening circumstances.
- So given all of this, plus (most importantly) the amount of debt that Mr C had taken on since February 2020 (in only 18 months) – I consider it's reasonable to expect Creation to have asked more questions of Mr C. This would've included asking for his bank statements and looking into his up-to-date financial position – but they didn't.

Therefore, I don't consider that Creation carried out sufficient checks when increasing Mr C's limit in July 2021.

As Creation shouldn't have increased Mr C's limit from £7,500 to £9,000 in July 2021 –the remedies I propose date from then. Creation should re-work Mr C's account to remove interest and charges paid on his borrowing over £7,500 from July 2021. If the rework results in a credit balance, this should be refunded to Mr C along with 8% simple interest per year calculated from the date of each overpayment to the date of settlement.

Responses to the provisional decision:

Creation asked to see Mr C's credit file I referred to in the provisional decision. We sent it to Creation, who then agreed with the provisional decision.

Mr C made the following comments:

- He argued that the issue of the card in *February 2020* wasn't reasonable as:

- His bank statements from his main bank showed he had a 'hard core' overdraft balance of £2,000 debit, and it also showed his monthly income was about £1,200/ £1,000 and his outgoings were about the same. So his expenses were more than the £527 Creation had worked out.
 - The statements also showed he was paying much more than £11 per month on his other credit cards.
 - £7,500 was a huge limit and he expected Creation to have undertaken checks to verify his income.
 - He had a lot of other credit at the time - four other credit cards had combined limits of £6,500, which could've been used at any point.
 - He had taken out four new credit cards in the 12 months leading up to the issue of the Card from Creation – so more questions should've been asked.
- He agreed the limit increase in *July 2021* was irresponsible but said the loan from Creation was for £2,500 and not £3,300 which I quoted.

I now need to consider the points made by Mr C and make a final 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.

I appreciate the points Mr C has put to us. I again looked at his complaint, the information Creation had and his credit file.

February 2020 - Issue of the credit card: (limit £7,500):

- Bank statements: I can only expect Creation to ask more questions (including looking at bank statements) if the information they saw suggested they needed to – for example, if there was something showing up a possible problem in a customer's finances. And as I set out in the provisional decision, I considered that what Creation saw didn't suggest Mr C was in any financial difficulty.
- Creation worked out that Mr C's outgoings were £527 per month – and to clarify, this was based on a formula used across the industry to work out a customer's outgoings, given what a lender knows about them – e.g. the type of property and rent paid.
- I can see that Mr C did indeed pay a credit card company more than £11 each month in the two months leading up to February 2020 – he paid £213 and £518. But I can also see from his credit file that this likely paid off the balance completely, rather than it being less than the outstanding balance. So – he didn't have to pay that amount as a regular payment.
- It's important to say the total payments to other cards of £11 per month worked out by Creation – were the monthly minimum payments to his credit cards that were needed. This is normally worked out as – the monthly interest plus fees payable, plus 1% of the outstanding balance. And – as Mr C had low debit balances at the time – the monthly payments were also low. That's in line with what Creation had to check under the regulations and guidance.
- I agree that Mr C took out four new credit cards in the 12 months up to February 2020, and the total limits were around £6,500. But – the total debit balances were only about £300. So – he wasn't using the limits.

- And – I can't reasonably expect Creation to anticipate what Mr C might do with the credit limits. The main here point is – he was only borrowing a low amount at the time – and that's what Creation could see (and as I've said, the monthly payments were also low because the balances were low).
- Mr C then (later) used those limits to borrow more money – after the Creation card was issued. And that resulted in his overall debts increasing - which Creation should've seen when they later increased his limit in July 2021.

July 2021 - Limit increase from £7,500 to £9,000:

Mr C's credit file shows the Creation loan balance was £3,351 when it was set up in April 2021 – I suspect that includes the interest added onto the loan for its term. This doesn't affect my decision.

So, in summary, I've considered what Mr C has put to us, but for the reasons I've described, my final decision is in line with the provisional decision. And the remedies are also unchanged from it.

My final decision

I uphold this complaint. Creation Financial Services Limited must:

- Refund interest and charges on Mr C's borrowing over £7,500 from July 2021.
- If this results in a credit balance, this should be refunded to Mr C along with 8% simple interest per year calculated from the date of each overpayment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 March 2024.

Martin Lord
Ombudsman