

Complaint

Miss C has effectively complained that J D Williams & Company Limited (trading as “Simply Be”) irresponsibly provided her with a catalogue shopping account and limit increases despite the fact that her existing debt made them unaffordable.

Background

This complaint is about a catalogue shopping account Simply Be initially provided to Miss C in early June 2020. Miss C was initially given a credit limit of £150. This limit was then increased on six occasions at the following times:

June 2020 - £250 (this increase took place right at the end of the month the account was opened)
September 2020 - £400
October 2020 - £600
November 2020 - £900
December 2020 - £1,300.00
October 2021 - £2,100.00.

One of our investigators looked at everything provided and didn’t agree that proportionate checks would have shown Simply Be that it shouldn’t have provided this account or the subsequent credit limit increases to Miss C. So she didn’t think that Miss C’s complaint should be upheld.

Miss C 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 Miss C’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 Miss C 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, are not limited to but, 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 Miss C's complaint.

Miss C's account was opened in June 2020 with a credit limit of £150. The catalogue shopping account Simply Be provided Miss C with was a revolving credit facility. This meant that Simply Be was required to understand whether Miss C could repay £150 within a reasonable period of time.

Simply Be carried out a credit check before initially agreeing to provide this account. Simply Be has provided the output of the credit check that it carried out which showed that Miss C did have a defaulted account recorded against her. However, she also had some other accounts which were being well maintained. I appreciate that Miss C may have had more defaulted accounts registered against her but I think that Simply Be was entitled to rely on the output of the credit check that it carried out.

Furthermore, it is also important to note is that a credit limit of £150 required low monthly payments in order to clear the full amount owed within a reasonable period of time. I appreciate that she might have had previous difficulties with credit in the form of a default. But I don't think that this adverse information in itself meant that Miss C shouldn't have been lent to. In any event, Miss C appears to acknowledge that Simply Be attempted to mitigate this risk by providing her with such a low limit.

Equally, I've not been provided with any clear evidence to show that Miss C circumstances were such that I could reasonably conclude she didn't have the funds to make the low monthly payment required. As this is the case, I'm satisfied that it wasn't unreasonable for Simply Be to have agreed to this account. And I find that Simply Be didn't treat Miss C unfairly when it initially opened Miss C's account with a credit limit of £150 in June 2020.

As I've explained in the background section of this decision, Simply Be subsequently increased Miss C's credit limit on six occasions until it eventually reached £2,100.00 in October 2021.

The first four limit increases were relatively modest. So I wouldn't have expected Simply Be to have done too much more for them than it did when determining whether to initially provide the account. And, for much the same reasons, my findings in relation to these limit

increases are the same as those for when the account was originally opened. For the sake of completeness, for reasons I'll gone on to explain further on, in any event, I'm not persuaded that Simply Be carrying out further checks would have made any difference.

I say this because by the time of the fifth limit increase in December 2020, Miss C's credit limit was being increased to £1,300.00. So I would have expected Simply Be to have found out more about Miss C's income and expenditure (particularly about her actual regular living expenses) before providing this and the October 2021 credit limit increases.

Simply Be has been unable to evidence having done this in this instance. As this is the case, I don't think that the checks it carried out before it provided the December 2020 and October 2021 credit limit increases were reasonable and proportionate.

Where a firm failed to carry out reasonable and proportionate checks before providing credit or increasing the amount available to a customer, I need to recreate reasonable and proportionate checks in order to get an indication of what such checks would more likely than not have shown. So I've looked at the information Miss C has provided to get an idea of what Simply Be is likely to have learned had it carried out further enquiries into Miss C's living expenses.

In particular, I've looked at the current account statements Miss C has provided for the period leading up to the December 2020 and October 2021 credit limit increases. I've also thought about what Miss C has said about her finances being in a difficult position and what she's said about the makeup of her income.

However, the statements provided do show that Miss C was receiving regular funds and when her regular living costs and monthly expenditure are deducted from what she received, Miss C does appear to have enough in funds left over to make the increased repayments needed for the limit increases offered.

I've thought about what Miss C has said about some of the funds she received being in the form of payments to support her child and not income to go towards debt repayments. And I can understand why she has made the argument she has. But as the funds Miss C has referred to were regular, Simply Be would have been entitled to take them into account.

Furthermore, I've also taken into account all of Miss C's visible living expenses which will have included what Miss C says the funds in question were earmarked for. Indeed, I don't think it would be fair reasonable, or proportionate for me to take into account that Miss C was incurring this expenditure without also taking into account that she was receiving additional funds.

I accept that Miss C's actual circumstances may not been reflected in the information she may have provided. I've seen what she has said about her debts mounting during the period Simply Be lent to her. But in circumstances where the amount of the repayments appear to have been affordable for Miss C, I don't think that further checks would more likely than not have prevented Simply Be from offering her the December 2020 and October 2021 credit limit increases either.

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

I appreciate this will be very disappointing for Miss C. 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 Miss C to accept or reject my decision before 19 July 2024.

Jeshen Narayanan
Ombudsman