

The complaint

Mr F complains that Shop Direct Finance Company Limited trading as Very ('Shop Direct') lent to him irresponsibly when they provided him with a catalogue shopping account and later credit limit increases which he says he couldn't afford.

Mr F brought this complaint to us with the help of a representative, but for ease I'll refer to Mr F throughout.

What happened

In December 2017 Mr F applied for a running account credit agreement with Shop Direct. His application was successful and Shop Direct gave him an initial credit limit of £1,000. Between January 2019 and September 2021 his credit limit was increased five times until it reached £5,000. I've set out the details in the table below:

Credit limit change	Amount of increase	New credit limit
January 2019	£500	£1,500
February 2020	£1,000	£2,500
August 2020	£1,000	£3,500
March 2021	£1,000	£4,500
September 2021	£500	£5,000

Mr F complained to Shop Direct in February 2023. Shop Direct investigated but didn't think they'd done anything wrong when agreeing to lend to Mr F. They said they'd undertaken appropriate checks and the data they gathered supported their decision to lend. Shop Direct added that they'd carried out assessments of Mr F's account before each credit limit increase. And so they didn't uphold Mr F's complaint.

Mr F remained dissatisfied with Shop Direct's response and referred the complaint to our service, where it was considered by one of our investigators. The investigator thought Shop Direct had undertaken proportionate checks before lending to Mr F. She noted Mr F was using an overdraft facility regularly but said this was cleared each month when he got paid. Overall, the investigator said she'd seen nothing in the information available to her that indicated the credit limit increases were unaffordable.

Mr F disagreed. He said that while his salary cleared his overdraft each month, it would only take a few days until he was back to using the facility. He said this was indicative of someone not managing their finances well, and not having the disposable income to prevent the recurrent use of a high-cost type of lending. Mr F asked for an Ombudsman's decision – and it came to me.

I issued a provisional decision on 15 August 2024 explaining why I was minded to uphold the complaint. I said:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I intend to uphold Mr F's complaint. I'll explain why below.

What lenders must do

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation. CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.

What's considered proportionate will vary on the specific circumstances of each application. Here, Shop Direct approved an initial credit limit and subsequently increased it over time. In cases such as this, it's more likely that more thorough checks will be required later in the lending relationship than at the beginning, to take account of the differences in the amount of credit being made available. And that the lending history and pattern of lending itself might demonstrate whether the lending is sustainable.

Did Shop Direct carry out proportionate checks before opening the account?

As part of the application process Shop Direct asked Mr F for his gross salary as well as his household income. They said they used a credit reference agency (CRA) to check that Mr F hadn't overstated his income, which he said was £25,501 per year.

Shop Direct looked at Mr F's credit file and said this didn't reveal any concerning information. They noted Mr F had no County Court judgments (CCJ), defaults or arrears on any of his other credit commitments for the past two years. I can understand why this would have given Shop Direct some confidence in Mr F's ability to maintain payments. However, there's other information Shop Direct were able to gain which ought to have led them to consider if the lending would be affordable. For example, Shop Direct's application summary showed that Mr F was in an arrangement to pay with one of his creditors.

Furthermore, Shop Direct said Mr F's gross income was £25,501, giving a net monthly income of around £1,718. Their credit check showed that Mr F's repayments towards credit commitments totalled £1,090. CONC 5.2A.27 R requires a firm to assume when carrying out its assessment that the entire credit limit is drawn down at the earliest opportunity and repaid in equal instalments over a reasonable period. I've not seen anything to show what assumptions Shop Direct made, but I think with the proposed credit limit they could have reasonably assumed Mr F would need to pay them around £50 a month.

Taking the proposed agreement into consideration. Mr F would have been required to make debt repayments of around £1,140 per month out of his salary of £1,718. This would have left Mr F with less than £600 to cover all his housing costs and priority bills as well as other committed expenditure. So, I think it was important for Shop Direct to understand more about what that committed expenditure looked like before agreeing to lend. Overall, I'm inclined to say Shop Direct's checks weren't proportionate.

What would proportionate checks shown in December 2017?

Having provisionally decided that Shop Direct didn't carry out proportionate check before agreeing to lend to Mr F, I've gone on to consider what proportionate checks

would have shown. A proportionate check would have involved finding out more about Mr F's committed expenditure. There are different ways a lender can go about checking a prospective borrower's committed expenditure. I can't be sure what Shop Direct would have done had they decided to conduct further checks, or what Mr F would have told them. In the absence of anything else, I've asked Mr F to provide me with bank statements for the three months leading up to his application as an indication of what would most likely have been disclosed.

I've already set out that I'm satisfied Shop Direct did enough to verify Mr F's income. On review of his bank statements, I can see Mr F's income varied in the three months leading towards his application. He received an average of £1,355 from wages and around £495 from a property he was renting out. This gave Mr F an average net income of £1,850 per month.

Turning to Mr F's committed expenditure, Mr F explained he paid his mortgage from another account in his name. He's not been able to send us statements for that account. But I can see transfers of around £334 each month going to another account in Mr F's name and so I'm inclined to accept Mr F's testimony on this point. Mr F's bank statements also show he paid £725 in rent for the property he was living in at the time. And he was spending around £543 per month on council tax, utilities, insurance policies, fees and charges, subscriptions and phone, TV and internet costs.

Shop Direct's credit search showed Mr F was required to pay around £1,090 to existing creditors. It's not clear how Shop Direct calculated Mr F's credit commitments. Mr F provided a copy of his credit report, which contains more details. I can see that Mr F had a revolving credit account with a limit of £5,000 and an outstanding balance of £1,625. CONC requires a firm to assume that revolving credit is repaid over a reasonable term. I'm inclined to say Shop Direct should have used at least 5% of the outstanding amount (around £82) to reflect that. Mr F owed £43,876 on his mortgage and a further £27,822 in unsecured loans. The loan repayments totalled £863 per month. I think Shop Direct ought to have allowed £945 to meet Mr F's monthly credit commitments (excluding his mortgage and the proposed agreement).

So, Mr F's non-discretionary and committed expenditure was around £2,547 per month, out of a verified income of around £1,718. I can't ignore the possibility that Shop Direct would have found out Mr F's income was higher than stated had they undertaken proportionate checks. And I think they could have fairly relied on the higher figure of £1,850 – however, this would still have left Mr F at a significant deficit each month.

For completeness, Mr F's statements show regular incoming credits averaging around £625 and £100 per month respectively. I asked Mr F about those payments, and he explained that the larger credit came from his mother to help with bills. He said he made regular transfers to repay her, and I can see corresponding payments between £200 and £250 each month. Mr F hasn't told us what the other £100 credit represents, so it's possible someone else contributed to household expenses.

Even if I were to include an additional £725 in Mr F's monthly income, this would bring it to £2,575 against committed expenditure of £2,547 – leaving him with £28 to cover non-discretionary and emergency expenditure as well as the repayments due each month on this new credit card. Overall, I'm inclined to say that if Shop Direct had undertaken proportionate checks, it's likely they would have concluded the

repayments wouldn't be affordable for Mr F. It follows that they couldn't have fairly decided to lend to Mr F.

Did Shop Direct act unfairly in any other way?

I've also considered whether Shop Direct acted unfairly or unreasonably in some other way given what Mr F has complained about, including whether their relationship with Mr F might have been unfair under s.140A Consumer Credit Act 1974. However, I think the redress I have directed below results in fair compensation for Mr F in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case."

Mr F acknowledged the provisional decision but didn't add anything further. Shop Direct responded and provided further clarification on their credit check, saying the arrangement referred to in the provisional decision didn't relate to Mr F but a financial associate. On that basis they said it wouldn't have been proportionate to request bank statements for a modest monthly repayment of £50.

Shop Direct said they were satisfied the opening limit was affordable and pointed out that Mr F paid an average of £73 per month against the required payment of £50 required if Mr F had fully utilised his opening limit. They added that Mr F's application showed household income of £50,000 or over and thus it was reasonable to assume Mr F wasn't solely responsible for priority bills. Lastly, Shop Direct said they'd received an overpayment of £180 (against the minimum payment of around £85) in April 2018 and asked if we'd seen statements to show where the overpayment came from.

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.

Having done so, my decision remains unchanged from that set out above. I'll explain why.

I've reviewed what Shop Direct said about the arrangement shown on the application summary. They've now shown that the arrangement didn't relate to Mr F. Based on this I'm satisfied that there was no adverse information on Mr F's credit file at the time of Shop Direct's search. But it doesn't change my view that Shop Direct's checks weren't proportionate.

As set out in my provisional decision, Mr F would have needed to make debt repayments of around £1,140 per month out of his salary of £1,718 to repay his debts within a reasonable timeframe – so around 67% of his net monthly income would need to go on debt repayments. So, I think it was important that Shop Direct took steps to ascertain Mr F's non-discretionary expenditure to ensure he could make payments sustainably. I want to be clear that I'm not saying Shop Direct ought to have asked for Mr F's bank statements. There are other ways Shop Direct could've gone about finding out more about Mr F's committed expenditure. But, in the absence of other evidence, the bank statements Mr F provided give me good insight into his circumstances at the time of the application.

Shop Direct said it was likely someone else was contributing to Mr F's household costs. And I agree. I set out in my provisional decision that Mr F was receiving regular monthly payments of around £725 from his mother and another person. Adding those payments to Mr F's salary (and ignoring the regular repayments of at least £200 a month Mr F was making to his mother) would bring Mr F's monthly income to £2,575. This only just covered

Mr F's committed expenditure of £2,547. I haven't seen anything to suggest Mr F received any other help with his committed expenditure.

Shop Direct said Mr F paid around £73 per month in the first year of the account being open, so more than the £50 I said would be required if Mr F had drawn down on the full credit limit. It appears Shop Direct missed the first statement period so the average across the first twelve months was around £68. I accept this is higher than the amount I set out. But I don't think I can fairly say this meant Mr F could afford the repayment. What the average amount doesn't show is that Mr F missed four payments in the first year. His account was in arrears from the start. Overall, he was in arrears for a total ten months and Mr F incurred charges of over £200 in that time. In relation to the overpayment in April 2018 I'd note that Mr F had missed three of the last five payments, and so I think the overpayment was an attempt to clear some of the arrears. But even with the overpayment the account remained in arrears.

In summary, I'm satisfied that Shop Direct didn't undertake proportionate checks before agreeing to lend to Mr F. Had they done so they would have concluded the repayments wouldn't be affordable for Mr F. And so they couldn't have fairly decided to lend to Mr F.

Putting things right

It's fair and reasonable for Shop Direct to refund any interest and charges incurred by Mr F as a result of the credit unfairly extended to him. I've concluded that his application shouldn't have been accepted in December 2017, therefore Shop Direct should rework the account as follows:

- Remove all interest and charges incurred (including any buy now pay later interest).
- Calculate the balance outstanding after the above adjustments
- If this clears the adjusted balance any funds remaining should be refunded to Mr F along with 8% simple interest per year* - calculated from the date of overpayment to the date of settlement.
- If after all adjustments have been made Mr F no longer owes any money, then all adverse information regarding this account should be removed from the credit file.
- Or, if an outstanding balance remains, Shop Direct should look to arrange an affordable payment plan with Mr F for the outstanding amount. If any debt was sold to a third party, Shop Direct should either repurchase the debt or liaise with the third party to ensure the above steps are undertaken. Once Mr F has cleared the balance, any adverse information as a result of the unfair lending should be removed from the credit file.

*HM Revenue & Customs requires Shop Direct to deduct tax from any award of interest. They must give Mr F a certificate showing how much tax has been taken off if he asks for one.

My final decision

For the reasons set out above, I'm upholding this complaint and I direct Shop Direct Finance Company Limited trading as Very to take the steps set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 15 October 2024.

Anja Gill
Ombudsman