

Complaint

Mr D has complained that Shop Direct Finance Company Limited (trading as “Very”) irresponsibly provided him with a catalogue shopping account and a limit increase.

He’s said that that this resulted in his debt spiralling and him falling behind on his priority bills as a result.

Background

This complaint is about a catalogue shopping account Very initially provided to Mr D in February 2015. Mr D was initially given a credit limit of £1,000.00 and then this limit was then increased to £1,200.00 in May 2015.

In April 2023, Mr D complained saying that the catalogue shopping account and the limit increase Very provided were unaffordable for him and caused continued financial difficulty as the repayments resulted in him being unable to make his payments to his priority debts.

Very did not uphold Mr D’s complaint. It was satisfied that proportionate checks had been carried out at the time of Mr D’s application as well as when he was offered the limit increase and so it was reasonable to lend. When responding to our request for its file on Mr D’s complaint, Very told us that it believed he had complained too late.

One of our investigators looked at everything provided and reached the conclusion that proportionate checks would not have shown Very that it shouldn’t have provided this account or the credit limit increase to Mr D. So she didn’t think that Mr D’s complaint should be upheld.

Mr D disagreed with our investigator’s conclusions and asked for an ombudsman’s review of his 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.

Basis for my consideration of this complaint

There are time limits for referring a complaint to the Financial Ombudsman Service. Very has argued that Mr D’s complaint was made too late because he complained more than six years after the decisions to provide the catalogue shopping account and the credit limit increase as well as more than three years after he ought reasonably to have been aware of his cause to make this complaint.

Our investigator explained why it was reasonable to interpret Mr D’s complaint as being one alleging that the relationship between him and Very was unfair to him as described in s140A of the Consumer Credit Act 1974 (“CCA”). He also explained why this complaint about an allegedly unfair lending relationship had been made in time.

Having carefully considered everything, I've decided not to uphold Mr D's complaint. Given the reasons for this, I'm satisfied that whether Mr D's complaint about the specific lending decisions was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Mr D's complaint should be considered more broadly than just the lending decisions. I consider this to be the case as Mr D has not only complained not about the respective decisions to lend but has also alleged that this unfairly impacted upon his ability to pay his priority bills and caused his debts to spiral.

I'm therefore satisfied that Mr D's complaint can therefore reasonably be interpreted as a complaint about the overall fairness of the lending relationship between him and Very. I acknowledge Very still doesn't agree we can look Mr D's complaint, but given the outcome I have reached, I do not consider it necessary for me to make any further comment, or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Mr D's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Mr D's complaint can be reasonably interpreted as being about the fairness of the lending relationship between him and Very, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (Very) and the debtor (Mr D), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship. S140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given Mr D's complaint, I therefore need to think about whether Very's decision to initially lend to Mr D and increase his credit limit, or its later actions resulted in the lending relationship between Mr D and Very being unfair to Mr D, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mr D's relationship with Very is therefore likely to be unfair if it didn't carry out reasonable and proportionate checks into Mr D's ability to repay in circumstances where doing so would have revealed the catalogue shopping account or limit increase to be unaffordable, or that it was irresponsible to lend. And if this was the case, Very didn't then remove the unfairness this created somehow.

Were the decisions to provide the catalogue shopping account and subsequent credit limit increase unfair?

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.

Very 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 Mr D could afford to repay what he 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 Very 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 Mr D's complaint.

Mr D's account was opened in February 2015 with a credit limit of £1,000.00. The catalogue shopping account Very provided Mr D with was a revolving credit facility. This meant that Very was required to understand whether Mr D could repay £1,000.00 within a reasonable period of time.

Very carried out a credit check before initially agreeing to provide this account to Mr D. Very has provided a summary of its search results which shows that Mr D didn't have any significant adverse information - such as defaulted accounts or county court judgments - recorded against him.

Furthermore, what is important to note is that a credit limit of £1,000.00 didn't require especially large monthly payments in order to clear the full amount that could be owed within a reasonable period of time. And I've not been provided with any clear evidence to show that Mr D's circumstances were such that I could reasonably conclude that he didn't have the funds to make the extremely low monthly payment required for this credit limit. If anything, the information gathered did appear to indicate that it was likely that Mr D would be able to repay £1,000.00 within a reasonable period of time in the event that he needed to do so.

As this is the case, I'm satisfied that it wasn't unreasonable for Very to have agreed to this account. And I find that Very didn't treat Mr D unfairly when it initially opened Mr D's account with a credit limit of £1,000 in February 2015.

Very increased Mr D's credit limit to £1,200.00 in May 2015. Given this increase was for £200, there is an argument for saying that it wasn't significant and therefore there wasn't a need to carry out a further assessment. This is especially as the initial assessment had only taken place a couple of months or so earlier, the information gathered appears to show that Mr D could have repaid £1,200.00 at that time and there wasn't anything to indicate that Mr D's position had worsened since then.

In any event, I've considered whether it was fair and reasonable for Very to offer Mr D a limit increase of £200 bearing in mind the position around the time that it did so, in May 2015.

In considering this matter, I've considered what Mr D has said about immediately using all of the credit he was offered as soon as it was provided to him. However, while I've thought about what Mr D has said, I'm afraid that this isn't supported by his account transaction history. Mr D's transaction history shows that he was only using around 70% of his Very credit limit at the time the further £200 was offered.

So I've not been persuaded that Very offered this increase in circumstances where it ought to have realised that Mr D's indebtedness may have increasing unsustainably.

It's also fair to say that the monthly payments Mr D had made since the account had been opened in February 2015, were well in excess of the minimum payment due. These larger payments were also consistent with what Mr D could be required to repay £1,200.00 within a reasonable period of time. In these circumstances, I'm satisfied that it wasn't unreasonable for Very to reach the conclusion that Mr D could do so and it wasn't unfair for Very to offer Mr D the use of a further £200 in May 2015.

In reaching my conclusions, I've also noted that Mr D did have difficulty making the payments on his account and fell into arrears in 2019. However, it looks like Very set up temporary payment arrangements with Mr D and this resulted in his arrears being cleared. Therefore, I'm satisfied that Very didn't act unfairly when Mr D had difficulty making his repayments either.

Overall, and based on the available evidence I don't find that the lending relationship between Mr D and Very was unfair to Mr D. I've not been persuaded that Very created unfairness in its relationship with Mr D by irresponsibly lending to him whether when initially agreeing to provide him with a catalogue shopping account, or in respect increasing his credit limit. And I don't find Very treated Mr D unfairly in any other way either based on what I've seen.

So overall and having considered everything, while I can understand Mr D's sentiments and appreciate why he is unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Mr D. But I hope he'll understand the reasons for my decision and that he'll at least feel his 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 Mr D to accept or

reject my decision before 19 February 2025.

Jeshen Narayanan
Ombudsman