

Complaint

Miss M says Shop Direct Company Finance Limited ("Shop Direct") irresponsibly provided her with catalogue shopping accounts, which it then unfairly increased the credit limit on a number of times. She says she shouldn't have been provided with these facilities.

Background

Miss M was provided with three catalogue shopping accounts by Shop Direct.

Account A

Account A (which was a Littlewoods branded account ending in 99 and will be referred to as Account A from this point onwards) was initially provided with a credit limit of £500 in July 2012. This credit limit was increased to £750 in October 2012 before a number of limit decreases were subsequently applied. As I understand it, the limit was reduced on the facilities as a result of arrears. These arrears resulted in the account being defaulted and the debt being sold in April 2014.

Account B

Account B (which was a Littlewoods branded account ending in 71 and will be referred to as Account B from this point onwards) was provided with a credit limit of £800 in June 2015. The limit on this account was never altered.

Account C

Account C (which is a Very branded account ending 06 and will be referred to as Account C from this point onwards) was initially opened with a credit limit of £600 in April 2016. This limit was then increased on six occasions at the following times:

December 2016 - £900
August 2018 - £1,400.00
August 2019 - £1,900.00
September 2020 - £2,400.00
May 2022 - £3,400.00
November 2022 - £4,400.00

Miss M's complaint was reviewed by one of our investigators. The investigator didn't think that Shop Direct had done anything wrong when providing Miss M with Account A as well as the associated limit increases, or anything wrong when providing her with Account B. As a result, the complaint about these accounts wasn't upheld.

However, the investigator also thought that Shop Direct didn't carry out proportionate checks when providing Account C and if it had carried out such checks it would have seen that it shouldn't have offered Account C to Miss M. Overall this resulted in the investigator partially upholding Miss M's complaint.

Miss M accepted the investigator's assessment as a whole. Shop Direct accepted the investigator's assessment on Account A and Account B, but disagreed with her conclusions on Account C. As Shop Direct rejected the assessment on Account C, the complaint was passed to an ombudsman as per the usual next stage of our process.

As the parties are in agreement with the conclusions reached on Account A and Account B this decision is only looking at whether Shop Direct acted fairly and reasonably when providing Account C and (to the extent that it is necessary) when agreeing to increase the credit limit on the account.

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'm partially upholding Miss M's complaint. I'll explain why in a bit 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.

Shop Direct 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 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 Shop Direct 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.

Our investigator explained why she thought Shop Direct hadn't carried out proportionate checks when providing Account C. Essentially, our investigator was concerned that (at the time of the application for Account C) not only had Miss M defaulted on Account A and had a debt sold, but she was also in arrears on Account B. Shop Direct disagreed with our investigator's conclusions saying:

- Miss M got in contact in March 2016 to confirm that the arrears she'd accrued on Account B were because of a medical or bereavement issue. Therefore, this meant that she wasn't in financial difficulty.
- The credit check carried out showed that Miss M has a missed payment on a credit account in the previous 24 months although there was no indication when in this period this was.
- Miss M had no defaults or CCJs recorded against her. Although the credit check didn't show how much external debt Miss M had and there was nothing to indicate that details of her income were requested.
- So there was nothing to indicate that Miss M was struggling financially and its checks were reasonable and proportionate.

I've considered what Shop Direct has said and have also looked at the overall pattern of its lending history with Miss M together with all of the information that's been provided here. And having carefully considered everything, I also think that Shop Direct Account C (and the subsequent limit increases) should not have been provided.

Shop Direct appears to be arguing that Miss M's missed payments on Account B, in the lead up to Account C being provided, were not an indication that Miss M might have been experiencing financial difficulty as Miss M subsequently made up this payment and said that this was because she'd had a medical issue or bereavement.

However, I don't think that what Miss M may have said about her position around the time of her arrears necessarily means she wasn't having difficulty making her payments. I also think that this fails to take any account of the fact that there are many reasons why a consumer might not want to get into discussions about the precise reasons why they can't make payment, or they may even go further and say they can and will make payment when the reality is they can't.

In any event, I think that Shop Direct is taking a narrow view of one metric in isolation in order to advance its argument. And this has led to it forming a more positive view of Miss M's financial position in April 2016. Indeed, it appears to be overlooking the fact that Miss M wasn't a new customer and that she had started missing payments on Account B, in circumstances she had already defaulted on Account A.

Furthermore, Shop Direct is also overlooking the fact that what it needed to consider at this point was whether Miss M should have been lent an extra £600, as a result of being provided with Account C, not whether it needed to take corrective action in relation to Account B. Shop Direct's arguments in relation to Miss M bringing Account B up to date, which I do not necessarily agree with, at the absolute most suggests that Miss M may have been able to repay what she already owed. It certainly does not support an argument that Miss M should have been advanced further funds.

I'm also surprised by Shop Direct's argument that the credit check it carried out showed that Miss M didn't have any defaults or county court judgments ("CCJ") recorded against her. I say this because this is at odds with what Shop Direct has told us about Miss M defaulting on Account A, before the balance was sold in April 2014. So at the very least I would have expected any credit check to have picked up this default.

Furthermore, given Shop Direct has also told us that the credit check did not set out what Miss M's external debt total was either, I'm not clear on what it actually learned as a result of it. And, in my view, it certainly didn't learn enough about Miss M such that it had no reason to find out anything about her income.

Indeed, bearing in mind what it did know about Miss M – that she'd defaulted on Account A and had recent arrears on Account B - suggests that Shop Direct needed to find out more about Miss M before it could reasonably conclude that she would not be left in a similar position on Account C, should it provide it to her.

I think that by the time of Account C, Shop Direct ought to have got to the bottom of what caused Miss M's inability to repay what she owed on Account A and her apparent inability to repay what she owed on Account B. I don't think that Shop Direct should have granted Account C or any of the associated credit limit increases, until it received this clarity on her position.

I say this especially as Miss M went on to have the potential to accrue a total balance of up to £4,400.00 on Account C by the time of the final limit increase. In my view, any reasonable attempt to gain this clarity would have seen Shop Direct ascertain the underlying reason for what at first glance, at least, appears to be an erratic use of credit.

Taking everything I've set out above together, I'm satisfied that reasonable and proportionate checks would more likely than not have demonstrated that Miss M was unlikely to have been able to make the repayments required to repay Account C (and the credit limit increases) within a reasonable period of time - i.e. doing so without borrowing further and/or suffering undue difficulty. This is particular as Shop Direct appears to have no knowledge of what Miss M's income was and what she owed elsewhere.

I'm also satisfied that Shop Direct provided Account C as well as the associated credit limit increases, in circumstances where it ought reasonably to have realised that it was increasing Miss M's indebtedness in a way that was likely to be unsustainable or otherwise harmful for her.

As Shop Direct provided Miss M with Account C in April 2016 (and then went on to increase her credit limit on six occasions), in these circumstances, I'm satisfied that it failed to act fairly and reasonably towards her. I also think that Miss M lost out as a result of Shop Direct failing to act fairly and reasonably towards her.

I'm satisfied that this is the case because Shop Direct providing Account C and then increasing Miss M's credit limit from April 2016 onwards not only unfairly prolonged Miss M's indebtedness by allowing her to use additional credit she couldn't afford over an extended period of time, it also increased the amount of interest she had to pay and got her into further debt. So I'm satisfied that Shop Direct now needs to put things right.

In reaching my conclusions, I've also considered whether the lending relationship between Shop Direct and Miss M might have been unfair to Miss M under section 140A of the Consumer Credit Act 1974.

However, I'm satisfied that what I direct Shop Direct to do below results in fair compensation for Miss M given the overall circumstances of his complaint. I'm also satisfied that, based on what I've seen, no additional award is appropriate in this case.

Fair compensation – what Shop Direct needs to do to put things right for Miss M

Overall and having considered everything, I think that Shop Direct now needs to do the following to put things right for Miss M. It should:

- rework Account C to ensure that all interest, fees and charges should are removed.
And

- If an outstanding balance remains on the account once these adjustments have been made, Shop Direct should contact Miss M to arrange a suitable repayment plan for this balance to be repaid. If Shop Direct considers it appropriate to record negative information on Miss M's credit file, it should backdate this to April 2016.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Miss M, along with 8% simple interest on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then Shop Direct should remove any adverse information (it has recorded) from Miss M's credit file†.

†HM Revenue & Customs requires Shop Direct to take off tax from this interest. Shop Direct must give Miss M a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons set out above, I'm partially upholding Miss M's complaint. Shop Direct Company Finance Limited should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 12 February 2025.

Jeshen Narayanan
Ombudsman