

Complaint

Miss W says Shop Direct Company Finance Limited (trading as “Very”) failed to treat her fairly and reasonably when she ran into difficulty making the payments on her catalogue shopping account.

Background

This complaint initially started out as a complaint about Shop Direct having unfairly provided Very and Littlewoods catalogue shopping accounts to Miss W. Miss W said that these accounts and any associated limit increases were unaffordable for her.

The parties have since accepted that it was fair and reasonable for Shop Direct to have provided the two accounts and any associated credit limit increases to Miss W.

However, when reviewing the complaint one of our investigators thought that Shop Direct had acted unfairly in some other way, as it failed to take action when it ought to have realised that Miss W was having difficulty making the payments on her Very account. She thought that Shop Direct therefore needed to refund the interest that it added on the Very account from October 2018 onwards.

Miss W agreed with the investigator’s assessment. But Shop Direct didn’t accept her conclusions and asked for an ombudsman’s review. So Miss W’s complaint was passed to an ombudsman.

For the avoidance of doubt, I wish to make it clear that as the parties are now in agreement over whether Shop Direct acted fairly and reasonably in deciding to provide the Very and Littlewoods as well as the limit increases, this decision is solely considering whether Shop Direct acted fairly and reasonably in applying interest, fees and charges on Miss W’s Very account from October 2018 onwards.

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 upholding Miss W’s complaint. I’ll explain why I think that this is the case in a bit more detail.

There is no dispute that Shop Direct got in contact with Miss W, three days after her October 2018 statement was issued, in order to query why she’d missed the payment due on her September 2018 statement. I suspect that this phone call was instigated by the regulator’s guidance in CONC 1.3 which suggests that a customer missing the minimum payments on consecutive occasions is an indication that they may be experiencing financial difficulty.

When a lender becomes aware, or it ought reasonably to be aware, that a borrower is experiencing difficulty making their payments, I think that it is fair and reasonable to expect it

to exercise forbearance and due consideration, in line with its regulatory obligations. There are a number of ways that a lender could exercise such forbearance and there is no one size fits all approach.

In this case, Shop Direct has provided a recording of the call it had with Miss W in October 2018. I presume that it sent this call to show that it did try and find out why Miss W missed her September 2018 payment, found out why this was the case and as Miss W said she would make a payment shortly there wasn't a need to take any action. And therefore, this meant that it did act in line with its regulatory obligations.

However, I've listened to the call. Having done so, I'm satisfied that that while the advisor did take steps to ask why Miss W had missed her payment, Miss W is more likely than not to have perceived this call as a demand for payment, rather than a genuine attempt to reach out and find out whether she was in difficulty and needed help.

Indeed, it's worth noting that while the advisor queried why Miss W hadn't made payment, she didn't offer Miss W any help or support, or signpost her to places where she might be able to receive advice. In these circumstances, it is not surprising to me that Miss W said that she would be making her next payment imminently.

After all there are many reasons why a consumer might not want to get into discussions about their finances even though they're in a situation where they're struggling, or they may even go further – such as Miss W did here - and say they can and will make payment in circumstances where they simply cannot do so. This is particularly where they believe that this will buy them some time and when they are being told of the adverse consequences late or missing payments would have, as Miss W was here.

Furthermore and, in any event, I think that, as the expert in this matter, Shop Direct's representative ought reasonably to have realised that Miss W's explanation for her missed September 2018 payment was implausible. Miss W said that she didn't have the funds to make her September 2018 payment because she'd been on holiday and therefore did give an indication that this was a one off.

On the face of things and if considered in isolation, Miss W's explanation does appear reasonable. However, Shop Direct would have been aware that Miss W's missed payment in September 2018 was not an isolated incident or one-off. Indeed, it would have been aware that Miss W had incurred default charges on her May 2018 statement, June 2018 statement and August 2018 statement.

In these circumstances, Miss W's suggestion that her missed payment in September 2018 was down to having been on holiday was not plausible. I don't consider it reasonable for Shop Direct to have relied on it and more importantly, I think it was unreasonable for it to have reached the conclusion that there wasn't an issue in this instance.

Indeed, it also appears to be the case that Shop Direct, didn't do anything more in relation to offering help, or realise the implausibility of Miss W's explanation when she went on to incur default fees in November 2018, January 2019, February 2019, March 2019, April 2019 and May 2019. I accept that Shop Direct may have reduced Miss W's credit limit from April 2019 onwards, presumably to prevent her from becoming further indebted. However, I fail to see how this addressed how Miss W was going to repay the debt she'd already accrued and which her repayment record suggested had become unsustainable for her.

Overall I think that by October 2018, Shop Direct ought to have realised that Miss W was struggling and unlikely to be able to sustainably repay what she owed without help. In these circumstances, Shop Direct should have stopped providing the catalogue shopping account

on the same terms. In my view and taking into account what would have been fair and reasonable, Shop Direct should have instead treated Miss W with forbearance, even if this meant taking corrective action in relation to the account.

Shop Direct's failure to exercise forbearance meant that Miss W ended up paying additional interest, fees and charges on her catalogue shopping account at a time when she was already experiencing difficulty.

I'm therefore satisfied that Miss W lost out because of what Shop Direct did wrong and that it should now put things right.

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

Having thought about everything, I think that it would be fair and reasonable in all the circumstances of Miss W's complaint for Shop Direct to put things right by:

- Rework Miss W's Very account so that all interest, fees and charges applied to it from October 2018 onwards are removed. All late payment and over limit fees should also be removed. And
- If an outstanding balance remains on the account once these adjustments have been made Shop Direct should contact Miss W to arrange a suitable repayment plan, Miss W is encouraged to get in contact with and cooperate with Shop Direct to reach a suitable agreement for this. If it considers it appropriate to record negative information on Miss W's credit file, it should reflect what would have been recorded if it had started the process of taking corrective action on the catalogue shopping account in October 2018. Shop Direct can also reduce Miss W's credit limit by the amount of refund if it considers it appropriate to do so, as long as doing so wouldn't leave her over her limit.

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 W, 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 Very should remove any adverse information (it has recorded) from Miss W's credit file†. Shop Direct can also reduce Miss W's credit limit by the amount of refund if it considers it appropriate to do so.

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

My final decision

For the reasons set out above, I'm upholding Miss W's complaint. Shop Direct Company Finance Limited (trading as Very) should put things right in the way I've directed it to do so above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 5 March 2025.

Jeshen Narayanan
Ombudsman