

## **The complaint**

Creation Financial Services Limited (Creation) provided Mrs F with a credit card in 2012. It had a credit limit of £2,500. Mrs F says the credit was provided irresponsibly.

## **What happened**

The details of this complaint are well-known to both parties, so I won't repeat them again here. The facts aren't in dispute, so I'll focus on giving the reasons for my decision.

## **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.

Your As explained by our Investigator, Section 140A says that a court may make an order under Section 140B if it determines that the relationship between the creditor (Creation) and the debtor (Mrs F), 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.

But the case law also says that the court may not make an award for an unfair relationship where the claimant had knowledge of the facts relevant to their claim, but substantially delayed making it. So, I've taken this into account when deciding a fair and reasonable outcome for this complaint.

The case law doesn't provide a fixed period that would constitute a substantial delay, but in the case of *Smith v Royal Bank of Scotland Plc* [2023] UKSC 34, the Supreme Court approved the District Judge's comment that a court would be slow to remedy unfairness in a situation where the claimant delayed more than six years after knowing the facts.

S.140B 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 what Mrs F has complained about I need to consider whether Creation's decision to lend to her, or their later actions, created unfairness in the relationship between her and Creation such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mrs F's relationship with Creation is therefore likely to be unfair if it didn't carry out reasonable and proportionate affordability checks and by doing so, those checks would've revealed their lending to be irresponsible or unaffordable.

Having considered all the available evidence and arguments, I'm not upholding Mrs F's complaint. I'll explain my reasoning below:

We've set out our general approach to complaints about unaffordable or irresponsible lending on our website and I've taken this into account in deciding Mrs F's case.

I've decided the credit was provided fairly because:

- I don't think the checks Creation before providing the credit went far enough given the credit limit it offered and what it knew about Mrs F's financial situation.
- I think Creation ought to have obtained an understanding of Mrs F's actual essential expenditure outside of her existing credit commitments at the time.
- To understand Mrs F's circumstances at the time, she was asked to provide copies of her bank account statements.
- Due to the time that's passed, Mrs M has been unable to provide the evidence requested which would allow me to understand her circumstances at the time, so I don't have enough evidence to fairly say she was likely to be unable to sustainably repay what she was being lent.

Overall, and based on the available evidence I don't find that Mrs F's relationship with Creation is or was unfair.

It's not clear enough to me that Creation created unfairness in its relationship with Mrs F by lending to her irresponsibly initially, or in respect of it continuing to allow her use of the credit card facility. I don't find that Creation treated Mrs F unfairly in any other way either, based on what I've seen.

I know this isn't the outcome Mrs F hoped for. But for the reasons above, I'm not asking Creation to do anything to put things right. here

### **My final decision**

My final decision is that I'm not upholding this complaint about Creation Financial Services Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 9 January 2026.

Sean Pyke-Milne  
**Ombudsman**