

## The complaint

Mr D complains that Freemans Public Limited Company acted unfairly by agreeing a catalogue account limit, and subsequent limit increases, which he couldn't afford to repay.

## What happened

In June 2020 Freemans agreed a catalogue account with an initial limit of £200. This was then increased to the following:

- August 2021 increase to £400 (credit limit increase one)
- November 2021 increase to £600 (credit limit increase two)
- August 2022 increase to £800 (credit limit increase three)

Mr D claimed the limits weren't affordable for him and that Freemans failed to complete proportionate checks before agreeing to lend.

Freemans considered the complaint but disagreed. It said it had completed sufficient checks before agreeing to lend. And, as a result of the checks, it was reasonable to agree the initial limit and subsequent increases.

Our investigator considered the complaint and upheld it in part. They didn't uphold the initial limit or first two credit limit increases. However, they upheld the complaint in relation to the third credit limit increase. They didn't think Freemans completed reasonable and proportionate checks and they thought that if it had done so, it would have seen Mr D couldn't have afforded this limit increase.

In response Mr D accepted the investigator's opinion. Freemans disagreed with the investigator's findings in relation to the third credit limit increase. It felt it had completed proportionate checks throughout and that the results demonstrated Mr D could have afforded to repay the lending. It asked for an ombudsman to consider the complaint and reach a final decision.

I issued a provisional decision on this complaint explaining why I wasn't minded to uphold the complaint. In my provisional decision, which forms part of this decision, I said:

*We've explained how we handle complaints about unaffordable and irresponsible lending on our website. I have used this approach to help me decide Mr D's complaint.*

*Freemans needed to make sure it lent responsibly to Mr D. It therefore needed to complete sufficient checks to determine if Mr D could afford to sustainably repay the lending. Our website sets out our approach to what we typically think when deciding if a lender's checks were proportionate. There is no set list of checks a lender should do, but there is guidance on the types of checks a lender could complete. However, these checks needed to be proportionate when considering things like the amount and term of the lending, what the lender already knew about the consumer, etc.*

*At the time of agreeing the third credit limit increase to £800 in August 2022, Freemans has said it considered how Mr D was managing the account. This shows a limited number of early*

*missed payments after the account was initially opened. However, since January 2021 Mr D had made or exceeded the minimum repayment due. Freemans has said it also completed a credit search. Turning to the results of the credit search, Freemans has argued there was nothing too concerning in the information this revealed. Although there was some adverse information, this was largely historic and so I agree with this.*

*However, I think that at this time Freemans should have taken steps to consider Mr D's regular income and essential expenditure. Freemans was increasing his limit to £800 on this account when he already had another account with a £750 limit within the wider group. And whilst I don't know when in August 2022 this increase took place, it seems likely Mr D also had a third catalogue account within the wider group which was opened on 1 August 2022. This account had a limit of £200. However, even if I'm wrong, and credit limit increase three occurred before the new account was opened, Mr D still had the existing £750 limit on the other account. This was sufficient in my opinion to require Freemans to take steps to establish Mr D's regular income and essential expenditure.*

*I note that through credit reference agency information, Freemans has said that Mr D's income and expenditure was considered. It said it was given a "RAG" status ("red, amber, green") from the credit reference agency as to whether this increase would be affordable. However, Freemans can't provide details of what figures were used to inform that status (in Mr D's case "green"). Without details of the figures used and the sources used to gather this information, I can't say the RAG status alone is evidence of a proportionate check having taken place.*

*Our service asked Mr D for more information about his income and expenditure at the time this limit increase was given. Unfortunately, this hasn't been provided. So, I don't have sufficient information to say what proportionate checks would have most likely uncovered. And the information I do have about his credit file, doesn't suggest to me that this increase was inappropriate. I therefore don't have sufficient information to uphold this complaint.*

I asked both parties to provide me with anything further they'd like me to consider before I reached a final decision. Freemans didn't provide a response. On his behalf, Mr D's representatives made a number of points which I will address below.

### **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, I'm still not minded to uphold this complaint for the reasons outlined in my provisional decision.

As my provisional decision is detailed above, and a copy was previously provided to both parties, I won't repeat it in detail. As a brief summary, my findings are that I agree Freemans failed to complete proportionate checks. In line with our approach to considering these cases, I need to consider what proportionate checks would have most likely shown. Our service has asked Mr D for more information about his circumstances at the time, and this hasn't been provided. Therefore, I can't say what proportionate checks would have most likely shown, so I can't uphold this case.

In response Mr D's representative has argued that an "*unreasonable evidential burden*" has been placed on Mr D to provide evidence of his circumstances at the time, which is inconsistent with our usual approach. It's argued that the approach taken in my provisional decision allows a lender to benefit from not completing proportionate checks in circumstances where a consumer cannot provide further information.

Mr D has been asked to provide information about his income and expenditure from around the time of the sale in August 2022. Given this is a relatively recent sale, it seems

reasonable that his current account statements from the time would be available and easily accessible. So I don't agree this was an unreasonable request. Furthermore, I've also not been provided any details as to why this information hasn't been provided or indeed can't be provided, as his representative now argues.

As I've said above, our typical approach where we don't think a lender has completed proportionate checks, is to consider what proportionate checks would have most likely uncovered if they had been completed. It is standard practice that where this information isn't otherwise available, the consumer (who is making the argument that the lending was unaffordable) would need to provide information to support this. I therefore don't agree Mr D has been put to an unreasonable evidential burden in this case. Most recently, my provisional decision set out that without this information I was unable to uphold the complaint. In response, I haven't been provided with this information. So, it follows without persuasive evidence of Mr D's circumstances at the time, I can't conclude that proportionate checks would have revealed the credit limit increase was unaffordable.

I accept, as Mr D's representative has argued, that this results in not upholding a complaint where we can see the checks completed by the lender weren't proportionate. However, in this case I'm not persuaded that the consumer cannot provide the information requested. But in any event, I need to be able to establish that had the lender completed proportionate checks, this would have demonstrated the lending was unaffordable. And for the reasons explained, I can't conclude this without further information which hasn't been provided.

Mr D's representative has argued that there is other compelling evidence of Mr D's circumstances at the time which show the limit increase was unaffordable for him. It has pointed to the checks completed by another brand within the same group at around the same time. These checks calculated that Mr D had a relatively low disposable income figure remaining. However, as I've already explained, I don't think the checks which informed that calculation were reasonable or that the figure reached was credible in indicating Mr D's actual position, so I didn't think I could rely on it. I therefore don't think it's reasonable to now rely on it as an indication of Mr D's actual position in the case in question. Conversely, and for the avoidance of doubt, had that calculation resulted in substantial disposable income I still wouldn't have concluded it was reasonable to rely on it. So, as I've explained, I don't have sufficient information about Mr D's actual position at the time of the limit increase in question.

Furthermore, when considering the credit search results, Mr D's representatives also argue that this showed "*more pressing indicators of financial strain.*" His representatives have pointed to a high credit utilisation of 98% in revolving credit and a "*sharp increase in overall indebtedness since the account opened.*" In addition, they have also argued that the size of the agreed limit across the catalogue group is concerning.

I accept the credit utilisation percentage is high for revolving credit, but this isn't sufficient to persuade me this demonstrates that the lending was unaffordable. I also don't think this increase (which would have likely led to a combined limit of £1,750 across the group) is sufficient to allow me to reasonably conclude Mr D couldn't have afforded the limit increase in question.

I accept that Mr D's total indebtedness has increased in the two years since the account had been opened and was now at approximately £16,000. However, as Mr D's representative is aware, over £9,000 of this debt was due to a car finance agreement Mr D had recently taken out. So, I don't think this portion of the increase is indicative of clear financial struggles. And the remaining debt is far more consistent with a largely gradual increase in indebtedness over the two-year period.

I appreciate that Mr D's representative has provided a detailed response. Whilst I unfortunately don't agree with the arguments raised, I hope Mr D and his representative will see that I have carefully considered and addressed the points raised.

For the reasons explained above and in my provisional decision, I'm not persuaded I have sufficient evidence to conclude what proportionate checks would have most likely shown. So it follows that I cannot uphold this complaint.

### **My final decision**

My final decision is that I don't uphold this complaint against Freemans Public Limited Company.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 18 February 2026.

Claire Lisle  
**Ombudsman**