

complaint

Mr E complains that the credit extended to him by Shop Direct Finance Company Limited (Shop Direct) was irresponsible lending, given his credit history.

background

I issued my provisional decision in January 2018. I explained I had carefully considered all of the available evidence and arguments from the outset, in order to decide what was fair and reasonable in the circumstances. I had also taken into account relevant regulatory rules as well as the law and good industry practice.

Having done so, I was minded to uphold the complaint. This was because I thought that the information Shop Direct found in its initial checks of Mr E's credit file should've prompted it to make further enquiries. And I thought that, had Shop Direct done this, it would've become clear that Mr E was already in financial difficulties.

Given this, I didn't think that Shop Direct had acted in line with the responsible lending criteria that applied at the time it approved the lending. And, as Mr E incurred charges and interest on that lending, I thought he had lost out as a result.

However, I also accepted the fact that Mr E has had the benefit of the credit in terms of the goods he acquired. So, while I was minded to ask Shop Direct to remove all interest and charges Mr E incurred due to taking the credit, I didn't think Shop Direct should write off the capital sum.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Both parties have responded to my provisional decision. Mr E accepted my findings, but asked for further clarity on the adverse information recorded on his credit file in relation to the lending.

Shop Direct broadly accepted my findings, but disagreed that Mr E's credit file should be amended. As since explained to Shop Direct, it is my view that this lending should not have taken place. As such, any related adverse information should be removed from Mr E's credit file. Shop Direct has not made any further comments in relation to this.

The deadline for further submissions has now passed. Having reconsidered the complaint again in its entirety, including the most recent points received from both parties, I have reached the same decision as before, and for the same reasons. It follows that I uphold this complaint.

my final decision

It is my final decision that I uphold this complaint and to order Shop Direct Finance Company Limited to do the following:

- Reconstruct Mr E's account removing all interest and charges.

- If this reconstruction puts Mr E's account into credit, Shop Direct must repay this credit amount to Mr E plus interest at 8% a year simple from the date Mr E was deprived of this money until the date of settlement.
- Remove all adverse information it has recorded about the lending from Mr E's credit file.

If Shop Direct considers that it's required by HM Revenue & Customs to withhold income tax from that interest, it should tell Mr E how much it's taken off. It should also give Mr E a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 16 March 2018.

Clair Bantin
ombudsman