complaint

Mrs C's husband complains, on her behalf, that Virgin Money plc was irresponsible when it granted her application for a second credit card in September 2017 which she couldn't afford.

background

Mrs C took out a credit card with Virgin on 8 May 2015 with an initial limit of £5,000. She made regular payments until she defaulted in May 2018 but her husband said the balance never dropped below £3,500.

In June 2016 Virgin gave Mrs C a personal loan of £8,314. Virgin then gave her a second credit card on 22 September 2017 with an initial limit of £5,500. Mr C said at that time the balance on the first card was nearly £5,000. The balance on the personal loan was over £5,000. And she owed nearly £9,000 on a credit card with another lender. So when Virgin granted her application for another credit card her debt was already over £19,000. He said her annual income was approximately £12,000. He's now had to borrow money to clear Mrs C's debt.

Virgin said Mrs C opened both her credit card accounts online. It said the first application was automatically approved but the second application was referred to and approved by an underwriter. It carried out a search on her credit record. And it monitored her account history. It said it based its assessment on household income. And it wouldn't have assumed she couldn't afford the repayments.

Our investigator could see that when Virgin gave Mrs C a second credit card she was only making small monthly payments towards the first one. The balance had rarely dropped below £4,000. And her credit file showed substantial financial commitments with other lenders. He thought that as both credit cards were in the sole name of Mrs C, her income and not the household income should have been considered. He thought it was clear at the time of the second credit card application she was struggling to manage her debts. And compared to her income, her level of debt was already very high. He made the point that this application was not granted automatically but had to be approved by an underwriter. So he thought this was unaffordable and said that Virgin should refund all interest, and any charges Mrs C paid on the second credit card from September 2017 until the balance was paid off. If there were charges to be refunded he said Virgin should apply 8% simple interest from the date of each charge to the date of settlement.

Mr C, on behalf of his wife, accepted our investigator's opinion. But Virgin wasn't happy with it. It said Mrs C satisfied its lending criteria at the time of the applications. It was a pre-approved application. And other lending showed consolidation rather than new lending. And it said "*use of household income (and other household debts which are also included when making an assessment based on household income) is a key assumption within our strategy. Joint debt (i.e. large mortgages) would heavily penalise the low earner within a household if we ignored household income and made assumptions on share of mortgage to be applied to an individual*". And it said there were no concerns on existing cards and no concerns "*with bureau information apart from high unsecured debt level to sole income*".

Our investigator responded by saying that although Mrs C wasn't missing payments on her first credit card, she would've struggled to pay it off if she had to. He thought that the crux of the matter was that Virgin had given another credit card to Mrs C who had a significant level of debt compared to her income.

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 done so I agree with our investigator that the crux of the matter is that Virgin provided another credit card to Mrs C when she had a significant level of debt compared to her income.

Virgin and Mr C put forward further points to consider which I have fully taken into account when coming to my decision.

Mr C thinks this lending was irresponsible. Irresponsible lending is whether there is another reason for not giving credit over and above the affordability. I don't think that's the case here so I have looked at the affordability of the credit on Mrs C's second credit card opened by Virgin in September 2017.

The Standards of Lending Practice set out by the Lending Standards Board identifies some of the responsibilities a lender has. And its main responsibility is to provide a borrower with a product that is affordable and meets their needs. Before providing any form of credit it should assess from the information available whether the consumer will be able to repay it in a sustainable manner without incurring financial difficulty or experiencing adverse consequences.

And lenders must follow the rules set out by the Financial Conduct Authority (FCA) the most relevant of which, in this situation, are those found in the Consumer Credit Sourcebook (CONC).

So Virgin should've asked if the credit was affordable based on Mrs C's existing financial obligations (including the credit she'd applied for) compared with her income. Virgin said it assessed the application based on household income. But in assessing income a lender should only take into account the income of another person if it is reasonable to expect such income to be available to the customer to make repayments under the agreement. That is in CONC 5.2A.12 (2). In Mrs C's case she was applying for a credit card in her sole name. So I don't think it's reasonable in those circumstances to take into account the household income.

And, under CONC 5.2A 12 (5), it should've assessed Mrs C's ability to make repayments without them having a significant adverse impact on her financial situation. It should've asked if there was enough disposable income after all commitments and living expenses were taken into account. And I don't think it did that. Mrs C had significant levels of unsecured debt at the time and I don't think it was likely she would've been able to repay this new credit in a sustainable manner without incurring financial difficulty.

Virgin was aware that Mrs C was making small monthly payments on her first card (which had the advantage of a promotional rate of interest) from the date it was taken out to the date the new card was issued. Virgin said that "*minimum payment is a rational customer behaviour to maximise the value of the 0% period and not an indicator of financial stress*" but Virgin still had an obligation to take into account the history of transactions and the balance on that card when considering her application for a new one. It said in its response to the investigator's opinion that Mrs C had only reduced the balance on the first card from £4,800 to £4,100 so I think it should've taken that into account. It should've assessed her ability to repay the new credit over a reasonable period of time. And based on the history of the first card, I don't think it did that. And it had an obligation to assess her ability to repay the new credit based on her existing financial commitments. And as I've already said she had significant levels of debt at this time.

In light of Mrs C's income, her level of debt at the time of her application for a second credit card and her transaction history on her first card I don't think Virgin carried out a fair assessment of Mrs C's ability to repay the credit on the second card. And looking at all the circumstances as I've outlined them I think it was unaffordable.

So I agree with our investigator that Virgin should refund all interest and any charges Mrs C paid on the second card from the date of its issue in September 2017 until the date the balance was repaid. If charges were applied they should be refunded with 8% simple interest applied from the date each charge was paid until the date the balance was repaid. And it should pay £250 for the distress it's caused Mrs C and remove any adverse information from her credit record in connection with this credit card.

In his final representations to us Mr C said he doesn't think Virgin should've issued Mrs C with either card. But as the initial complaint has been about the second credit card account Virgin will need to be given an opportunity to respond to the issue about the first credit card. Our investigator will help Mr C if he wants to take this any further on behalf of Mrs C.

my final decision

My decision is that I uphold this complaint. To put matters right Virgin Money plc must:

- Refund all interest and charges from the date of opening the credit card account to the date the balance was settled

- Any charges should be refunded with 8% simple interest from the date each charge was paid to the date the balance was settled *

- Pay an additional £250 for the distress this has caused Mrs C.

- Remove any adverse information relating to this credit card account from Mrs C's credit record.

*Income tax may be payable on the 8% interest payment awarded. If Virgin Money plc deducts income tax from this interest, it should tell Mrs C how much has been taken off. Virgin Money plc should give Mrs C a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 12 January 2020.

Linda Freestone
ombudsman