

## **The complaint**

Mr B has complained that Shop Direct Finance Company Limited ("Shop Direct") lent to him irresponsibly when it provided him with two shopping accounts.

## **What happened**

Mr B opened a shopping account with Shop Direct in September 2017 with a credit limit of £500. In March 2018 his credit limit was increased to £700. He closed the account in July 2019.

In July 2019, Mr B opened another account with Shop Direct. This one had a credit limit of £400.

Mr B suggests that Shop Direct shouldn't have provided him with the credit. He says the lending made his poor financial position worse.

Shop Direct says it didn't lend irresponsibly to Mr B and that it did all the necessary checks before it lent to Mr B – and when it increased his credit limit.

Our investigator thought that Mr B's complaint about the first account shouldn't be upheld but that complaint about the second account should.

Mr B agreed with this outcome but Shop Direct didn't. As Shop Direct didn't agree the case has been passed to me to make a 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.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when I have considered Mr B's complaint.

Having done so, I have come to the same conclusion as our investigator. I will explain why I have reached this decision.

Shop Direct needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr B could afford to repay what he was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and Mr B's income and expenditure. There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

Both parties agreed with the investigator's assessment in relation to Mr B's first account, so I don't intend to go into great detail about that. Suffice to say that I agree that Shop Direct completed sufficient checks and acted fairly on those checks when it lent to Mr B in September 2017 and when it increased his credit limit in March 2018.

In July 2019 Mr B opened a further account with Shop Direct. He'd only just closed his first account, so Shop Direct had very recent internal evidence of how Mr B had managed his account. About a year earlier, Mr B had missed a payment. He then entered an 'arrangement to pay' with Shop Direct until November of that same year. He then missed payments in that arrangement in December 2018, January and February 2019. He then paid off the account before closing it in July 2019, having made no further purchases.

I think this alone ought to have given Shop Direct pause for thought. This was a consumer who had shown recent difficulty in managing another account with the same business. In addition, he had been in arrears or had missed payments on external credit in the preceding seven months. I think Shop Direct ought to have found out more about Mr B's financial circumstances before it lent to him again.

I can't know for sure what checks Shop Direct might have done. There is no prescriptive list of checks a business must do. In the absence of those checks I think it's reasonable to rely on copies of Mr B's bank statements and credit file to provide a picture of Mr B's circumstances and thus what Shop Direct would have found out.

Mr B's credit file shows that at the time of application to Shop Direct for the second account he had taken regular recent high interest short term loans and was also in arrears on a home credit account. He had defaulted on a credit card around 10 months earlier, having been in arrears on it for six months prior and was in arrears with another, having missed payments on that card too.

Shop Direct submits that as its own information showed that Mr B had last defaulted on account more than a year earlier, and he'd not been *more than* two months in arrears on external borrowing in the preceding five months that it isn't fair to conclude that Mr B's management of his external borrowing was deteriorating and thus that it was unfair to lend to him.

I disagree. Mr B was showing clear and obvious difficulties over an extended period in meeting his financial obligations and Shop Direct could not have reasonably thought that Mr B could sustainably repay any further borrowing in those circumstances. I think Mr B lost out as a result of what Shop Direct did wrong.

### **Putting things right**

I think it's fair and reasonable for Shop Direct to refund any interest and charges incurred by Mr B as a result of the credit unfairly extended to him. I don't think Shop Direct should have opened the account for Mr B in July 2019. Therefore, Shop Direct should rework the account and:

- remove any interest and charges incurred on the account.
- Shop Direct should work out how much Mr B would have owed after the above adjustments. Any repayment Mr B made should be used to reduce the adjusted

balance.

- If this clears the adjusted balance any funds remaining should be refunded to Mr B along with 8% simple interest per year\* - calculated from the date of overpayment to the date of settlement.
- If after all adjustments have been made Mr B no longer owes any money then all adverse information regarding this account should be removed from the credit file.
- Or, if an outstanding balance remains, Shop Direct should look to arrange an affordable payment plan with Mr B for the outstanding amount. If any debt was sold to a third party, Shop Direct should either repurchase the debt or liaise with the third-party to ensure the above steps are undertaken. Once Mr B had cleared the balance, any adverse information as a result of the unfair lending should be removed from the credit file.

\*HM Revenue & Customs requires Shop Direct to deduct tax from any award of interest. It must give Mr B a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting tax.

### **My final decision**

My decision is that Shop Direct Finance Company Limited acted unfairly when it opened an account for Mr B in July 2019. Shop Direct Finance Company Limited must pay compensation as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 28 December 2023.

Sally Allbeury  
**Ombudsman**