

## **The complaint**

Miss G complains that Shop Direct Finance Company Limited, trading as very, who I'll call "Shop Direct" have refused to erase her data.

## **What happened**

The details of this complaint are well known so I won't repeat them again here. Instead, I'll focus my attention on my decision and on explaining how I've come to that 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.

This Service can consider a complaint about activities that are ancillary to a financial business' main (regulated) activity. Here I think the handling of Miss G's personal data is an activity that was carried out by Shop Direct in connection with the business' regulated money lending activity, so I think their decision not to erase Miss G's data is something we can consider.

I've therefore thought about whether Shop Direct have been fair and reasonable when refusing to erase Miss G's data. I think they have.

The Information Commissioner's Office (ICO) regulates compliance to data protection laws in the UK. It has a number of powers including the power to order businesses to comply with data protection laws and to fine them. But, unlike us, it doesn't have the power to award compensation to consumers who've suffered financial loss or have been caused distress and inconvenience by the way a financial business has handled their personal information.

Miss G has referred her complaint to the ICO but that doesn't mean we can't also look at the complaint as I bear in mind it's only through this Service that any compensation could be awarded to Miss G.

The ICO wrote to Shop Direct in November 2022 and asked them to clarify their position to Miss G. It asked Shop Direct to look again at the issues raised by Miss G, explain the legal basis they relied on for keeping her information on file, explain how long it would be kept on file, and ensure Miss G was added to their marketing suppression list.

I can see that during the course of November 2022 Shop Direct did that. They explained, for instance, that they had to meet their regulatory obligations in respect of Anti Money Laundering legislation which required them to retain Miss G's data for five years, and that they also needed to retain data for defence of litigation which meant they were required to retain Miss G's data for six years.

The UK General Data Protection Regulations introduced the right for consumers to have their data erased but that right is not absolute and only applies in certain circumstances. The right to erasure does not apply, for instance, if processing is necessary to comply with a legal obligation, or for the establishment, exercise, or defence of legal claims.

So, after reviewing Shop Direct's response to Miss G in November 2022 the ICO decided:

*"It is our view that you have retained the personal data of Ms G in line with the data protection regulation. Your information will be added to this case file and the case has now been closed."*

I'm therefore persuaded that Shop Direct have been fair and reasonable when handling Miss G's complaint, and I don't think they need to take any further action.

### **My final decision**

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 7 August 2023.

Phillip McMahon  
**Ombudsman**