

The complaint

Miss M complains that Shop Direct Finance Company Limited (Shop Direct) lent to her irresponsibly. She says Shop Direct didn't do enough to check she could afford to repay the lending sustainably. Miss M says she was already in financial difficulties and by lending to her Shop Direct made this worse. This in turn has had an impact on her mental health.

What happened

Miss M opened a catalogue shopping account with Shop Direct in October 2018. Over the subsequent years her limit as follows:

No.	Date	Credit Limit
Account opening	02 October 2018	£250
1	13 April 2019	£650
2	28 September 2019	£1,650
3	23 November 2019	£1,900
4	09 May 2020	£2,900
5	21 November 2020	£3,900
6	15 June 2021	£4,900

Miss M complained to Shop Direct about the lending and it upheld the complaint in part. Having reviewed the information available, it agreed it shouldn't have increased Miss M's credit limit above £2,900.

Miss M was unhappy with this response. She said Shop Direct should close the account and refund all interest and charges that had been applied to it since opening.

One of our investigators looked into Miss M's complaint and set out, in some detail, why he thought Shop Direct hadn't acted fairly. He agreed the checks carried out by Shop Direct had been proportionate and the account was affordable for the opening credit limit on the account, the first, and second limit increases. However, he didn't think the checks for the third or subsequent limit increases were proportionate given the significant jump in repayments. The investigator considered Miss M's financial situation at the time of the later increases and found that had Shop Direct carried out further checks it would have been apparent that credit limits being given weren't sustainably affordable for Miss M.

Shop Direct disagreed with the investigators view and asked for the case to be referred to an ombudsman for review. It said that Miss M made frequent overpayments to the account and that she was also managing her other credit accounts well. Shop Direct said it wasn't until August 2020, when Miss M took out another loan, that it believed borrowing had been over extended. So, it maintained that its decision to refund interest and charges applied to balances above £2,900 was correct.

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 considering Miss M's complaint.

Shop Direct needed to take reasonable steps to ensure that it didn't lend irresponsibly to Miss M. This means that it should have carried out proportionate checks to make sure Miss M could afford to repay what she was being lent in a sustainable way. These checks could take into consideration a number of different things, such as how much was being lent, the amount of the repayments and Miss M'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.

Where the amount being lent to a customer is moderate, less thorough checks might be reasonable and proportionate. However, there are some factors which are likely to indicate that more thorough checks are needed, such as:

- A lower income
- A higher amount to be repaid
- Long term or running credit
- The number and frequency of loans and other credit accounts

I've taken all of this into account when considering Miss M's case.

Opening limit, first, and second limit increases

A limit of £250 and then £650 are relatively modest and would generally incur monthly repayments of less than £50 if maintained. So, we might not expect the same level of checks on these sums as we would expect on higher credit limits.

I appreciate Miss M has said she had a poor credit history (including CCJ's) when she applied for a credit limit on her Shop Direct account. We would expect Shop Direct to take this information into account when assessing whether the lending was affordable, but I wouldn't expect the presence of defaults or CCJ's alone to prevent lending but rather to potentially prompt further checks.

Whilst Miss M did have some negative credit history this appeared to be historic, and her active accounts appeared to be up to date. So, I don't think the checks Shop Direct did, revealed any potential concerns about unaffordability for the modest credit limits at account opening and the first credit limit increase. So, I think it reached a fair decision to lend in these instances.

The limit increase to £1,650 was more substantial. So, it would have been reasonable for Shop Direct to have carried out further checks at this point, to ensure Miss M could sustainably repay a credit limit of that amount.

However, having reviewed the evidence available, I can see Miss M was maintaining her other credit accounts at that time. Miss M also had a steady income, along with relatively substantial if sporadic third-party contributions coming into her account. So had Shop Direct carried out more thorough checks, I don't think the evidence would have suggested a credit

limit of £1,650 would be unaffordable. So, again I think Shop Direct made a fair decision to lend here.

Subsequent limit increases

Shop Direct has agreed that it should refund charges and interest on any balances above £2,900. So, my focus here will be on the third and fourth limit increases.

Given the circumstances of Miss M's case I think Shop Direct unfairly increased Miss M's credit limit from November 2019 onwards (the third limit increase). I say this because having reviewed all the information, it's clear that whilst Miss M was managing the account, she was only making minimum or close to minimum payments to it prior to the third increase. In addition to this the monthly minimum repayments on the account would have more than doubled if Miss M were to utilise the full increased limit.

I appreciate Shop Direct said that it verified Miss M's income, but I don't think this went far enough to ensure she could sustainably repay the debt if she were to reach the credit limit. So, given the higher amount that would need to be repaid, on a running credit account, the number of other credit accounts Miss M had, and her previous credit history, I think Shop Direct ought to have carried out more thorough checks.

I can't be certain what further checks Shop Direct would have done and there's no definitive list of checks that a business must do, so I can't say exactly what it would have seen had it tried to find out more. But in the absence of any other information, I think it would have been reasonable for Shop Direct to gain a better understanding of Miss M's financial circumstances, perhaps by asking for her bank statements. Miss M has provided our service with her bank statements from the time the limits were offered.

Had Shop Direct carried out more thorough checks, they would have seen that Miss M's normal living costs exceeded her regular income and she also had a number of other credit accounts to maintain.

From November 2019 Miss M's income fell and although this later recovers, her essential living costs also increase and more often than not exceed her income. Miss M is regularly reliant on her overdraft, other forms of credit, loans from family, and somewhat irregular payments from a third party. Although Miss M does make some overpayments, the overall trend on the Shop Direct account is that the balance steadily grows rather than reduces.

Overall, Miss M's financial situation doesn't improve and had Shop Direct carried out proportionate checks I think it would have understood that increasing Miss M's credit limit, would likely lead to her not being able to sustainably repay the debt. So, I don't think it reached a fair decision to increase her limit from November 2019 onwards.

Putting things right

I think it's fair and reasonable for Shop Direct to refund any interest and charges incurred by Miss M as a result of the credit unfairly extended to her. I don't think the limit should have been increased from 23 November 2019 onwards, therefore Shop Direct should rework the account and:

- remove any interest and charges incurred as a result of any increases (including any buy now pay later interest). This means, Shop Direct can only add interest accrued on the balance up to the credit limit of £1,650.

- Shop Direct should work out how much Miss M would have owed after the above adjustments. Any repayment Miss M made since 23 November 2019 should be used to reduce the adjusted balance.
- If this clears the adjusted balance any funds remaining should be refunded to Miss M 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 Miss M no longer owes any money, then all adverse information regarding this account should be removed from her credit file from 23 November 2019.
- Or, if an outstanding balance remains, Shop Direct should look to arrange an affordable payment plan with Miss M for the outstanding amount. As the 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 Miss M has cleared the balance, any adverse information because 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 Miss M a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

My final decision

I think Shop Direct acted unfairly when it extended further credit to Miss M from 23 November 2019. To put this right I direct Shop Direct Finance Company Limited to pay compensation as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 12 January 2024.

Charlotte Roberts
Ombudsman