

The complaint

Miss L says Shop Direct Finance Company Limited (“Shop Direct”), trading as Very, irresponsibly lent to her.

What happened

Miss L opened a shopping account with Shop Direct in October 2019. Her account limit was initially £600. There were no increases to the credit limit after that but her credit limit was reduced to £500 in February 2023.

The account was closed in April 2023.

Miss L says that Shop Direct shouldn’t have lent to her from the outset given her financial situation.

Shop Direct says it did all the necessary checks before it lent to Miss L.

Our investigator thought that Miss L’s complaint should be upheld as her financial situation at the time showed it was likely she was unable to make repayments to the account sustainably. So Shop Direct should pay back all the interest and charges it made as a result of the credit being unfairly granted to Miss L.

As Shop Direct disagreed with our investigator the complaint has been passed to me for 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.

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 L’s complaint.

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 Miss L could afford to repay what she 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 Miss L’s income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Shop Direct should fairly and reasonably have done more to establish that any lending was sustainable for Miss L. These factors include:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the frequency of borrowing, and the longer the period of time during which a consumer has been indebted (reflecting the risk that prolonged indebtedness may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

When Miss L opened her account in October 2019, Shop Direct says there were no signs of financial difficulties based on the checks it made. Miss L told Shop Direct she was living with her parents and working part time. She said she was earning around £10,000 a year and Shop Direct's credit check verified this to be correct. This would work out to a net monthly income of around £820. Shop Direct's check also showed that Miss L had other unsecured credit of around £1,500. She had also been in arrears around 13 months previously and had opened a new line of credit about six months earlier.

Whilst the credit check provided some broad details about Miss L's credit history, I think it raised further questions about her ability to repay the card. I say this given that Miss L was on a relatively low income – and with household costs that ought to have been less - and yet she was applying for further credit, having already taken out credit six months earlier and having also had arrears just over a year earlier. So I consider there was a risk that Miss L could have been struggling financially. It therefore would have been proportionate for Shop Direct to have taken steps to gain a better understanding of Miss L's financial circumstances before granting her the credit.

Whilst I can't be sure exactly what Shop Direct would have found out if it had asked for more details about her finances, in the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Miss L's bank statements as to what would most likely have been disclosed.

The bank statements we've seen show that Miss L was consistently using a large overdraft, with a negative balance that typically moved between £1,200 and £1,500. Whilst the fact of making regular use of an overdraft doesn't automatically mean that a consumer's financial situation is poor or at risk of getting worse, it becomes more significant when the amount of overdraft use remains consistent with no real evidence that it is likely to be reduced. And given Miss L's living arrangements and part-time work status, I think it raises concerns about how she was managing her finances and credit.

I've also seen, and as noted by our investigator, that Miss L was making ad hoc cash transfers to her former partner and had also taken out a short-term high cost loan of £750 in August 2019. I realise that since she was living at home Miss L was likely to be contributing to household costs to some degree and that these might be less easy to identify. But taking out a pay-day loan given her circumstances is another issue of concern and suggests that repaying the credit might not be sustainable for Miss L. I understand that Miss L had been asked to act as a guarantor for this borrowing by her former partner.

So I think that had reasonable and proportionate checks been carried out at the outset, Shop Direct would have seen that Miss L's financial situation was at risk of further deterioration if new credit was made available to her. I therefore agree that Shop Direct's actions

exacerbated Miss L's financial situation by allowing her to use credit she couldn't afford over an extended period of time, with the interest and charges that was added getting her into further debt.

I've also considered Shop Direct's comments on our investigator's view finding. In making my decision I have to look at the information that was available, or likely to have been available, to Shop Direct at the time it was considering granting Miss L the credit, rather than relying on hindsight. So, responding to a point Shop Direct has made, I don't consider that Miss L's making overpayments to her card is necessarily enough for me to make a finding that the lending was affordable for Miss L, given what I've seen about her financial circumstances at the time.

Did Shop Direct act unfairly or unreasonably in some other way?

Miss L says Shop Direct said it couldn't help when she contacted them to say she was having difficulty meeting her monthly repayments. She was also experiencing difficult circumstances that were having an impact on her personal and financial welfare. However, Shop Direct has no information in its customer record to show that Miss L informed them about this.

Having reviewed the customer contact notes Shop Direct sent us, I can also see that Miss L was granted a payment freeze in May 2020 which ran until July that year. She also contacted Shop Direct in June 2021 when she started a new job to let them know when she would be able to make her monthly payment. Also, in February 2022, Miss L was offered a payment plan but had said she would discuss it with her partner. For whatever reason, she didn't get back to Shop Direct about accepting the plan.

I've seen that Miss L missed payments in mid-2021. I would have expected Shop Direct to bring these to her attention and set out options to assist her with repayments in the normal course of its statement, email and letter communications.

I am sorry to learn of what Miss L has been going through and I am relieved to learn that her personal circumstances have now improved. But I'm not able to say that Shop Direct acted unfairly in its interactions with Miss L or that, based on the information it had, it should have taken further action.

Putting things right – what Shop Direct needs to do

- Rework Miss L's account to ensure that no interest is charged on account from the opening of the account, including any buy now pay later interest. All late payment and over limit fees should also be removed; and
- If an outstanding balance remains on the account once these adjustments have been made Shop Direct should contact Miss L to arrange an affordable repayment plan.
- Given that Miss L has repaid the outstanding balance, Shop Direct should remove any adverse information recorded on her credit file in relation to the account.

OR

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Miss L, along with 8% simple interest per year on the overpayments from the date they were made (if they were) until the date of settlement. Shop Direct should

also remove any adverse information from Miss L's credit file from the date of opening. †

†HM Revenue & Customs requires Shop Direct to take off tax from this interest. Shop Direct must give Miss L a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons I've given, I'm upholding Miss L's complaint. Shop Direct Finance Company Limited should put things right in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 10 April 2024.

Michael Goldberg
Ombudsman