DRN-4651585

Complaint

Mrs C has complained that J D Williams & Company Limited (trading as “Simply Be”) irresponsibly provided her with a catalogue shopping account and limit increases despite the fact that they were unaffordable.

Background

Mrs C was provided with a catalogue shopping account by Simply Be, which had a credit limit of £200, in August 2014. Mrs C’s credit limit was increased on eight occasions until it reached £3,500.00 in March 2018.

One of our investigators looked at everything provided and felt that he didn’t have enough to reasonably conclude that proportionate checks would have shown Simply Be that it shouldn’t have provided this account or the subsequent credit limit increases to Mrs C. So he didn’t think that the complaint should be upheld.

Mrs C disagreed with our investigator’s conclusions and asked for an ombudsman’s review of her complaint.

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 carefully considered everything, I’ve decided not to uphold Mrs C’s complaint. I’ll explain why in a little more detail.

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.

Simply Be 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 Mrs C 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 the consumer’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 Simply Be should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. 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 customer 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.

I've kept all of this in mind when deciding Mrs C's complaint.

Mrs C's account was opened in August 2014 with a credit limit of £200. The catalogue shopping account Simply Be provided Mrs C with was a revolving credit facility. This meant that Simply Be was required to understand whether Mrs C could repay £200 within a reasonable period of time.

I understand that Simply Be carried out a credit check before initially agreeing to provide this account but that it no longer has a record of what these checks showed. Given this is information from almost a decade ago, I don't think that this is unreasonable and I've drawn no adverse inferences from this.

Furthermore and in any event, I've not seen anything else that would indicate that Simply Be's credit checks showed that Mrs C had any significant adverse information such as defaulted accounts or County Court Judgments ("CCJ") recorded against her.

What is important to note is that a credit limit of £200 required relatively small monthly payments in order to clear the full amount owed within a reasonable period of time. And I've not been provided with any clear evidence to show that Mrs C circumstances were such that I could reasonably conclude that she didn't have the funds to make the very low monthly payment required.

As this is the case, I'm satisfied that it wasn't unreasonable for Simply Be to have agreed to this account. And I find that Simply Be didn't treat Mrs C unfairly when it initially opened an account for her with a credit limit of £200 in August 2014.

As I've explained in the background section of this decision, Simply Be increased Mrs C's credit limit on eight occasions until it eventually reached £3,500.00 in March 2018. The first three of these limit increases were modest. So I wouldn't have expected Simply Be to have done too much more for these increases than it did when determining whether to initially provide the account. And, for much the same reasons, my findings in relation to these limit increases are the same as those for when the account was originally opened.

However, by the time of the fourth limit increase in February 2015, Mrs C's credit limit was being increased to £1,300.00. So I would have expected Simply Be to have found out more about Mrs C's income and expenditure (particularly about her regular living expenses) before providing this credit limit increase.

As Simply Be has been unable to evidence having done this in this instance or for any of the later increases, I don't think that the checks it carried out before it increased Mrs C's credit limit in February 2018 limit, or the subsequent ones, were reasonable and proportionate.

Ordinarily, where a firm failed to carry out reasonable and proportionate checks before providing credit or increasing the amount available to a customer, I'd usually go on to recreate reasonable and proportionate checks in order to get an indication of what such checks would more likely than not have shown.

However, Mrs C says she is unable to provide us with all of the information we've asked her for in order to be able to assess what her circumstances were like at the time she was provided with these limit increases. And without this information I'm unable to ascertain whether proportionate checks would have prevented Simply Be from lending to her.

Furthermore, bearing in mind Mrs C wasn't immediately using all of the credit once it was granted or maxing out the facility, I can't reasonably conclude that the pattern of lending here ought reasonably to have led Simply Be to conclude that the facility had become demonstrably unsustainable for Mrs C either. Indeed Mrs C never used more than 70% of the total amount of credit that was available and regularly made payments of amounts of an amount reflective of what a sustainable repayment would be for a higher credit limit too.

So overall and having carefully considered everything, I've not been persuaded that proportionate checks would have shown that Simply Be that it shouldn't have provided this account, or any of the subsequent credit limit increases to Mrs C.

In reaching this conclusion I've also considered whether the lending relationship between Simply Be and Mrs C might have been unfair to Mrs C under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I've not been persuaded that Simply Be irresponsibly lent to Mrs C or otherwise treated her unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here. So I'm not upholding this complaint.

I appreciate this will be very disappointing for Mrs C. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 12 August 2024.

Jeshen Narayanan
Ombudsman