DRN-3126054

The complaint

Mrs P says J D Williams & Company Limited ("J D Williams") irresponsibly lent to her.

What happened

This complaint is about a catalogue shopping account J D Williams provided. The account was opened in November 2015. Mrs P was given an initial credit limit of £125. This limit was increased 12 times until it eventually reached £3,000.00 in December 2018.

Our adjudicator partially upheld Mrs P's complaint and thought that J D Williams ought to have realised Mrs P simply wasn't in a position to sustainably repay any further credit by the time it offered the increase to her credit limit of £1,900.00 in January 2017. J D Williams disagreed with our adjudicator, so the complaint has 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.

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.

J D Williams 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 P 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 J D Williams 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.

Our adjudicator thought that the early increases to the credit limit on the account were not examples of irresponsible lending. Both parties have seen that assessment and Mrs P has not raised any objection to those findings. I have reviewed the case in its entirety and have reached the same outcome as the adjudicator and for the same reasons. I haven't seen anything to make me think J D Williams should have been concerned about Mrs P's ability to afford the limits given before the increase in January 2017. In the absence of any argument about that I will turn to the increase of January 2017.

Our adjudicator set out in some detail why she thought J D Williams shouldn't have provided Mrs P with any further credit from January 2017 onwards. Our adjudicator noted that JD Williams had told us it obtained credit reference data about Mrs P at the time of the account opening and prior to each credit limit increase and that it took into consideration how the account was being managed. But our adjudicator noted that in January 2017 the credit limit had increased seven times in a little over a year from an initial credit limit of £125 to a new credit limit of £1,900.00. She also noted that JD Williams had performed no extra checks, over and above those mentioned earlier, to establish that Mrs P could afford to repay what she was being lent in a sustainable manner.

I've looked at the overall pattern of J D Williams' lending history with Mrs P, with a view to seeing if this alone may have shown any cause for concern that Mrs P could afford to repay what she was being lent in a sustainable manner. I note that Mrs P had three instances of arrears in her payments since the account opened in November 2015. She also had a history of largely making only minimum payments to the account with no discernible trend of reducing the balance she owed. This had seen her balance grow from the opening balance of £45.60 to an amount of £766.58.

Should this information alone have been sufficient to alert J D Williams that there was a point at which they should reasonably have seen that further lending was unsustainable, or otherwise harmful? Should J D Williams have realised that it shouldn't have increased Mrs P's credit limits? J D Williams thinks not.

But, as I mentioned above, J D Williams 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 be satisfied Mrs P could afford to repay what she was being lent in a sustainable manner. But it made no extra checks, over and above those mentioned earlier, on Mrs P's circumstances, despite evidence of arrears, the credit limit being raised five times in as many months at the time in January 2017 and a rise of over 15 times the original credit limit. In addition, Mrs P had a default in the previous 12 months and had a payment arrangement with several different debt collectors. All of which, I think J D Williams would most likely have seen from the credit checks it carried out.

Had J D Williams chosen to make further enquiries (as I think it should have) into Mrs P's particular circumstances than it did in January 2017, it would have most likely seen that Mrs P's personal income was modest and that she was having difficulty managing her money. So, I think that proportionate checks will most likely have shown J D Williams that

Mrs P was already struggling to manage the credit she already had and that there was a significant risk increasing her credit limit in these circumstances would lead to her indebtedness increasing to a level she couldn't afford.

I think that Mrs P lost out because J D Williams provided her with further credit from January 2017 onwards. In my view, J D Williams' actions unfairly prolonged Mrs P's indebtedness by allowing her to use credit she couldn't afford over an extended period of time and the interest being added got her into further debt. So, J D Williams should put things right.

Putting things right - what J D Williams needs to do

- rework her account to ensure that from 16 January 2017 onwards interest is only charged on balances above £1250.00 (including any buy now pay later interest) to reflect the fact that no further credit limit increases should have been provided. All late payment and over limit fees should also be removed; and

- 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 Mrs P, along with 8% simple interest on the overpayments from the date they were made (if they were) until the date of settlement. If no outstanding balance remains after all adjustments have been made, then J D Williams should remove any adverse information from Mrs P's credit file from 16 January 2017 onwards.†

†HM Revenue & Customs requires J D Williams to take off tax from this interest. J D Williams must give Mrs P a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons set out, I'm partially upholding Mrs P's complaint. J D Williams & Company Limited should put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 18 March 2022.

Douglas Sayers
Ombudsman