

The complaint

Mrs F 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 July 2013. Mrs F was given an initial credit limit of £175. This limit was increased 11 times until it eventually reached £3,500.00 in October 2017.

Our adjudicator partially upheld Mrs F’s complaint and thought that J D Williams ought to have realised Mrs F simply wasn’t in a position to have her credit limit increased to £3,000 in October 2015 and that she wasn’t in a position to sustainably repay any further credit by the time it offered the increase to her credit limit of £3,500 in January 2017. J D Williams agreed with our adjudicator and offered to pay the redress our adjudicator suggested. Mrs F is disappointed with the redress and would have liked a different redress. So, the complaint 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 F 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 F 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 F's ability to afford the limits given before the increase in October 2015 from £2,750 to £3000. In the absence of any argument about that I will turn to the increase of October 2015.

Our adjudicator set out in some detail why she thought J D Williams shouldn't have provided Mrs F with the credit increase in any further credit from October 2015. Our adjudicator noted that JD Williams had told us it obtained credit reference data about Mrs F 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 October 2015 the credit limit had increased ten times in a little over two years from an initial credit limit of £175 to a new credit limit of £3,000.00. She also noted that JD Williams had performed no extra checks, over and above those mentioned earlier, to establish that Mrs F 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 F, with a view to seeing if this alone may have shown any cause for concern that Mrs F could afford to repay what she was being lent in a sustainable manner. I note that Mrs F had eight instances of arrears in her payments in the previous twelve months. That included five instances of arrears in the six months prior to the increase. And those arrears whilst relatively small in each case, were at a frequency that ought to have alerted J D Williams that there might be affordability issues. In saying that I've also considered that Mrs F had made two large payments during this period that cleared the balance. Mrs F told us these did not come from income. But from successful financial claims for miss-selling. Despite those two payments which amounted to over £2,000, Mrs F's had no discernible trend of reducing the balance she owed. This had seen her balance grow in the year before October 2015 from £652.46 to an amount of £1,674.46.

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 F's credit limits? Our adjudicator thought so and so did J D Williams. And so do I. The remedy suggested is in line with our approach to these matters and is detailed below.

Our adjudicator in reviewing the whole file felt that in addition to the above Mrs F's account should have been frozen after 4 October 2017. She said that because Mrs F's payments were below the minimum payment required in five of the six months preceding October 2017 and for 13 times in the previous two years. In that time the balance had grown to over £2,000 despite a further large payment during that time that cleared the balance. This suggests to me, and should have suggested to J D Williams, that Mrs F was

struggling to maintain the account and the repayments were proving unsustainable. Our adjudicator thought it would have been appropriate for the account to be frozen on 4 October 2017 and for no further orders to be accepted. J D Williams agreed. And so do I.

I think that Mrs F lost out because J D Williams provided her with an increased credit limit from 7 October 2015 onwards. In addition, I think that Mrs F lost out because J D Williams provided her with further credit from 4 October 2017 onwards. In my view, J D Williams' actions unfairly prolonged Mrs F'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. J D Williams has agreed with this and offered to make the payment of redress described below.

Putting things right

- Rework her account to ensure that from 7 October 2015 onwards interest is only charged on balances up to £2,750.00 (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:
- Because I don't think J D Williams should've allowed new purchases at all after 4 October 2017, I think the account should've been frozen at that time. To reflect this, JD Williams should remove all interest and charges (including BNPL interest) incurred on the account since 4 October 2017.
- JD Williams should work out how much Mrs F would have owed after the above adjustments. Any repayment Mrs F made since 7 October 2015 should be used to reduce the adjusted balance.
- If this clears the adjusted balance any funds remaining should be refunded to Mrs F along with 8% simple interest* - calculated from the date of overpayment to the date of settlement.
- If after all adjustments have been made Mrs F no longer owes any money then all adverse information regarding this account should be removed from the credit file from 7 October 2015.
- Or, if an outstanding balance remains, JD Williams should look to arrange an affordable payment plan with Mrs F for the outstanding amount. As the debt was sold to a third party, JD Williams are to either repurchase the debt or liaise with the debt purchaser, to ensure the above steps are undertaken. Once the balance is cleared, any adverse information should be removed from the credit file from October 2015. †

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

The above redress follows our standard approach to redress in such cases and is designed to put Mrs F (as close as possible) back in the position she would have been in had things happened as they should have. Mrs F says that as J D Williams shouldn't have allowed further purchases from October 2017, any additional purchases she made after that date should also be written off. However, as Mrs F has received the benefit of those goods she bought, it wouldn't be reasonable to write off the capital, otherwise she would have

effectively received them for free, which is a position she would never have been in. Mrs F wishes we'd suggested a different redress but understands our approach. I have seen no persuasive evidence that would suggest we should, in this case, abandon our standard approach to put things right.

My final decision

For the reasons set out, I'm partially upholding Mrs F'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 F to accept or reject my decision before 24 March 2022.

Douglas Sayers
Ombudsman