

The complaint

Ms M complains that J D Williams & Company Limited, trading as Fashion World irresponsibly gave her a running account credit facility she couldn't afford.

What happened

In April 2018, Ms M applied for a catalogue shopping account with J D Williams. She was given an initial credit limit of £150. The limit was increased a further 11 times until it reached £2,800 in July 2020.

Ms M complained to say that the credit had been unaffordable to her and J D Williams would have seen this if they had completed reasonable affordability checks. After looking into the complaint, J D Williams didn't agree. It said that its checks hadn't shown any signs that Ms M might not be able to afford the credit and she had continued to manage the account well.

Our adjudicator recommended the complaint be upheld. He said that when J D Williams increased the credit limit to £500 in July 2018, it ought to have found out more about Ms M's financial circumstances. He considered that had it done so, it would have likely seen that increasing the limit to £500 and beyond would have likely been unaffordable and unsustainable for Ms M. He therefore recommended J D Williams refund all interest and charges it had applied on balances above a credit limit of £350.

J D Williams didn't agree. In summary, it said that its own data suggested that Ms M's income was higher than was suggested by the adjudicator and the external checks it completed showed no sign of financial difficulties. Further, it said that Ms M had managed the account well and had never informed them she was struggling to repay.

The complaint has been passed to me for a final 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.

In summary, J D Williams should have carried out proportionate checks to make sure Ms M could afford to repay what she was being lent in a sustainable manner. What would be considered proportionate will vary in each case. Generally I would expect more thorough checks to have been completed the higher the amount of credit being advanced, the greater the regular repayments, the lower the consumer's income and the longer the consumer had been indebted without making significant strides to reducing the outstanding balance.

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable and therefore it would be irresponsible to grant further credit.

Our adjudicator explained in some detail why they didn't think J D Williams acted unfairly in providing the initial credit limit and subsequent increases up to £350. Neither party appears to have disagreed with those findings and for completeness, I'm also satisfied that J D Williams didn't make an unfair lending decision in relation to those. This is because I don't think that proportionate checks would have likely shown that Ms M couldn't afford the borrowing.

The limit was increased to £500 in July 2018. At this stage I don't think J D Williams completed proportionate affordability checks. By this point I think it should have tried to establish what Ms M's income was. I say this because from what I've seen, Ms M had taken out at least three other running account credit facilities in addition to this one at around the time the J D Williams account was opened. As J D Williams was now proposing to increase her credit limit for the third time in as many months, and it was aware she had other similar, new credit commitments, it ought to have done more to establish that any further credit would be affordable to her. Without having any understanding of what her income was, I fail to see how it could possibly have done that in a satisfactory way.

Ms M has shown us that at the time she was earning on average less than £500 per month. I'm satisfied that had J D Williams asked her or sought to verify that information in some way, this is what it would likely have discovered too. It seems therefore that proportionate checks in July 2018 would have shown that Ms M was required to service four separate running credit accounts as well as a mobile phone contract (of around £45 per month) out of regular income that rarely exceeded £500 per month. This is because I think these would likely have been evident in any credit check J D Williams completed.

I've noted that Ms M was also paying a regular sum of money to a debt collector. From the information J D Williams has provided it appears Ms M had a historic default on her credit file around three years prior to entering into this agreement. It seems likely therefore these payments to the debt collector were going towards that default. Given the default was showing on J D Williams checks at the time, it would also have likely seen there was still an outstanding balance that Ms M was regularly paying towards.

Taking all of the above into account, I think proportionate affordability checks in July 2018 ought to have made it clear to J D Williams that Ms M was already likely to be over committed each month based on her very modest income. After taking into account sustainable repayments towards her creditors, it would have left her with very little towards essential living costs. I therefore think J D Williams acted unfairly in increasing her credit limit beyond £350.

I note J D Williams says that Ms M has continued to meet her repayments on the account and her balance has increased significantly since. While she has made the majority of her payments on time, it's clear from the information I've seen that Ms M continued to borrow further sums of money from other creditors in order to pay J D Williams and other lenders. Further, the fact Ms M's balance has simply continued to increase (and significantly so) with her making no meaningful inroads into reducing the balance only serves to highlight that she hasn't been able to afford to repay the credit in a sustainable way.

Putting things right

As I don't think J D Williams should have increased Ms M's credit limit to £500 in July 2018, it should now:

- Rework Ms M's account to ensure that from July 2018 onwards, interest is only charged on balances up to a credit limit of £350, including any buy now pay later interest, (being the credit limit in place before that date) 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 an outstanding balance remains on the account once these adjustments have been made J D Williams should contact Ms M to arrange an affordable repayment plan for this account. Once Ms M has repaid the outstanding balance, it should remove any adverse information recorded on Ms M's credit file from July 2018 onwards.

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 Ms M, along with 8% simple interest per year on the overpayments from the date they were made (if they were) until the date of settlement. J D Williams should also remove any adverse information from Ms M's credit file from July 2018 onwards.†

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

My final decision

For the reasons given above, I uphold this complaint and direct J D Williams & Company Limited, trading as Fashion World to put things right in the manner I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 13 April 2022.

Tero Hiltunen
Ombudsman