

The complaint

Mr E complains that J D Williams & Company Limited lent to him irresponsibly. He says the lending was unaffordable for him.

What happened

started in 2004. The third account was opened in 2008 and a fourth in November 2014. Mr E says that J D Williams shouldn't have provided him with the credit. He says it was unaffordable for him.

J D Williams upheld Mr E's complaint about the account opened in November 2014 and paid him compensation. Mr E wasn't content with this and he complained to this service about the other three accounts.

This service can only investigate complaints relating to this type of credit that occurred on or after 6 April 2007 because this is when our jurisdiction to look into these types of accounts began. So we haven't investigated the opening or initial management of the first two accounts, although we have looked at events which happened later.

Our adjudicator partially upheld his complaint. They couldn't say J D Williams had done anything wrong in the early years of the accounts but by August 2012 they thought there were signs that Mr E wasn't managing to reduce his debt at a sufficient rate to have an impact on the overall balances over a reasonable period of time. The adjudicator's view was that J D Williams should compensate Mr E for the impact of that increase in credit limit and all the later ones.

J D Williams disagreed. It said Mr E was paying to terms on all his accounts and that this shouldn't have been viewed as a sign of mismanagement or financial difficulties. It said Mr E didn't use more than 50% of his credit limit across all his accounts at any one time and that his balances were 'extremely lot' throughout.

As J D Williams disagreed with the view the complaint was passed to me to make a decision.

I issued a provisional decision in this case in which I changed the point at which I thought J D Williams should have acted. Both parties were invited to comment. Both parties responded that they agreed with my provisional decision and had nothing further substantive to add. J D Williams requested a final decision before it was able to pay the agreed redress.

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 and I've taken that into account when considered Mr E's complaint.

Having done so, I have come to a slightly different conclusion to our adjudicator. I think that J D Williams shouldn't have increased Mr E's credit limit in July 2015, rather than in August 2012. I'll explain why I have reached this provisional decision.

J D Williams needed to take reasonable steps to ensure it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr E could afford to repay what he 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, Mr E's lending history and Mr E's income and expenditure.

J D Williams hasn't been able to provide a copy of the checks it completed when opening Mr E's accounts because they happened so long ago. It also hasn't provided the results of checks it ran each month when it reviewed his lending limits, although it has provided evidence of when it increased and decreased Mr E's limits after the start of 2009 and how he managed his account. J D Williams says Mr E's account management shows that he was coping with the credit it provided him and managing his account well.

Our adjudicator looked at the way the accounts were managed from the records available. They didn't have the benefit of any information from Mr E about his income and expenditure and credit position during the period, so they had to look just at how Mr E was managing his accounts with J D Williams.

The adjudicator thought that by August 2012, when the credit limit on one of the accounts rose to £1,600 making his overall available credit across all of the accounts £4,300, his account history was showing signs of difficulty which J D Williams should have acted on and not increased his limit further.

The adjudicator thought that it was clear that Mr E was finding it difficult to sustainably repay his accounts. The payments he was making on his accounts weren't making a big difference to his overall borrowing.

However, looking at the management of Mr E's accounts at this point (and not having any information about how he was managing the rest of his finances) I can't fairly say that this is the point at which J D Williams should have taken action or not provided any further credit limit increase. While Mr E had missed the odd payment here and there across the accounts I don't think it was enough to show that he was having problems meeting the repayments. And he was still spending on the accounts, so although the balance wasn't being paid off quickly that was because he was adding purchases to the account balances.

However, I do think that when J D Williams increased Mr E's credit limit on one of his accounts in July 2015 that it was clear Mr E would struggle to repay them.

In May 2013 Mr E's accounts had been frozen. He couldn't spend any more on them and he had an interest free arrangement to pay a nominal sum on each of them every month. It's not clear why this arrangement was made at this point as J D Williams can't say what happened. But it seems likely that Mr E contacted J D Williams to say he was having difficulty managing the repayments. So it seems J D Williams acted appropriately when it did this.

The arrangement remained in place across one account until December 2014 when Mr E's credit limit was increased to £230, and until June 2015 in respect of the other two accounts when his limit was increased to £330 and £530 respectively.

But in November 2014, while Mr E's three accounts were restricted and he was still in a

payment arrangement with J D Williams for them, J D Williams allowed Mr E to open a fourth account. It raised his credit limit on this account four times over the next four months – all of which happened when he was in a payment plan for his other three accounts. J D Williams accepts that it shouldn't have done this and has paid Mr E compensation in relation to that account.

I agree that it should have paid that compensation, but I think it should have gone further. In July 2015 it raised Mr E's credit limit on one account for the third time since he'd left the payment plan seven months earlier. He finished the payment plan on his other two accounts in May 2015, and J D Williams allowed him further credit on both those accounts, too. In total, including the fourth account, it provided him with £2,240 of credit within one month of concluding all of the payment plans. J D Williams continued increasing Mr E's credit limit over the following year.

I haven't seen anything to suggest that Mr E's financial situation had changed so dramatically in that short period of time to think this was a reasonable and proportionate step to take. He was in arrears on three of his four accounts in July 2015 when the increase was provided. While Mr E did not use all of the credit available to him, he did continue to spend on the accounts and fell into repeated arrears on them over the following year.

So, on review of the account histories, including the credit limit increases, repayment histories, running account balances and the periods where Mr E's credit was frozen I think there was sufficient information for J D Williams to realise in July 2015 that Mr E was struggling to manage his repayments. J D Williams argues that Mr E had 'rehabilitated' his credit by May 2015 and that is why it was content to allow him further credit. But I think it was clear from the arrears he was still accruing, even the month before these increases that this was not the case. So I think Mr E lost out as a result of what J D Williams did wrong.

Putting things right

As I uphold this complaint in part, I think to put things right, it's fair and reasonable for J D Williams to refund any interest and charges incurred by Mr E as a result of the credit unfairly granted to him.

I don't think J D Williams should have allowed any increases in Mr E's credit limit on any account from July 2015. Therefore J D Williams should remove any interest and charges incurred after July 2015 because of any increases on the first three accounts. J D Williams can only add interest accrued on the balances on those three accounts up to the limits that were in place before July 2015.

J D Williams should work out how much Mr E would have owed after the above adjustments. Any repayment Mr E made since July 2015 should be used to reduce the adjusted balances.

If this clears the adjusted balance any funds remaining should be refunded to Mr E along with 8% simple interest* - calculated from the date of overpayment to the date of settlement. If after all adjustments have been made Mr E no longer owes any money then all adverse information regarding this account should be removed from the credit file from July 2015.

Or, if an outstanding balance remains, J D Williams should look to arrange an affordable payment plan with Mr E for the outstanding amount. If the debt was sold to a third party, J D Williams are to either repurchase the debt or liaise with the debt collection agency to ensure the above steps are undertaken. Once Mr E has cleared the balance, any adverse information should be removed from the credit file.

*HM Revenue & Customs requires J D Williams to deduct tax from any award of interest. It must give Mr E a certificate showing how much tax has been taken off if he asks for one.

My final decision

I partially uphold Mr E's complaint and direct J D Williams to put things right in the way I've described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 8 July 2022.

Sally Allbeury
Ombudsman