DRN-3835626

Complaint

Ms R has complained that J D Williams & Company Limited ("J D Williams") irresponsibly provided her with a number of catalogue shopping accounts despite the fact that she'd previously defaulted.

Background

Ms R had seven catalogue shopping accounts with J D Williams in total. The following accounts were opened on the following dates:

Account A – Opened May 2012
Account B – Opened March 2016
Account C – Opened April 2016
Account D – Opened May 2016
Account E – Opened October 2017
Account F – Opened January 2019
Account G – Opened September 2019

I've already, separately, explained to the parties why we're unable to look at the complaint about account A. So we've not considered whether J D Williams acted fairly and reasonably when providing that account.

J D Williams initially didn't uphold Ms R's complaint about any of her accounts. However, when Ms R referred her complaint to us, J D Williams reviewed its position and on each of .

Account B – refund all interest and charges as a result of limit increases from June 2016
Account C – refund all interest and charges as a result of limit increases from July 2016
Account D – refund all interest and charges as a result of limit increases from August 2016
Account E – refund all interest and charges from the outset
Account F – not upheld so no refund
Account G – not upheld so no refund

One of our investigators looked at everything provided and thought that what J D Williams had agreed to do to put things right for Ms R was fair and reasonable in all the circumstances of her case. So he didn't think that it needed to do anything further.

Ms R disagreed with our investigator 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.

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 Ms R 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.

I've kept all of this in mind when deciding Ms R's complaint.

As J D Williams accepts that it shouldn't have provided any of the limit increases on accounts B to D and shouldn't have provided account E at all, I only need to consider whether the initial decisions to open accounts B to D and the decisions to provide accounts F and G, as well as the credit limit increases , were fair and reasonable.

Accounts B to D

Account B was opened in March 2016 with a credit limit of £150, Account C was opened in April 2016 with a credit limit of £125 and Account D was opened in May 2016 with a credit limit of £150. The catalogue shopping accounts J D Williams provided Ms M with were revolving credit facilities. This meant that J D Williams was required to understand whether Ms R could repay around £150, £125 and £150 respectively within a reasonable period of time.

I understand that J D Williams carried out a credit check before initially agreeing to provide each of these accounts. J D Williams has been unable to provide the output of its credit checks. But given these credit checks were carried out a number of years ago, I don't find this too surprising and I've not drawn any adverse inferences from this.

What is important to note is that credit limits of £150, £125 and £150 would have required relatively small monthly payments in order to clear the full amount owed within a reasonable period of time. And the information I've seen about Ms R circumstances does suggest that she had the funds to make these payments. As this is the case, I'm satisfied that it wasn't unreasonable for J D Williams to have opened accounts B to D for Ms R. And I find that J D

Williams didn't treat Ms R unfairly when it initially opened accounts B to D with respective credit limits of £150, £125 and £150 in March 2016, April 2016 and May 2016.

Furthermore, as J D Williams has already accepted that it shouldn't have increased the credit limits on these accounts and has offered to refund the extra interest Ms R paid as a result of these increases, I'm also satisfied that J D Williams hasn't treated Ms R unfairly or unreasonably in relation to accounts B to D.

Accounts F and G

J D Williams has said that it also carried out a credit check before providing each of these accounts. J D Williams hasn't provided the output of its credit checks before it provided these accounts. But I don't think that this matters too much because as Ms R had had a previous default on a J D Williams account by the time she was provided with these accounts. So I would have expected J D Williams to have found out more about Ms R's income and expenditure before providing these accounts and increasing the respective credit limits.

Account F was opened, in March 2019, with a credit limit of £150 and the limit was increased six times until it reached £1,250 in November 2019. Account G was opened with a credit limit of £175, in October 2019, and the limit was increased by £100 to £275 in December 2019.

I do have concerns about the fact that a significant number of credit limit increases were provided within such a short period of time – especially in circumstances where Ms R had defaulted on a previous J D Williams account. However, Ms R has provided about her financial circumstances at the time these accounts were opened and the credit limits were increased.

And I've reviewed this information with a view to understanding what further enquiries into Ms R's circumstances, is likely to have alerted J D Williams to. Having done so, I'm satisfied that further checks wouldn't have stopped J D Williams from providing these accounts or the credit limit increases as the information provided suggests that Ms R could have repaid what she owed within a reasonable period of time.

Furthermore, it's also my understanding that significant balances – including some of the funds Ms R was lent – were written off on these accounts. As this is the case and we'd normally say that a customer repays what they were lent and the lender only refunds any interest, fees and charges a customer paid as a result of credit they shouldn't have been provided with, I think it's unlikely that Ms R lost out as a result of being provided with accounts F and G.

So overall and having carefully considered everything, I don't think that J D Williams has treated Ms R unfairly in relation to accounts F and G either. And as it has already agreed to put things right for account E in the way I would ask it to in the event that I were to have upheld the complaint, overall I'm satisfied that what J D Williams has already agreed to do to put things right for Ms R in fair and reasonable in all the circumstances of her case.

Fair compensation – what J D Williams needs to do to put things right for Ms R

Having carefully considered everything, I'm satisfied that what J D Williams has agreed to do to put things right for Ms R is fair and reasonable in the circumstances of her case. So it needs to:

- rework accounts to B to D that from June 2016, July 2016 and August 2016 no interest should be charged on the amount of the credit limit increases from these dates onwards, to reflect the fact that no credit limit increases should have been provided on these accounts. All late payment and over limit fees should also be removed; and

- rework account E so that all interest, fees and charges added are removed, to reflect the fact that this account should never have been provided in the first place. All late payment and over limit fees should also be removed

- If outstanding balances remain on the accounts once these adjustments have been made J D Williams should contact Ms R to arrange a suitable repayment plan for these. If J D Williams considers it appropriate to record negative information on Ms R's credit file, it should backdate this to the respective date it agrees it shouldn't have provided an account or credit limit increase.

OR

- If the effect of removing all interest, fees and charges results in there no longer being any outstanding balances, then any extra should be treated as overpayments and returned to Ms R, 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, to an account, then J D Williams should remove any adverse information recorded about that account from Mr R's credit file.†

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

My final decision

For the reasons I've explained, I'm satisfied that what J D Williams & Company Limited has already agreed to do to put things right is fair and reasonable in all the circumstances of Ms R's case. So it should put things right in the way I've confirmed and set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 12 January 2023.

Jeshen Narayanan
Ombudsman