

The complaint

Mrs P complains that JD Williams & Company Limited acted irresponsibly by lending her three catalogue shopping accounts.

What happened

Mrs P took out her first account with JD Williams & Company Limited (JD Williams) in July 2016, under its Simply Be brand (Simply Be 1). JD Williams initially offered her a credit limit of £125.

Mrs P took out a second account with JD Williams under its Fashion World brand in June 2017, which had an initial credit limit of £175. She then opened a further account with JD Williams under its Simply Be brand (Simply Be 2) in January 2021, which also had an initial credit limit of £175.

JD Williams increased and decreased the credit limits of the accounts several times, as follows:

Date	Simply Be 1	Fashion World	Simply Be 2	Total
July 2016	£125			
January 2017	£200			
June 2017		£175		£375
October 2017	£300	£130		£430
November 2017	£500			
January 2018	£800			
January 2021			£175	
March 2021			£275	
April 2021			£400	
1 May 2021			£600	
29 May 2021			£900	
June 2021			£1,300	
January 2022			£1,750	

The Simply Be 1 and Fashion World accounts were defaulted and sold to third party debt collection agencies.

In 2023, Mrs P complained. In its final response letter, JD Williams said it thought it had acted fairly. Mrs P wasn't happy with JD Williams' response and referred her complaint to our service.

Following our service's involvement, JD Williams upheld Mrs P's complaint in part. It said it thought it had acted reasonably in offering the Simply Be 1 and Fashion World accounts, but it thought it shouldn't have offered the credit limit increases on the Simply Be 1 account from October 2017 onwards. It also thought it shouldn't have offered the Simply Be 2 account.

JD Williams offered to refund the interest and charges applied to balances above £200 on the Simply Be 1 account, and all interest and charges on the Simply Be 2 account. It offered to apply the refunds against any remaining balances on the accounts, and to add 8% simple interest if the accounts were brought into credit. JD Williams said that if the Simply Be 1 account balance was repaid, the third party debt collection agency would update Mrs P's credit file.

JD Williams calculated that there would be a debt remaining on the Simply Be 2 account. It said Mrs P had a payment arrangement in place, but she had not been making payments towards it. JD Williams asked that Mrs P contact it regarding the account to arrange a repayment plan.

One of our Investigators considered JD Williams' offer and thought it was a fair way to put things right. Mrs P disagreed. In summary, she said she didn't think JD Williams had conducted checks on her income, and had it done so it would have found the level of lending to be unaffordable, particularly given her personal circumstances. She said she'd only been managing to make payments around the minimum, which she thought should have made it apparent to JD Williams that further credit wouldn't be affordable for her.

As our Investigator couldn't resolve things, the case was passed to me to decide. I issued a provisional decision. In summary, I said that as JD Williams no longer held the results of the affordability checks it had conducted, I would need to reconstruct proportionate checks. Having done so, I thought that JD Williams would have had reasonable grounds to consider the initial credit limit and first credit limit increase on the Simply Be 1 account to be affordable, but I thought it should have found that the Fashion World account was not sustainably affordable.

I also thought JD Williams' offer didn't go far enough to put things right regarding the later lending decisions. To put things right, I said JD Williams should transfer the debts back from the third party debt collection agencies, then rework the Simply Be 1 account to remove all interest and charges on balances above £200, and rework the Fashion World and Simply Be 2 accounts to remove all interest and charges. I said JD Williams should pay 8% simple interest if the reworks left a credit balance, and arrange an affordable repayment plan with Mrs P if there was a debt remaining. I said it should amend Mrs P's credit file once the balances were repaid.

Mrs P accepted my provisional decision. JD Williams didn't reply by the deadline. So the case has returned to me for 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.

In my provisional decision, I said:

"Firstly, I do not need to consider whether the complaint was brought within the timescales set by the regulator, as JD Williams has consented to our service considering the complaint. I've considered the relevant rules and guidance on responsible lending set by the regulator, laid out in the consumer credit handbook (CONC). In summary, these say that before

JD Williams offered each account – and before it offered each credit limit increase – it needed to complete reasonable and proportionate checks to satisfy itself that Mrs P would be able to repay the debt in a sustainable way, without borrowing further elsewhere. As these were open-ended accounts, JD Williams also needed to consider whether Mrs P would be able to repay the debt within a reasonable period.

JD Williams has already said it accepts it shouldn't have increased the credit limit on the Simply Be 1 account from October 2017 onwards, and that it shouldn't have offered the Simply Be 2 account nor any of the credit limit increases. So, I haven't considered those lending decisions in detail. Instead, I've focused on JD Williams' initial decisions to lend the Simply Be 1 and Fashion World accounts, and the limit increase on the Simply Be 1 account in January 2017.

I have also considered whether JD Williams' offer is a fair way to put things right regarding the lending decisions it has accepted it should not have made.

Simply Be 1 account

JD Williams has explained that prior to offering Mrs P the account, and before offering each of the credit limit increases, it assessed information from a credit reference agency to determine whether or not to lend. When Mrs P applied for the Simply Be 1 account, it found that she had five defaulted accounts, and the last time an account had been defaulted was 14 months prior.

JD Williams has also explained that it takes information from credit reference agencies about customer indebtedness to predict customer affordability. Unfortunately, this information doesn't survive from the date of the account opening, so I do not know what it showed.

I am therefore unable to conclude JD Williams conducted proportionate checks to satisfy itself the account was sustainably affordable for Mrs P. JD Williams had found that Mrs P had several defaults in the past, with the most recent being 14 months prior to the application. So I think JD Williams should have been prompted to take a declaration from Mrs P about her income and expenditure.

I therefore asked Mrs P for her bank statements to allow me to reconstruct what information JD Williams likely would have found during its checks. To be clear, I'm not saying JD Williams needed to obtain bank statements in order to complete reasonable and proportionate checks, but the statements do show what information JD Williams was likely to have obtained.

Mrs P has provided bank statements from a joint account for the three-month period prior to taking out the Simply Be 1 account. These statements show she received an average income from benefits of around £2,330 per month. The account also received student loans and a bursary during this period, which Mrs P has explained were for her partner.

Mrs P's bank statements showed payments towards other credit commitments of around £203 a month. They showed essential outgoings (such as rent, utilities, food, fuel and so on) averaging £1,242. This would mean – only considering Mrs P's income from benefits – that she had disposable income of around £885.

Sustainable repayments of around 5% of the initial credit limit of £125 – allowing Mrs P to repay the interest charged and part of the capital if the account were utilised to its limit – would be around £6.50. I think this was affordable for Mrs P, given her disposable income.

So, on balance, I think that if JD Williams had conducted proportionate checks it reasonably

would have concluded that the initial credit limit of £125 was sustainably affordable for Mrs P.

In January 2017, JD Williams increased the credit limit of the Simply Be 1 account to £200.

The credit checks JD Williams conducted showed that Mrs P's external credit commitments were up to date. Up until the credit limit increase in January 2017, Mrs P had usually made payments towards the Simply Be 1 account that were slightly more than the minimum.

The information JD Williams gathered about customer indebtedness does not survive, so I am unable to say what it showed. I've said I think JD Williams should have taken a declaration from Mrs P about her income and expenditure before offering the account. As this credit limit increase occurred just a few months later and was relatively small, I think JD Williams could have relied on that information – which showed that sustainable repayments to the new credit limit were affordable and sustainable for Mrs P.

In any case, I have used Mrs P's bank statements to reconstruct what information JD Williams would have found if it had asked her further questions about her income and expenditure at this time.

The statements Mrs P has provided for the three month period prior to the credit limit increase show she received an average income from benefits of around £2,330 per month, and that her essential committed expenditure was around £890 a month. Mrs P's bank statements show payments to other credit commitments of around £150 a month. This means that Mrs P has disposable income of around £1,290.

Sustainable repayments of around 5% of the new proposed credit limit of £200 – allowing Mrs P to repay the interest charged and part of the capital if the account were utilised to its limit – would be around £10. So, if JD Williams had conducted proportionate checks, I think it's likely it would have found that the new credit limit was sustainably affordable for Mrs P, given her disposable income.

So, overall, I think JD Williams acted reasonably in accepting Mrs P's application for the Simply Be 1 account and in increasing the credit limit to £200 in January 2017.

Fashion World account

JD Williams has explained that prior to offering Mrs P the account, it assessed information from a credit reference agency to determine whether or not to lend. The checks it conducted in June 2017 found that Mrs P had five defaulted accounts, and the last time an account had been defaulted was 24 months prior to the application. It also found she had at least one account two months' payments in arrears in the six months leading up to the application.

JD Williams' records about the Simply Be 1 account show Mrs P had been making the minimum payment for six months prior to the application.

JD Williams has also explained that it takes information from credit reference agencies about customer indebtedness to predict customer affordability. Unfortunately, this information doesn't survive from the date of the account opening, so I do not know what it showed.

I am therefore unable to conclude JD Williams conducted proportionate checks to satisfy itself the account was sustainably affordable for Mrs P. In any case, given JD Williams found that Mrs P had at least one account two months' payments in arrears in the six months leading up to the application – and had only been making the minimum payment towards her existing Simply Be 1 account, I think she was showing signs of financial stress. So, I think

JD Williams should have been prompted to verify her income and expenditure prior to offering the Fashion World account.

I have therefore considered the bank statements Mrs P has provided. These show that Mrs P's average monthly income from benefits during this period was around £2,350.

Mrs P's bank statements showed payments towards other credit commitments of around £208 a month. They showed essential outgoings (such as rent, utilities, food, fuel and so on) averaging £2,139. This would mean that she had disposable income of around £3.

JD Williams offered Mrs P an initial credit limit of £175 on the Fashion World account. This meant she had a total credit limit of £375 with JD Williams. Sustainable repayments of around 5% of the total credit limit offered by JD Williams – allowing Mrs P to repay the interest charged and part of the capital if the accounts were utilised to their limit – would be around £17.50.

As Mrs P's disposable income was £3, I think that if JD Williams had conducted proportionate checks it would have found that payments towards the Fashion World account were not sustainably affordable taking into account Mrs P's essential expenditure and existing credit commitments. Accordingly, I don't think JD Williams acted fairly and reasonably in accepting the application.

For the reasons I've explained, I am upholding Mrs P's complaint about the Fashion World account. So, I do not think she should pay any interest or charges for the credit, though if any capital remains it's reasonable she pay that as she's benefited from the goods she purchased.

JD Williams' offer

JD Williams' offer to refund interest and charges on balances above £200 on the Simply Be 1 account, and interest and charges on the Simply Be 2 account is part of what I'd expect a business to do where it accepts it should not have lent. This is in line with our service's longstanding approach to complaints about unaffordable lending, guidance about which may be found on our website.

However, JD Williams has said it would liaise with the third party debt collection agency to ensure Mrs P's credit file is updated. I do not think this goes far enough. To put things right, I think JD Williams needs to take further actions. I think it should buy back any remaining balance on the Simply Be 1 account from the debt collection agency. This is to prevent any further charges being applied in future, and so JD Williams is solely responsible for the information reported to Mrs P's credit file.

JD Williams should arrange affordable repayment plans with Mrs P for any remaining balances on the accounts, and once the remaining balances are cleared it should remove any adverse information related to the accounts recorded on her credit file."

I've read the full file again. As Mrs P accepted my provisional decision, and JD Williams provided no comments, I see no reason to depart from my provisional findings.

My final decision

My final decision is to uphold this complaint. To put things right, JD Williams & Company Limited should liaise with the third party debt collection agencies to transfer the debts from

the Simply Be 1 and Fashion World back to themselves. It should then:

- Rework the Simply Be 1 account to remove all interest, fees and charges applied to balances of over £200 (not already refunded);
- Rework the Fashion World and Simply Be 2 accounts to remove all interest, fees and charges (not already refunded);
- If the reworks result in credit balances, these should be refunded to Mrs P along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. JD Williams & Company Limited should also remove all adverse information regarding the accounts from Mrs P's credit file.
- Or, if after the reworks there is an outstanding balance, JD Williams & Company Limited should arrange an affordable repayment plan with Mrs P. Once Mrs P has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

*HM Revenue & Customs requires that JD Williams & Company Limited deduct tax from any award of interest. It should give Mrs P a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 23 July 2024.

Frances Young
Ombudsman