

The complaint

Miss I argues J D Williams & Company Limited acted unfairly by agreeing a catalogue shopping account with a limit she couldn't afford to repay.

What happened

In August 2023 J D Williams gave Miss I a catalogue shopping account with a £500 limit.

Miss I argues that J D Williams shouldn't have agreed this account. She argues that she already had large debts and was missing payments on existing commitments. She also argues she had defaults on her credit file and agreeing this limit only served to make her position worse.

J D Williams considered the complaint but disagreed. It argued that there was no bankruptcy or CCJs on her credit file. It also argued that the defaults were historic and there was no recent adverse information on her credit file. Overall, it argued that it was reasonable to lend.

Unhappy with J D Williams' response, Miss I referred her complaint to our service. One of our investigators considered the complaint and upheld it. They thought the results of the checks J D Williams completed should have suggested to it that it needed to do more in order to establish if the account was affordable for Miss I. And they said that if J D Williams had taken steps to complete further checks, it would have seen it wasn't reasonable to lend.

J D Williams didn't agree and asked for an ombudsman to consider the complaint.

I issued a provisional decision where I explained that I wasn't minded to uphold this complaint. In my provisional decision (which forms part of this decision) I said:

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. I have used this approach to help me decide Miss I's complaint.

J D Williams needed to make sure it lent responsibly to Miss I. It therefore needed to complete sufficient checks to determine if Miss I could afford to sustainably repay the lending. Our website sets out our approach to what we typically think when deciding if a lender's checks were proportionate. There is no set list of checks a lender should do, but there is guidance on the types of checks a lender could complete. However, these checks needed to be proportionate when considering things like the amount and term of the lending, what the lender already knew about the consumer, etc.

Generally, we think that earlier in a lending relationship it would be reasonable for a lender's checks to be less extensive. However, we might expect a lender to do more, for example, if a borrower's income was low or the amount lent was high.

Turning to the checks J D Williams completed, I can see it completed a credit search. However, I can't see it took details of Miss I's income. I think that whilst it was agreeing a relatively low limit, it was important to establish if Miss I was receiving some regular income to demonstrate that she had the means to repay it. So I can't say J D Williams completed proportionate checks.

I'll now consider what I think proportionate checks would have most likely shown.

Turning to the results of the credit search, it showed Miss I had three accounts in default. However, the most recent default was 29 months prior and she had no CCJs or bankruptcy recorded.

It also recorded the worst account status as 1 and "worst_L6m" as 1. Typically, when I've seen results like this it suggests there is an account with a recent missed payment, but that this was the worst account status over the past six months. Therefore, both entries relate to the same account as there was nothing featured which had a worse repayment record in the previous six months.

I asked J D Williams for further clarification on this. It said that the worst account status entry doesn't relate to the number of accounts, it is a status rating. So, it said if there were lots of missed payments then both these numbers (account status and worst_L6m) would be higher. So, J D Williams is making the argument that its results show very limited repayment issues which therefore wouldn't have been concerning to it.

I think that regardless of which interpretation I take of these results, I reach the same conclusion. This is that in the context of a £500 account limit being given, I'm not persuaded that J D Williams should have done more because of these results. The results show that the defaults were historic, and Miss I didn't have any recent CCJs or bankruptcy. And I think it's most likely that they show limited recent adverse information. Miss I has also provided information to show her monthly income in the months leading up to the account being given was around £2,000 per month. So I think that if J D Williams had checked her income, taking into consideration everything else it knew about her, it was reasonable to lend.

I appreciate that further checks, such as looking at her bank statements and completing a full review of her circumstances, may have revealed Miss I was actually in a worse financial position. However, I don't think it was proportionate for J D Williams to take these steps. So it follows that I think J D Williams made a fair lending decision and I don't intend to uphold this case.

Finally, I've thought about whether considering this complaint more broadly as a complaint about an unfair relationship would mean we could consider it. Having done so, I don't think I can.

In the context of this complaint, the law relating to unfair relationships is described in Section 140 of the Consumer Credit Act 1974 (Section 140). It says a court may make an order under Section 140 if it determines a relationship between the creditor and the debtor is unfair. The consumer is the debtor and Section 140 defines the creditor as "the person to whom his rights and duties under the agreement have passed by assignment or operation of law."

So where a debt has been sold, as it has in this case, it follows that the debt purchaser is now the creditor for the purpose of the credit agreement. So a claim about an unfair relationship can't be brought by the consumer against the original lender as they are no longer the creditor.

In response J D Williams agreed with my provisional decision. Miss I didn't agree and made a number of points in response.

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.

Having done so, I'm still not minded to uphold this complaint. I appreciate this will be disappointing for Miss I.

I've read everything that the parties have said, but I'll concentrate my comments on what I think is relevant. If I don't comment on a specific point it's not because I've failed to consider it, but because I don't think I need to comment in order to reach a fair and reasonable outcome. And our rules allow me to do this. This reflects the nature of our service as a free and informal alternative to the courts.

As explained in my provisional decision, J D Williams was required to complete proportionate checks before agreeing to lend. This requirement comes from the Consumer Credit Sourcebook (CONC) in the Financial Conduct Authority's handbook. There is no set lists of checks a lender should complete but there is guidance on the types of checks a lender could complete. However, these checks needed to be proportionate when considering things like the amount and term of the lending, what the lender already knew about the consumer, etc.

As also explained in my provisional decision, I don't think J D Williams completed proportionate checks. Whilst it completed a credit search, I think it was also reasonable and proportionate in the circumstances of this complaint, for J D Williams to take some steps to gather information about Miss I's regular income. However, Miss I confirmed to our service that she earned around £2,000 per month. So I concluded that had J D Williams taken steps to confirm her income, it's likely this is the information it would have uncovered. And so, together with the information the credit search revealed, it would have been reasonable to lend.

Miss I feels J D Williams should have completed more checks and that not to do so was "*inconsistent with responsible lending obligations*". Miss I points to her historic defaults and argues that this should demonstrate she is more of a credit risk and potentially vulnerable. She argues the credit search should have been more detailed and that J D Williams should have reviewed her bank statements. She feels if J D Williams had taken more steps to confirm her actual financial position, it would have uncovered she was in arrears on priority commitments such as council tax, was over reliant on her overdraft and was struggling to meet her other regular expenditure.

I've thought carefully about Miss I's arguments, but I'm afraid I don't agree. J D Williams wasn't required to uncover Miss I's actual position. It was required to take reasonable and proportionate steps as I've described above. In the context of the lending decision being made, I don't think it was reasonable and proportionate to expect J D Williams to complete a full review of Miss I's bank statements. Miss I wasn't applying for a major financial commitment such as a mortgage, she was applying for a £500 catalogue shopping account. And I don't think there was anything in the information it uncovered (or what I think it should have uncovered regarding Miss I's income) which should have suggested to J D Williams that it needed to complete further checks.

Miss I has argued that although her defaults are historic, they show that she has struggled previously and is therefore more likely to have problems going forward. So she argues, in seeing the historic defaults, J D Williams should have completed further checks. However, whilst I agree they show she's struggled previously, the absence of any recent significant adverse information on her credit file would reasonably suggest her circumstances had improved. I accept this isn't definitive (as Miss I has argued). However, I think it was reasonable in the circumstances for J D Williams to have reached this conclusion. Ultimately, I can't agree that this shows recent problems managing her money which is what I would expect J D Williams to consider when making its lending decision.

So taking everything into consideration, I still think that if J D Williams had completed proportionate checks, it would have still been reasonable to lend. As explained in my provisional decision, her credit search results show very limited recent adverse information and the information Miss I has provided shows she was earning around £2,000 per month. So, I think that if J D Williams had completed proportionate checks, it's most likely that this would have shown it was reasonable to lend. So I think J D Williams made a fair lending decision.

I've noted Miss I's comments in relation to s.140 of the Consumer Credit Act 1974. However, as explained in my provisional decision, the outstanding debt has been sold in this case. So a claim about an unfair relationship can't be brought by Miss I against the original lender as they are no longer the creditor.

My final decision

For the reasons explained above, I don't uphold this complaint against J D Williams & Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss I to accept or reject my decision before 1 December 2025.

Claire Lisle
Ombudsman