the complaint

Ms P complains that J D Williams & Company Limited ("JDW") provided her with credit on a catalogue shopping account in an irresponsible manner.

background

Ms P opened a catalogue shopping account with JDW in November 2014. When the account was opened she was granted a credit limit of £150. Over the following two years her credit limit was increased on ten separate occasions reaching £3,000 by November 2017. At the time of making her complaint a balance remained outstanding on her account. A summary of the changes to Ms P's credit limit is as follows;

Date	New Credit Limit
November 2014	£ 150
May 2015	£ 300
June 2015	£ 500
August 2015	£ 700
September 2015	£ 750
December 2015	£ 1,200
February 2016	£ 1,250
May 2016	£ 1,500
August 2016	£ 2,000
October 2016	£ 2,250
November 2017	£ 3,000

Ms P's complaint has been assessed by one of our investigators. She didn't think it had been reasonable for JDW to increase Ms P's credit limit after, and including, the increase in August 2015. And she thought that Ms P's repayment history should have led JDW to suspend Ms P's account from December 2015. So she asked JDW to pay Ms P some compensation.

JDW didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Ms P accepts my decision it is legally binding on both parties.

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 approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding Ms P's complaint.

The rules and regulations throughout JDW's lending relationship with Ms P required it to carry out a reasonable and proportionate assessment of whether she could afford to repay what she owed in a sustainable manner. This assessment is sometimes referred to as an “affordability assessment” or “affordability check”.

The checks had to be “borrower” focused – so JDW had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Ms P. In practice this meant that JDW had to ensure that making the payments to the credit wouldn’t cause Ms P undue difficulty or adverse consequences. In other words, it wasn’t enough for JDW to simply think about the likelihood of it getting its money back, it had to consider the impact of any repayments on Ms P.

Checks also had to be “proportionate” to the specific circumstances of the credit being granted. In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit they are seeking.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer’s income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);

- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);

- the *longer* the period of time a borrower will be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should’ve been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I’ve kept all of this in mind when thinking about whether JDW did what it needed to before setting Ms P’s starting credit limit and offering her the subsequent increases.

Before opening the account, JDW said that it checked Ms P’s financial position using the data shown on her credit file. It says that it monitored this data throughout the time she was borrowing. And it says that it regularly reviewed how she was managing her account with the company, both in terms of the amount and frequency of her repayments. I haven’t seen the full results of the credit checks that JDW received. But I can see from a copy of the credit file that Ms P has given us that she had defaulted on a credit card debt around a year earlier.

I think it would have been proportionate for JDW’s checks to go further than they did. It is difficult to establish whether repayments are affordable without an understanding of a consumer’s income and normal expenditure. But the initial credit limit, and so the amounts Ms P needed to repay, was relatively small. So I don’t think it would’ve been proportionate for JDW to ask Ms P for the amount of information that would be needed to show the lending was unsustainable before initially opening the credit account. I don’t think JDW was wrong to initially open Ms P’s account with a credit limit of £150.

JDW has told us that it increased Ms P’s credit limit by informing her of the change on her monthly statement. But given the time that has passed it is no longer able to give us copies of these statements. So it isn't clear to me whether Ms P was given a reasonable opportunity to consider if she wished to accept the increase or not. JDW has said that at any time Ms P was able to refuse a credit limit increase, or indeed ask for her limit to be reduced. But even if I found that hadn't been made to clear to Ms P I haven't seen anything to suggest she would have declined the increases. It seems that Ms P made use of the increased credit limits and continued to purchase goods using her account.

Ms P had been using her account for around six months when JDW doubled her credit limit. It made a further increase the following month. So by June 2015 Ms P's credit limit had increased from £150 to £500. I have the same concerns I expressed earlier about the checks JDW did before granting these increases to the credit limit. By this time Ms P had been required to make six monthly repayments. And I can see that, with the exception of the first month, she had only made the minimum repayment required. And in fact it appears that Ms P missed two of the monthly repayments she had been due to make. But Ms P's account broadly remained within the original credit limit so I haven't seen enough to persuade me that these two increases shouldn't have been given either.

In July 2015 Ms P's outstanding balance increased significantly. And she continued to make only the minimum payment that was required. So I think that might have suggested to JDW that she was finding it difficult to manage her credit in a sustainable manner. I think it might have been reasonable at that time for JDW to probe deeper into Ms P's finances to establish her true financial position.

To help me get an understanding of what Ms P's finances were like at the time of the next increase – in August 2015 – I've looked at copies of her bank statements. I'm not suggesting that is the exact check that JDW should have done. It may have chosen other methods to get a better understanding of Ms P's financial position. But using her bank statements gives me a good picture of what was going on at the time, and what would have been discovered by JDW had it done what I consider to be proportionate checks.

JDW has said that Ms P's credit file didn't suggest she was having problems managing her credit. It says that it didn't, for example, show evidence of late or missed payments. But it wasn't enough for JDW to consider whether Ms P could simply repay any borrowing. It needed to establish that she could repay the borrowing in a sustainable manner – that is from income or savings without having to borrow further.

The information on Ms P's bank statements shows me that she wasn't repaying her credit sustainably. Ms P was borrowing from a number of other short term lenders – she was taking new loans to help meet both her repayments on previous lending, and her day to day living costs. And that it underlined by her choosing to make only the minimum payments to JDW that were required. So I don't think that it was reasonable for JDW to make this, or any of the subsequent increases to Ms P's credit limit.

JDW increased Ms P's credit limit again in September 2015. And then in December 2015 the limit was increased by 60% to £1,200. It was now more than ten times greater than the original limit Ms P had been given a year before. And whilst those increases were being granted, Ms P continued to make just the minimum repayments on her account. Her balance was consistently increasing, and each new credit limit simply provided her with the headroom to grow her debt further.

I think by December 2015, when Ms P's account was a year old, that it was clear she was unable to manage her credit sustainably. I think at that point JDW should have taken steps to restrict the use of Ms P's account, and discuss a plan to reduce her debt in a sustainable manner. JDW didn't do that – it continued to lend increasing amounts to Ms P.

Further defaults from other credit providers were added to Ms P's credit file in October 2015, and in March, June and August 2016. That should have been a further warning to JDW about the problems that Ms P was facing. But instead it continued to increase Ms P's credit limit. Around March 2018 Ms P found herself unable to make even the minimum repayments that were required and her account was defaulted in October 2018.

So in summary I think that JDW's lending to Ms P was irresponsible. I think by August 2015 JDW should have seen that further increases to Ms P's credit limit were unsustainable. And I think that by December 2015 it should have taken action to limit Ms P's use of the account. So JDW needs to put things right.

putting things right

Given what I have decided above, JDW should;

- Remove any interest due in relation to changes to Ms P's credit limit after, and including, 13 August 2015. So in effect, from that date JDW should only charge interest on the first £500 of any outstanding balance.
- Remove all interest and charges (including any delivery fees) added to Ms P's account on or after 3 December 2015.
- Recalculate Ms P's running account balance taking into consideration the two adjustments noted above. Any repayments made by Ms P should be used to reduce the outstanding balance.
- For any periods where the recalculated balance is in credit, JDW should pay Ms P interest on the credit amount at a rate of 8% simple per annum* for the period the account remains in credit.
- Should a credit balance remain on the account at the conclusion of all the adjustments this should be refunded to Ms P together with 8% simple interest* calculated from the date of overpayment to the date of settlement. If an outstanding balance remains I would remind JDW that it should treat Ms P sympathetically when seeking to agree an affordable repayment plan.
- Remove any negative information added to Ms P's credit file from 3 August 2015 onwards.

* HM Revenue & Customs requires JDW to take off tax from this interest. JDW must give Ms P a certificate showing how much tax it's taken off if she asks for one.

my final decision

My final decision is that I uphold part of Ms P's complaint and direct J D Williams & Company Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 21 November 2020.

Paul Reilly
ombudsman