

complaint

Mr S complains that J D Williams & Company Limited, trading as Fashion World, lent to him irresponsibly.

background

Mr S applied for an account with Fashion World in March 2014 and an account was opened for him with a credit limit of £125. The limit was increased to £225 in April 2014, £325 in May 2014, £500 in June 2014 and £700 in August 2014. Mr S's last payment to the account was for £5 in July 2014 and the account balance was then £35.16. The account balance increased to more than £1,000 in December 2015. Mr S complained to Fashion World in February 2017 that it had lent to him irresponsibly. He wasn't satisfied with its response so complained to this service.

The investigator didn't recommend that this complaint should be upheld. She didn't think that there was any evidence to suggest that the lending by Fashion World was irresponsible. She said that Mr S was able to make regular payments to his account until late July 2014, which suggested that he was able to manage his account. And she said that if he was unhappy with the increase in his credit limit, he could've informed Fashion World when he received notice of the increase. So she concluded that Fashion World hadn't acted unfairly or unreasonably.

Mr S has asked for his complaint to be considered by an ombudsman. He says, in summary, that he attached his credit report which showed his other short term loans – and he says that he was using those loans to make the repayments to Fashion World. He also says that credit checks would've shown those loans and he should've been assessed as a high credit risk. And he says that he shouldn't have been considered to be in control of his finances and shouldn't have been allowed to borrow even more.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr S and to Fashion World on 6 June 2017. In my provisional decision I said as follows:

“Mr S's credit report when he applied to Fashion World for the account showed his debts to short term lenders. But I don't consider that it was irresponsible for it to open an account for Mr S with a credit limit of £125. It then increased his credit limit four times in five months so that, in August 2014, the account had a credit limit of £700 – nearly five times the limit that he was given in March 2014. Whilst it's acceptable for a credit provider to use its own criteria to assess whether to provide credit to an applicant, if it doesn't properly assess the applicant's credit history and the affordability of the credit for them, there is an increased risk that the credit won't be affordable and the lending will be considered to be irresponsible.

I've seen no evidence to show that Mr S asked for his credit limit to be increased. Although Mr S did make repayments to Fashion World between March and July 2014, I'm not persuaded that his account history justified such increases in his credit limit. And Fashion World hasn't provided enough evidence to persuade me that it properly considered whether the credit limits were affordable for Mr S. So I consider that the increases in Mr S's credit limit were irresponsible lending by Fashion World.

But Mr S didn't have to use the increased credit limit – and it was his decision to buy the goods for which he used the credit. I consider that the goods that he bought weren't essential items and I'm not persuaded that he needed to buy them. Mr S received those goods and has had the benefit of them. So I consider it to be fair and reasonable that he should pay for those goods.

Fashion World says that Mr S contacted it in June 2015 about his financial difficulties. It says that the account was already on a temporary payment arrangement and that it acknowledged Mr S's request to freeze interest but said that the account would be reviewed every six months (and that Mr S was told that before it can consider an account for review, it is important that payments are made and kept up to date). It says that it asked Mr S to make contact so that it could fully understand his circumstances and to agree a repayment arrangement – but it received no further communication from Mr S until he complained to it in February 2017. But I'm not persuaded that there's enough evidence to show that it responded to Mr S's financial difficulties promptly and sympathetically – as it's required to do.

So I consider that it would be fair and reasonable in these circumstances for Fashion World to refund to Mr S's account all interest and charges that have been applied to the account. It should then try to agree an affordable repayment plan with Mr S which takes account of his income and expenditure. I also consider that it should remove any adverse information about the account that it has recorded on Mr S's credit file”.

Subject to any further representations by Mr S or Fashion World, my provisional decision was that I was minded to uphold this complaint in part.

Mr S has accepted my provisional decision. But Fashion World says, in summary, that:

- it wasn't advised by Mr S that he was using short term loans to make payments or that he had any financial difficulties - and it didn't receive a copy of his credit report;
- he must've been up to date with his short term loan payments as this would've affected the decision taken to increase the credit limit - and there was never any obligation to utilise the credit limit;
- the increases to the credit limit are automatic and follow a period where a customer has demonstrated that they can place orders and maintain payments;
- a refund of interest and charges will mean that Mr S has a credit account interest free which isn't fair to Fashion World's other credit account holders;
- any payment arrangement will need to be made with the debt recovery agent; and
- removing the adverse information from Mr S's credit file could have serious repercussions for any future credit lender should Mr S be able to obtain credit – and would be a breach of the guidelines.

my findings

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 not persuaded that I should change my provisional decision.

Fashion World increased Mr S's credit limit four times from £125 in March 2014 to £700 in August 2014. It says that those increases were automatic and that it didn't check his credit report. But I'm not persuaded that Mr S's payment history justified such increases. Fashion World didn't properly consider whether the credit limits were affordable for Mr S and I consider that the increases were irresponsible lending. I accept that Mr S didn't have to use

the credit limit and that he has benefitted from the goods that he purchased using the credit – and it's for those reasons that I consider that Mr S should be liable for the cost of those goods. But I consider that Fashion World's irresponsible lending has contributed to Mr S's financial difficulties. So I find that it would be fair and reasonable for it to refund all interest and charges that it has applied to Mr S's account. And I find that it should remove the adverse information that it's recorded on Mr S's credit file. Although Mr S's account may have been transferred to a debt recovery agent, I consider that Fashion World should use its reasonable efforts to agree an affordable repayment plan with Mr S for the amount that he owes – which may mean that it needs to arrange for the debt to be returned to it.

For these reasons, my decision is that I uphold Mr S's complaint in part. In full and final settlement of it, I order J D Williams & Company Limited, trading as Fashion World, to:

1. Refund all interest and charges that it has applied to Mr S's account.
2. Use its reasonable efforts to agree an affordable repayment plan with Mr S for the outstanding balance of the account which takes account of his income and expenditure.
3. Remove any adverse information about the account that it has recorded on Mr S's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 August 2017.

Jarrold Hastings
ombudsman