

## The complaint

Ms D complains J D Williams & Company Limited ("JDW") irresponsibly gave her a running account credit agreement she couldn't afford.

## What happened

In 2015, Ms D applied for a catalogue shopping account with JDW. It was an open-ended running credit account, and she was given an initial credit limit of £200. The limit was increased twice in as many months so that it reached a total of £500.

Ms D stopped using the account in 2015 and resumed again in August 2019. JDW increased the credit limit in September and October 2019 to £800 and then £1,300. A final limit increase was applied in February 2021 to £1,800.

Ms D complained to JDW in January 2023 to say the account had been unaffordable to her and in increasing the credit limit, JDW had made her financial circumstances worse. JDW didn't think it had acted unfairly in advancing her credit.

I sent Ms D and JDW my provisional decision on 5 September 2023. I explained why I was minded to uphold the complaint in part. I said:

*Prior to granting Ms D with credit JDW were required to ensure she could sustainably afford to repay what she borrowed. There isn't a set list of checks JDW had to complete, however, it needed to make sure the checks it carried out were proportionate in the circumstances. What is considered proportionate will vary, and in circumstances such as this where JDW increases the availability of credit over time, it's more likely that more thorough checks will be required later in the lending relationship than at the beginning, to take account of the differences in the amount of credit being lent.*

*In deciding what was proportionate each time it extended credit to Ms D, JDW needed to take into account things such as (but not limited to): the amount of credit, the size of any regular payments (taking into consideration the rules and guidance in CONC relating to assumptions concerning running account credit agreements), the cost of credit and the consumer's circumstances.*

*JDW hasn't been able to provide much information about Ms D's application for the account in 2015. However, given the amount of time that's passed, I don't find that particularly concerning or surprising. Ms D has given us a copy of her credit file, but I've not seen anything on there to indicate that any credit checks JDW might have done at the time would have alerted it to any affordability concerns.*

*As I don't know exactly what checks JDW did, or what it saw when it did those checks, I can't be certain it completed reasonable and proportionate affordability checks when it granted credit to Ms D in 2015. However, from all the available evidence presented to me from both parties, I've not seen anything to indicate it made an unfair lending decision as I've seen nothing to persuade me the credit was*

unaffordable at that time.

*I note that Ms D appears to have borrowed less than £100 on the account in 2015 and repaid it within two months without using the account again until 2019. It appears she was charged less than £6 in interest during that time. Therefore, in any event, I'm not satisfied she's suffered any significant detriment due to those early lending decisions.*

*When Ms D started using her account again in 2019, I think JDW made an unfair lending decision when it decided to increase her existing credit limit. It did so within a month of her starting to use the account again after nearly a four year break in account activity. Further, as soon as she began to use it, she came close to utilising all of her available credit limit, something she hadn't done previously. This ought to have been of some concern to JDW.*

*JDW has provided us with some data of the checks it did monthly with credit reference agencies. However, it appears the data is incomplete for the months up to and including September 2019, when it increased the credit limit to £800. I've noted that the following month, when JDW increased the limit again to £1,300, its checks showed that Ms D had a recent default recorded on her credit file (from January 2019). As this showed in that particular check, I'm persuaded it was likely visible to JDW the previous month too where its data submission to us was incomplete.*

*This default was actually two defaults, again something I'm satisfied JDW would likely have seen. Both defaults were for Ms D's current accounts. This ought to have indicated to JDW that she was likely in significant financial trouble very recently. I note that Ms D's credit file also shows that at this time she had other defaulted debts dating further back where she still owed in excess of £9,000 at the point JDW increased her limit, as well as evidence of arrears and late payments on other credit. I think, on balance, all of this information would have been visible to JDW when it completed its credit check at that time, and if it wasn't, it ought to have been as part of any proportionate affordability check.*

*JDW ought therefore to have been aware that Ms D had very recently been unable to maintain two current accounts, indicating she wasn't sustainably managing her existing finances. It ought to have also seen that Ms D had a history of defaulted credit and missed payments on other accounts since the JDW account had opened in 2015. And, that she still owed significant amounts of debt across a number of other unsecured loans as well as being responsible for a mortgage. This coupled with Ms D's sudden and dramatic increase in credit utilisation on her JDW account ought to have indicated that extending further credit to Ms D would likely cause her financial difficulty, or more likely, make her existing financial difficulty worse. I therefore don't think JDW made a fair lending decision when it increased her credit limit above £500.*

*As I think JDW acted unfairly, it should now put things right. It isn't possible to undo the lending that has happened. However, as I think Ms D should never have been in a position where her credit limit exceeded £500, I consider it fair that JDW reworks the account to remove all interest and charges that applied to balances that exceeded that amount (it can still charge interest up to balances of £500). As Ms D did borrow on the account, I think it's fair she pays back the capital amounts she borrowed. Once the capital is repaid, JDW should also ensure it removes any adverse information it may have recorded on Ms D's credit file when her balance exceeded £500.*

Neither JDW nor Ms D responded to my provisional 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.

As neither party has provided any further comments or evidence in response to my provisional decision, I've seen no reason to reach any different conclusion. I'm therefore satisfied that JDW made an unfair lending decision when it increased Ms D's credit limit above £500. It should therefore put things right in the way I set out in my provisional decision.

## **My final decision**

For the reasons given above, I uphold this complaint in part and direct J D Williams & Company Limited to:

- Rework the account, removing all interest, fees, charges and insurances that were applied to balances exceeding £500.
- If the rework results in a credit balance, JDW should refund any overpayments, adding 8% simple interest per year to those refunds from the date of each overpayment to the date of settlement. JDW should also remove any adverse information it may have recorded on Ms D's credit file.

Or

- If the rework results in there still being a capital balance outstanding JDW should set up an affordable repayment plan with Ms D for the remaining amount. Once Ms D has paid back the balance, JDW should remove any adverse information it may have recorded on her credit file.

If JDW considers tax should be deducted from the interest element of my award it should provide Ms D with a certificate showing how much it has taken off, so she can reclaim that amount, if she is eligible to do so.

If any outstanding debt has been sold to a third party, JDW should either buy the debt back so that it can carry out these directions or ensure the third party does so on its behalf.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 24 October 2023.

Tero Hiltunen  
**Ombudsman**