The complaint

Mr H says J D Williams & Company Limited ("J D Williams") irresponsibly lent to him. He has requested that the interest and late payment charges he paid, on the four accounts he had, be refunded.

What happened

This complaint is about four catalogue shopping accounts provided by J D Williams to Mr H.

Account A was opened in December 2011 with Mr H being given an initial credit limit of £125. This limit was increased seven times until it reached £1750 in April 2013. That account fell into arrears and went into a payment plan in September 2014. The account was sold to a third party debt collection firm subsequently.

Account B was opened in June 2017 with Mr H being given an initial credit limit of £150. This limit was increased seven times until it reached £2000 in January 2018. This account also fell into arrears.

Account C was opened in December 2018 with Mr H being given an initial credit limit of £175. This limit was increased five times until it reached £1000 in April 2019. The credit limit was reduced in November 2019 to £850 and payments had ceased to be made by Mr H from August 2019 onwards.

Account D was opened in January 2019 with Mr H being given an initial credit limit of £200. This limit was increased four times until it reached £1000 in April 2019. The credit limit was reduced in December 2019 to £790 and payments had ceased to be made by Mr H from September 2019 onwards.

Mr H says he's unhappy that J D Williams continued to increase his credit limits on the accounts when he was in financial difficulties.

Our adjudicator partially upheld Mr H's complaint. He thought that the first account was not an example of unreasonable lending, but he thought that J D Williams ought to have realised that Mr H wasn't in a position to sustainably repay any further credit by the time it offered Mr H Accounts B, C and D.

J D Williams agreed in part. It thought it had been wrong to offer the credit in Account B, but it defended its lending for accounts C and D. So, the complaint has therefore passed to me to decide.

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.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website.

J D Williams needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr H could afford to repay what he was being lent in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that J D Williams should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the frequency of borrowing, and the longer the period of time during which a customer has been indebted (reflecting the risk that prolonged indebtedness may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Our adjudicator thought that the lending on Account A was not an example of irresponsible lending. Our adjudicator set out in some detail why he thought J D Williams shouldn't have provided Mr H with any additional credit from June 2017 onwards, when Account B started. Both parties have seen that assessment and Mr H has not raised any objection to those findings. And J D Williams agreed that the complaint about Account B should be upheld. So, in the absence of any argument about Account A or B, I'll address the later lending on Account C and D. But in doing so, I won't ignore Account A and B as I think they provide us with information about Mr F's overall pattern of lending, that could have informed lending decisions on Accounts C and D.

I've looked at the overall pattern of J D Williams' lending history with Mr H, with a view to seeing if there was a point at which J D Williams should reasonably have seen that further lending was likely unsustainable, or otherwise harmful. If so, that would mean J D Williams should have realised that it shouldn't have provided further credit. Our adjudicator thought that there was such a point in June 2017. Having considered all the submissions in this case, I agree. I will explain why I say that.

J D Williams should not have provided new credit for Account B, or the subsequent accounts, because the credit it provided for Account A had led to a large credit limit being used and then some missed payments that eventually led to a payment plan and the account being sold. It seems that the pattern of lending shows from this that with a lower credit limit Mr H was able to manage his account well. But the higher credit limit led Mr H to raise his balance, and that led to largely minimum only payments then underpayments, and then missed payments. Account A demonstrated that when the credit limit was high, Mr F was not able to manage his account well.

J D Williams agreed that the handling of Account A, in particular at the end of 2016, was sufficiently close in time to their lending decision to provide credit on Account B in June 2017 to have been a significant consideration in whether or not the lending on Account B was unreasonable. In reaching that view J D Williams also took note of a default on Mr F's credit file from one of his other credit sources at that time. And J D Williams concluded it was wrong to provide Mr F with credit on Account B. For the reasons given above, I agree with that.

But J D Williams thought that the lending for Accounts C and D was reasonable because they started in December 2018 and January 2019 respectively, and so were separated from the default, and the events of Account A, by two years. J D Williams told us it also considered that Mr F's general credit history was good in the two years before these Accounts were set up and was sufficient to justify further lending.

I think it is reasonable to consider what had happened in Account A previously, despite its separation in time, when considering whether the lending for Accounts C and D were reasonable. Considering a consumer's pattern of lending over time is a reasonable consideration in these matters. But I also think it reasonable to consider what was happening in Account B at the same time that J D Williams was making lending decisions about Account C and D.

In thinking about all of this, I have noted the pattern of lending that can be seen in Account A is repeated again in Account B. In both accounts there was a history of quick credit increases which led to large balances. With a large balance, Mr F's ability to make payments other than minimum payments was in question in Account A. Account A's credit increases led to a large balance, then arrears and the debt being sold to a third party.

In Account B the credit limit was raised to £400 on 5 October 2017. By 30 November 2017 the credit limit was raised to £1000. The balance raised from £85.75 in October 2017 and by 28 December 2017 the balance had risen to £936.11. The balance remained at a similar amount until further credit increases were followed by further balance increases.

And even though the balance was a little lower than it was to become a little later there is still evidence of a missed payment in April 2018 and an underpayment in October 2018. So whilst the evidence is not as omnipresent as it would become on the three remaining accounts in 2019, it would be incorrect to suggest, as J D Williams has, that there was no evidence of financial difficulties from Mr F's management of his accounts before it provided Accounts C and D.

In November 2018, just before Accounts C and D were offered, Mr F had a balance of £1563.11 on Account B, which was the sort of balance that he had reached on Account A before he started to get into trouble on that account. On account B Mr F was using most of his credit limit and had shown a less than perfect recent payment history at the time J D Williams decided to extend two more lines of credit to Mr F.

I think the pattern of lending on J D Williams own accounts should have suggested to them that it was likely that Mr F would have been unable to reduce the increasing debt on the account whilst at the same time having to meet his daily living expenses and other credit commitments, most likely.

So, I think that proportionate checks would likely have shown J D Williams that Mr H was in difficulty with managing his account alongside his other debts and day-to-day living expenses. I also think there was a significant risk that further increases to his credit could have led to his indebtedness increasing unsustainably, such that he had no funds available to meet his debts and regular outgoings.

It follows that I think that Mr H lost out because J D Williams provided him with further credit from June 2017 onwards. In my view, J D Williams' actions unfairly prolonged Mr H's indebtedness by allowing him to use credit he couldn't afford over an extended period of time and the interest being added would only have the effect of putting him into further debt.

It follows that J D Williams should put things right.

Putting things right

- rework accounts B, C and D to ensure that all interest, fees and charges are removed. This is to reflect the fact that these accounts should never have been provided in the first place; and

- If an outstanding balance remains on any of the accounts once these adjustments have been made J D Williams should contact Mr H to arrange suitable repayment plans. If J D Williams considers it appropriate to record negative information on Mr H's credit file, it should backdate this to June 2017 when Account B was opened.

Or

- If the effect of removing all interest, fees and charges results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr H, along with 8% simple interest on the overpayments from the date they were made (if they were) until the date of settlement†. If no outstanding balance, or balances, remain after all adjustments have been made, then J D Williams should remove any adverse information from Mr H's credit file.

If J D Williams sold the outstanding balances on any of these accounts to a third party debt purchaser, it either needs to buy the accounts back from the third party and make the necessary adjustments; pay an amount to the third party so it can make the necessary adjustments; or pay Mr H an amount to ensure that it fully complies with this direction.

†HM Revenue & Customs requires J D Williams to take off tax from this interest. J D Williams must give Mr H a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons set out, I'm partially upholding Mr H's complaint. J D Williams & Company Limited should put things right in the way set out above.
Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 31 May 2022.

Douglas Sayers
Ombudsman