

The complaint

Mr M complains a discount code offered by J D Williams & Company Limited trading as Fashion World (“JDW”), was not accepted on a purchase he made, and this has resulted in him having a higher balance and incurring more interest charges on his JDW catalogue shopping account.

What happened

I issued a provisional decision on Mr M’s complaint, in which I outlined the background, and explained my provisional findings, on 28 July 2024. A copy of that provisional decision is appended to and should be treated as forming a part of this final decision. For this reason, it’s not necessary for me to go over things again in detail, but in brief summary:

- Mr M has a catalogue shopping account with JDW which allows him to buy goods on credit from another JDW brand – “Fashion World”.
- Mr M thought a discount code should have been applied to a purchase he made from Fashion World, but it was not. He was unhappy about this, that his complaint about it wasn’t responded to, and that he’s ended up paying more in interest on his account due to the non-application of the discount.

In my provisional decision I made the following key findings, which are explained in more detail in the appended document:

- I was unable to comment on whether or not the discount code should have been applied, as this was part of JDW’s retail activities, which the Financial Ombudsman Service didn’t have the power to look at a complaint about.
- I was also unable to comment on how the complaint about the discount code had been handled, as complaint handling by itself was not an activity the Financial Ombudsman Service had the power to look at a complaint about.
- I was able to comment on Mr M’s complaint about having a higher balance and having paid more interest as a result of the discount code not being applied, as that related to his regulated credit agreement with JDW. However, I didn’t think this part of the complaint could be upheld, because it appeared JDW had fairly charged to the account in line with its terms.

I invited the parties to the complaint to let me have any further submissions before 12 August 2024. I had been made aware by Mr M that he was taking JDW to court over the issue of the discount code, and by JDW that Fashion World was reviewing the complaint about the discount code again. I specifically asked the parties to provide an update on these matters before 12 August 2024.

The deadline has now passed, with no response from either party, so the case has been returned 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.

Because neither party to the complaint has put forward any new evidence or arguments for me to consider, I see no reason to depart from the findings I made in my provisional decision.

It follows that I can only comment on the part of the complaint about the account having a higher balance and attracting more interest as a result of the discount code not being applied. My conclusions on that part of the complaint are the same as they were in my provisional decision, and for the same reasons. JDW did not apply interest to the account unfairly, given its terms allowed it to do so, and given there was no provision within the terms for interest not to be charged on disputed balances.

My final decision

For the reasons explained above, and in the appended provisional decision, I do not uphold Mr M's complaint. I have not commented on the merits of his complaint about the failure to apply the discount code, again for the reasons explained above and in the appended provisional decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 September 2024.

Will Culley
Ombudsman

COPY OF PROVISIONAL DECISION

I've considered the relevant information about this complaint.

Having done so, while I agree with some of what our investigator said, I think it's appropriate for us to make findings on the aspects of Mr M's complaint which relate to his catalogue shopping account itself. So I need to give the parties to the complaint an opportunity to respond before I make my decision final.

I'll look at any more comments and evidence that I get before 12 August 2024. But unless the information changes my mind, my final decision is likely to be along the following lines.

The complaint

Mr M complains a discount code offered by J D Williams & Company Limited trading as Fashion World ("JDW"), was not accepted on a purchase he made, and this has resulted in him having a higher balance and incurring more interest charges on his JDW catalogue shopping account.

What happened

Mr M has an account with JDW which allows him to buy goods on credit from Fashion World, which is a brand which is also owned and operated by JDW. This sort of account is often referred to as a "catalogue shopping" account, and it's a type of running account credit agreement regulated by the Consumer Credit Act 1974 ("CCA"). I will refer to it as the "credit account" in this provisional decision.

Mr M wanted to use a discount code which he'd been sent by Fashion World, on a particular purchase of clothes in December 2023. The code wasn't accepted by Fashion World during the purchase process, and the full price was billed to Mr M's JDW credit account. Mr M complained about this – he said no expiry date had been listed for the code – but he found it difficult to get any kind of response to his complaint.

Mr M subsequently contacted the Financial Ombudsman Service to ask us to look into the matter. We wrote to JDW, who responded to say they didn't think the part of Mr M's complaint about the discount code not being applied was something we were able to look into, because it wasn't about a type of activity covered by the Financial Ombudsman Service. JDW said it hadn't been aware of Mr M's concerns about being charged more interest, and wanted an opportunity to address these concerns first before we made any findings on them.

One of our investigators considered the available information and concluded we couldn't look into the complaint about the discount code not being accepted. He said the complaint about the interest charges would need to be looked at separately. Mr M asked to appeal our investigator's assessment, adding that JDW had failed to log his complaint and this was also something he wanted to complain about. He said he was taking JDW/Fashion World to court over the matter of the discount code.

Our investigator reiterated his views and added that because complaint handling was itself not regulated, that wasn't something we could look into for Mr M either.

No agreement could be reached, and so the case has now been passed to me to decide. In the meantime, JDW has provided a response to the complaint about the interest charged on

the credit account, which I could sum up as being that JDW thinks it charged the interest in the way it says it will in its terms and conditions, and so it doesn't think it's done anything wrong.

What I've provisionally 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.

At its heart, Mr M's complaint is a simple one. He thought his discount code should have been valid and accepted for his purchase, but it wasn't. He has owed more money, including interest, on his credit account with JDW as a result. He's also unhappy about how his complaint was handled by JDW. Unfortunately, due to the way the regulatory system works, there are limits to what the Financial Ombudsman Service can do in a situation like this, which I'll explain below.

I am unable to look into a complaint about the discount code, or about how that complaint was handled

Our complaint handling rules are set by the Financial Conduct Authority (FCA) and are contained in a chapter of the FCA's Handbook called DISP. They are therefore normally known as the "DISP" rules. Section 2 of the DISP rules outlines the limits of the powers of the Financial Ombudsman Service – and one of these limits is that the Financial Ombudsman Service only has the power to look at complaints about certain types of activity carried on by a financial business.

If an activity isn't on the list, so to speak, then we are unable to consider a complaint about it, *unless* it is ancillary to an activity which *is* on the list.

Lending money under a regulated consumer credit agreement (such as Mr M's credit account with JDW) is a type of activity the Financial Ombudsman Service can look at a complaint about. This includes things like administering the account, adding interest, and demanding repayments. Selling clothes on a website as a retailer, which is also something JDW does under its Fashion World brand, is not a type of activity we can look at a complaint about.

I've thought about whether JDW's retail activities could be considered ancillary to the provision or running of the credit account. There is nothing in Mr M's credit agreement with JDW to suggest that this is the case, and in fact I think it must be the other way around: the provision and running of the credit account is ancillary to the retail activities, as the purpose of the account is to enable Mr M to pay for the goods he has purchased. Indeed, it isn't even necessary to open a credit account to pay for the goods – they can be paid for in other ways. So, it's clear the credit account supports (i.e. is ancillary to) the retail activity of selling clothes.

What this means is that I don't have the power to decide whether Fashion World was right or wrong not to honour the discount code, as that is something which falls under JDW's retail activities.

As our investigator pointed out, the activity of complaint handling itself is also not on the list of activities the Financial Ombudsman Service can look at complaints about. This was confirmed some years ago by the courts in the case of *Mazarona v. Financial Ombudsman Service*. I know Mr M is unhappy with the lack of a response to his complaint about the

discount code, but that's not something I have the power to look into either.¹

I'm unable to uphold the part of the complaint about the credit account itself

Part of Mr M's complaint is that he had a higher balance and has incurred more interest charges than he otherwise would have, because of Fashion World's failure to honour the discount code. While I can't comment on whether Fashion World should or shouldn't have honoured the code before billing the amount to the credit account, for the reasons I've explained, I can comment on the fairness of JDW applying interest to the transaction.

I've been unable to find anything within the terms of the credit account which, for example, says that Mr M will not be charged interest on amounts billed to the account which are disputed. There is a section dealing with promotional rates of interest, but this appears to be unrelated to any disputes over discount codes so I don't think this assists Mr M.

I think if there was evidence that Fashion World had accepted to Mr M that the discount code should have been applied, and JDW had then failed to make the required amendments to the transactions on the credit account, then I could have required JDW to make those amendments. However, this is hypothetical as I've seen no evidence that Fashion World accepts Mr M's argument that the code should have been applied.

My provisional decision

I realise this will disappoint Mr M, but I'm unable to comment on Mr M's complaint about the failure to apply to discount code, or how that complaint was handled. I'm also minded to decide that JDW hasn't behaved unfairly or unreasonably in how it has administered the credit account.

I now invite the parties to the complaint to let me have any further submissions they would like me to consider, before 12 August 2024. I will then review the case again.

I am aware that Mr M has said that he was taking Fashion World to court over the discount code, and that JDW has said it has asked its retail arm to look into Mr M's concerns over the discount code. I would be grateful if both parties could provide updates on these issues before the deadline above.

Will Culley
Ombudsman

¹ There are some limited circumstances where we are able to look into such complaints, such as where the complaint handling is effectively a continuation of an activity which is on the list of ones we can look into complaints about. However, these circumstances don't apply here.