

The complaint

Miss B complains that Next Retail Ltd (“Next”) irresponsibly granted her credit for a catalogue account that she couldn’t afford to repay.

What happened

Miss B entered into an agreement with Next to have access to credit with a Next catalogue account in January 2007. The credit limit was increased seven times between February 2008 and December 2016, going from £800 up to £3,000 – although in December 2015 it had been increased to £5,000, before being lowered later. In total, the credit limit was also decreased on three occasions during this period, in May 2008, August 2015 and September 2016.

In June 2017 Miss B contacted Next about being in financial difficulty and agreed a payment plan which last for several months.

As the jurisdiction of this service to look at complaints about affordable lending begins after 6 April 2007, we cannot look into the account opening or any credit limit increases that took place before then.

Miss B says that Next didn’t complete adequate affordability checks when it granted her increased credit limits. She says if it had carried out proper checks, it would have seen that it wasn’t affordable for her.

Our adjudicator said Next shouldn’t have increased Miss B’s credit limit in December 2016. As Next doesn’t agree, saying it acted responsibly in the way it handled the account, the complaint has been passed to me for a 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.

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.

Next 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 Miss B could afford to repay what she 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 Next 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.

Credit limit increases/decreases between February 2008 and September 2016

I've seen that Miss B has provided us with some bank statement information but only from 2013. She has also sent us a P60 for the year ended March 2013.

I agree with our adjudicator that based on the available information, the four credit limit increases from February to July 2008, with the credit limit going up to £3,600, appear likely to have been affordable. I've seen that Next completed credit checks and I haven't seen any evidence of significant adverse information about Miss B's financial situation during this time. But I still think it would have been proportionate for Next to have taken steps to find out more about any changes to Miss B's income as well as the level of committed expenditure she had at the point of each of these increases.

Looking at the credit limit increase up to £5,000 in March 2013 – the highest that Next offers its customers – I again think it would have been proportionate for Next to have taken steps to find out more, this time verifying Miss B's income and getting some idea of her committed expenditure. I can't be sure exactly what Next would have found out if it had asked. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Miss B's bank statements as to what would most likely have been disclosed. This has also been backed up by the P60 Miss B sent us. Miss B was receiving a monthly income of around £2,400 at that time. I also note she appears to have had a debt payment arrangement at this time, making a payment of around £400 in December 2012 and January 2013. She was also making repeated use of gambling sites, spending a significant proportion of her income on them, especially immediately prior to the increase, she appears to have been managing the account and her general financial situation without any noticeable difficulty.

I also think Next should have carried out the same checks in December 2015, when Miss B's credit limit was again returned to £5,000. I've reviewed some bank statements from this point. I can also see that Miss B appears to have been in a debt management plan in place to which she was making monthly payments of around £200. Her monthly income had increased to around £2,900 and she was again making use of gambling sites. She was still able to manage her day to day living expenses and appeared able to fund her gambling out of her disposable income. And given that she was still managing her account within the credit limit and not incurring additional interest or charges as a result of the limit increase, I can't see that this increase had caused her to lose out financially.

December 2016 credit limit increase

In December 2016, Next increased Miss B's credit limit back up to £3,000. By now, although Miss B had a monthly income of around £3,000, she was making very heavy use of gambling sites, spending around £2,000 per month in the three months prior to the increase. Whilst she did not go into her overdraft, and was still left with a limited amount of disposable income, I think this level of gambling showed a real risk that it was getting out of hand, with Miss B's behaviour clearly demonstrating that she was using an increasing amount of her disposable income. I think in view of Miss B's credit history with Next, taking into account the three limit decreases she'd had – the previous one being a reduction from £5,000 to £1,000 due to concerns about her account use - Next should have taken steps to once again verify Miss B's income and also find out more about her committed expenditure and living costs. I can't be sure exactly what Next would have found out if it had asked. But in the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Miss B's bank statements as to what would most likely have been disclosed. I therefore think that had Next carried out better checks at this point, it's likely it would have realised that the increased credit limit wasn't something that Miss B could demonstrate was affordable to her on a sustainable basis, with a real risk that she could be pushed into financial difficulty and that the additional credit was therefore unlikely to be increasingly affordable for her. Because of this, I think the increase to the credit limit in December 2016 was unfair and it follows that any subsequent increases should not have been offered had adequate checks been carried out at this point.

It follows that I agree with our adjudicator that Next ought not to have increased Miss B's credit limit in December 2016.

Putting things right – what Next needs to do

Next shouldn't have increased Miss B's credit limit to £3,000 in December 2016. Next therefore needs to do the following.

- Rework Miss B's account to ensure that all interest and charges should be removed from the account for balances over £1,000, being the previous credit limit in place. All late payment and over limit fees should also be removed; and
- If an outstanding balance remains on the account once these adjustments have been made, Next should contact Miss B to arrange an affordable repayment plan for the account. Once Miss B has repaid the outstanding balance, it should remove any adverse information recorded on Miss B's credit file from 24 December 2016 onwards.

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 Miss B, along with 8% simple interest per year on the overpayments from the date they were made (if they were) until the date of settlement. Next should also remove any adverse information from Miss B's credit file from 24 December 2016 onwards.

†HM Revenue & Customs requires Next to take off tax from this interest. Next must give Miss B a certificate showing how much tax it's taken off if she asks for one.

My final decision

I therefore partially uphold this complaint and require Next Ltd to pay compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 23 December 2022.

Michael Goldberg

Ombudsman