

## **The complaint**

Ms J has complained that Next Retail Limited (“Next”), irresponsibly lent to her.

## **What happened**

Ms J opened a shopping account with Next in September 2019. Her account limit was initially low - £600. Over the course of the next two years Ms J’s account limit was increased three times until, in July 2021, it was £3,750.

Ms J says that Next shouldn’t have lent to her. She says that Next should have consulted her credit file and asked her more questions to find out if the credit was affordable for her. Next says it did all the necessary checks before it lent to Ms J – and when it increased her credit limit.

Our investigator thought that Ms J’s complaint should be partially upheld. They thought that the initial credit given to Ms J was acceptable, but that by the time her credit was increased, Next didn’t act fairly or reasonably in doing so.

Our investigator said that Next should pay back interest and charges it made as a result of the credit that was unfairly extended to Ms J.

Next didn’t agree. It reiterated that it had done necessary and proportionate checks. As Next didn’t agree, the case has been passed to me to make 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 and I’ve taken that into account when considered Ms J’s complaint.

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 Ms J 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 Ms J’s income and expenditure. There may even come a point where the lending history and pattern of lending itself clearly demonstrates that that the lending was unsustainable.

With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

When Ms J opened her account in September 2019, Next has told us there were no signs of financial difficulties based on the checks it did. It told us that Ms J had five active accounts elsewhere and that they were all 'well managed.' It hasn't provided any other information, such as how much Ms J was borrowing elsewhere, her income at the time or how much Ms J was paying towards each other credit commitment. Instead, it has asked me to rely on a detailed explanation of how it checked affordability more generally.

Without knowing what exactly Next saw when it did its checks, I can't tell whether it acted reasonably on the information it received.

In the absence of account-specific information, I think it's reasonable to look at the information I do have available. Ms J has provided a copy of her credit report covering the time the account was opened. I agree that from this there is no evidence that Ms J wouldn't have been able to manage the credit offered. She had no arrears, defaults or County Court Judgments. She had only one loan, one credit card and a small finance agreement with a balance of less than £100. There were no indications of any financial difficulty.

So, although Next hasn't provided evidence of the checks it did, I am satisfied that if it had understood Ms J's finances fully it would have still agreed to lend to Ms J. Even if Next didn't do reasonable and proportionate checks (and I accept it says it did), I don't think it would have made a different decision when Ms J opened the account.

Four months after the account was opened, Next increased Ms J's credit limit by £900 to £1,500. This was quite a substantial increase – 150% of her original credit limit. Again, Next hasn't provided any of the information it saw when it completed its checks. It relies on its generic affordability processes to evidence that its checks were appropriate and proportionate. In the absence of the outcome of those checks I think it's reasonable to use the same approach I did when considering the account opening and rely on the information Ms J has provided about her financial circumstances at the time to understand what Next ought to have seen when it did its checks.

I have reviewed Ms J's bank statements and credit file from this time. I can see that Ms J was using over 94% of her available credit limit. She'd opened another credit card since the account was opened and already had a balance of £2,087 with a limit of £2,400. On her other credit card she had a balance of £6,485 on a limit of £6,500. Her balance on this account had remained relatively static for some time, suggesting that Ms J was making relatively little impact on repaying the total amount. I think that this information ought to have been available to Next when completing its checks.

Ms J wasn't missing any payments, but I do think that the relatively significant change in Ms J's financial situation ought to have made Next complete further checks to better understand whether Ms J could sustainably repay the additional credit it was proposing to lend.

Having reviewed Ms J's bank statements I can see that in the two months preceding the increase Ms J was paid around £1,465 net, along with some other transfers from her partner towards nursery fees. Ms J explains that she only began working on 31 October 2019.

The bank statements show that Ms J was regularly spending more than her income each month. Although she was making payments of around £244 a month towards her credit card, the balance wasn't decreasing. She had made a further payment of £870 towards her recently opened credit card which already had a balance of over £2000. This was in addition to her essential expenditure. In the three months leading up to the increase Ms J was only in credit for a few days in total.

On the basis of this information, I don't think Next ought to have increased her credit limit in the way it did. I think if Next had acted reasonably and completed proportionate checks it would have realised Ms J would have difficulty sustainably repaying the new credit. So, I think Ms J lost out as a result of something Next did wrong here.

I have looked at the further credit limit increases provided to Ms J, too. I haven't seen anything to make me think that her situation improved. If anything, it got worse. Her indebtedness increased and she began to try to consolidate debts. However, in 2022 Ms J got into financial difficulties was unable to meet her financial obligations. Next points out that Ms J asked for her credit limit to be decreased at one point, which Next did. But it then went on to later proactively offer her a further increase. I don't think Next acted fairly when it increased Ms J's credit limit on several occasions from January 2020 onwards.

### **Putting things right**

I think it's fair and reasonable for Next to refund any interest and charges incurred by Ms J as a result of the credit unfairly extended to her. I don't think the limit should have been increased from January 2020 onwards, therefore Next should rework the account and:

- remove any interest and charges incurred after January 2020 as a result of any increases (including any buy now pay later interest). That is, Next can only add interest accrued on the balance up to the credit limit of £600 – this being the credit limit before January 2020.
- Next should work out how much Ms J would have owed after the above adjustments. Any repayment Ms J made since January 2020 should be used to reduce the adjusted balance.
- If this clears the adjusted balance any funds remaining should be refunded to Ms J along with 8% simple interest per year\* - calculated from the date of overpayment to the date of settlement.
- If after all adjustments have been made Ms J no longer owes any money then all adverse information regarding this account should be removed from the credit file from January 2020.
- Or, if an outstanding balance remains, Next should look to arrange an affordable payment plan with Ms J for the outstanding amount. Once Ms J had cleared the balance, any adverse information as a result of the unfair lending should be removed from the credit file.

\*HM Revenue & Customs requires Next to deduct tax from any award of interest. It must give Ms J a certificate showing how much tax has been taken off if she asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

### **My final decision**

I think Next acted unfairly when it extended further credit to Ms J on January 2020 and beyond. To put this right I direct Next Retail Limited to pay compensation as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 27 October 2023.

Sally Allbeury  
**Ombudsman**