

The complaint

Miss E complains that Nationwide Building Society irresponsibly issued, and increased the credit limit on a credit card to her.

What happened

Miss E successfully applied to Nationwide for a credit card in January 2013. The initial credit limit was £2,800 and the card was used to clear a balance on another credit card. The credit limit was increased, I believe, in March 2015 to £3,400. Nationwide also says that in May or June 2016 it refused an application by Miss E to increase the limit to £4,250. The initial balance was cleared in full by Miss E by September 2014. I understand that Miss E later used her card to clear other credit balances but didn't use it for regular spending. The card was revoked due to bad debt in June 2016. This was because it received a notification from a debt advice charity proposing to set up a nominal repayment plan for Miss E.

Miss E says that the debt caused her a lot of problems and she is now managing her finances, including the Nationwide debt, through the debt advice charity.

Nationwide in its response in August 2022 said that Miss E passed all the affordability and eligibility checks and that Miss E declared an annual income of £18,000, which was verified. It noted that when Miss E complained she claimed that this was not correct as she was on maternity leave at the time and may have been made redundant. It said that had she informed it at the time of her personal circumstances it probably wouldn't have allowed her to open a credit card. However, in light of the time since the credit was granted Nationwide hasn't kept any copies of the credit or any other checks done at the time of the application or for any subsequent limit increase, up until 2016.

On referral to the Financial Ombudsman our Investigator said that combined with Miss E's other monthly consumer credit commitments shown in the bank statements, and evidence produced by Miss E of HMRC assessments (showing income), she thought that Nationwide's checks most likely would have shown that Miss E was unlikely to be able to make additional repayments sustainably over a reasonable period given the income she was in receipt of.

In light of the fact that our Investigator thought that the card shouldn't have been issued, she said subsequent increases in the credit limit were also unreasonable. She said that Nationwide should remove all interest, fees, and other charges on the card.

Nationwide objected and didn't think it should be penalised for not keeping records for more than six years, which it wasn't required to do. It says it operates a sophisticated automated application checking system which verifies an applicant's income, their credit commitments and reviews any adverse/negative credit file insertions from the respective bureaus. It said that Miss E's declared annual income of £18,000 together with a clean credit record wouldn't have triggered any manual review, so it wouldn't have seen bank statements or any HMRC records.

I issued a provisional decision. In it I said that I didn't think there was sufficient evidence for

me to make a finding that Nationwide acted irresponsibly in issuing the credit card. But I didn't think that Nationwide made a fair lending decision in respect of the increase in the limit in March 2015.

In response Miss E confirmed that she had nothing to add.

Nationwide didn't agree with my provisional findings. It said that at the time of both lending decisions, whilst the Consumer Credit Sourcebook (CONC) was in place, the guidelines regarding new lending and further extensions of credit were different. New lending guidelines suggesting more detailed checks were required didn't change until July 2018. At the time, there was no indication from the rules of the CONC that additional checks or income verification was required, and, consequently, it was an industry-wide practice not to undertake extensive and disproportionate checks when an existing card holder applied to increase their limit.

So it doesn't believe it was an unfair lending decision, as it complied fully with the rules at the time, and it may have been seen as unreasonable and overzealous to ask Miss E to verify their income at the time she requested a credit limit increase. It had an existing credit card relationship with Miss E and there wasn't a compelling reason for it to manually intervene at the time of her credit limit increase request.

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.

My provisional findings are set out below, in a smaller font:

"Firstly, on the question of jurisdiction, I take the view that Nationwide has consented to us considering the complaint, having specifically done so in its response of 9 February 2023, to the Investigator's view.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've taken that approach into account in considering Miss E's complaint. So, before providing credit, lenders need to complete reasonable and proportionate affordability checks. There isn't a set list of checks a lender is required to carry out, but it needs to ensure the checks are proportionate when considering things like: the type and amount of credit being provided, the size of the regular repayments, the total cost of the credit and the consumer's circumstances. As a lending relationship continues over time and the level of credit increases, lenders may need to obtain further information from a borrower to check whether they're lending responsibly and that the repayments are sustainable for the customer.

Considering the relevant rules, guidance, and good industry practice, I think the questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did Nationwide complete reasonable and proportionate checks to satisfy itself that Miss E would be able to repay the credit advanced in a sustainable way?
- If not, would those checks have shown that Miss E would have been able to do so?
- Bearing in mind the circumstances at the time of each application, was there a point where Nationwide ought reasonably to have realised it was increasing Miss E's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further credit?

The initial application wasn't governed by the Consumer Credit Rules set out in the handbook of the Financial Conduct Authority (FCA) as those rules only came into effect in 2014. However before then consumer credit was governed by the Office for Fair Trading, and its approach to irresponsible lending is broadly similar.

Miss E didn't make her complaint until more than six years after the initial application, so although Nationwide had some data going back further, it's unable to supply evidence of its credit or eligibility checks that were conducted at the time the card was approved..

Miss E declared an income of £18,000 in her initial application. She explained to Nationwide when she made her complaint that she was on maternity leave at the time and she "may have been made redundant". The evidence that she has produced to us are bank statements going back to January 2013 and income tax calculations for tax years 2012-12, 2013-14 and 2014-15. However none of those documents would have been available at the time of the application. And although the 2012-13 tax calculation shows an income of just £500, this was just the self-employed profits for that tax year. And as the earliest bank statement shows just her January 2013 income, I don't think it gives a reliable figure for her income in 2012. Apart from the £500 her only other monthly income shown on the statement was child benefit, tax credit and maternity allowance totalling around £600.

I think it reasonable to accept that Miss E declared an annual income of £18,000 and that this was verified by Nationwide. If her circumstances had changed it was up to her to tell Nationwide and it couldn't be culpable if she failed to do so. And the January 2013 bank statement, although it does dip into overdraft, doesn't show any real difficulties on Miss E's part in paying her debts. So, I don't think there is sufficient evidence for me to make a finding that Nationwide acted irresponsibly in issuing the credit card.

Miss E applied for and was granted an increase in the credit limit in March 2015. I have limited information as to how she used her card up until then. But I have seen three statements provided by Nationwide for July to September 2014. Miss E paid off the card in September 2014. She then transferred credit balances to the card in March 2015 (x2) April 2015 and May 2016. As I've noted above her card was revoked for bad debt in June 2016. We do have some information about Miss E's income from her bank statements for 2014 to 2015. This shows very little income going through her account, but her tax calculation for the 2013-14 tax year shows an income from self-employment of £7,746.

Nationwide hasn't been able to show us its credit or income verification checks from the limit increase, but I haven't been shown any information that she was asked to redeclare her income. And from the information she has supplied I think it unlikely that her income was anywhere near £18,000. In that event I don't think that Nationwide has shown that she was able to sustainably afford an increase in the credit limit.

So I don't think that Nationwide made a fair lending decision in respect of the increase in the limit in March 2015.

First of all, as I've said in my provisional findings there is no setlist of checks a lender needs to carry out. And I've recognised that any checks need to be reasonable and proportionate. That applied to the 2014 rules, as well as to the later rules to which Nationwide has referred.

I haven't suggested that Nationwide needed to intervene and carry out a manual review of Miss E's circumstances at the time of her application. CONC 6.2.1 at the time said:

"Before significantly increasing:

- (a) the amount of credit to be provided under a regulated credit agreement, or*
- b) a credit limit for running-account credit under a regulated credit agreement;*

the lender must undertake an assessment of the customer's creditworthiness."

CONC at the time referred back to the Office of Fair Trading (OFT) irresponsible lending guidance. In particular para 4.2 said:

"We consider that before granting credit, significantly increasing the amount of credit, or significantly increasing the credit limit under an agreement for running account credit, creditors should take reasonable steps to assess a borrower's likely ability to be able to meet repayments under the credit agreement in a sustainable manner."

I think a 21%, £600 rise in the credit limit (from £2,800 to £3,400) is significant. And I bear in mind that this was Miss E's application, rather than an automatic rise (which a consumer could have opted out of). I take it from Nationwide's response that it wouldn't (at the time of Miss E's application) have asked an applicant to declare their income if they applied for an increase in the credit limit. But in order to know whether Miss E had the ability to repay the credit it would have had to know what her income was.

So I think it would have been reasonable for Miss E to declare her income when she applied for an increase in the credit limit (not to verify it herself). And as Nationwide has told us, it operates a sophisticated automated application checking system which *verifies an applicant's income*, their credit commitments and reviews any adverse/negative credit file insertions from the respective bureaus. So it didn't have to manually check Miss E's application for an increase. In light of what we know about Miss E's income from her bank statements at the time it seems to me to be unlikely that she had sufficient income to pay for any increase in credit limit.

So I stand by my provisional findings. Those findings are now final and form part of this final decision.

Putting things right

As I don't think Nationwide should have increased Miss E's credit limit above £2,800, I don't think it's fair for it to charge any interest or charges on any balances which exceeded that limit. However, Miss E has had the benefit of all the money she spent on the account so I think she should pay this back.

I should point out to Miss E that as her card was frozen in June 2016, all interest and other charges were also suspended from around September 2016, so she won't get any refund from that date.

Nationwide should take the following actions:

- Rework the account removing all interest and charges that have been applied to balances above £2,800.
- If the rework results in a credit balance, this should be refunded to Miss E along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Nationwide should also remove all adverse information recorded after March 2015 regarding this account from Miss E's credit file.
- Or, if after the rework there is still an outstanding balance, Nationwide should arrange an affordable repayment plan with Miss E for the remaining amount. Once Miss E has cleared the outstanding balance, any adverse information recorded after March 2015 in relation to the account should be removed from her credit file.

*HM Revenue & Customs requires Nationwide to deduct tax from any award of interest. It must give Miss E 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 uphold the complaint in part and require Nationwide Building Society to provide the remedy set out under “Putting things right” above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss E to accept or reject my decision before 9 August 2023.

Ray Lawley
Ombudsman