

Complaint

Mrs B has effectively complained that Next Retail Limited (trading as “Next” Online) irresponsibly provided her with a catalogue shopping account and limit increases despite the fact that they were unaffordable.

Background

This complaint is about a catalogue shopping account Next initially provided to Mrs B in early June 2016. Mrs B was initially given a credit limit of £900. This limit was then increased on two occasions to £1,500.00 in August 2016 and then £2,000.00 in December 2016. Mrs B was offered a third limit increase to £3,750.00 in April 2017. However, Mrs B declined this offer and her credit limit remained at £2,000.00.

One of our investigators looked at everything provided and didn’t agree that proportionate checks would have shown Next that it shouldn’t have provided this account or the subsequent credit limit increases to Mrs B. So she didn’t think that Mrs B’s complaint should be upheld.

Mrs B disagreed with our investigator’s conclusions and asked for an ombudsman’s review of the complaint.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having carefully considered everything, I’ve decided not to uphold Mrs B’s complaint. I’ll explain why in a little more detail.

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 Mrs 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, are not limited to but 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.

I've kept all of this in mind when deciding Mrs B's complaint.

Mrs B's account was opened in June 2016 with a credit limit of £900. The catalogue shopping account Next provided Mrs B with was a revolving credit facility. This meant that Next was required to understand whether Mrs B could repay £900 within a reasonable period of time.

Next carried out a credit check before initially agreeing to provide this account. Next has been unable to provide the output of the credit check that it carried out at this time. However, it has provided headline results of the credit check which it carried out two months later when offering the first limit increase. This shows that Mrs B did have some active credit accounts, but didn't have any significant adverse information such as defaulted accounts or county court judgements recorded against her.

Furthermore, it is also important to note is that a credit limit of £900 required relatively low monthly payments in order to clear the full amount owed within a reasonable period of time. Equally, I've not been provided with any clear evidence to show that Mrs B circumstances were such that I could reasonably conclude she didn't have the funds to make the monthly payment required for a credit limit of £900.

As this is the case, I'm satisfied that it wasn't unreasonable for Next to have agreed to this account. And I find that Next didn't treat Mrs B unfairly when it initially opened Mrs B's account with a credit limit of £900 in June 2016.

As I've explained in the background section of this decision, Next subsequently increased Mrs B's credit limit on two occasions – to £1,500.00 in August 2016 and then £2,000.00 in December 2016.

In August 2016, Mrs B's credit limit was being increased to £1,500.00. So I would have expected Next to have found out more about Mrs B's income and expenditure (particularly about her actual regular living expenses) before providing this and the December 2016 credit limit increases. I say this particularly as this was the third offer of credit in six months and Mrs B's limit would be more than double what it was when the account was opened.

Next has been unable to evidence having done this in this instance. As this is the case, I don't think that the checks it carried out before it provided the August 2016 and December 2016 credit limit increases were reasonable and proportionate.

Where a firm failed to carry out reasonable and proportionate checks before providing credit or increasing the amount available to a customer, I need to recreate reasonable and proportionate checks in order to get an indication of what such checks would more likely than not have shown. So I've looked at the information Mrs B has provided to get an idea of what Next is likely to have learned had it carried out further enquiries into Mrs B's living expenses.

In particular, I've looked at the current account statements Mrs B has provided for the period leading up to the August 2016 and April 2017 credit limit increases. I've also thought about what Mrs B has said about her finances being in a difficult position and that she was using her £450 overdraft each month.

However, the statements provided do show that Mrs B was receiving regular funds and when her regular living costs and monthly expenditure are deducted from what she received, Mrs B does appear to have sufficient funds left over to make the increased repayments needed for the limit increases offered.

I've thought about what Mrs B has said about her overdraft usage. It's fair to say that she did dip into it in the course of the month. But Mrs B swiftly exited her overdraft and in the months prior to the limit increases had a credit balance in excess of the amount that she needed to pay to the increased credit limits, at the end of the month. So I don't think that Mrs B's overdraft usage means that Next shouldn't have increased her credit limit. And, in truth, if Mrs B is unhappy at the way that she was allowed to use her overdraft, this is a matter that she will have to take up with her bank.

I accept that Mrs B's actual circumstances may not have been reflected in the information she may have provided and I've seen what she has said about losing her full time job during the pandemic. I do sympathise with the difficult time Mrs B went through. However, these events occurred some four years after the lending decisions took place. So I don't think that Next could possibly have known that this would happen.

Furthermore, in circumstances where the amount of the repayments appear to have been affordable for Mrs B, I don't think that further checks would more likely than not have prevented Next from offering her the August 2016 and December 2016 credit limit increases either.

So overall and having carefully considered everything, I've not been persuaded that proportionate checks would have shown that Next that it shouldn't have provided Mrs B with this catalogue shopping account, or either of the subsequent credit limit increases.

In reaching my conclusions, I've also considered whether the lending relationship between Next and Mrs B might have been unfair to Mrs B under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Next irresponsibly lent to Mrs B or otherwise treated her unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here. So I'm not upholding this complaint.

I appreciate this will be very disappointing for Mrs B. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

Although I'm not upholding Mrs B's complaint, I would remind Next of its continuing obligation to exercise forbearance and due consideration, given what Mrs B has said about having difficulty making her payments.

I would also encourage Mrs B to get in contact with and co-operate with any steps that may be needed to review what she might be able to repay going forward. I can see that Next has provided the details of its collections department which may be able to help. Mrs B may be able to complain to us – subject to any jurisdiction concerns – should she be unhappy with Next's actions in relation to its exercising of forbearance going forward.

My final decision

For the reasons I've explained, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 9 September 2024.

Jeshen Narayanan
Ombudsman