

The complaint

Mr B complains that Next Retail Limited trading as Next Directory did not close his Next Directory account correctly in February 2021. Mr B's Next Directory account is a running account credit facility.

Mr B says Next also failed to action his 'Right To Be Forgotten' (RTBF) request, which he made in February 2021. Mr B is unhappy with the actions of Next's staff as he believes they lied to him, were abusive and discriminatory.

What happened

I issued my provisional decision about this complaint on 13 November 2024. My provisional decision set out the background to this complaint:

"In February 2021, Mr B made a complaint about an order placed with his Next Directory account. As part of the complaint, Next's Head of Complaints spoke to Mr B. Mr B said that the Head of Complaints was abusive and discriminatory. As a result, Mr B said he wanted to close his account with Next and made a RTBF request.

Next has provided its contact notes from the time. The entry on 25 February 2021 says:

"Marketing Mailings Cancelled by Customer... FUTURE CHARGED PUBLICATIONS CANCELLED BY CUSTOMER -, ALL PUBLICATIONS CANCELLED BY CUSTOMER -, MARKETING MAILINGS CANCELLED BY CUSTOMER"

On 26 February 2021, Next tried to email a final response to Mr B. However, it sent the email to an address ending ".com" instead of Mr B's correct email address, which ended ".co.uk". The final response said Mr B had complained after receiving a "wrong sized pair of jeans". Next said Mr B had since spoken to its Head of Complaints (who Mr B had said was discriminatory). It also explained Mr B had then emailed Next's Board members requesting a call back, but he had already been told this wouldn't happen, and Next had followed its complaints process. Next then said:

"It's disappointing to see that despite our best efforts we are clearly still unable to meet your expectations with our product and service. So therefore, we have taken the very difficult decision to clear your balance (£455.01 including any unbilled items), and close your online account. This does not affect your ability to shop in any one of our 520 Stores when they reopen..."

Please consider our email of yesterday's date our two months notice to terminate the contract with you, and although your account is still live, it is no longer active. As such we will not be processing any further orders, and the account will be 'final closed' on 25 April 2021."

On 4 March 2021, Next said it sent Mr B's Data Subject Access Request (SAR) to an email

address ending “.com” instead of Mr B’s correct email address.

Mr B thought his account had been closed. However, on 2 February 2024, Next wrote to him to let him know his account would be closed if he did not use it within the next two months. On 16 February 2024, Mr B called Next to complain.

Mr B spoke to Next again on 19 February 2024 and was told his complaint was being investigated. The same day, Next sent an acknowledgement of Mr B’s complaint by email to the incorrect email address it held for Mr B (ending .com).

On 20 February 2024, Mr B spoke to Next and both parties realised Next had emailed the incorrect email address again. Next identified it had emailed the .com address when sending its final response and SAR response in 2021. Mr B went on to tell Next that in 2021, its Head of Complaints was rude, abusive and didn’t process his RTBF request. Mr B said he wanted a director of Next to give him a call and made a SAR.

On 21 February 2024, Next emailed Mr B to say it had no record of his RTBF request. Next went on to say it hadn’t closed Mr B’s account properly in 2021 and offered £100 compensation. Mr B asked for a senior manager and one of Next’s legal team to call him.

On 23 February 2024, Next reiterated it had no record of Mr B’s RTBF. It could not explain why it had recorded an incorrect email for Mr B, but it had updated his correct address. Next confirmed it was in the process of responding to Mr B’s SAR. Next increased its offer of compensation to £150. Mr B said he wanted a call from a senior member of staff.

Mr B then emailed and called Next over several days. During these calls and emails, Mr B said a staff member had lied to him about the seniority of her role and prevented him from making a complaint about her. Mr B was told he could not escalate his complaint above Next’s Assistant Operations Manager “AOM”. On 29 February 2024, Mr B asked for a named senior manager to contact him by return or he would publish his telephone numbers, saying he was sure the person he wanted to speak to “would be happy to have his mobile number in the public domain why [sic] on holiday”. The same day, Next’s AOM emailed Mr B to say it was standing by its proposed resolution of £150 compensation.

Over several days, Mr B made numerous calls to Next asking to escalate his complaint and to speak to a senior manager. On 7 March 2024, Mr B also said Next’s staff talked about him in the background of calls, rather than placing him on hold.

On 8 March 2024, Mr B sent Next a list of goods worth over £2,000 that he expected to arrive to him by the next day to put this matter to bed. Mr B also rang Next repeatedly asking to speak to a senior manager. Next’s AOM emailed Mr B to say Next maintained it would no longer trade with Mr S and would not order the items he’d requested. It reiterated the actions it had taken to try resolve the complaint.

On 12 March and 13 March 2024, Mr B rang Next repeatedly to complain about the AOM and escalate his complaint. By 14 March 2024, after Mr B made many repeated calls to Next, it told him it would no longer communicate with him by telephone.

On 15 March 2024, Next issued its final response to Mr B’s complaint. It said Mr B’s RTBF request was being processed. Next said it had now updated his credit file to reflect the account was closed in February 2021. It reiterated its offer of £150 compensation, which it believed was a reasonable amount for what had happened.

Mr B referred his complaint to our service. In its submissions to our Service, Next said a

number of calls Mr B had with its senior managers had not been recorded. Next said it had completed Mr B's RTBF and provided the correspondence address for its legal team, as Mr B requested.

One of our Investigators reviewed Mr B's complaint. Our Investigator said Mr B hadn't previously complained to Next that he felt discriminated against in 2021, so we couldn't consider this aspect of his complaint. Our Investigator said they couldn't agree with Mr B that he'd been treated unfairly or unreasonably. Mr B had six months from Next's final response of February 2021 to refer his complaint about the closure of his account to our service, so this aspect of his complaint was brought to us too late.

Our Investigator thought it was likely Mr B raised a RTBF request in 2021 but there was nothing to suggest this had an impact other than Mr B having to raise the request again. Our Investigator said Next should not be responsible for any difficulties Mr B had in obtaining credit as a result of his account being left open on his credit file without evidence this actually happened. Our Investigator explained any failure of Next to pass on the correspondence address for its legal team is not a regulated matter our Service would comment on.

In response, Mr B said our Investigator had not done his job fully, missed data, including the impact on his credit file, Next's staff talking about him without realising he was not on hold, defamation of his character and not returning his calls. Mr B asked for the head of the Financial Ombudsman Service to call him. Our Investigator said there was no evidence on the calls Mr B referred to of him being talked about in the background. And as Mr B disagreed with the Investigator's view, his complaint has come to me to decide. I contacted Next to explain its final response on 26 February 2021 was sent to an incorrect email address, so it has consented to our Service considering the issues addressed in that final response."

I then set out my provisional decision:

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

Mr B is very unhappy that he thinks Next has breached a number of its consumer credit licence obligations. So, it may be helpful if I clarify that only the regulator, the Financial Conduct Authority, has the power to punish or fine a business for any regulatory failings.

My role is to decide whether I think Next made an error and, if it had, to decide whether it needs to do anything further to put things right for Mr B. In doing so, I have considered carefully all of the submissions by both parties. I note Mr B has gone into great detail in setting out the background to his complaint and multiple complaint points. I have not addressed every point made by Mr B because of the informal nature of our Service. Instead, I have considered what I consider to be the key elements of his complaint:

- Did Next make an error when closing Mr B's account?*
- Did Mr B make a RTBF in 2021 that Next did not action?*
- Were there any customer service failings that warrant further compensation?*

Did Next make an error when closing Mr B's account?

Mr B said he suffered abuse and discrimination prior to his account's closure in 2021. While I've noted Mr B's concerns, it's important for me to explain that due to the informal nature of our service we do not have the power to make a finding of discrimination. That is something only the Courts can do. However, I have taken all relevant legislation, regulations and good

industry practice into consideration when deciding if Mr B was treated fairly.

It is not clear from Mr B's complaint on what grounds he thinks Next discriminated against him (such as his race, ethnicity or gender). Mr B has not provided any call recordings (or dates and times of calls) where he says he was sworn out or suffered abuse or discrimination. I have heard nothing in the available call recordings from 2021 that makes me think Mr B has been abused or treated differently to other customers in similar circumstances.

From the emails, call recordings and contact notes provided by Next, it's clear Mr B had made a number of complaints over the years. In February 2021, Mr B was still unhappy with Next's attempt to resolve his complaint. Next acknowledged some customer service failings and concluded it was still unable to meet Mr B's expectations with its "product and service customer service" so it decided to close his account. The terms and conditions of Mr B's account allowed Next to terminate its agreement with Mr B on 2 months' notice in writing at any time. I think Next was entitled to take the decision to close Mr B's account and cease trading with him. Next could have asked for the repayment of the outstanding balance owed to it but it decided to write this off – around £450 – which is more than I would have awarded in compensation had Next not already made this offer. I note Mr B also wanted his account to be closed without paying what was owed, so it appears both parties were satisfied with the outcome. Overall, I think Next's decision to close Mr B's account and write off his outstanding balance was a fair one.

It is not in dispute that Next didn't go on to close Mr B's account properly in 2021 and I don't need to decide why that error occurred. My role is to decide whether Next needs to do anything further to put things right. Next has said it has updated Mr B's credit file to show his account was closed in February 2021, so I don't think it needs to take any further action here.

Mr B is right in saying the open account left a footprint on his credit file. Mr B has not provided evidence of any loss this caused, so there is no proven loss to compensate him for. Mr B was unaware his account remained open until February 2024 so I can't fairly conclude this had any significant impact on him.

Next has offered Mr B £150 compensation for the upset and inconvenience caused. Mr B had to notify Next of the problem in 2024 but no further action was needed on Mr B's part. Next then took prompt steps to fix the problem. So, I think the necessary inconvenience caused to Mr B was minimal. In the circumstances, I think Next's offer of £150 compensation is reasonable.

Did Mr B make a RTBF in 2021 that Next did not action?

I would remind Mr B it's not the role of our service to decide whether or not a business has breached data protection laws – that's the role of the Information Commissioners Office (ICO). Instead, my role is to consider whether Next treated Mr B fairly and reasonably.

Mr B says he made his RTBF request to Next's Head of Complaints in February 2021 – the request would have been made on a call that was not recorded. So, I cannot say for certain the RTBF request was made. But Next's contact notes from 25 February 2021 say Mr B had cancelled all contact from Next. On balance, I think it's likely the RTBF request was made. I accept that Mr B needed to make an additional RTBF request in 2024 as part of notifying Next his account should have been closed in 2021. However, as above, I've seen nothing to suggest Mr B was aware his RTBF hadn't been actioned 2021 and 2024. It's for this reason I'm not persuaded Next's mistake had a significant impact on Mr B – nor did it cause a level of inconvenience that would warrant an award in excess of the £150 Next has already offered. I'm satisfied Next's offer of £150 compensation fairly reflects any distress or

inconvenience Mr B experienced.

Were there any customer service failings that require further compensation?

Next has said it sent its final response to Mr B's complaint and its response to his SAR to an incorrect email address in February 2021. However, despite Mr B being aware he'd made a SAR, he didn't chase Next after the deadline to respond had passed. Mr B's pattern of behaviour demonstrates he would and knew how to contact Next if he was ever unhappy with the service they were providing. So, when I take that into consideration, the evidence from the time persuades me these issues caused Mr B minimal – if any, upset or inconvenience in 2021. Therefore, I don't agree an award of compensation is warranted for this mistake.

It seems that Next made an error in sending an email to an incorrect email address in March 2024. I've not been made aware of any loss or significant impact this had on Mr B – the issue was picked up and sorted the following day, so I do not think this mistake requires further compensation.

Mr B has said Next failed to acknowledge his SAR requests in 2024. Mr B made SAR requests on his many calls, and I've seen no evidence to suggest it didn't action the requests or that the SAR was not ultimately responded to within a reasonable timeframe.

Mr B said he was promised many call backs that didn't happen and complained about the staff he spoke to. Mr B told Next repeatedly they were legally obliged to put him through to the manager of the person he complained about – although he hasn't provided details of the law he is relying on. It's important that I explain it's for Next to decide how it's complaints process should work. And I've seen nothing to suggest Next treated Mr B unfairly by refusing to pass on the contact details of its senior managers as Mr B has suggested. I have also not heard any call where a staff member lied to Mr B, was rude or spoke about him whilst he was on hold. Mr B often demanded call backs from senior managers within short time scales after being told this wouldn't happen. Mr B also repeatedly said he could publish the mobile phone numbers of senior members of staff, which were not in the public domain.

I appreciate Mr B felt strongly about the mistakes Next had made. However, I cannot agree the frequency of contact his contact or the threats he made to publish their staff member's contact details was necessary, reasonable, appropriate, or acceptable. As mentioned above, we are impartial and have to be fair to both parties. Despite Mr B's actions and demands, I consider Next tried hard to help resolve his concerns. I cannot agree they are solely responsible for the distress and inconvenience Mr B experienced when corresponding with them, so overall, I think Next's decision to limit its contact with Mr B by telephone was the right thing to do in the circumstances.

Ideally, Next would have been clearer in explaining it was only required to issue its final response to Mr B's complaint, in writing, within eight weeks. But even though this didn't happen, I don't consider Mr B's level of contact was warranted or proportionate to the circumstances. I think Next tried to be helpful in allowing Mr B to speak to its AOM and other members of staff, but it was not obliged to communicate with Mr B in this way. As I have said above, I think it took adequate steps to put things right and its offer of compensation was reasonable. So, I have not recommended Next take any further action here."

Next didn't respond to my provisional decision. Mr B asked me to explain how he had been charged a higher interest on a credit card application that he should have been due to footprints on his credit file. Mr B asked how missing phone call recordings is not evidence a SAR was not fully completed. Mr B asked me to explain why he was blocked from discussing his complaint with someone more senior, when one of Next's staff made out they were "the

most senior person which they are not.”

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.

Having reviewed Mr B's comments, my provisional decision set out above remains unchanged.

Mr B has said he has been charged a higher interest rate. But as I said in my provisional decision, Mr B has not provided evidence of any loss this caused. It is not enough to just say a loss has been caused, there must be some proof of the loss. And Mr B has not, for example, given any evidence of the higher interest rate he says he was charged. As there is no proven loss to compensate him for, I have not awarded any compensation.

Mr B has asked how missing phone call recordings is not evidence a SAR was not fully completed. Mr B hasn't suggested Next failed to provide him with the information it was able to send and I've not seen anything that makes me think Next's offer of compensation is unreasonable in the circumstances. And as I said in my provisional decision, I would remind Mr B it's not the role of our service to decide whether or not a business has breached data protection laws – that's the role of the Information Commissioners Office (ICO). Instead, my role is to consider whether Next treated Mr B fairly and reasonably. Here, Next explained it did not record calls made by some of its senior managers. It is not my role to tell Next to change its processes so all of its calls are recorded – only the regulator, the Financial Conduct Authority, has the power to punish Next or tell it to change its processes.

Mr B asked me to explain why he was blocked from discussing his complaint with someone more senior, and repeated his point that one of Next's staff misrepresented their seniority. I addressed this in my provisional decision when I explained it's important that I explain it's for Next to decide how its complaints process should work. I've seen nothing to suggest Next treated Mr B unfairly by refusing to pass on the contact details of its senior managers as Mr B has suggested. I have also not heard any call where a staff member lied to Mr B. Despite Mr B's actions and demands, I consider Next tried hard to help resolve his concerns. I cannot agree they are solely responsible for the distress and inconvenience Mr B experienced when corresponding with them, so overall, I think Next's decision to limit its contact with Mr B by telephone was the right thing to do in the circumstances. I think Next tried to be helpful in allowing Mr B to speak to its AOM and other members of staff, but it was not obliged to communicate with Mr B in this way. Overall, I think Next took adequate steps to put things right and its offer of compensation was reasonable. So, I have not recommended Next take any further action here.

For the reasons explained above, my provisional decision set out above remains unchanged,

Putting things right

Next Retail Limited trading as Next Directory has offered Mr B £150 compensation and I think this offer is fair in all the circumstances.

My final decision

Next Retail Limited trading as Next Directory has offered Mr B £150 compensation and I think this offer is fair in all the circumstances. My final decision is that Next Retail Limited trading as Next Directory should pay Mr B £150 compensation if it has not already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 27 December 2024.

Victoria Blackwood
Ombudsman