

The complaint

Mrs O complains that Next Retail Limited lent to her irresponsibly.

What happened

In June 2009, Mrs O applied for and received a credit account with Next. A credit limit of £300 was agreed initially, but it has increased and decreased numerous times over the years. It reached as high as £5,000 (although the balance on the account peaked at £3,481.38 in May 2016). Over the years, the account has occasionally been suspended, and the limit has been managed down. The latest information I have is that the account remains active and is up to date.

In December 2023, Mrs O complained to Next. She said the credit limit had been increased several times *“over the years without any verification if they were affordable”*. She says her income was such that she couldn’t afford the majority of the increases given to her. Mrs O asked Next to refund the charges and interest she paid on the account.

Next considered what Mrs O had said, and explained that many of the credit limit increases she complained of had taken place more than six years earlier. So, it said she’d complained about those too long ago for it to consider under the complaint handling rules of the Financial Conduct Authority (FCA). But it looked into credit limit increases that it had agreed since December 2017, and said it felt it had fairly assessed them. Next said that since December 2017, her credit limit had reached as high as £5,000 – the maximum it allows – but that her balance hadn’t exceeded £2,709.60 in that time. Next rejected Mrs O’s complaint.

Mrs O did accept what Next said, so she referred her complaint to our service. Our investigator didn’t agree with Next that the complaint had been brought too late under the rules. But he said he didn’t have enough information from Next or Mrs O to determine that the limit increases prior to February 2014 had been unreasonable.

By February 2014, the credit limit had reached £5,000. It was managed down from there to £1,500 in July 2018, before being increased again to £3,000 in July 2019. Our investigator felt that Next had reached a fair decision to agree that increase. Further increases were given to Mrs O after that, but as her balance hadn’t exceeded £3,000, our investigator felt they had caused no financial detriment to Mrs O. He didn’t uphold her complaint.

Mrs O didn’t agree with our investigator. In summary she said:

- Our investigator had failed to hold Next accountable for missing affordability checks.
- There were multiple over-limit incidents which were proof of financial distress and 2016-2018 credit limits remained unaffordable even when reduced.
- The investigator’s review didn’t go back far enough – he restricted his findings to 2017 onwards.
- She disagreed that the limit of £3,000 in 2019 was affordable.

As there was no agreement, 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.

Mrs O has provided a lot of information in response to our investigator's opinion. I have carefully read and considered everything she has said but will restrict my comments to what I believe to be the crux of her complaint. This isn't intended as a discourtesy, but simply reflects the informal nature of our service.

Next hasn't responded to our investigator's view that we have the power to consider the whole of this complaint, as he felt it could reasonably be interpreted as being about an unfair relationship as described by Section 140A of the Consumer Credit Act 1974. To be clear, I agree with what he said in that regard and each party to the complaint is aware of the reasoning behind that. As there is now no dispute regarding our jurisdiction over this complaint, I won't comment further on it.

We've set out our approach to complaints about irresponsible and unaffordable lending on our website – including the key relevant rules, guidance, good industry practice and law. I've considered this approach when deciding this complaint.

Next needed to carry out reasonable and proportionate checks to ensure that it didn't lend to Mrs O irresponsibly. I think there are key questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- Did Next carry out reasonable and proportionate checks to satisfy itself that Mrs O was in a position to sustainably repay the credit?
 - If not, what would reasonable and proportionate checks have shown at the time?
- Did Next make fair lending decisions?
- Did Next act unfairly or unreasonably towards Mrs O in some other way?

It's not about Next assessing the likelihood of it being repaid, but it had to consider the impact of the repayments on her. There is no set list of checks that it had to do, but it could take into account several different things such as the amount and length of the agreement, the amount of the monthly repayments and the overall circumstances of the borrower.

Over the years Mrs O has had her account with Next, there have been numerous variations in her credit limit. Both parties are aware of the movements, so I've not set them out in detail here.

We have very limited information prior to February 2014 when Mrs O's credit limit reached £5,000 - the maximum Next allows. Next has explained the checks it would have carried out, essentially a review of Mrs O's credit file and an assessment against its own internal lending criteria. Understandably, in view of the time elapsed, Next hasn't been able to provide details of the results of the checks it carried out at the time.

If I were satisfied that Next hadn't carried out reasonable and proportionate checks on the limit increases, in order to uphold Mrs O's complaint, I'd need to be able to establish what Next would have found had it done more. We've asked Mrs O for information such as banks statements from the time to help us build a picture of her circumstances.

Mrs O has provided us with some limited information, but not enough to be able to build a detailed picture of her finances, such as I could make a finding that Next had acted unfairly towards her. That being so, I can't say that Next did anything wrong by lending to Mrs O in

the early part of her relationship with it because I don't have enough evidence to say so.

We do have significantly more information from Next from February 2014 onwards. I can see that Mrs O's credit limit was £5,000, though her balance didn't exceed £2,400 to the end of that year. The account was suspended briefly in February 2015 as it appears a payment may have been missed over the Christmas / New Year period, but this was quickly caught up. Next reduced the limit at this stage to £3,000 before increasing it again to £3,600 in July 2015.

Mrs O's balance reached a peak of £3,481.38 in May 2016 against her limit of £3,600. In September 2016, Next began to manage the limit downwards. Given that Mrs O tells us she was struggling with her finances at the time, I think it was reasonable for it to do so. Next hasn't provided a detailed explanation for why it took this action. But it appears from the notes, that it felt a reasonable limit at that point would have been £3,000, so it was managing her limit down to that.

The notes show that from November 2016, Next felt Mrs O's limit should be reduced further to £1,000, so it continued to reduce it in line with payments she made to the account. But by March 2017, it felt £1,500 was appropriate – though the balance was still higher – so reductions continued until the balance reached below £1,500 in July 2018.

By reducing the limit as it did, Mrs O received automatically triggered 'over limit' letters which she says were signs of financial stress. But I think it was reasonable for Next to have reduced the limit in stages. Had it done so in one go, this may have led to other action being taken such as defaulting the account. And I don't think it was necessarily a sign that the previously agreed limits were unaffordable at the time they were agreed. Rather it shows Next was monitoring her circumstances in the background and reacting to what it found.

Mrs O's credit limit remained at £1,500 until July 2019 when Next offered her an increase to £3,000 which she accepted. Next hasn't provided much detailed information about the checks it carried out and what it found, but it has said it followed its usual process. But as I don't have the detail of what it found when conducting the checks, I can't fairly conclude they were reasonable and proportionate.

But Mrs O has provided lots of information about her financial circumstances at the time, so I have been able to think about what Next might have found if it had done more.

The information shows she was earning around £39,000 a year at the time. Her bank statements support this and don't provide any indication that she would struggle to repay a limit of £3,000. So even if Next had asked further questions before offering the limit increase to Mrs O, I think it would still have done so. I don't think Next acted unfairly when it offered her this limit increase.

Mrs O was offered (and accepted) further limit increases later on to £3,750 and £5,000. But these increases were never used as her balance didn't exceed £2,710. So I can't see that any detriment was caused to Mrs O as a result of the later increases.

Did Next act unfairly or unreasonably towards Mrs O in some other way?

I've carefully read and thought about all the evidence provided by each party to this complaint. Having done so, I don't think Next has acted unfairly or unreasonably towards Mrs O in some other way. I've seen nothing to suggest the credit relationship became unfair.

Mrs O raised a number of specific points in response to our investigator's opinion of the case and, as I've reached the same conclusion as our investigator, I want to be a bit more explicit

in addressing those points.

The absence of evidence of affordability checks, doesn't automatically mean a business has cause detriment to a consumer by lending to them. As I've explained above, where we don't have the evidence – or we're satisfied that reasonable checks were not completed - we have to look to see what the business would have found had it done more. Our investigator did that – as I have – and concluded that the lending decisions for which we have sufficient evidence to draw a conclusion, were fair.

The over limit 'incidents' she's referred to are addressed above. Next was managing her limit down as it was unhappy with the level of credit she had with it. These in themselves are not an indication of financial distress; she was making the required payments and her indebtedness on the account was reducing.

Our investigator – as I have – looked at all the information available to go back as far as we can in the investigation. Businesses are not obliged to hold information indefinitely and it is not surprising that Next doesn't have detailed information about credit checks carried out going back to 2009. So, I don't agree that our investigator failed to consider the whole of the complaint, rather he was unable to reach a finding on the earlier part due to a lack of information from *either* party.

I know my decision will come as a disappointment to Mrs O, but for the reasons explained, I don't uphold her complaint.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 17 April 2025.

Richard Hale
Ombudsman