

## The complaint

Miss T complains that NewDay Ltd trading as Opus irresponsibly lent to her.

## What happened

Miss T was approved for an Opus credit card in August 2018, with a £300 credit limit. I have detailed the credit limit changes for the card below:

|               |                  |
|---------------|------------------|
| December 2018 | £300 to £500     |
| April 2019    | £500 to £1,750   |
| August 2019   | £1,750 to £2,500 |
| January 2020  | £2,500 to £3,250 |
| October 2020  | £3,250 to £4,750 |
| July 2021     | £4,750 to £6,250 |
| December 2021 | £6,250 to £6,800 |

Miss T says that Opus irresponsibly lent to her. Miss T made a complaint to Opus, who did not uphold her complaint. Opus said the affordability assessments were appropriate and proportionate. Miss T brought her complaint to our service.

Our investigator did not uphold Miss T's complaint. She said that although Opus should have completed further checks for some of the lending decisions, Miss T had a sufficient disposable income in order to make sustainable repayments to the account.

Miss T asked for an ombudsman to review her complaint. She said that with her other debt increasing with each credit limit increase, it was clear that she wasn't managing her money well. She said she paid the minimum repayment, then she would use other credit to live on, hence the overall increase to her unsecured debt balances.

## 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.

Before agreeing to approve or increase the credit available to Miss T, Opus needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Opus have done and whether I'm persuaded these checks were proportionate. I will list these in date order of the lending decision.

### *Acceptance for the Opus credit card*

I've looked at what checks Opus said they completed prior to accepting Miss T's application.

I'll address the further lending decisions later on. Opus said they looked at information provided by Credit Reference Agencies (CRA's) and information that Miss T had provided before approving her application.

The information showed that Miss T had declared a gross annual income of £24,600. The CRA reported that Miss T had defaulted on at least one account previously, with the last default being 17 months earlier.

It may help to explain here that, while information like a default on someone's credit file may often mean they're not granted further credit – they don't automatically mean that a lender won't offer borrowing. So I've looked at what other checks Opus made, to see if they made a fair lending decision.

The CRA reported no public records such as a County Court Judgement (CCJ). Miss T was not showing as being in arrears on any of her active accounts at the time of Opus' application checks. The CRA also reported she hadn't been in arrears on any of her active accounts for the six months prior to Opus' checks. Miss T was showing as having an active debt to gross annual income of 2.51%, which would have equated to her having around £617.46 of active unsecured debt.

Opus also completed an affordability assessment using information from a CRA and modelling to assess Miss T's outgoings. As modelling was used then this is how Miss T's rent could be different to what it actually was, but modelling is an industry standard way of estimating outgoings. The net income figure used in the calculation was £1,547.90. The affordability assessment showed that the repayments for a £300 initial credit limit should be affordable and sustainable for Miss T.

So I'm persuaded that Opus' checks were proportionate here, and they made a fair lending decision to approve the account, and to provide Miss T with a £300 credit limit.

#### *December 2018 credit limit increase - £300 to £500*

A CRA reported that Miss T's active unsecured debt was £1,040, which was not significantly higher than at the last lending decision. The CRA's reported that Miss T had not been in arrears on any active external accounts since the Opus account had been opened.

Opus would have also been able to see how Miss T managed the account since it had been opened. Miss T incurred one overlimit fee and one late fee since the account had been opened, both in the same month. This was the month they carried out the checks for this credit limit increase. So based on Miss T's management of the account, I'm persuaded that Opus should have completed further checks here.

There's no set way of how Opus should have made further proportionate checks. One of the things they could have done was to contact Miss T to ask her why she had exceeded her credit limit, and was late with a payment, and to ensure she could afford repayments for the credit limit increase. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

I asked Miss T to provide her bank statements leading up to this lending decision. Her statements show money being transferred to another account in her own name, so I requested the statements for this account also. I'd like to thank Miss T for providing these. The additional statements tend to show Miss T transferring back into the main account the money that she transferred into the account at a later date, but within a short period of time, so these transactions largely negate each other.

Miss T's bank statements show her salary credits are slightly higher than what Opus assessed her income to be. The statements don't show her ending any day in an overdraft, and I couldn't locate any returned direct debits. Miss T's statements showed non-priority spending, so if Opus would have requested Miss T's bank statements as part of a proportionate check, then I'm persuaded that they still would have approved the credit limit increase, as repayments would appear to be sustainable and affordable for Miss T. So I'm persuaded that Opus made a fair lending decision here.

*April 2019 credit limit increase - £500 to £1,750*

A CRA reported that Miss T's active unsecured debt was £4,172 which was higher than at the last lending decision. I do note that the majority of the unsecured debt was not credit card debt and it was fixed lending, such as a personal loan. The CRA's reported that Miss T had not been in arrears on any active external accounts since the last lending decision.

Opus would have also been able to see how Miss T managed the account since the last lending decision. Miss T incurred no late or overlimit fees since the last lending decision, and she had made payments higher than the requested minimum repayment. But I do note that it's possible Miss T used some of the new loan money to make an overpayment to this account.

So based on the increase in the unsecured debt, and the CRA not informing Opus how much Miss T's monthly repayments were for the loan yet, I'm persuaded that Opus should have completed further checks, especially as the credit limit was more than trebling here.

As I mentioned in the previous section, there's no set way of how Opus should have carried out further checks. Miss T has provided her bank statements leading up to this lending decision and I can see that a £2,000 loan credited her account and shortly after this she did make a large overpayment to the Opus account.

There was one occasion I identified where a direct debit was returned, but this appears to be from an oversight from Miss T as opposed to financial difficulty. I say this because the direct debit debited the account on 1 February 2019, and it was returned the same day as Miss T didn't have the £151 in her account to pay this. But later that day I can see she transferred £315 into her account, so it appears she did have the money for the direct debit, but she just forgot to transfer it in time.

There were no other returned direct debits, and Miss T didn't end the day overdrawn in the timeframe I looked at. The statements showed non-priority spending, so if Opus would have requested Miss T's bank statements as part of a proportionate check, then I'm persuaded that they still would have approved the credit limit increase, as repayments would appear to be sustainable and affordable for Miss T. So I'm persuaded that Opus made a fair lending decision here.

*August 2019 credit limit increase - £1,750 to £2,500*

A CRA reported that Miss T's active unsecured debt was £5,399 which was not substantially higher than at the last lending decision. The CRA's reported that Miss T had not been in arrears on any active external accounts since the last lending decision.

Miss T incurred no late fees, but she did incur an overlimit fee in the month that Opus completed their checks for this lending decision. As the statement balance was showing as being higher than the credit limit, then I'm persuaded that Opus should have carried out further checks to ensure the lending would be affordable and sustainable for her.

Miss T has again provided her bank statements leading up to this lending decision. Miss T did have a returned direct debit, but again it appears to be an oversight due to Miss T not transferring money into her main account prior to the direct debit date. Miss T transferred £200 into the account the following day.

There were no other returned direct debits. The statements showed non-priority spending, so if Opus would have requested Miss T's bank statements as part of a proportionate check, then I'm persuaded that they still would have approved the credit limit increase, as repayments would appear to be sustainable and affordable for Miss T. So I'm persuaded that Opus made a fair lending decision here.

*January 2020 credit limit increase - £2,500 to £3,250*

Miss T's active unsecured debt was £7,256 which was higher than at the last lending decision. A CRA reported that Miss T had been in arrears on at least one external account for two months in a row since the last lending decision.

Miss T incurred a late and overlimit fee since the last lending decision, and it appeared she had exceeded her overall credit limits. So I'm persuaded that Opus should have carried out further checks to ensure the lending would be affordable and sustainable for her.

Miss T has again provided her bank statements leading up to this lending decision. There were no returned direct debits in the three months leading up to these checks. Miss T did not finish a day overdrawn, and again the statements showed non-priority spending, so if Opus would have requested Miss T's bank statements as part of a proportionate check, then I'm persuaded that they still would have approved the credit limit increase, as the repayments would appear to be sustainable and affordable for Miss T. So I'm persuaded that Opus made a fair lending decision here.

*October 2020 credit limit increase - £3,250 to £4,750*

Miss T's active unsecured debt at the time of Opus' checks for this lending decision was being reported by a CRA as being £6,238, which was lower than at the last lending decision. So this could suggest that not only was Miss T able to service her active unsecured debt, but to also be able to reduce this.

Miss T had no active external accounts in arrears since the last lending decision, and while she did incur an overlimit fee since the last lending decision, it appears that this was an oversight, as Miss T paid nearly twice her minimum repayment the following month (and £1,500 the following month).

So due to the overpayments Miss T was making, and the reduction of her overall active unsecured debt, it wouldn't suggest that Miss T was borrowing to make higher repayments – otherwise I would expect the unsecured debt level to be rising as opposed to falling since the last lending decision. So I'm persuaded that Opus' checks were proportionate, and they made a fair lending decision here.

*July 2021 credit limit increase £4,740 to £6,250*

Miss T's active unsecured debt at the time of Opus' checks for this lending decision was being reported by a CRA as being £4,718, which was a lot lower than at the last lending decision. So again, this could suggest that not only was Miss T able to service her active unsecured debt, but to also be able to reduce this.

Miss T had no active external accounts in arrears since the last lending decision, and she

incurred no overlimit or late fees since the last lending decision. Miss T also at times made overpayments which were a lot higher than her minimum requested repayment, which I wouldn't expect her to be able to make if she was financially struggling leading up to this lending decision.

So due to the overpayments Miss T was making, and the reduction of her overall active unsecured debt, it again wouldn't suggest that Miss T was borrowing to make higher repayments – otherwise I would expect the unsecured debt level to rise as opposed to it falling since the last lending decision. So I'm persuaded that Opus' checks were proportionate, and they made a fair lending decision here.

*December 2021 credit limit increase - £6,250 to £6,800*

Miss T's active unsecured debt at the time of Opus' checks for this lending decision was being reported by a CRA as being £6,441 which was not substantially higher than at the last lending decision.

Miss T had no active external accounts in arrears since the last lending decision, and she incurred no overlimit or late fees since the last lending decision. On one occasion Miss T made an overpayment which was nearly twice her minimum requested repayment.

Opus also completed an affordability assessment prior to this lending decision using Current Account Turnover (CATO) to assess Miss T's income, which CATO reported this to be £1,816 a month. This figure is in line with Miss T's previous income that her statements showed. Opus also received information from a CRA regarding Miss T's mortgage repayment, and her credit card repayments, and they used modelling to estimate her living costs (which is an industry standard way of assessing income).

The affordability assessment showed that the repayments for a £550 credit limit increase to £6,800 should be affordable and sustainable for Miss T, therefore I'm not persuaded that it would have been proportionate for Opus to have completed further checks here, such as asking Miss T for her bank statements.

So I'm persuaded that Opus' checks were proportionate here, and they made a fair lending decision.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I can't conclude that Opus lent irresponsibly to Miss T or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 8 January 2026.

Gregory Sloanes  
**Ombudsman**