

## The complaint

Miss D complains that Next Retail Limited trading as Next Online (Next) lent to her irresponsibly.

## What happened

In April 2014, Miss D opened a catalogue shopping account with Next. It agreed a credit limit as follows:

Date	Event	Credit limit
April 2014	Opening limit	£300
September 2014	Credit limit increase (CLI)1	£500
December 2014	CLI2	£2,000
February 2015	CLI3	£2,000
August 2016	CLI4	£3,000
October 2016	CLI5	£5,000
November 2019	Credit limit decrease (CLD)1	£3,750
February 2020	CLD2	£3,000
January 2022	CLD3	£300
February 2022	Default notice sent	£0

In July 2025, Miss D complained to Next. She said it had been irresponsible of Next to lend to her and especially to increase her credit limit. She said the increases took place without any apparent checks. To resolve her complaint, Miss D asked Next to refund charges and interest she'd paid and to remove any adverse information recorded with the credit reference agencies.

Next considered Miss D's complaint and issued a final response letter. But it said the complaint had been brought too late under the complaint handling rules set by the Financial Conduct Authority (FCA) as more than six years had passed since the CLI's were granted.

Miss D didn't accept Next's response so she referred her complaint to this service. One of our investigators looked into it. He felt it was reasonable to consider the complaint as being about an unfair credit relationship as described in Section 140A of the Consumer Credit Act 1974 (s.140). Due to that, he said the complaint had been brought in time for us to consider it and went on to do so. However, he didn't think he had enough information from either party to reach a decision that the lending had been irresponsible. He didn't uphold the complaint.

Miss D didn't agree with our investigator, so the complaint has been passed to me to decide.

## 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.

There are time limits for referring a complaint to the Financial Ombudsman Service, and Next thinks this complaint was referred to us too late. Our investigator explained why he

didn't, as a starting point, think we could look at a complaint about the lending decisions that happened more than six years before the complaint was made. But he also explained why it was reasonable to interpret the complaint as being about an unfair relationship as described in s.140, and why this complaint about an allegedly unfair lending relationship had been referred to us in time.

For the avoidance of doubt, I agree with our investigator that I have the power to look at the complaint on this basis. I think this complaint can reasonably be considered as being about an unfair relationship as Miss D says each increase allowed her to borrow more which she could not afford to repay in a reasonable period. This may have made the relationship unfair as she had to pay more in interest than she could afford and was unable to reduce the debt. I acknowledge Next still doesn't agree we can look at this complaint, but as I don't think it should be upheld, I don't intend to comment on this further.

In deciding what is fair and reasonable I am required to take relevant law into account. Because Miss D's complaint can be reasonably interpreted as being about the fairness of her relationship with Next, relevant law in this case includes s.140A, s.140B and s.140C of the Consumer Credit Act 1974.

S.140A says that a court may make an order under s.140B if it determines that the relationship between the creditor (Next) and the debtor (Miss D), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship.

S.140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given what Miss D has complained about, I need to consider whether Next's decision to lend to her and increase her credit limits, or its later actions, created unfairness in the relationship between her and Next such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness. Miss D's relationship with Next is therefore likely to be unfair if it didn't carry out proportionate affordability checks and doing so would have revealed its lending to be irresponsible or unaffordable, and if it didn't then remove the unfairness this created somehow.

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 Miss D 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 a fair lending decision?
- Did Next act unfairly or unreasonably towards Miss D in some other way?

Next had to carry out reasonable and proportionate checks to satisfy itself that Miss D would be able to repay the credit sustainably. 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 credit, the amount of the monthly repayments and the overall circumstances of the borrower.

As Next has said, the decisions to open Miss D's account and to increase her credit limit had all taken place by October 2016. Next no longer has details of the checks it carried out at the time but I don't find that surprising. Businesses are not obliged by law or good industry practice to hold information indefinitely - generally they only do so for six years or so. But without the information, I can't reasonably say that Next carried out reasonable and proportionate checks at account opening or limit increase stage.

In order to try to understand what Next might have found had it done so, our investigator asked Miss D for copies of her bank statements from the time. That's not to say that Next ought to have asked for them, but they would give us an understanding of her financial situation at the time.

Unfortunately however, Miss D hasn't been able to provide her statements from 2014 - 2016 – again not surprising given the time elapsed. But without any contemporaneous evidence of her financial situation at the time, I can't reach any firm conclusion regarding the fairness of the decisions to lend. So I can't reasonably conclude that Next acted unfairly when it agreed to lend to Miss D.

#### Did Next act unfairly or unreasonably towards Miss D in some other way?

I've read and considered all the information provided by each party to the complaint. Next has provided account notes and transactional details from account opening to the date of the default. I can see that by October 2016 when the £5,000 limit had been agreed, the highest balance to that date had been £994, and she repaid the balance in full on 24 October 2016.

The account was repaid in full a few times between 2017 and 2018, and there were never any arrears until April 2020. The balance at that stage had risen to £2,472.78 and the limit had been reduced to £3,000. Miss D cleared the arrears and continued to use the account within the £3,000 limit.

The account fell into arrears again in November 2020. Next agreed repayment plans over the following year or so and reduced the limit to £300 preventing further use of the account. But those plans failed and ultimately a default notice was sent on 10 January 2022.

I think Next has done what I'd expect with regards to the arrears through working with Miss D on repayment plans and, when they failed, defaulting the account preventing the accrual of further interest and charges.

I realise my decision will come as a disappointment to Miss D, but for the reasons I've already given, I can't say Next lent irresponsibly to Miss D or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that the relationship was unfair such that s.140 would, given the facts of this complaint, lead to a different outcome here.

#### **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 Miss D to accept or reject my decision before 10 April 2026.

Richard Hale  
**Ombudsman**