

The complaint

Mrs W complains that NewDay Ltd trading as Marbles (Marbles) lent to her irresponsibly.

What happened

Mrs W had a Marbles card since 2003. Between 2013 and 2016, her limit was increased several times:

Date	Limit
Pre May 2013	£3000
May 2013	£6000
February 2014	£9000
October 2014	£10350
June 2015	£11950
February 2016	£13750

In June 2017, her debt was sold to a debt collection agency.

Mrs W complained that she shouldn't have been offered the increases. Her income was only disability benefits of £700 per month and her minimum payments to Marbles were half her income. She said her borrowing was up to the limit and she only paid the minimum each month. Marbles should've asked more questions of her circumstances before increasing the limit. She said all interest and fees should be refunded since the increase in 2013.

Marbles said Mrs W passed their credit tests at each increase. Mrs W was offered the chance to opt out of each increase but didn't. She hadn't let Marbles know of her situation at any time – until 2017, when she told them she was in financial difficulty. So – as far as they were concerned, their lending decisions were sound.

Mrs W brought her complaint to us. Our investigator said we could only consider Mrs W's complaint for the increases since July 2014 – because the other increases were more than six years before Mrs W's complaint to Marbles in July 2020. She thought that Marbles should've done more checks at each increase. Marbles didn't ask for any evidence of income and expenditure. She confirmed that Mrs W's income was £700 per month as her sole income. She discounted her husband's income as part of her analysis. She looked at Mrs W's outgoings and found they were about the same as her income each month. If Marbles had done further checks, they would have seen from Mrs W's bank statements that she was relying on other sources of credit to make ends meet. She said that Marbles should refund interest and fees since October 2014 and remove any adverse information from Mrs W's credit file.

Marbles disagreed and asked that Mrs W's complaint be looked at by an ombudsman.

I reached a provisional decision where I said:

I take a different view to our investigator and will explain why. In summary, I can see that Mrs W managed her account with Marbles well, and this gave no indication that she was in difficulty – so Marbles couldn't have been expected to ask for more information from her.

In looking at whether Marbles lent responsibly - all lenders have an obligation to lend money responsibly. We have to check whether Marbles acted in line within the Financial Conduct's (FCA) rules on creditworthiness assessment as set out in its handbook, (CONC) section 5.2. These say that a firm must undertake a reasonable assessment of creditworthiness, considering both the risk to it of the customer not making the repayments, as well as the risk to the customer of not being able to make repayments. We look at:

- Whether the lender completed reasonable and proportionate checks to satisfy itself that the borrower would be able to repay any credit in a sustainable way?
- If reasonable and proportionate checks were completed, did the lender make a fair lending decision made bearing in mind the information gathered and what the lender knew about the borrower's circumstances?

The Financial Ombudsman service is bound by the Financial Conduct Authority's rules covering complaints, known as DISP rules (DISP 2.8.2). They state that we can't consider a complaint if it's referred to us more than six years after the event complained about, or if later, three years from the date on which the complainant ought reasonably to have been aware they had cause to complain. Mrs W complained to Marbles in July 2020 – so we can't look at anything that happened before July 2014. So – we can only look at the increases in limit from the October 2014 increase.

I realise Mr W feels the problems she's experienced are as a result of actions by Marbles before July 2014. That may be the case. But, unfortunately, I can't help with anything before then. The rules of what this service can and can't look at mean I don't have the legal power to do so. If I were to make any finding on Marbles' actions before July 2014, they would not be enforceable. That wouldn't help Mrs W.

What specific steps a lender should take to determine whether lending isn't going to cause a potential borrower a problem in repaying the money aren't set down. So, it's difficult to say that any particular action (or lack of) isn't appropriate. These must always be considered in the light of a customer's circumstances. But it does seem odd that a lender can provide what seems to be relatively high level of credit without having some evidence of the potential borrower's income. In Mrs W's case, that initial lending isn't something I can look at. So – to be clear, I can't make a finding on what Marbles did before July 2014. And – by then, Mrs W already had a limit of £9000 – which was most of her debt.

I've looked at what Mrs W and Marbles have told us. I've looked at the information Marbles had when they offered the increases to Mrs W. I consider the information shows nothing to suggest that Mrs W was in difficulty. I can see that she had made every payment on time. So, there were no late payment fees. She hadn't withdrawn cash on the card – an indicator of problems. There wasn't any evidence of other loans with payday lenders. I've look at Mrs W's Marbles statements. These show that she operated her account very well – she was within her limits over a long period of time – she didn't borrow up to her limit at all. I've shown this below:

Date	Limit	Average Statement balance
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		for previous six months
Up to May 2013	£3000	£1236
Up to February 2014	£6000	£3110
Up to October 2014	£9000	£5200
Up to June 2015	£10350	£7368
Up to February 2016	£11950	£8946

Mrs W told us she sometimes had to pay her rent with her card. But I've also looked at what she spent on her card – it was mostly retail expenditure (shopping) and I can also see that a lot of it is what we might call discretionary expenditure. So – I wonder how necessary some of her spending was. But also – retail spending wouldn't have caused Marbles to be on notice there were problems.

Marbles credit searches didn't show any other borrowing with other lenders at the time of the increases.

Mrs W argued that her husband's salary shouldn't have been considered - but she hasn't brought forward any evidence that he had significant loan commitments – and his salary was paid into her bank account. So – I don't think it's reasonable to ignore his income.

I've looked at Mrs W's bank account – there are some loan payments to three or four other lenders – but not high cost providers. But, what I've seen, I don't think Marbles needed to ask to see her bank statements. In March 2017 (after the last increase), Marbles could see she had total credit card borrowing (from all lenders) of just over £15000. This included the Marbles card, so there wasn't evidence of a lot of other borrowing at the time. Marbles have also shown us evidence that Mrs W could've opted out of the offered increases each time – but she didn't. Mrs W says she was in financial difficulty – but she didn't call Marbles to say so – she first contacted them in 2017 – after the increases took place.

I accept that a credit card limit of £13,750 is high for any consumer. But – based on what I've seen, I consider that Marbles weren't wrong in not asking Mrs W for more information when making their decisions to offer an increase in limit. And so, my provisional decision, subject to any comments that either Mrs W or Marbles may have, is to not uphold this complaint.

Responses to the provisional decision:

Neither Marbles nor Mrs W had any comments.

So – I now need to make a final 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.

As both Marbles and Mrs W had no comments, I won't be departing from my provisional decision and for the reasons I gave in it.

So, my final decision is that I do not uphold this complaint. And therefore, Marbles don't have to do anymore.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 3 September 2021.

Martin Lord
Ombudsman