

The complaint

Mr B complains that NewDay Ltd trading as Marbles lent irresponsibly when it approved his credit card and later increased the credit limit twice.

What happened

The background to this complaint and my initial conclusions were set out in my provisional decision. In my provisional decision I said:

Mr B applied for a Marbles credit card and it was approved in July 2017. In his application, Mr B said he lived with family and was employed with an income of £35,000 a year. Marbles says it carried out a credit search and found Mr B had no outstanding unsecured debt.

Marbles found two defaults totalling £300 which were over five years old.

Marbles approved Mr B's application with a £300 credit card limit. In September 2018 Marbles increased the credit limit to £750 and in August 2020 it increased it to £1,750. Marbles says it notified Mr B of the credit limit increases before they took effect and he had the option to turn them down. Marbles also says it looked at Mr B's credit file, information he provided and account activity before increasing his credit limit. Marbles says the credit limit increases were all approved in line with its lending criteria.

Earlier this year, Mr B complained that Marbles lent irresponsibly when it approved his credit card and increased the credit limit. Marbles didn't agree it had lent irresponsibly and didn't uphold Mr B's complaint.

Mr B referred his complaint to this service and it was passed to an investigator. Within Marbles' file submission it made Mr B an offer to refund interest applied after August 2020 on balances over £750. Marbles said the information about Mr B should've caused it to complete further checks before increasing his credit limit. But Marbles didn't offer to refund the rest of the interest Mr B paid or amend his credit file.

The investigator upheld Mr B's complaint and said Marbles should also pay Mr B £100 for the trouble and upset caused. Neither Marbles or Mr B accepted the investigator's view. Marbles didn't agree there were grounds to pay Mr B a further £100. Mr B said Marbles should've carried out more comprehensive checks that would've shown he was gambling large sums throughout the time he held a credit card.

Mr B's complaint has been passed to me to make a decision.

What I've provisionally 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 a business agrees to lend, it should take reasonable steps to ensure it does so in a responsible way. There's no set list of checks a lender has to complete. In practice, this

means businesses should ensure proportionate checks are carried out to make sure the customer can afford to repay the borrowing in a sustainable way. These checks should take into account various factors, like the amount being lent, the costs to the borrower each month, credit history and the consumer's income and outgoings. As the relationship between lender and borrower progresses, the business may need to consider carrying out more comprehensive checks to ensure the borrower can afford repayments in a sustainable way.

In this case, I can see that Mr B's view is that if Marbles had looked at his bank statements it would've seen he was gambling large sums each month and wouldn't have approved his credit card or increased the credit limit. I've looked at Mr B's bank statements and can see gambling transactions. But, as I've said above, there's no set list of checks a business has to complete. Whilst I note Mr B's comments, Marbles had to complete proportionate checks so I've considered this complaint on that basis.

When Mr B applied for the credit card he gave details of his income, employment and residential status. I've looked at the credit file information Marbles obtained and can see it didn't find any evidence Mr B had unsecured debt at this time. The defaults it found were over five years old. Marbles says it applied its lending criteria and approved a credit limit of £300. I agree with Marbles that its decision to approve Mr B's credit card was reasonable based on what it knew. The credit limit was modest and I'm satisfied Marbles carried out proportionate checks before deciding to proceed. I haven't seen anything that should've caused Marbles to carry out more comprehensive checks like asking for Mr B's bank statements.

Marbles increased Mr B's credit limit to £750 in August 2018. I've looked at the information Marbles had available, including Mr B's credit file, and I think it should've caused it to ask more questions before proceeding. I say this because Mr B had gone over his credit limit twice within the preceding six months. Further, Mr B's outstanding balance for other unsecured credits went from zero to around £6,200 in a period of around 12 months. In addition, Mr B took cash advances in four out of the five months before the credit limit increase took place. Taking all the above into account, I think the information shows Mr B was struggling with his finances. I think the information should've caused Marbles to consider carrying out more proportionate checks before deciding to increase Mr B's credit limit.

Had Marbles asked for additional information I think it's likely Mr B's credit limit increase wouldn't have gone ahead. Looking at Mr B's bank statements from the time, it's clear he was gambling to a reasonably high degree. I can also see Mr B had outgoings that weren't made known to Marbles in his application that would've also impacted his ability to sustainably make repayments.

Marbles has already confirmed it agrees the decision to increase the credit limit to £1,750 in August 2020 was irresponsible. And it follows that if I think Marbles' decision to increase Mr B's credit limit to £750 was irresponsible, I think the same of subsequent increases.

I've considered how to fairly resolve Mr B's complaint. In my view, Mr B has had the benefit of the funds he borrowed so it's fair that he repays the t's fair for Marbles to retain interest on funds that were lent irresponsibly.

Based on the information I've seen so far, I intend to tell Marbles to refund the interest it's applied to balances over £300 after September 2018. I also intend to tell Marbles to refund all late and over limit fees applied along with any cash advance fees. If at any period the

interest refunds result in Mr L's closed accounts being in credit, Marbles should pay 8% simple annual interest on the date that credit balance arose to the date of settlement

As I think Marbles lent irresponsibly, I don't agree it's fair for it to report adverse information to the credit reference agencies. So I also intend to tell Marbles to amend Mr B's credit file to remove all adverse information recorded after September 2018. Marbles should ensure no information about Mr B's credit card balance over £300 is recorded.

I invited both parties to respond with any comments or information they wanted me to consider before reaching my final decision. Mr B confirmed he was willing to accept.

Marbles responded and said that if the refund left an outstanding balance it wanted to leave the adverse information recorded on his credit file in place.

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.

I know Marbles feels it would be fair to leave the information recorded on Mr B's credit file in place, but I don't agree. As I said in my provisional decision, I'm satisfied Marbles lent irresponsibly. I still think it's unfair for Marbles to report information about a debt that was lent irresponsibly on Mr B's credit file. So I'm still going to tell Marbles to remove all adverse information recorded on Mr B's credit file from September 2018 onwards.

Neither party has raised any objection to the proposed interest refunds I gave in my settlement.

As neither party has provided information that has changed my view of how to fairly settle Mr B's complaint I'm going to proceed in line with the conclusions I reached in my provisional decision. I still think Mr B's complaint should be upheld, for the same reasons.

My final decision

My decision is that I uphold Mr B's complaint and direct NewDay Ltd trading as Marbles to settle in line with the above guidance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 November 2021.

Marco Manente
Ombudsman