

Complaint

Mr R has complained about a credit card and subsequent credit limit increases NewDay Ltd (trading as “Marbles”) provided to him. He says the credit card was unaffordable and shouldn’t have been provided.

Background

Marbles provided Mr R with a credit card with an initial limit of £300 in January 2018. Mr R’s credit limit was increased to £1,200.00 in June 2018; and then £2,400.00 in October 2018.

When it reviewed Mr R’s complaint, Marbles accepted it shouldn’t have offered the second credit limit increase to Mr R. And it agreed to refund all interest, fees and charges Mr R paid on balances above £1,200.00 as a result. As this is in line with what we’d tell a lender to do in the event we were to uphold a complaint about a lending decision we’ve not looked into the lending decision itself but told Mr R that the offer was fair and reasonable as it is in line with what we’d award in these circumstances.

One of our investigators then reviewed what Mr R and Marbles had told us. And she thought Marbles hadn’t done anything wrong or treated Mr R unfairly in relation to providing the credit card or increasing the credit limit in June 2018. So she thought that what Marbles had already agreed to do to put things right for Mr R was fair and reasonable in the circumstances of his complaint.

Mr R disagreed and asked for an ombudsman to look at the complaint.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr R’s complaint.

Marbles needed to make sure it didn’t lend irresponsibly. In practice, what this means is Marbles needed to carry out proportionate checks to be able to understand whether Mr R could afford to repay any credit it provided.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower’s income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we’d expect a lender to be able to show that it didn’t continue to lend to a customer irresponsibly.

Marbles says it initially agreed to Mr R's application after it obtained information on his income and carried out a credit search. And the information obtained indicated that Mr R would be able to make the low monthly repayments due for this credit card. Due to Mr R's account being relatively well managed he was then offered the credit limit increase to £1,200.00.

On the other hand Mr R says that he shouldn't have been lent to and the credit was provided at a time when he couldn't afford it.

I've considered what the parties have said.

Marbles' decision to provide Mr R with a credit card with a limit of £300

What's important to note is that Mr R was provided with a revolving credit facility rather than a loan. And this means that to start with Marbles was required to understand whether a credit limit of £300 could be repaid within a reasonable period of time, rather than all in one go. A credit limit of £300 required small monthly payments in order to clear the full amount owed within a reasonable period of time.

The information Marbles has provided shows that Mr R declared an annual income of £8,000.00 and that he had low levels of existing debt. Given the information Marbles obtained and what it showed, I'm satisfied that Marbles was entitled to rely on Mr M's declaration of income and determine that an initial credit of £300 was affordable for Mr R.

As this is the case, I'm satisfied that the checks carried out before Mr R was initially provided with his credit card were reasonable and proportionate.

The credit limit increase

For the first credit limit increase, it appears as though Marbles mainly relied on Mr R's account having been managed well in the six months or so since it had been opened. I'm not necessarily persuaded that Mr R's account had been managed particularly well or that this in itself was an indication that Mr R should be lent up to a further £900. This is especially as it appears as though Mr R exceeded his credit limit in March 2018 and April 2018. However, I can also see that Mr R made a large repayment in May 2018, which saw him clear the outstanding balance on the account completely.

While I accept that there were some indications that Mr R's account management might have suggested the credit limits were affordable, given the amount of the likely increased monthly payments, I do think that there is a reasonable argument for saying that it would have been proportionate for Marbles to find out a bit more about Mr R's regular living costs before offering the credit limit increase.

As Marbles didn't obtain this information, I've considered the information Mr R has provided with a view to deciding what it might have found out about Mr R's regular living costs had it asked him about this. To be clear this isn't the same as asking Mr R for his bank statements, as given the amounts involved here, I don't think that asking for this information would have been proportionate in the circumstances.

Having carefully thought about matters, I don't think that Marbles would have made a different decision, when offering the credit limit increase, even if it had asked Mr R for more information. I say this because the information Mr R has provided about his finances at the time appears to show that when his committed regular living expenses and existing credit

commitments were deducted from the funds going into his account, he did have the funds, at the time at least, to sustainably make the repayments due.

In reaching this conclusion, I've thought about what Mr R has said about his income being made up from student loans. But these were funds he received and they were not typical loans in the sense that they were meant to act as income for the relevant period and there was no set repayment schedule for them. So I think that it is fair and reasonable to take these credits into account as income.

And, in these circumstances, it's difficult for me to conclude that Marbles would have found out that Mr R didn't have sufficient funds to make the repayments for the increased credit limit of £1,200.00. This is even if it had tried to find out more about his circumstances at this time.

It's possible that Mr R's position might have been worse than what it looks like, or that it worsened after the credit limit increase took place. But it wouldn't be fair and reasonable for me to use hindsight here, or say that Marbles should have known this was the case. This is especially as the available information indicates proportionate checks (rather than a forensic analysis of Mr R's bank statements) would more likely than not have shown that Mr R could repay what he could owe at the time the lending decision was made.

So overall while I can understand Mr R's sentiments, I don't think that Marbles treated Mr R unfairly or unreasonably when providing him with his credit card or subsequently increasing his credit limit to £1,200.00 in June 2018. As this is the case, I'm satisfied that what Marbles has already offered to do to put things right for Mr R is fair and reasonable in all of the circumstances and I'm not requiring to do anything further. I appreciate this will be very disappointing for Mr R. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

Fair compensation – what Marbles needs to do to put things right for Mr R

Having carefully considered everything, I think that it would be fair and reasonable, in all the circumstances of Mr M's complaint, for Marbles to put things right in the following way (which it has already agreed to do):

- rework Mr R's account to ensure that from November 2018 interest is only charged on the first £1,200.00 outstanding - to reflect the fact that the second credit limit increase should not have been provided. All late payment and over limit fees should also be removed;
- if an outstanding balance remains on Mr R's account once all adjustments have been made Marbles should contact Mr R to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr R's credit file, it should backdate this to when it shouldn't have provided the additional credit in question in the first place;
- if the effect of all adjustments results in there no longer being an outstanding balance, then any extra should be treated as overpayments and returned to Mr R along with 8% simple interest† on the overpayments from the date they were made until the date of settlement. If no outstanding balance remains on Mr R account after all adjustments have been made, then Marbles should remove any adverse information it (not any third party) has recorded from Mr M's credit file.

† HM Revenue & Customs requires Marbles to take off tax from this interest. Marbles must give Mr R a certificate showing how much tax it has taken off if she asks for one.

My final decision

For the reasons I've explained, I'm satisfied that what NewDay Ltd has already agreed to do for Mr R is fair and reasonable in all the circumstances of the complaint. And I'm not requiring it to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 15 December 2023.

Jeshen Narayanan
Ombudsman