

Complaint

Mr H 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 not affordable for him and so shouldn’t have been provided.

Background

Marbles provided Mr H with a credit card with an initial limit of £900 in February 2022. Mr H’s credit limit was increased to £1,500.00 in August 2022; and £2,350.00 in November 2022.

When it reviewed Mr H’s complaint, Marbles accepted it shouldn’t have offered the second credit limit increase to Mr H. And it agreed to refund all interest, fees and charges Mr H paid on balances above £1,500.00 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 circumstances behind the second limit increase.

One of our investigators then reviewed what Mr H and Marbles had told us. And she thought Marbles hadn’t done anything wrong or treated Mr H unfairly in relation to providing the credit card in February 2022 or increasing the credit limit in August 2022. So she thought that what Marbles had already agreed to do to put things right for Mr H was fair and reasonable in the circumstances of his complaint.

Mr H 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 H’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 H 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 H's application after it obtained information on his income and carried out a credit search. And the information obtained indicated that Mr H would be able to make the low monthly repayments due for this credit card. Due to Mr H's account being relatively well managed he was then offered the credit limit increase to £1,500.00.

On the other hand Mr H says that he shouldn't have been lent to and the credit was provided at a time when he was a student with earnings of £7,500.00 a year.

I've considered what the parties have said.

Marbles' decision to provide Mr H with a credit card with a limit of £900

What's important to note is that Mr H 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 £900 could be repaid within a reasonable period of time, rather than all in one go. A credit limit of £900 required relatively low monthly payments in order to clear the full amount owed within a reasonable period of time.

The information Marbles has provided shows that Mr H declared an annual income of £7,400.00, he had low levels of existing debt and no adverse information recorded against him. Mr H says that Marbles would have seen a credit card with another provider. I think that it did and that's the existing debt that shows on the credit search.

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 what it had seen in the credit checks which led it to determine that an initial credit of £900 was affordable for Mr H.

As this is the case, I'm satisfied that the checks carried out before Mr H 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 H's account having been managed well in the six months or so since it had been opened. From what can see Mr H used almost all of the credit available to him as soon as he opened his account.

However, I'm mindful that Mr H did make inroads into what he owed by the time he was offered his limit increase. He owed just under £900 on his February 2022 statement and this was reduced to just under £650 in the month before the limit increase was offered. Furthermore, the external credit checks carried out didn't show that Mr H's indebtedness was increasing elsewhere either.

Again, I haven't seen anything to indicate that an account with another provider hasn't been included in Marbles' searches. But if an entry was amended because Mr H made a successful complaint, Marbles could only consider what it saw. And if this was the amended entry then this is what I would expect it to take into account.

In any event, it's fair to say there were some reasonable indications that Mr H's account management might have suggested the credit limit increase was affordable, given his balance was coming down by around the amount of any likely increased monthly payments. That said, 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 H's regular living costs before offering the credit limit increase.

As Marbles didn't obtain this information, I've considered the information Mr H has provided with a view to deciding what it might have found out about Mr H's regular living costs had it asked him about this. To be clear this isn't the same as asking Mr H 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 H for more information. I say this because the information Mr H 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 H has said about being a student. But the evidence he's provided suggests that he was in a position to repay what would have been a relatively low monthly payment. And, in these circumstances, it's difficult for me to conclude that Marbles would have found out that Mr H didn't have sufficient funds to make the repayments for the increased credit limit of £1,500.00. This is even if it had tried to find out more about his circumstances at this time.

It's possible that Mr H'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 H's bank statements) would more likely than not have shown that Mr H could repay what he could owe at the time the lending decision was made.

So overall while I can understand Mr H's sentiments, I don't think that Marbles treated Mr H unfairly or unreasonably when providing him with his credit card in February 2022 or subsequently increasing his credit limit to £1,500.00 in August 2022. As this is the case, I'm satisfied that what Marbles has already offered to do to put things right for Mr H 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 H. 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 H

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 H's account to ensure that from November 2022 interest is only charged on the first £1,500.00 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 H's account once all adjustments have been made Marbles should contact Mr H to arrange a suitable repayment plan for this. If it considers it appropriate to record negative information on Mr H'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 H

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 H account after all adjustments have been made, then Marbles should remove any adverse information it has recorded from Mr M's credit file.

† HM Revenue & Customs requires Marbles to take off tax from this interest. Marbles must give Mr H a certificate showing how much tax it has taken off if he 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 H 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 H to accept or reject my decision before 29 December 2023.

Jeshen Narayanan
Ombudsman