

The complaint

Ms W complains that NewDay Ltd trading as Marbles have irresponsibly lent to her.

What happened

Ms W was approved for a Marbles credit card in February 2022 with a £450 credit limit. Ms W says Marbles shouldn't have accepted her application due to the defaults she had previously. She says she had financial difficulties in making her repayments, and the debt has since passed to a debt management company (DMC). Ms W made a complaint to Marbles.

Marbles said in light of the investigation they had carried out, they decided to uphold Ms W's complaint. They said they had refunded fees and interest charged to the account, and the refund had been passed to the DMC who reduced her outstanding balance. Marbles said that as there was still an outstanding balance on her account she would need to contact them once the balance had been paid in full, and was reflecting as such on her credit file, and they would remove the adverse information about the account from her credit file. Ms W brought her complaint to our service.

Our investigator did not uphold Ms W's complaint. He said as the actions Marbles took were a fair and reasonable way to resolve her complaint, there was nothing more he would ask them to do. Ms W asked for an ombudsman to review her complaint.

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 Marbles upheld Ms W's complaint about the irresponsible lending, it is not proportionate for me to look at the lending decision. Instead I've looked at what they've done to try and resolve Ms W's complaint.

Marbles have taken broadly the same action as I would have asked them to take if they hadn't upheld her complaint, and if I had decided they irresponsibly lent to her. It would not be proportionate for me to ask Marbles to write off any of the remaining balance, even though they've upheld Ms W's complaint. This is because the redress would remove all fees, interest and charges. So it is only fair to expect Ms W to repay the credit she had used.

Marbles would not be expected to remove adverse information prior to the outstanding balance being fully repaid. This is because Ms W would still be expected to repay this. So it is only fair for this to be reflected on her credit file so that future lenders can take into account what a consumer already owes when deciding whether to lend.

In addition to this, if Marbles were to remove a default that they registered on Ms W's credit file, and if she falls behind or fails to pay what's owed, then this wouldn't stop Marbles from re-recording another default, which could then appear on her credit file for longer than the usual six years.

If Ms W is still experiencing financial difficulties, then I would urge her to contact the DMC who is currently administering her account to set up an affordable repayment plan to repay the outstanding balance. If she has any difficulties doing this, then she may wish to complain to the DMC directly. If she is not satisfied with their response, then she may be able to bring this separate complaint to our service.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress Marbles have paid results in fair compensation for Ms W in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case. So it follows I don't require Marbles to do anything further.

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 5 September 2024.

Gregory Sloanes
Ombudsman