

The complaint

Mrs G complains that NewDay Ltd trading as Marbles lent irresponsibly when it approved her credit card application and went on to increase the credit limit on two occasions.

What happened

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

In August 2016 Mrs G applied for a credit card with Marbles. In her application, Mrs G said she was employed with an income of £17,000. Mrs G also said she was renting her home. Marbles carried out a credit search and says it found no evidence of any missed payments or other adverse information. Marbles says it found Mrs G owed £900 to other creditors.

Marbles applied its lending criteria and approved a credit card with a limit of £300.

Mrs G says she quickly borrowed up to the credit limit. In March 2017 the credit limit was increased by Marbles to £700. Marbles increased the credit limit to £1,450 in June 2017.

From July 2017, Mrs G exceeded the credit limit, incurring fees from Marbles. The credit card was ultimately closed at default and in March 2018 Marbles sold the debt to another business.

Earlier this year, Mrs G complained that Marbles had lent irresponsibly when approving her credit card application and increasing the credit limit. Marbles sent Mrs G a final response but said she'd waited too long to raise her complaint.

An investigator at this service looked at Mrs G's complaint. Marbles was able to supply Mrs G's application and risk data. Our investigator wasn't persuaded that Marbles had carried out proportionate checks before approving the credit card application and increasing the credit limit. But, due to the passage of time, Mrs G was unable to provide copies of her bank statements that showed her income and outgoings. As our investigator wasn't able to say what Marbles would've found if it had carried out better checks, they didn't uphold Mrs G's complaint. Mrs G asked to appeal, so her 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 agreeing to lend or increasing the credit limit, the rules say Marbles had to complete reasonable and proportionate checks to ensure Mrs G could afford to repay the debt in a sustainable way. These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:

- The amount of credit;
- The total sum repayable and the size of regular repayments;
- The duration of the agreement;
- The costs of the credit; and
- The consumer's individual circumstances.

That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstances by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.

I've considered the information Marbles had available when Mrs G first applied for the credit card. Mrs G advised she was working within an income of £17,000 and renting. I've not seen any evidence of a more detailed income and expenditure assessment in terms of Mrs G's outgoings. And I'm aware that Mrs G has submitted a credit file from 2018 that provides somewhat different information (including defaults and arrears on a loan) to the details Marbles found. But I think it's fair to take Marbles' credit file information at face value and I'm satisfied that when it checked it found Mrs G had outstanding debts of around £900. And I'm satisfied Marbles didn't find any evidence of adverse credit either.

I think it's fair to note that the original credit limit was modest at £300. And, as noted above, I'm satisfied Marbles looked at Mrs G's credit file and found she had a reasonably low amount of unsecured debt at £900. In my view, Marbles carried out reasonable and proportionate checks before deciding to approve the credit card with a limit of £300.

I've reached a different view to the investigator in terms of both credit limit increases as I haven't been persuaded Marbles lent responsibly. I'll explain why. Marbles' risk data shows that in two of the three months before Mrs G's credit limit was increased to £700 she incurred over limit fees of £12. In addition, the credit file data Marbles had available shows Mrs G's unsecured debts had increased from £900 to nearly £2,500. Further, the credit file data shows payday lending in the months preceding the credit limit increase to £700.

Taking the instances of Mrs G's balance being over the Marbles credit limit, payday lending and sharp increase in her other unsecured debts, I think it should've been clear to Marbles that she wasn't in a position to sustainably afford higher repayments to her credit card. Even without access of Mrs G's bank statements from the time, I'm satisfied there was already sufficient information available that should've shown Marbles that an increase in her credit limit wasn't affordable.

It follows that if I think the credit limit increase from £300 to £700 was unaffordable, I think the same for the increase to £1,450 in June 2017. This was only three months after the previous credit limit increase was approved. By June 2017, Mrs G's unsecured debt is noted to have increased to £6,950. Given that only three months previously Mrs G owed £2,500 I'm satisfied the credit file information Marbles had available should've clearly shown she was borrowing at an unsustainable rate. And I think it's fair to note that Marbles was more than doubling the existing credit limit so needed to be very sure Mrs G could sustainably afford repayments.

In my view, there was sufficient information available to Marbles in June 2017 that shows Mrs G wasn't able to sustainably afford another credit limit increase and the associated higher repayments required. I'm satisfied that Marbles' decision to increase the credit limit to £1,450 wasn't reasonable based on the information it had available and that it lent irresponsibly by approving it.

I would add that the unaffordable nature of the credit limit increases was shown in the months after June 2017 when Mrs G's balance quickly exceeded the credit limit and the credit card was closed at default.

I've considered whether the business acted unfairly or unreasonably in any other way including whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Mrs G 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.

For the reasons I've noted above, I intend to uphold Mrs G's complaint and direct Marbles to refund all interest, fees and charges applied to her credit card on balances over £300 from March 2017 to date.

I invited both parties to respond with any additional comments or information they wanted me to consider before I made my final decision. Mrs G responded and confirmed she had nothing further to add. We didn't hear back from Marbles.

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 neither party has provided new information for me to consider, I see no reason to change the conclusions I reached in my provisional decision. I still think Mrs G's complaint should be upheld, for the same reasons.

My final decision

My decision is that I uphold Mrs G's complaint and direct NewDay Ltd trading as Marbles to settle as follows:

- Rework the account to refund all interest, fees and charges applied to balances above £300 from March 2017 onwards
- If the rework results in a credit balance on the account, this should be refunded to Mrs G along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. And, Marbles should remove any adverse information reported to Mrs G's credit file about this account after March 2017
- Or, if after the rework an outstanding balance remains, Marbles should arrange an affordable repayment plan with Mrs G for the remaining amount. Once Mrs G has cleared the outstanding balance, any adverse information recorded after March 2017 in relation to the account should be removed from her credit file
- If Marbles has sold the debt to another business it will need to either buy it back or liaise with the new owner to ensure the above settlement is put in place

*HM Revenue & Customs may require Marbles to take off tax from this interest. If it does, Marbles must give Mrs G a certificate showing how much tax it's taken off if she should ask for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 31 October 2024.

Marco Manente
Ombudsman