

## **The complaint**

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

## **What happened**

In November 2017 Mr C applied for a credit card with Marbles. In his application, Mr C said he was employed with an income of £32,500 a year that Marbles says left him with £1,911 a month after deductions. Marbles applied an estimate for Mr C's cost of living expenses of £446 a month and carried out a credit search. Marbles found Mr C was making payments of £253 a month to his existing creditors and had a mortgage of £1,114 a month. Marbles calculated Mr C had an estimated disposable income of £97 a month after meeting his existing commitments and approved a credit card with a limit of £600.

Mr C's credit limit was increased to £1,500 in September 2018, £2,750 in December 2018, £4,750 in April 2019, £6,350 in July 2019 and £7,300 in February 2021. Marbles says that before each credit limit increase it checked Mr C's credit file and applied its lending criteria to check repayments were affordable.

Earlier this year, representatives acting on Mr C's behalf complained that Marbles lent irresponsibly. Marbles issued a final response on 25 June 2024. Marbles said it had carried out the relevant lending checks and didn't agree it lent irresponsibly.

An investigator at this service looked at Mr C's complaint and upheld it. The investigator noted that when Marbles assessed Mr C's application it found he only had an estimated disposable income of £97. The investigator thought that figure was too low for Mr C to sustainably afford repayments to a new Marbles credit card and have a reasonable sum left over for emergencies and unexpected expenses. The investigator asked Marbles to refund all interest, fees and charges applied to Mr C's credit card from inception.

Despite giving two weeks for Marbles to respond, chasing and providing a further week to respond, we didn't hear back. The investigator then confirmed Mr C's complaint would be referred to an ombudsman and gave a further two weeks for Marbles to provide comment. Despite asking Marbles to respond over the course of five weeks we didn't hear back. As a result, Mr C's complaint has been passed to me to make a decision.

## **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.

Before agreeing to lend or increasing the credit limit, the rules say Marbles had to complete reasonable and proportionate checks to ensure Mr C 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.

When Mr C applied for his credit card in November 2017 he advised he was earning £32,500 a year, or £1,911 a month. Marbles applied a reasonable estimate of Mr C's general living expenses of £446 a month and carried out a credit search. The information Marbles has submitted shows it found Mr C was making mortgage payments of £1,114 and payments to his creditors of £253 a month. That left Mr C with an estimated disposable income of £97 a month.

I'm not persuaded that a disposable income of £97 a month was enough for Mr C to be able to sustainably afford repayments and have funds available for any unexpected or emergency expenses that may have arisen. In my view, a low disposable income of £97 a month should've led Marbles to decline Mr C's application on the basis a new credit card wasn't affordable.

I've thought about the subsequent credit limit increases that took it to £7,300 in July 2019 as well. If I think the original decision to lend with a credit limit of £900 was irresponsible, it follows I think the same about the credit limit increases Marbles approved. As noted above, Marbles didn't respond to the investigator's view of Mr C's complaint with any new information or comment on why it remains of the view the decision to lend was reasonable. And I haven't seen anything that leads me to conclude Marbles lent responsibly by increasing the credit limit in stages to £7,300 by July 2019.

As I haven't been persuaded that Marbles lent responsibly, I'm upholding Mr C's complaint and directing it to refund all interest, fees and charges applied to his credit card from the date it was approved.

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 above results in fair compensation for Mr C in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

### **My final decision**

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

Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied.

- If the rework results in a credit balance, this should be refunded to Mr C along with 8% simple interest per year\* calculated from the date of each overpayment to the date of settlement. Marbles should also remove all adverse information regarding this account from Mr C's credit file.

- Or, if after the rework there is still an outstanding balance, Marbles should arrange an affordable repayment plan with Mr C for the remaining amount. Once Mr C has cleared the balance, any adverse information in relation to the account should be removed from their credit file.

If Marbles has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.

\*HM Revenue & Customs requires Marbles to deduct tax from any award of interest. It must give Mr C a certificate showing how much tax has been taken off if he asks for one. If it intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 20 January 2025.

Marco Manente  
**Ombudsman**