

The complaint

Mr H complains that NewDay Ltd trading as Marbles irresponsibly lent to him.

Mr H is represented by a claims management company in bringing this complaint. But for ease of reading, I'll refer to any submission and comments they have made as being made by Mr H himself.

What happened

Mr H was approved for a Marbles credit card in July 2021 with a £900 credit limit. The credit limit was increased to £1,900 in June 2023. Mr H says that Marbles irresponsibly lent to him. Mr H made a complaint to Marbles, who did not uphold his complaint. Mr H brought his complaint to our service.

Our investigator did not uphold Mr H's complaint. She said Marbles should have completed further checks before increasing his credit limit to £1,900, and further checks would have likely shown the lending was affordable for him.

Mr H asked for an ombudsman to review his complaint. He said prior to applying for the Marbles account he took out 22 loans in the 12 months prior to this. He said that in the 12 months prior to the credit limit increase he took out 13 loans and one catalogue account, and Marbles added to the cycle of debt he had.

As my findings differed in some respects from our investigator's, I issued a provisional decision to give both parties the opportunity to consider things further. This is set out below:

"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 approve or increase the credit available to Mr H, Marbles needed to make proportionate checks to determine whether the credit was affordable and sustainable for him. There's no prescribed list of checks a lender should make. But the kind of things I expect lenders to consider include - but are not limited to: the type and amount of credit, the borrower's income and credit history, the amount and frequency of repayments, as well as the consumer's personal circumstances. I've listed below what checks Marbles have done and whether I'm persuaded these checks were proportionate.

Acceptance for the Marbles credit card

I've looked at what checks Marbles said they did when initially approving Mr H's application. I'll address the credit limit increase later on. Marbles said they looked at information provided by Credit Reference Agencies (CRA's) and information that Mr H had provided before approving his application.

Mr H declared a gross annual income of £28,000. There were no defaulted accounts showing on his credit file, and no County Court Judgements (CCJ's). Mr H was not showing as having any active payday loans at the time of the checks and none of his accounts were

showing as being in arrears. The CRA didn't report any of his active accounts had been in arrears for the six months prior to the checks either.

Although the CRA didn't report how many accounts Mr H had opened in the 12 months prior to the application (so Marbles wouldn't have been aware of this), the CRA reported Mr H had a debt to gross annual income of 33.44%. So this would have equated to him having around £9,363.20 of unsecured debt.

Marbles used a mixture of information from the CRA and modelling to assess Mr H's outgoings, and they concluded that he would have a sufficient disposable income in order to make repayments sustainably for a credit limit of £900.

So I'm persuaded that Marbles' checks were proportionate here, and they made a fair lending decision to approve Mr H's application, and to provide him with a £900 credit limit.

June 2023 credit limit increase - £900 to £1,900

I've looked at what checks Marbles did when they increased Mr H's credit limit to see if they made a fair lending decision here. A CRA reported that Mr H's active unsecured debt was £7,138 at the time of the checks. He had no active accounts in arrears at the time of these checks, but since the account had been opened, a CRA did show arrears on an external account a number of times, including for three months consecutively prior to the checks for this lending decision.

A CRA also showed Mr H opened a number of payday loans since his Marbles account had been opened. Marbles will have also been able to see how Mr H managed his account since it was opened. While Mr H occasionally made repayments which were a lot higher than his minimum repayment, he sometimes re-used this credit. Marbles would've also seen he incurred three overlimit fees, five late fees and he incurred cash transaction fees. So all of these things could be signs of financial difficulties, and I'm persuaded these factors should've prompted Marbles to make further checks.

One of the things Marbles could have done was to contact Mr H to get an understanding of why he was taking out so many payday loans, why he had arrears on external accounts, why had he been late with his Marbles repayments, and why was he often exceeding his credit limit. Or they could have asked for his bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for him.

Mr H has provided his bank statements leading up to this lending decision. He's told us one of these accounts is a joint account. While the account he says is joint does not display a joint holder, and the requester of the statements has Mr H's forename and surname in the wrong order, I have no reason to doubt that this is an actual joint account statement, especially after looking at the transactions on it.

Mr H has also provided his sole account statement for the same bank, which is where he transfers money to and from his joint account. I need to be mindful that all of the credits into the joint account aren't from Mr H alone. It's also unlikely that all of the outgoings would be Mr H's also. I do note that over the three month period a different person to Mr H credits the account with £1,200, but they also transfer out £1,700 into an account where Mr H's name is not referenced. The account balance varies quite a bit as bills are being paid from this account, but the account is in credit for the full three months.

Mr H's sole account does show that he is struggling financially. While his statements do not state his arranged overdraft limit, I believe this to be £2,200 as Mr H has returned direct debits when he exceeds this amount. In total there are six returned direct debits, with some

of these being only for £10 or £12. So Mr H did not have available funds to be able to pay relatively small direct debits at times.

Three of these payments appear to be direct debits for financial institutions, therefore if Mr H was already having returned direct debits for other financial commitments he had at the time, this could be a strong indicator he wouldn't be able to take on a credit limit with Marbles which was more than double his existing limit.

Mr H's sole account statement shows he has had credits from two lenders, one of which offers payday loans. So it appeared Mr H needed to take additional borrowing to meet his outgoings. Mr H was often in a four figure overdraft for the full three month period I looked at. Mr H's account was only in credit at the end of a day twice in the three month period, even though his salary brought his account into credit.

So if Marbles had requested Mr H's bank statements as part of a proportionate check, based on the reasons I've already given, I'm not persuaded that they would have increased the credit limit here. I'm not persuaded that a fair lending decision was made to increase Mr H's credit limit to £1,900.

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 I have directed at the end of this decision results in fair compensation for Mr H 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."

I invited both parties to let me have any further submissions before I reached a final decision. Mr H accepted the provisional decision. Marbles did not respond to the provisional 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.

As neither party have provided me with any further information to consider, then my decision and reasoning remains the same as in my provisional decision.

Putting things right

In the provisional decision I said I intend to uphold this complaint in part. I said I intend to ask NewDay Ltd trading as Marbles to take the following actions:

Marbles should arrange to transfer any debt back to themselves if it has been passed to a debt recovery agent or liaise with them to ensure the redress set out below is carried out promptly;

End the agreement and rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied to balances above £900 after 6 June 2023;

If the rework results in a credit balance, this should be refunded to Mr H 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 H's credit file recorded after 6 June 2023;

Or, if after the rework the outstanding balance still exceeds £900, Marbles should arrange an affordable repayment plan with Mr H for the remaining amount. Once Mr H has cleared the balance, any adverse information recorded after 6 June 2023 in relation to the account should be removed from his credit file.

I'm still satisfied this is a fair outcome for the reasons given previously.

**If Marbles considers that they are required by HM Revenue & Customs to deduct income tax from that interest, they should tell Mr H how much they've taken off. They should also give Mr H a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.*

My final decision

I uphold this complaint in part. NewDay Ltd trading as Marbles should settle the complaint in line with the instructions in the *"Putting things right"* section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 26 June 2025.

Gregory Sloanes
Ombudsman