

## The complaint

Miss M complains that NewDay Ltd trading as Marbles irresponsibly lent to her.

## What happened

Miss M was approved for a Marbles credit card in June 2021, with a £900 credit limit. I have set out the credit limit increases below:

|               |                  |
|---------------|------------------|
| November 2021 | £900 to £1,900   |
| April 2022    | £1,900 to £3,400 |
| March 2023    | £3,400 to £4,250 |
| February 2024 | £4,250 to £5,250 |
| October 2024  | £5,250 to £6,500 |
| April 2025    | £6,500 to £7,250 |
| August 2025   | £7,250 to £8,000 |

Miss M says that Marbles irresponsibly lent to her. Miss M made a complaint to Marbles, who did not uphold Miss M's complaint. Marbles said that their affordability assessments were proportionate and appropriate. Miss M brought her complaint to our service.

Our investigator partially upheld Miss M's complaint from when the credit limit was increased in October 2024. Marbles agreed with our investigator. Miss M said that she never had the income or the disposable income that was showing on Marbles affordability assessments, and she never had unsecured debt of around £40,000, so she wasn't sure where the figures came from.

## 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 approve the credit available to Miss M, Marbles needed to make proportionate checks to determine whether the credit was affordable and sustainable for her. 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 account*

Marbles said they looked at information provided by Credit Reference Agencies (CRA's) and information that Miss M had provided before approving her application. The information showed that Miss M had declared a gross annual income of £19,188 which Marbles calculated this to be a net monthly income of £1,444.58.

The information from the CRA showed that Miss M had not been in arrears on her active

accounts in the six months prior to her application. The checks showed she had not entered into any repayment plans on any of her active accounts, she had no County Court Judgements being reported by the CRA, she had no defaults registered, and she had no payday loans at the time of the checks.

A CRA reported that Miss M had a debt to gross annual income of 108.22%, which would have equated to around £20,765. Marbles completed an affordability assessment to assess Miss M's disposable income.

Marbles used information from Miss M such as her income, information from a CRA such as her monthly credit commitments, and they also used modelling to calculate Miss M's other monthly expenditure, which is an industry standard way of assessing expenditure. Marbles calculated that Miss M had enough disposable income to comfortably meet her repayments for a credit limit of £900.

In the absence of any recent adverse credit file information at the time of the lending checks, it wouldn't have been proportionate for Marbles to have completed further checks here such as requesting Miss M's bank statements. And there is no requirement for them to do this for each lending decision. While the debt to income ratio was high, Marbles were able to include the debt repayments into the affordability assessment.

So I'm persuaded that Marbles made a fair lending decision to approve Miss M's application for the Marbles account and provide her with a £900 credit limit.

#### *November 2021 credit limit increase - £900 to £1,900*

A CRA reported that Miss M's active unsecured debt had risen to £46,212 since the last lending decision. Although Miss M said her debt wasn't over £40,000 at any point, I can't hold Marbles responsible for information a CRA gives them, and I would expect Marbles to act upon the information a CRA tells them. It may be possible that if Miss M had been consolidating debt, then a new agreement may have been showing at the same time as an older agreement(s) that she had consolidated, but I'm unable to say if that's what happened here.

Miss M had not been in arrears on any active external accounts since the Marbles account had been approved. Marbles would have also been able to see how she used her account since it had been opened.

Miss M incurred a late fee since her account had been opened, which could be a sign of financial difficulty, or it could have been an oversight. While I note Miss M often made repayments higher than her minimum repayment, she often re-used most or all of the credit she repaid.

Again, Marbles completed an affordability assessment which included information from the CRA about her repayments for the total new active unsecured debt she now had. Marbles used information from a CRA regarding Current Account Turnover (CATO), which is an industry standard way of estimating income.

But the CATO showed an estimated monthly income of £4,159, despite the net income five months earlier being £1,444.58. So while I can't rule out a pay rise/promotion/new job for Miss M which could explain the higher income, as the income nearly trebled in five months, and with the increase in debt being reported by a CRA, and with the late payment, then I'm persuaded that Marbles should have completed further checks to ensure that the lending would be affordable and sustainable for Miss M, especially as the credit limit was more than doubling here.

There's no set way of how Marbles should have made further proportionate checks. One of the things they could have done was to contact Miss M to enquire why she had taken on a lot more debt recently, and to find out the reason for the increase in income. Or they could have asked for her bank statements as part of a proportionate check to ensure the lending was sustainable and affordable for her.

Miss M has forwarded her bank statements leading up to this lending decision. Her income is a mixture of state benefits, student loans, and child benefits. But Miss M wouldn't receive the student loans every month, so I can't conclude her income is as high every month as what the CATO showed at this moment in time.

But Miss M has a lot of spending on non-priority spending showing in this three month period. She is not overdrawn at any point during this time, and I couldn't locate any returned direct debits. She also has credits into her account which appear to be a contribution to the bills debiting her account.

So if Marbles would have requested Miss M's bank statements as part of a proportionate check for this lending decision, I'm persuaded that they would still approve the £1,900 credit limit as it would appear that the repayments would be sustainable and affordable for Miss M.

*April 2022 credit limit increase - £1,900 to £3,400*

A CRA reported that Miss M's active unsecured debt had fallen to £25,734 since the last lending decision. Miss M had not been in arrears on any active external accounts since the last lending decision. Marbles would have also been able to see how she used her account since the last lending decision.

Miss M incurred a late fee and an overlimit fee since the last lending decision, which could be a sign of financial difficulty, or they could have been oversights as they occurred in the same month. While I note Miss M often made repayments higher than her minimum repayment, she again often re-used most or all of the credit she repaid.

Again, Marbles completed an affordability assessment which included CATO, but again this was a multiple of the net income declared less than a year earlier. So I'm persuaded that Marbles should have completed further checks to ensure that the lending would be affordable and sustainable for Miss M, especially as the credit limit was nearly doubling here, and the fees incurred were in the same month that Marbles completed their checks.

As I explained in the previous section, there's no set way of how Marbles should have made further proportionate checks. Miss M has forwarded her bank statements leading up to this lending decision. Her income is a mixture of state benefits, student loans, child benefits, and possible salary. But again, Miss M didn't receive the student loans every month, so I can't conclude her income is as high every month as what the CATO showed at this moment in time.

But again Miss M has a lot of spending on non-priority spending showing in this three month period. She is not overdrawn at any point during this time, and I couldn't locate any returned direct debits. She also has credits into her account which appear to be a contribution to the bills debiting her account.

So if Marbles would have requested Miss M's bank statements as part of a proportionate check for this lending decision, I'm persuaded that they would still approve the £3,400 credit limit as it would appear that the repayments would be sustainable and affordable for Miss M.

*March 2023 credit limit increase - £3,400 to £4,250*

A CRA reported that Miss M's active unsecured debt had fallen to £23,933 since the last lending decision. Miss M had not been in arrears on any active external accounts since the last lending decision. Marbles would have also been able to see how she used her account since the last lending decision.

Miss M incurred a late fee since the last lending decision, but it appears to have been an oversight here as she managed to repay almost double the monthly minimum repayment in the month she incurred the fee, so I wouldn't expect Miss M could be able to repay more than what she needed to do if she was financially struggling here.

I also note that leading up to this lending decision, Miss M often made repayments higher than her minimum repayment, and she didn't often re-use all of the credit again that month which she previously had done.

So based on the reduction of the active unsecured debt, and Miss M regularly making overpayments to the account without re-using the amount of credit leading up to this lending decision, then I'm not persuaded it would have been proportionate for Marbles to have asked for further information such as bank statements despite if the CATO appeared to be higher than what I would expect.

This is because Miss M had enough money to reduce her debt and reduce her Marbles outstanding balance leading up to this credit limit increase to where she was using slightly over 50% of the credit limit (whereas before she was close to her credit limit and exceeded it once).

So I'm persuaded that Marbles' checks were proportionate here, and they made a fair lending decision.

#### *February 2024 credit limit increase - £4,250 to £5,250*

A CRA reported that Miss M's active unsecured debt had fallen to £20,755 since the last lending decision. Miss M had not been in arrears on any active external accounts since the last lending decision. Marbles would have also been able to see how she used her account since the last lending decision.

Miss M incurred no late or overlimit fees since the last lending decision. And she had reduced the outstanding Marbles balance since the last lending decision. I also note that leading up to this lending decision, Miss M often made repayments higher than her minimum repayment, and she didn't often re-use all of the credit again that month which she previously had done.

So based on the reduction of the active unsecured debt, and Miss M regularly making overpayments to the account without re-using the amount of credit leading up to this lending decision, then I'm not persuaded it would have been proportionate for Marbles to have asked for further information such as bank statements despite if the CATO appeared to be higher than what I would expect.

I say this again because Miss M appeared to have enough money to substantially reduce her debt and reduce her Marbles outstanding balance leading up to this credit limit increase to where she was using less than a third of the credit limit on the Marbles account (whereas before she was close to her credit limit and exceeded it once).

So I'm persuaded that Marbles' checks were proportionate here, and they made a fair lending decision.

### *October 2024 credit limit increase and further credit limit increases*

As Marbles have agreed with our investigator that the October 2024 lending decision was unfair, then I'm not minded to interfere with this, therefore I will also uphold this complaint from this point.

If Miss M's credit limit was not increased to £6,500, then it's probable that the further lending decisions wouldn't have happened after this either. So I think there is an argument for saying that Miss M's complaint about the subsequent lending decisions should be upheld without making a finding on reasonable and proportionate checks. After all, if matters had played out as the evidence suggests they should have done in October 2024, then I'm not persuaded that Marbles would've added to the credit.

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 Miss M 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.

### **Putting things right**

Our investigator has suggested that Marbles takes the actions detailed below, which I think is reasonable in the circumstances

### **My final decision**

I uphold this complaint in part. NewDay Ltd trading as Marbles should 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 £5,250 after 18 October 2024;

If the rework results in a credit balance, this should be refunded to Miss M 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 Miss M's credit file recorded after 18 October 2024;

Or, if after the rework the outstanding balance still exceeds £5,250, Marbles should arrange an affordable repayment plan with Miss M for the remaining amount. Once Miss M has cleared the balance, any adverse information recorded after 18 October 2024 in relation to the account should be removed from Miss M's credit file.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 7 May 2026.

Gregory Sloanes  
**Ombudsman**