

## **complaint**

Mr W complains that NewDay Ltd (trading as Marbles) was irresponsible when it increased the credit limit on his credit card account.

## **background**

The background to this complaint, and my initial conclusions, were set out in my provisional decision dated 9 July 2019 – a copy of which is attached and forms part of this final decision.

In my provisional decision I explained why I didn't think Marbles had acted reasonably and fairly in increasing the credit limit on Mr W's credit card from £1200 to £2400. And I outlined the reasons why I was minded to uphold Mr W's complaint.

I invited both parties to send any additional evidence or comments they wished to make. Marbles responded to say it had nothing further to add. And Mr W stated that he thought his Marbles account was linked to another NewDay credit card account he had, which trades as a company that I'll refer to as "A". So he felt that Marbles should have been aware of how he was managing his account with A before increasing his credit limit. He also felt Marbles should refund some of the additional payments he had made from the increased minimum payment to reduce the balances further.

## **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In my provisional decision I explained why I was satisfied that Marbles' decision to approve Mr W's credit card application was fair and reasonable. And I gave my reasons why I thought Marbles had responsibly assessed how much it was prepared to lend Mr W from the date he opened his account until June 2018.

After this date Marbles increased Mr W's credit limit from £1200 to £2400. In my provisional decision I explained why I thought this increase was unfair and unaffordable to Mr W.

In summary, I was concerned that this credit limit increase was over five times what it had been when Mr W had opened his account eight months earlier. I also didn't think Marbles did enough to question Mr W about the way in which he was managing his account – particularly given the cash advances and evidence of gambling I could see on his statements. I explained why I thought this sort of behaviour should have been seen by Marbles as a 'risk indicator' that Mr W was showing signs of financial difficulty and why it should've been cautious about increasing Mr W's his credit limit in June 2018.

In my provisional decision I outlined why I thought a fuller financial review would've been proportionate and appropriate before Marbles increased Mr W's credit limit to £2400. I remain persuaded that if Marbles had looked at the way in which Mr W was maintaining his account it would've, more likely than not, noted there were indicators he might be experiencing financial difficulties and falling further into debt from his gambling transactions and cash withdrawals.

I also explained why I thought proportionate checks and a fuller financial review of Mr W's expenditure and borrowing elsewhere would've presented a picture of someone in clear

financial difficulties. Mr W thinks Marbles should've looked into how he was managing his credit card account with A. But Marbles and A are completely separate accounts. Because of this they're assessed individually in relation to credit limit increases. So, Marbles would only have known about Mr W's debt elsewhere if it had undertaken a fuller financial review. To reassure Mr W though, I've already addressed this point in my provisional decision. I say this because I explained that if Marbles had undertaken a fuller review I didn't think it would've increased Mr W's credit limit in June 2018.

I remain persuaded that the resolution I suggested in my provisional decision is fair and reasonable. It recognises that Marbles made an error in increasing Mr W's credit limit to £2400. But it also acknowledges that Mr W used the money that the limit increases made available to him.

Mr W has said he thinks Marbles should refund some of the additional payment he made from the increased minimum payments to reduce his balances further. But, as I explained in my provisional decision, if it did this it would mean that Mr W's debt would be outstanding for longer. So, with that in mind, I'm not going to tell Marbles to refund any minimum payment differences Mr W made.

I'm grateful to Mr W for his comments. But I see no reason to depart from the conclusions set out in my provisional decision.

### **my final decision**

My final decision is that I uphold this complaint. NewDay Ltd (T/A Marbles) should do the following to resolve this complaint:

- reconstruct Mr W's account to refund all interest and charges incurred on any balance above £1200;
- remove any adverse information recorded on Mr W's credit file about this account from June 2018.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 31 August 2019.

Julie Robertson  
**ombudsman**

## ***copy provisional decision 9 July 2019***

### ***complaint***

*Mr W complains that NewDay Ltd (trading as Marbles) was irresponsible when it increased the credit limit on his credit card account.*

### ***background***

*Mr W applied for a credit card with Marbles in October 2017. Based on the information he gave it, Marbles accepted his application and gave him a credit limit of £450.*

*In February 2018 Marbles increased his credit limit to £1200. And in June 2018 it increased his limit to £2400. Marbles said Mr W was given the opportunity to opt out of the increases before they took effect and didn't do so.*

*But Mr W said his cash transactions exceeded the value of retail transactions on his card because he was regularly using his credit card for cash advances and to fund gambling. And he also said after his credit limit was increased in February 2018 he exceeded his credit limit twice, which incurred over limit fees. After his June 2018 credit limit increase took effect Mr W said he spent up to the new available limit quickly.*

*Mr W complained to Marbles that it had substantially increased his credit limits twice within a short period of time, which he said was irresponsible and led to financial difficulties. But Marbles rejected Mr W's complaint. It said that, each time it had offered him a credit limit increase, he had been given the option to decline the increase. And it said it was satisfied he could afford the borrowing so it thought it had lent responsibly and didn't think it had done anything wrong.*

*Mr W wasn't happy with Marbles' response so he brought his complaint to us. Our adjudicator empathised with Mr W and thought that Marbles hadn't acted fairly or undertaken proportionate checks before it increased Mr W's credit limit in June 2018. They weren't persuaded that Marbles had lent responsibly here. And to put matters right they thought Marbles should return Mr W to the position he would've been in had the second credit limit increase not have taken place. But Marbles disagreed and asked for the matter to be referred to an ombudsman.*

### **my provisional findings**

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, while I'm minded to uphold this complaint I'm departing from the view our adjudicator reached about how to put matters right. I'll explain why.*

*Marbles is required to lend responsibly. Before agreeing to lend, it should've assessed the affordability of credit to ensure that Mr W could repay what he was borrowing. It's up to Marbles to decide what checks it carries out. But, they must be proportionate to things such as the amount borrowed, the cost of repayment and a customer's borrowing history. We can't say a lender should've done any particular check and there isn't a set list of checks needed.*

*When Mr W opened his account with Marbles he had a large amount of unsecured debt. But this wouldn't necessarily mean Marbles' decision to approve his credit card application was wrong. It offers cards to people who want to improve their credit rating because they have poor or absent credit history. So it wouldn't be unusual for a Marbles customer to have debts pre-existing elsewhere, or for it to decline lending just for this reason.*

*Before approving Mr W's application Marbles said it made a credit assessment – using its own internal risk strategies and assessing information supplied by Mr W and credit reference agencies. It said that, after doing so, it was satisfied he met its lending criteria. Given this, and the relatively small amount of credit Marbles offered him, I think it was reasonable for it to have accepted his initial application with a relatively small credit limit.*

*Before it changes a customer's credit limit, Marbles said it reviews how they're using their card and managing their account. It says it makes risk based assessments to ensure its lending is appropriate to a customer's financial circumstances. It says these checks were undertaken before it increased Mr W's limit in February by £750 and June 2018 by a further £1200. And it says Mr W met the criteria to qualify for an increase on each occasion.*

*I've seen the terms and conditions of Mr W's credit card account. These state that Marbles will decide the credit limit and "may change it at any time". It's clear from these terms that a customer can tell*

*Marbles not to increase their credit limit and say they don't want to be considered for any future increases. It's also clear that a customer can ask Marbles, at any time, to reduce their credit limit.*

*Marbles said before it made changes to Mr W's credit limit it wrote to him in accordance with these terms. And, having seen the correspondence Marbles sent him, I can see these letters told him it was going to increase his limit. They also advised him to think about whether the proposed increases were affordable to him and what he should do if he didn't want the increase or wanted to opt out of future increases. I understand Mr W didn't reject either increase that Marbles proposed.*

*Having looked at Mr W's credit card statements, I can see that prior to Marbles increasing his credit limit in February 2018 he was making payments to his account on time and in line with the terms and conditions of his account. While he had used his credit card to withdraw cash four times in November and December 2017 there were no cash advances in January and February 2018. There were also no over limit fees as Mr W's account remained within its credit limit prior to February's credit limit increase. So, I don't think Marbles acted unreasonably in increasing Mr W's credit limit in February 2018.*

*But immediately after this increase Mr W exceeded his new credit limit and I can see five cash advances and gambling transactions recorded on his statement for that month. Two months later Mr W exceeded his credit limit again and I can see he was using his card to withdraw cash and fund gambling. It's clear that using his card in this way was what caused him to exceed his credit limit and incur over-limit fees during those months.*

*I think this is enough – given the timing of the credit limit increases – for Marbles to have reasonably had concerns about whether it would be right to increase Mr W's credit limit again – in June 2018. And, even though Mr W was maintaining his monthly payments, I think Marbles had good reason to question him about the way in which he was managing his account.*

*Cash advances incur a very high rate of interest. The UK Cards Association best practice guidelines on credit card limit increases issued in 2011 points to this sort of behaviour as being a 'risk indicator' that a customer is showing signs of financial difficulty.*

*And in July 2018, after the second credit limit increase, Mr W quickly spent up to his credit limit and used his credit card to make seven cash advances and gambling transactions. So, I think there was a pattern of cash withdrawals and gambling transactions set against an ever increasing balance.*

*The second credit limit increase was over five times what it had been when Mr W had opened his account eight months earlier. It follows that I'm not persuaded that this second increase was affordable.*

*While it's clear that Mr W didn't decline the increases Marbles offered him I think the way in which he was managing his account should've made Marbles cautious about increasing his credit limit in June 2018.*

*Marbles said it followed its lending process in assessing whether the credit limit increases it gave Mr W were affordable to him. And I think asking questions about how Mr W was utilising his credit facility could reasonably have been a part of this. Sometimes simply following a normal process will result in an unfair outcome for a customer. I think that's what happened here.*

*I say this because I think a fuller financial review would've been proportionate and appropriate by this point. And I think if Marbles had looked at the way in which Mr W was maintaining his account it would've, more likely than not, noted there were indicators he might be experiencing financial difficulties and falling further into debt from his gambling transactions and cash withdrawals.*

*Had Marbles undertaken proportionate checks and a fuller financial review of Mr W's expenditure and borrowing elsewhere, I think this would've presented a picture of someone in clear financial difficulties. And I believe this would've most likely deterred it from increasing Mr W's credit limit in*

*June 2018. I'm not persuaded that a reasonable lender, even one that targeted the same customer demographic as Marbles, would've made the same decision to increase his credit limit in such circumstances. So, I don't think Marbles acted reasonably in approving the increase it gave Mr W in June 2018.*

*I understand Mr W didn't notify Marbles that he was experiencing financial difficulties until he made his complaint. But for the reasons outlined, I also think Marbles should've recognised Mr W was experiencing financial difficulties before this point. And I think it missed an opportunity to do so in June 2018 when it should've undertaken a more detailed financial review before increasing Mr W's credit limit.*

*In thinking about what's fair to put this right for Mr W, I've taken into consideration that he used the money that the limit increases made available to him. And while our adjudicator recommended Marbles refund £1200 of the credit limit it gave Mr W in June 2018 I don't think that would be fair as his spending above £1200 ought to be repaid. But I also don't think it's fair for Mr W to have been disadvantaged by the interest and charges that he incurred on any balance above £1200 because I don't think Marbles should have given him the second credit limit increase.*

*With this in mind, I think Marbles should reconstruct Mr W's account as though the credit limit increase from £1200 to £2400 hadn't taken place. It should recalculate the interest payable as if it was based on a credit limit of £1200 and refund all interest and charges it applied to Mr W's account on any balance above that limit.*

*At this point in time I'm not minded to ask Marbles to refund any minimum payment differences Mr W made as our adjudicator suggested in their view because this will mean that his debt would be outstanding for longer. But Marbles should also remove any adverse information recorded about this account from Mr W's credit file from June 2018.*

**my provisional decision**

*My provisional decision is that I'm minded to uphold this complaint. NewDay Ltd (T/A Marbles) should do the following to resolve this complaint:*

- *reconstruct Mr W's account to refund all interest and charges incurred on any balance above £1200;*
- *remove any adverse information recorded on Mr W's credit file about this account from June 2018.*

*I'll wait two weeks to see if either party has anything further to add – before considering my decision on this complaint once more.*

**Julie Robertson**  
**ombudsman**