

## **The complaint**

Mrs C complains that MBNA Limited irresponsibly granted her credit she couldn't afford to repay.

## **What happened**

MBNA opened a credit card account for Mrs C in July 2018. This type of credit was an open-ended or running account facility and the credit limit was £2,800. MBNA increased Mrs C's credit limit to £4,800 in October 2019 and to £6,300 in March 2022.

Mrs C said that MBNA should never have allowed her to open an account because she was having difficulty with her finances at the time. She said MBNA would have found out she was in a debt management plan (DMP) had it carried out proper checks before lending to her.

Mrs C also said that MBNA was irresponsible to allow her to transfer a balance of £4,500 from another credit card having not used the account for some time (Mrs C transferred a balance of around £4,450 from another card in July 2022). She said that proper checks at this time would have shown that she had been paying the minimum amount on all her credit cards and been taking money transfers from one to pay another.

MBNA said that Mrs C passed all its checks which were based on information she provided, information from the credit reference agencies and an estimation of her living costs based on national statistics. MBNA said it didn't know about Mrs C's financial problems and wouldn't have stopped her using her card for purchases or transfers to other card providers. It also said that it wouldn't automatically close the account if she paid off an existing balance unless she requested it. MBNA didn't uphold Mrs C's complaint.

Mrs C referred her complaint to us. She said that in order to resolve it she would like MBNA to refund any interest and fees associated with the account and waive the balance on the account as a good will gesture. The balance on the account in May 2023 was just over £5,500.

Our investigator didn't recommend that the complaint be upheld. They found that MBNA didn't act unfairly or unreasonably by approving the credit agreement or by increasing the credit limit. Mrs C didn't agree with this recommendation and asked for her complaint to come to an ombudsman to review.

I issued a provisional decision on 20 September 2023 explaining why I planned to uphold Mrs C's complaint in part. I shared the information I'd relied on and allowed some time for comments or new information from either party. Mrs C said she had no new information to provide and MBNA said it accepted my provisional decision. This is my final decision on the matter and will be legally binding on both parties on Mrs C's acceptance.

## **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.

Having reconsidered everything and having no new information to review, I see no reason to depart from my provisional conclusions. I'll set out my reasoning and conclusions again in this final decision.

As before, I've had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as MBNA, need to abide by. MBNA will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise and refer to them where appropriate.

Before entering into a credit agreement or significantly increasing the credit limit, MBNA needed to check that Mrs C could afford to meet her repayments out of her usual means, within a reasonable period of time, without having to borrow further and without experiencing financial difficulty or other adverse consequences. The regulations stated that a lender should not use the assumption of the amount necessary to make only the minimum payment each month and should consider the customer's ability to repay the maximum amount of credit available under the agreement within a reasonable period of time. The checks needed to be proportionate to the nature of the credit (the amount borrowed, for example) and to Mrs C's circumstances.

My main considerations are did MBNA carry out proportionate checks when it opened the account for Mrs C and later increased her credit limit? What would such checks have shown and did MBNA make fair lending decisions? Did it treat Mrs C unfairly in any other way?

Before opening the account in 2018 MBNA asked Mrs C about her income which she said was £14,000 a year, in other words around £1,080 net a month. It recorded that she had a mortgage and total credit card balances of just over £3,600, and that there was no adverse information on her credit file such as county court judgements or delinquency. I don't know what information MBNA knew at this time about Mrs C's monthly costs. Given her income and her existing debts, I think MBNA ought to have gathered a good understanding of Mrs C's other expenses before agreeing a credit limit of £2,800 in order to check she would be able to manage the credit sustainably and repay it within a reasonable period of time.

Mrs C told us that she was in a joint DMP with a national debt charity from 2009 to October 2022 and the monthly payments were £230. As this plan was to repay debts built up before 2009, I don't think it's likely these debts would still be showing on Mrs C's credit file in 2018. I understand the payments were being made through Mrs C's joint bank account and so, altogether, I don't think it's likely MBNA would have found out about the DMP even had it looked into Mrs C's finances in more depth.

I haven't seen Mrs C's full credit file or her bank statements from that time so I don't have any more information about her living costs. I can't reasonably find that further information about Mrs C's finances would have led MBNA to decline to lend to her at that time and so I haven't found that MBNA was irresponsible to offer her the account.

Mrs C had an introductory offer of 0% on balance transfers for the first 18 months after opening the account and within a few days she transferred balances to the card totalling just over £2,500. In March 2019 Mrs C made a money transfer from the card of £150. By the time the interest free period for balance transfers ended in January 2020 she had repaid the balance, albeit this included a lump sum payment of £1,200. Mrs C was charged £83 in transfer fees and £5 in interest over this time.

MBNA increased Mrs C's credit limit to £4,800 in October 2019. It recorded Mrs C's income from that time as £1,075 a month and her expenses as £996 based on what Mrs C said about her income, a check on her credit file and an estimation of her usual living costs. Her expenses included housing costs of £385, unsecured debt repayments of £214 and living costs of £397. This left Mrs C with £79 to meet her card repayments and any other living costs that MBNA hadn't taken into account or any unexpected costs.

Even if MBNA charged no interest on this amount, I think it's more likely than not that Mrs C would have difficulty repaying this level of credit within a reasonable period of time while meeting all her other expenses. I think MBNA should have recognised this from its checks and shouldn't have increased Mrs C's credit limit on this occasion.

MBNA increased Mrs C's credit limit to £6,300 in March 2022. It recorded Mrs C's income as £1,382 a month and her expenses as £1,243. These included housing costs of £588, unsecured debt repayments of £197 and living costs of £458. This left Mrs C with £139 to meet her card repayments and any other costs that MBNA hadn't taken into account. As before, I don't think MBNA could consider that this left Mrs C with enough to be able to repay this level of credit within a reasonable period of time while meeting all her other expenses. I don't think MBNA should have increased Mrs C's credit limit on this occasion either.

The card had a zero balance from January 2020 until Mrs C transferred a balance of around £4,450 from another card in July 2022. This balance was transferred with a promotional interest rate of 0% for 18 months. Mrs C was charged £156 for this balance transfer. I note that she made the minimum repayment (or close to it) from this point onwards until she missed a payment in March 2023.

Mrs C said that MBNA should not have allowed her to transfer such an amount as her account hadn't been in use for some time. MBNA said that it wouldn't automatically close a credit card due to inactivity at that time, nor did Mrs C request that the account be closed. From the information I have I don't think MBNA acted outside the terms and conditions of the account or treated Mrs C unfairly when it allowed her to use her account in July 2022 following a period of inactivity. However, as I've found above, I didn't think it should have increased the credit limit on the account in 2019 or 2022.

In November 2022 Mrs C transferred another £1,000 balance to her account and made two money transfers from the account amounting to £350. Mrs C was charged £50 for the balance transfer and £17.50 in money transfer fees.

Mrs C complained to MBNA about her account in March 2023. Shortly after this, MBNA decreased the credit limit to £6,000 and stopped charging interest on the money transfers. It confirmed to us recently that it had stopped charging interest on the account and that the total interest charged since account opening was £28 along with £306 in balance and money transfer fees.

### **Putting things right**

Mrs C said that in order to resolve her complaint she would like MBNA to waive the outstanding balance on the account. MBNA can of course consider this but I am not directing it to do so. This is because Mrs C had the benefit of the money she borrowed and I think it's fair that she repays this. However, I don't think it's fair for MBNA to be able to charge any interest or fees on balances above the original credit limit of £2,800. As mentioned above, my understanding is that there is a large balance outstanding on the account.

In summary, MBNA should now:

- Waive any interest or charges owing on balances above £2,800;
- Refund to Mrs C's account any interest, fees or charges she paid on balances above £2,800;
- Remove any adverse information from Mrs C's credit file in relation to balances above £2,800, once the account is settled;
- Treat Mrs C fairly, with forbearance and due consideration regarding her outstanding balance.

### **My final decision**

For the reasons given above, I am upholding Mrs C's complaint in part about MBNA Limited and it needs to put things right for her as I've outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 30 October 2023.

Michelle Boundy  
**Ombudsman**