

## The complaint

Mr B complains that MBNA Limited (MBNA) sold his debt to a debt collection agency.

## What happened

Mr B had a debt with MBNA. In March 2019 they sent him a notice of default. On 16 July 2019 they issued a final demand for payment. On 1 August 2019, MBNA defaulted Mr B's account and sold the debt to a debt collection agency (DCA) on 19 September 2019.

Mr B complained that MBNA passed his debt to a DCA while he had complaints being looked at by this service. He said that this should mean that MBNA suspended action against him.

MBNA said they had the right to register a default against Mr B and sell his debt to a DCA if he fell behind with repayments. Referring his complaint to the financial ombudsman service didn't mean his account was put on hold.

Mr B brought his complaint to this service. Our investigator said that the fact that Mr B had put complaints to this service didn't mean that MBNA had to stop any action. This service can't compel any business to do that. They were entitled to do that as part of their terms and conditions – and for several months in 2018 and 2019, Mr B hadn't maintained the minimum payments, and his account was over the limit.

Mr B asked that his complaint be looked at by an ombudsman.

## 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.

Mr B has made other complaints about MBNA – in terms of the interest rates they applied to his account and the amount of monthly minimum payment needed. I'm not going to comment on those aspects as it's not part of this complaint – which I interpret as – could MBNA sell Mr B's debt to a DCA while he had an open complaint with MBNA. I can see that he made other complaints about MBNA in 2018 and 2019.

I've looked at MBNA's terms and conditions. These say that they can take legal action against a borrower if they're over their limit or behind with making repayments. They say: *"Missing payments could have severe consequences, such as legal action against you to recover your debt or negative feedback from us to credit reference agencies, which may make getting credit more difficult for you in future. If you continue to miss payments, we may sell your debt and we or the purchaser may take legal action to recover money you owe us. This may include asking a court for an order that your home must be sold, or an order that we or a purchaser can be paid from the sale proceeds of your home."*

And – they also say that the minimum payment must include the amount of any balance over the limit:

***"Paying your balance***

*The minimum payment you must make will be shown on your statement. And You must pay us immediately:*

- *any amount by which your balance goes over the credit limit on your account...*

I've looked at Mr B's statements. And these show he wasn't making the minimum payments needed as shown on his statement, and he was in arrears.

Date of statement	Balance	Limit	Minimum payment needed	Minimum payment made	Over limit (Arrears)
August 2018	£21792	£21300	£704	£652	£492
September 2018	£22266	£21300	£1396	0	£966 (arrears £704)
October 2018	£22266	£21300	£1562	0	£649 (arrears £622)
November 2018	£22458	£21300	£2565	0	£1158 (arrears £1562)
December 2018	£20931	£21300	£1498	£2012	£0 (arrears £552)
January 2019	£21528	£21300	£2459	0	£228 (arrears £1498)
February 2019	£21565	£21300	£2971	£426	£265 (arrears £2033)
March 2019	£21789	£21300	£3685	£213	£489 (arrears £2758)
April 2019	£21576	£21300	£3958	£213	£276 (arrears £3472)
May 2019	£21363	£21300	£4226	£213	£63 (arrears "seriously overdue")
June 2019	£21150	£21300	£4489	£213	£0 (arrears "seriously overdue")

So – Mr B was regularly not making the minimum payments and his account was over its limit – and seriously in arrears. On that basis, I can't say that MBNA were wrong in defaulting his account – and then passing the debt to the DCA.

Turning to whether a business must suspend action if a customer complains to the ombudsman service. There's no such agreement or rules that this is the case. Occasionally, we may ask a business to do that – in rare circumstances. But then – the business would have to agree to this – we can't make them stop action. We are an informal dispute

resolution service – not a regulator of MBNA, and so we can't force them to suspend any action in the way Mr B suggests.

So – my decision is that MBNA were entitled to sell Mr B's debt to a DCA for them to deal with.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 10 August 2021.

Martin Lord  
**Ombudsman**