

The complaint

Ms G complains that lending made to her by MBNA Limited was irresponsible.

What happened

Ms G said she applied for a credit card with MBNA in late 2018, when she already had a very considerable amount of debt. It offered to lend her £3,700, but she said this was never affordable for her. She said that MBNA hadn't verified her income and expenditure, and if it had, it would've realised that she earned only a little over £1,000 per month, and she had no disposable income at all.

Ms G said MBNA had taken no steps to make sure she could clear the debt that she had quickly run up on her card. She exceeded her credit limit on 7 November 2019, and MBNA increased her limit on 3 December 2019. She said she made her last payment in May 2020. Her account has since been defaulted.

Ms G wanted MBNA to write off her debt of over £4,000 in full, and to remove any adverse information it had recorded on her credit file.

MBNA said when Ms G applied for her card, she had £8,546 of unsecured debt. She also had £29,065 of debt for her car, but MBNA said it treats that debt differently, because it's secured on the car.

MBNA said Ms G had declared an income of £37,000, and its lending was based on that. MBNA said it doesn't always ask for proof of income when it's reviewing an application, and unless there were any concerns from discrepancies in her application and credit file information, it would accept that she earned what she'd told it. It didn't think that was a mistake.

MBNA said it had increased Ms G's credit limit in December 2019. Her account exceeded the credit limit and remained above the limit between November 2019 and June 2020. Ms G's direct debit was returned unpaid in April 2020. MBNA had given Ms G a payment holiday after this, but interest continued to be applied during this time. When no further payments were received after this, the account was defaulted.

MBNA said it wouldn't write off Ms G's debt, and it wouldn't remove the default on her credit file. It said it wanted to come to an agreement with her on resolving the debt.

Our investigator didn't think this complaint should be upheld. He thought MBNA had made proportionate checks when it first lent to Ms G, and in particular he didn't think it was unreasonable for MBNA not to have taken further steps to verify Ms G's income, because there wasn't anything to alert MBNA to a problem when it first lent to Ms G. He didn't think the initial lending was irresponsible. And he said that the credit limit increase in December 2019 stopped Ms G being charged over limit fees.

Our investigator said that credit card companies are supposed to write to their customers, if they've only been making the minimum payment for a while. Those letters start at eighteen

months. But Ms G stopped paying before that point, so wouldn't have triggered any of these letters. And MBNA did write to Ms G to try to set up an agreement for her to pay what she could afford.

Our investigator didn't think MBNA had to do any more. He mentioned sources of help if Ms G was still struggling with her finances.

Ms G said she still thought that MBNA's lending was unaffordable, and she said this was demonstrated by what happened after the account was opened. She asked what level of debt would she have had to have for further lending to be unreasonable. She said that £37,611 was a huge level of debt for a single individual. She thought it was extraordinary that she was able to put any number down as earnings on a credit card application and this would never be cross-checked. She said that essentially allows anyone to manufacture their income out of thin air, putting vulnerable customers at risk. She said our investigator hadn't mentioned that.

Ms G said that our investigator mentioned help offered by MBNA, but the damage had already been done by the time that was offered. Ms G said she'd been clear that her income for November 2018 wasn't enough to allow any further lending. Ms G wanted her complaint to be considered by an ombudsman, so her complaint was passed to me for a final decision.

My provisional decision

I issued a provisional decision on this complaint and explained why I proposed to uphold it in part. This is what I said then:

Ms G's argument is that we needed to look at the fact that she'd inflated her income, and there was no check on that. Essentially, Ms G says that MBNA should've checked if she was telling the truth about how much she earned. And if MBNA had looked into things further, it would've realised what her situation really was, and it wouldn't have lent to her.

I think our investigator did look at this. And I've reached broadly the same conclusion on this as he did – that there wasn't anything in the information that Ms G had supplied to make MBNA think that further checks were needed.

It isn't always all right for a lender to just rely on what a customer says about their income. But I don't think it's unreasonable for MBNA to have relied on what Ms G said about her employment and income in this case. That's because I haven't seen any information which would've been available to MBNA at that time, which makes me think MBNA ought to have refused to believe her, and required her to provide proof of her income.

Ms G told us that she had a very considerable amount of debt when she applied for this card, and detailed credit agreements totalling just under £45,000. But she appears to have listed her credit limits, rather than her outstanding debts. MBNA said that her unsecured credit was £8,546. And although she also owed a considerable amount on car finance, that debt was secured on the car. I don't think that this amount of lending, with a total declared income of £37,000, ought to have made MBNA think that no further lending would be affordable for her.

Ms G says this lending wasn't affordable for her, and that what happened on the account afterwards proves this. But I think I need to be clear on what I'm looking at. I'm not looking at whether this lending was actually affordable for Ms G in the end. I'm looking at the decision that MBNA made in late 2018, and in particular, whether it

should've realised then that this was going to be unaffordable for Ms G. And I don't think it would be fair and reasonable, in the circumstances of this case, to expect MBNA to have realised then that this lending wasn't going to be affordable for Ms G.

Our investigator set out the expectations on MBNA, in terms of writing to customers about their monthly payments. And he said that MBNA had tried to point Ms G towards help when she appeared to be getting into trouble with her finances. I think MBNA did what I would expect it to when Ms G was no longer able to meet her monthly payments.

But there is one thing I thought that MBNA did wrong. In November 2019, Ms G went over her credit card limit. And in December 2019, MBNA increased Ms G's credit limit by £100. Ms G hasn't suggested that she requested this increase, so it seems likely that MBNA offered this increase. And, although this was a relatively modest increase, the UK Cards Association says that credit card companies shouldn't offer any increase where the balance currently exceeds the credit limit. So I don't think this increase should've been offered.

Because I don't think Ms G should've been offered this additional lending, I think that MBNA should refund onto Ms G's debt any interest she was charged for lending between her old credit limit of £3,700 and her new credit limit of £3,800.

Where Ms G has been charged additional interest, for lending over her new credit limit, I don't think MBNA has to refund that too. That's because I don't think that interest charge is related to the mistake MBNA made.

I know Ms G will be disappointed, but I don't think that MBNA has to do more than that.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Ms G didn't reply. MBNA sent a substantive reply.

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.

MBNA had previously told us it had no notes to tell it about the credit limit increase it made in December 2019. It now says that it's checked, and it does have some information on this, held elsewhere in its organisation. It now says that Ms G did ask for this credit limit increase, MBNA didn't proactively offer it. And MBNA says that when it agreed to this, on 3 December, Ms G was under her credit limit by £25.

I have looked carefully at Ms G's statements. I can see that when Ms G got her card, she used almost all of her available credit straight away, to make an interest free balance transfer. She made one transaction on her card, not long after she first got it, which used up most of the remaining credit. She then continued to pay the minimum each month for some time, without using the card.

In late October 2019, the position changed, and Ms G started to use her card for purchases. She quickly used up all of the available credit on the card at the start of that monthly statement period, and by 6 November, her card was over its limit.

I can't see exactly when, during December, Ms G's credit limit was increased. MBNA has said this was done on 3 December, which was the day after Ms G had made her monthly

minimum payment. That payment did briefly bring Ms G's card back within its limit. But Ms G had already made some transactions on 2 December, which had pushed her back up towards her old credit limit when the increase was agreed. Depending on the timing of this request on 3 December, she may already have been over her old limit again. But even if she wasn't, this increase was requested at a time when Ms G's usage of the card had clearly changed, and just after she had run her card up over its limit. She went on to do exactly the same thing that month.

I have balanced against this that the increase was a relatively modest one, and that MBNA would not necessarily have been aware in December that Ms G would remain over her new limit for some time. But I also need to consider that Ms G had never paid more than the minimum, and that her card usage had changed markedly and recently including exceeding its limit. So, on balance, I still think that there were sufficient early warning signs of potential financial difficulties when Ms G made this request, that this increase should not have been made. And that means I still think that MBNA should make a relatively modest refund onto Ms G's debt, to cover any interest she was charged for lending between her old credit limit of £3,700 and her new credit limit of £3,800.

My final decision

My final decision is that MBNA limited must refund onto Ms G's debt any interest she was charged for lending from December 2019 onwards, on lending between her old credit limit of £3,700 and her new credit limit of £3,800.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 25 August 2021.

Esther Absalom-Gough
Ombudsman