DRN-3110850

## The complaint

Miss R complains that MBNA Limited lent to her irresponsibly when it increased her credit card limit in December 2017. She further complains that MBNA allowed her to make significant money transfers after that time.

## What happened

Miss R had two MBNA credit cards. The first account ('Account 1') was opened on 7 May 2016 with a credit limit of £3,000. The second account ('Account 2') was opened on 12 August 2016 with a credit limit of £4,000. The credit limit for Account 2 was never increased.

In April 2017 and at Miss R's request, MBNA agreed to increase her credit limit to £6,000. Miss R then immediately used the card to make a money transfer of £5,250.

In December 2017, MBNA increased Miss R's credit limit to £8,100. The increase had not been requested by Miss R. But when it was applied to her account, Miss R made a further money transfer of £1,900.

In May 2018, Miss R contacted MBNA to say she was in financial difficulties. She entered into a debt management programme in or around February 2019. MBNA defaulted both accounts shortly thereafter.

In April 2021, Miss R complained to this service. She said she had only ever made minimum repayments to her cards and she was using a high level of her credit limit. She told us she had taken out a lot of credit to make ends meet while she was on maternity leave. She estimated her monthly credit repayments to exceed £1,000 per month. She said MBNA should have known she was in financial difficulty because she had missed some repayments.

Our investigator looked at all of this and agreed with Miss R that MBNA should not have increased her credit limit in December 2017. He said that MBNA should have seen Miss R had opened a new credit card in November 2017 and was almost up to that limit straightaway. However, he didn't think MBNA had to undertake checks every time Miss R made a money transfer.

MBNA did not agree with our investigator's view. It said that the new credit card Miss R took out in November 2017 would not have shown up on checks and it was not unusual for customers to use move funds between cards to get a better interest rate.

## 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.

I've also taken account of the relevant regulatory rules and good industry practice that applied at the relevant time.

I have upheld the complaint to the same extent as our investigator. I'll explain why below.

In her complaint, Miss R said she was not happy with the credit limit that was applied to her account in December 2017. So, that is what I have looked at in this decision.

MBNA is required to lend responsibly. What that means in practice is it must check that Miss R could affordably and sustainably repay the credit. These checks would need to be proportionate. So what MBNA checked in Miss R's case would depend on a number of things such as: what it knew about her and how she managed her accounts, her overall credit limit and how much she would have to pay each month (including additional interest and charges). There is no set list of checks MBNA had to do.

Before it decided to offer Miss R a credit limit increase, MBNA says it checked a consumer indebtedness index with a credit reference agency. As our investigator said, this was a risk-based check and did not provide MBNA with information about how Miss R was managing her finances at the point the increased credit limit was offered.

Miss R had two credit cards with MBNA. So when it increased the credit limit for Account 1, MBNA wasn't just increasing Miss R's limit to £8,100. Her total credit limit across both accounts would have been £12,100. I don't think MBNA should have viewed Account 1 in isolation. It had information about how Miss R managed her finances more generally through its records with Account 2. I think it should have considered how she managed both accounts before it decided to increase her credit limit.

With that in mind, I can see that up to the point of the credit limit increase in December 2017, Miss R used both of her accounts exclusively to make significant money transfers. This is different to a balance transfer in which a balance would be directly transferred from one card to another to get a better interest rate.

MBNA told us it wasn't unusual for Miss R to move funds between cards to get a better interest rate. That isn't what Miss R was doing here. She was using her credit card to access significant cash sums. MBNA could not know how Miss R used those funds once they had been transferred from her card. But it could have indicated that Miss R needed access to a lot of cash very quickly. Or that she was using those funds to repay significant debts. Either way, I think it would've been proportionate, given the circumstances here, for MBNA to have asked more about the reason behind these before lending.

I say this because when Account 1 was opened, Miss R made a money transfer almost up to her credit limit. The same thing happened when she opened Account 2. She then made minimum repayments effectively to service the debts. I accept that she did repay the balance in full at some point. But when she requested a credit limit increase in April 2017, she quickly made a further money transfer almost up to her credit limit. In that month and across both Account 1 and Account 2, Miss R transferred over £9,000 in cash to her account. It seems to me this pattern should have indicated to MBNA that Miss R could well have difficulty in sustainably repaying her borrowing. The evidence did not suggest she was making inroads into the debt.

I also note that three late fees were applied to Account 1 immediately after the credit limit increase and the money transfers in April 2017. MBNA does not consider these late fees to indicate Miss R had difficulties in managing her account because her payments were only a day late each time. I disagree. I can't reasonably say that three consecutive missed payments all of which incurred late fees were not of significance, especially when considered alongside some of the other factors I've mentioned here.

It follows then that I can't say that relying on the consumer indebtedness check MBNA undertook was proportionate in the particular circumstances of this case. I'm satisfied MBNA should have reasonably undertaken further checks.

Had it done so, I think MBNA would have concluded that the credit limit increase in December 2017 was not sustainable. Miss R had told MBNA her income was £24,500 in April 2017 and that's consistent with what we know about her take home pay being around £1,600 month. She was entitled to child benefit of roughly £82 every four weeks. Miss R told us she was on maternity leave at the point of the credit limit increase. I accept that her pay did not appear to have reduced by that point, but MBNA could have reasonably expected her pay to go down in the months following the increased credit limit.

Miss R told us that her partner was unemployed and that their rent liability was £1,150. I can see from the credit report that her utility and telephone liability at the relevant time was around £300 a month. When MBNA increased her credit limit, the minimum payment Miss R would have had to make across two MBNA accounts would have been around £175 each month. She also had a loan with an outstanding balance of around £7,000 and it looks as though her repayments towards that borrowing were around £200 per month.

Our investigator said that in November 2017, Miss R had opened another credit card account and that the balance on that card was £7,000 in the first month and at the point MBNA increased her credit limit a month later. In response, MBNA said its checks in December 2017 would not necessarily have shown a new credit card account that Miss R had opened in November 2017.

But even without taking account of the new credit card, for the reasons set out above, I think a proportionate check would have shown that Miss R's outgoings were likely to be more than her income. That is without taking account of what she would need to spend on groceries or the additional costs I would expect with a baby.

With all of this in mind, had MBNA undertaken proportionate checks, I am satisfied it would have concluded Miss R could not sustainably repay her credit card debt in respect of Account 1 when the limit was increased to £8,100. That means MBNA will need to take action to put things right.

*Money transfers*

Miss R complained that MBNA should have undertaken proportionate checks every time she made a money transfer. I agree with our investigator that once the credit limit had been agreed, MBNA did not have to check each transaction when Miss R used her account.

In my view, the point at which proportionate checks should have been undertaken is when MBNA decided the credit limit. This is the amount it should have been satisfied that Miss R could sustainably repay. As long as Miss R was within her credit limit, I can't say it would have been proportionate for MBNA to undertake detailed checks for each large transaction she made. To do so would undermine the use of the card. For example, it would be difficult to see how a consumer would be able to use their credit card for a large transaction in a shop if MBNA was required to undertake the checks Miss R suggests. But as I've explained above, I do think these transactions were relevant in assessing the affordability here.

**Putting things right**

I understand the debt in respect of Account 1 may have been sold to a third party. If that is the case, MBNA must buy that debt back and follow the steps I have set out below. If it is not possible to buy the debt back, it must liaise with the third party to achieve the outcome I have set out below.

- Rework the account removing any interest and charges applied to any balance above £6,000 in respect of Account 1 from 22 December 2017 onwards;
- Apply the refund to the outstanding balance of Account 1;
- If the rework results in a credit balance, this should be refunded along with 8% simple interest per year* calculated from the date of each overpayment to the date of settlement. Or, if after the rework there is still an outstanding balance, then MBNA should arrange an affordable repayment with Miss R.

*HMRC requires MBNA to deduct tax from this interest. It must give Miss R a certificate saying how much tax it has deducted if Miss R requests it.

## My final decision

My decision is that MBNA Limited should not have applied the credit limit increase to Account 1 in December 2017. I require MBNA Limited to put things right as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 17 August 2022.

Nicola Bowes
**Ombudsman**