

The complaint

Mr L has complained that MBNA Limited was irresponsible in lending to him.

What happened

In 2016, Mr L took out a credit card with MBNA for £10,000. The limit was increased to £13,000 over the following 18 months. The account was later closed.

In 2021, Mr L complained to MBNA. He said it was irresponsible in allowing him to take out the credit card. He said in the months prior to taking out this credit card, his bank statements showed he had pay day loans and other lending, and he was suffering from a gambling addiction.

MBNA didn't accept it had done anything wrong. It said it thought the lending decision and amount was appropriate based on the information Mr L had given. It also said any increases in credit limit were because Mr L had met its lending criteria, and Mr L didn't have to agree to any increases.

Unsatisfied with MBNA's response, Mr L brought his complaint to our service.

Our investigator thought MBNA had acted irresponsibly in lending to Mr L. She wasn't satisfied that MBNA had shown it carried out sufficient checks on Mr L before agreeing the card and limit. She thought if it had, this would have shown it would be irresponsible to lend to him. So she recommended it refund all interest and fees that had accrued, along with 8% simple interest from the date the amounts were paid, until the date of settlement. She also said MBNA would need to remove any adverse data from Mr L's credit file.

MBNA didn't accept this, it said it believed based on Mr L's salary, his outstanding debts were affordable to him. It said Mr L had cleared his balance on several occasions and the account was closed as fully settled. So this didn't support that the lending was irresponsible.

MBNA asked for the matter to be considered 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.

There are several questions that I've thought about when deciding if MBNA treated Mr L fairly and reasonably when it provided him with the credit card.

These include:

- 1) Did MBNA complete reasonable and proportionate checks to satisfy itself that Mr L would be able to repay the credit advanced in a sustainable way?
- 2) If not, what would reasonable and proportionate checks have shown at the time?
- 3) Ultimately, did MBNA make a fair lending decision?

Section 5 of the Consumer Credit (CONC) sourcebook, in place at the time, outlines that the assessment that MBNA needed to complete should've been dependent on, and proportionate to, a number of factors – including the amount and cost of the credit and the

consumer's borrowing history. CONC also provides guidance on the sources of information MBNA may have wanted to consider as part of making a proportionate assessment. MBNA is free to decide how to set its lending criteria, but it should complete proportionate checks to ensure borrowing is sustainable.

MBNA initially said it looked at Mr L's income – which he said was £50,000 per year on his application. It then said it used a scoring system from the credit reference agencies, which showed he had other revolving debts of around £7,000. It also showed he had no CCJs or adverse information on his credit file. So it feels its checks were proportionate and showed Mr L would be able to afford the credit.

I've reviewed Mr L's credit card application. He doesn't list a mortgage outgoing on there but does declare other debts amounting to around £7,000. The data MBNA says it received from the credit reference agencies also doesn't include a mortgage amount, although he is listed as being a homeowner. As part of MBNA's checks it found there were five other unsecured lenders.

However, our investigator noticed some discrepancies in the information from MBNA. The application showed Mr L actually had existing credit card debt of nearly £20,000 at the time of the application, but MBNA still felt it was appropriate to lend to him given his income. It says it carried out further manual checks when a marker was added to his account due to some conflicting information. But given his earnings he still passed the internal credit scoring.

I can't see that MBNA did run a further internal score having received this further information, or it actually carried out any further checks once it realised this discrepancy. But in any event MBNA should have realised that Mr L had more debt than he'd disclosed on his application. And so I consider it should have alerted MBNA to carry out further checks to ensure the lending was sustainable. Given MBNA knew that with the £10,000 credit card limit, Mr L's total possible credit card debt would be nearly £30,000, which is 60% of his gross annual income, I'm not satisfied it did carry out proportionate checks.

So I've considered what MBNA would have found if it had carried out reasonable and proportionate checks. It seems to me that MBNA should have taken some steps to verify his income and expenditure. And this would have shown that Mr L had a number of debts, including a monthly mortgage payment, loan repayments on three loans, as well as the credit card debt of almost £20,000. His net monthly salary was around £3,000, but with these significant outgoings I think it would have shown that Mr L's financial commitments were a significant proportion of his monthly income. Therefore, he may not have been able to sustainably pay back the debt. And I think further checks would have highlighted Mr L was using short-term loans to help manage his finances in the months before the credit card was taken out.

Mr L has told us the reason he had so much debt was because he had a gambling problem. But in this case, I'm satisfied that the problem here was that MBNA was giving a large amount of credit to someone who already had significant debts. And that alone should have prompted more checks which should have alerted MBNA to the fact that the debt may not be sustainable for Mr L. The fact Mr L was actually able to pay off the credit card doesn't persuade me that MBNA made a responsible lending decision.

Having considered everything, I'm not satisfied MBNA made a fair lending decision in 2016. So it follows that I haven't gone on to consider whether it acted fairly in increasing Mr L's credit limit over the following 18 months, as he shouldn't have been provided with the credit at the outset.

To put things right, MBNA needs to refund all of the interest and charges applied to Mr L's credit card until the account was closed. It needs to add 8% to each payment from the date it was made, to the date of settlement. And it should ensure any adverse information is removed from the credit agencies' records.

My final decision

My final decision is that MBNA Limited needs to refund all of the interest and charges applied to Mr L's credit card whilst the account was open. It will also need to add 8% simple interest to each payment from the date it was made, to the date of settlement. It will also need to remove any adverse information from the credit reference agencies' records.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 24 February 2022.

Michelle Henderson
Ombudsman