

The complaint

Mr W has complained that MBNA Limited acted irresponsibly when it provided him with two new credit cards in 2017.

Background

Mr W applied for, and was given, two new credit cards from MBNA in April and May 2017. He has said that at that time he was already experiencing financial difficulties and had a number of different loans and credit card accounts open, which he was using to fund a serious gambling problem. He believes it was irresponsible of MBNA to have given him two new credit cards, in quick succession, without completing more thorough checks on his existing financial circumstances.

MBNA responded to Mr W's complaint and said it was satisfied that at the time he applied for both credit cards it carried out the relevant checks to ensure the lending was affordable. It said that based on Mr W's declared annual income and expenditure, which it was entitled to assume was correct, the lending appeared to be affordable. As such it didn't think it had done anything wrong and didn't uphold his complaint.

Unhappy with MBNA's response Mr W brought his complaint to our service. One of our investigators looked into his complaint and upheld it. They said that if MBNA had carried out more extensive checks it would've seen that Mr W had a reliance on payday lending, had multiple credit card accounts already open with other lenders and that there was evidence of excessive gambling on his bank account statements. As such they believed MBNA had made an error when it provided Mr W with both credit cards.

MBNA disagreed with the investigator's findings and asked for an ombudsman to review the complaint and so it was been passed to me to consider.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so I agree with the investigator's findings and don't think MBNA should've provided Mr W with either credit card. I'll explain my reasons below.

Mr W applied for the first of the two cards in April 2017 and it was approved with an opening limit of £5,400. Then just over four weeks later, he applied for a second credit card in early May 2017, which was also approved with a larger opening credit limit of £7,900. Which means that in under five weeks MBNA had provided Mr W with access to £13,300 of credit. At the time of applying for the second card, Mr W had already used over 50% of the available credit on card one and its outstanding balance was £3,230. Mr W has confirmed that by May 2017 the first card was at its limit and by June 2017 so was the second card.

In addition to this at the time of both applications Mr W declared his annual income to be £90,000 and his existing debt to be just under £13,000. As such MBNA have said the cards

were affordable and it was Mr W's responsibility to provide it with any relevant information that might mean this wasn't the case.

However, there are numerous regulatory requirements, set out in CONC and elsewhere, that require businesses to ensure that lending is not only affordable on paper but also sustainable. And this means that the checks businesses need to carry out should consider not only the income but the existing debt consumers have and how it is made up.

By the time Mr W applied for these cards he already had six loans with different payday lenders and four other open credit cards. And he has confirmed that he had a serious gambling problem, which is evident from his bank statements at the time where it is clear he is gambling excessively. In addition to this Mr W was also relying on his overdraft each month and was being charged between £30-£90 a month in just overdraft fees in the three months prior to applying for the two credit cards.

MBNA have said that despite the fact that Mr W had other loans and credit cards at the time of application these were all being well maintained and there was no evidence of arrears. It has said that it would be unreasonable for it to assume consumers who accessed payday loans are experiencing financial difficulties. However, while I agree it would be unreasonable for a lender to automatically refuse to provide credit to a consumer just because of an open payday loan on their credit file, I think that given there were six open loans, evidence of an overdraft being used regularly and four existing credit cards being utilised, there was enough evidence to indicate that additional lending may not be sustainable and more in-depth checks should be run. And had additional checks been carried out, such as a review of Mr W's bank statements, I think the fact that he was already struggling to manage his finances would've become apparent and MBNA wouldn't have provided him with additional credit.

MBNA have said that the information provided in bank statements can be misconstrued and it's not always clear what additional funds maybe available to a consumer, for example, income from a partner that they can rely on to help cover utility bills or rent/mortgage repayments. However, looking at Mr W's bank statement for March – April 2017 I can see Mr W spent just under £1,100 on gambling transactions in a single day, a few days before applying for the first credit card. And in the following statement covering April – May 2017 I can see in the 4 days prior to him applying for the second credit card he spent approximately £1,700 on gambling transactions. So, I'm satisfied that it would've been clear to MBNA that providing Mr W with access to over £13,000 of additional credit was inappropriate at best and harmful at worst.

By June 2017 Mr W applied for limit increases on both cards which were rejected, because of the way he was managing the cards. There were fees for cash advances that resulted from Mr W using the cards to gamble with, and he even spoke to an MBNA staff member at this time and explained he was expecting gambling credits to be paid onto the card which would reduce the outstanding balance. Despite being told the cards were being used for gambling, and the fact that Mr W was at the limit of both cards within a month or two of having received them, I can't see anything that indicates MBNA checked whether Mr W might need additional help or support managing his finances. And by August 2017 transactions are being declined and Mr W is again touch with MBNA to speak about gambling credits he was expecting to see on the card, and again there is nothing on file that indicates MBNA asked Mr W if he was comfortable with how he was using the cards or if he needed any additional help or support. By 2018 Mr W was regularly missing minimum payments on the cards and they were ultimately sent to collections and blocked from further use.

MBNA has said that it has since changed its policy and no longer approves applications for second credit cards within a year of a new credit card account being opened by a customer.

This is reassuring to hear, and I assume linked to, amongst other things, MBNA wanting to get a clear understanding of how customers manage their accounts to ensure any future lending is sustainable for them.

However, this policy wasn't in place when Mr W applied for his cards. And based on everything that's set out above, including the level of debt Mr W already had at the time he applied for both cards, the nature of that debt, and how he was managing his income, including the excessive amount of gambling that was evidenced on his bank statements prior to applying for both cards, I don't think MBNA did enough to ensure that the lending was sustainable. And if it had carried out more extensive checks at the time of application, I don't think it would've provided Mr W with either card. So for that reason, I'm upholding his complaint.

Putting things right

In order to put things right MBNA Limited should:

- Rework Mr W's accounts. To do this MBNA should remove all interest and charges applied from the start so there is a new balance consisting of the amount lent. Then deduct any payments already made. If this results in Mr W paying too much, then any overpayments will need to be refunded.
 - Pay 8% simple interest on this amount
 - Remove any adverse information about the credit cards from Mr's credit file.
 - If any capital balance remains outstanding, then MBNA should attempt to arrange an affordable/suitable payment plan with Mr W.

HMRC requires MBNA to take off tax from this interest. MBNA must give Mr W a certificate showing how much tax it's taken off if he asks for one.

My final decision

For the reasons set out above I uphold Mr W's complaint against MBNA Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 April 2022.

Karen Hanlon
Ombudsman