

The complaint

Ms M complains that MBNA Limited ("MBNA") recorded missed payments and a default on her credit file despite her maintaining payments under a debt management plan.

What happened

Ms M opened a credit card account with MBNA in or around October 2016.

Due to changes in her financial circumstances, Ms M wasn't able to maintain repayments to her account at the contracted level. So, she approached a debt advice charity for support and help. She also told MBNA about her situation and they agreed to provide breathing space. The debt advice charity completed an assessment of Ms M's financial circumstances and put together a debt management plan ("DMP").

In or around November 2018, the DMP was proposed and sent to MBNA suggesting that Ms M make monthly payments of £11.84. Ms M made the proposed payments each month. But MBNA reported missed payments on her credit file with the credit reference agencies between November 2018 and March 2019 and the account was subsequently defaulted in April 2019.

In or around October 2021, Ms M complained to MBNA. She didn't think the information reported by MBNA on her credit file was accurate. She thought MBNA should amend her credit file to reflect the fact she was making payments under the DMP.

MBNA wrote to Ms M in November 2021. They didn't agree they'd made a mistake. They said they'd reviewed Ms M's income and expenditure when they received the DMP from the debt advisory charity. This showed that Ms M had no surplus income for a formal reduced payment plan to be agreed. And while they would accept the payments proposed under the DMP into her account, missed contracted payments would continue to be reported on her credit file.

Ms M wasn't happy with MBNA's response to her complaint. She didn't think it was fair to report missed payments when she was honouring the arrangement within the DMP. She thought this should be clearly recorded on her credit file. So, Ms M decided to refer her complaint to this service.

Having considered all the information available, our investigator didn't think MBNA had made a mistake or acted unfairly or unreasonably.

Ms M didn't agree with our investigator's findings. She said MBNA should be recording the payments she was making under the DMP so that other organisations could see that she was honouring that arrangement. She also didn't think MBNA had made it clear to her, or the debt advice charity, that they wouldn't be recording the DMP payments on her credit file.

As an agreement couldn't be reached Ms M's complaint has been passed to me to consider.

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 understand that Ms M has submitted complaints relating to other accounts with MBNA. So, for clarity, my decision relates only to the account opened in October 2016 with a credit limit of £10,500.

At the outset I want to acknowledge that Ms M's financial circumstances will undoubtedly have caused concern and distress for her. Approaching a debt advice charity, as she did, demonstrates Ms M's desire and willingness to resolve matters in a co-operative way with MBNA. And from the information I've seen, I think Ms M's actions appear sensible here.

Where a consumer finds themselves financially stretched and unable to maintain contractual repayments under a lending agreement, there are various options available. These may include approaching the lender direct for support and/or enlisting independent support from a recognised independent debt advisory organisation.

Where MBNA becomes aware that Ms M may be in financial difficulty, the Financial Conduct Authority (FCA) has set rules and guidelines to be followed in the Consumer Credit Sourcebook (CONC) section of the FCA's handbook. In particular, CONC Section 7 says that lenders should consider consumers in default or arrears difficulties with forbearance and due consideration. Examples include:

- Suspending, waiving or cancelling any further interest or charges
- Allowing arrears to be deferred where immediate payment could cause payments to be unsustainable or where the term would not be increased excessively
- Accepting token payments for a reasonable period of time in order to allow the consumer to recover from unexpected reduction in income
- Lenders shouldn't refuse reasonable affordable repayment proposals made by the borrower, debt counsellor or other person authorised by borrower
- Lenders shouldn't pressure borrowers to make unreasonably large payments where this will have an adverse impact on their financial position, or pressure them into selling property to repay a loan
- Lenders should take proportionate action against a consumer in arrears or default.

From the evidence I've seen, I believe MBNA appear to have complied with those requirements here. In particular, MBNA haven't refused the DMP proposed by Ms M and the debt advice charity. They made that clear in a letter they sent to Ms M after receiving the proposed DMP. But they did say that the proposed payments wouldn't be sufficient to prevent them from registering a default with the credit reference agencies. In other words, they weren't able to formally accept the proposals under a reduced payment plan.

Because of that, MBNA would be obliged to report missed payments where the amounts received were for less than the contractual repayment required. That's what they did here, so I can't reasonably say they made a mistake.

The Information Commissioner's Office (ICO) issue guidance and principles for the reporting of arrears, arrangements and defaults at credit reference agencies. It says that as a general guide, *"a default may be recorded when you are three months in arrears, and normally by the time you are six months in arrears"*. From the information I've seen, it appears Ms M's account met this requirement. And as this is a default trigger, I think MBNA were obliged to issue a default notice and record this on Ms M's credit file.

Ms M believes MBNA should record the existence of the DMP on her credit file. That way, it would be clear to other lenders that she is taking steps to repay the debt. I understand why she might think that. Unfortunately, MBNA weren't in a position to formally agree the DMP as Ms M's income and expenditure assessment showed she had no surplus income. And agreeing a repayment plan in these circumstances may be considered unreasonable or irresponsible. MBNA are only required to report formal agreements or variations. So, as the DMP hadn't been agreed as a formal variation to the original lending agreement, they weren't able to formally report payments received under it.

I do appreciate Ms M's frustrations. Particularly as she appears to have stood by the proposal presented to MBNA. But while I appreciate she will be disappointed; I can't reasonably say that MBNA have done anything wrong here.

My final decision

For the reasons set out above, I don't uphold Ms M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 6 October 2022.

Dave Morgan
Ombudsman