

## **The complaint**

Miss W is unhappy with MBNA Limited's proposed resolution after they wrongly sold her debt to a third party and recorded a default on her credit file.

## **What happened**

Miss W maintained a credit card account with MBNA.

In or around April 2019, MBNA had cause to issue a notice of default (NOD) to Miss W in respect of the balance she owed on her credit card account. This led to MBNA selling the remaining debt to a third-party debt collector and a default being recorded on Miss W's credit file.

Miss W continued to receive communications from the third party in relation to what she owed and continued to make regular repayments totalling around £800.

In March 2022, MBNA wrote to Miss W. They explained they'd reviewed their files and noticed that Miss W had, in fact, paid the money due under the NOD. But as she then missed her next minimum payment, they'd sold the remaining debt and recorded a default on her credit file. MBNA said that although they'd followed their process correctly, they now didn't think they should've taken the actions they did.

MBNA said they'd bought back Miss W's remaining debt totalling £1,090.01 from the third party and paid this amount off for her. They also confirmed they'd arranged for the default to be removed from her credit file.

Miss W wasn't happy with MBNA's resolution. So, she complained to them. She was unhappy the default had been registered in error. She said this had resulted in her being declined for finance and meant she was unable to consider a house purchase. She didn't think MBNA's resolution reflected the distress and inconvenience caused and thought they should also refund the £800 she'd paid to the third-party debt collector.

MBNA didn't agree they hadn't done enough. They told Miss W her debt was still payable while she was making payments to the third party. So, they wouldn't look to refund the payments she'd made to them. Unhappy with MBNA's response, Miss W referred her complaint to this service.

Having considered all the information available, our investigator thought MBNA's resolution was fair and didn't think they needed to do any more. Miss W disagreed with our investigator's findings and asked that her complaint 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.

At the outset, I believe it's important to explain the role of this service when considering Miss W's complaint here.

It isn't the role of this service to supervise, regulate or impose fines on any business. It's also not our role to ask a business to alter their procedures or processes or impose

improvements on the level of service offered to their customers. These aspects fall firmly within the remit of the regulator – in this case, the Financial Conduct Authority (FCA).

But it is our role to examine and decide whether MBNA have been fair and reasonable in the manner in which those policies and procedures are applied in the individual circumstances of Miss W's experience with them. When considering her complaint, I've also considered any relevant rules and regulations where they apply.

The facts of Miss W's complaint are not in dispute. MBNA agree they shouldn't have recorded a default on Miss W's credit file and shouldn't have sold the debt to the third-party debt collector. So, I don't propose to explore these aspects any further.

What I have considered is whether the resolution proposed by MBNA is fair and reasonable in all the circumstances here. Compensation is a personal thing. What is seen as reasonable by one party may not be considered so by another. So, I've carefully considered the impact of MBNA's actions on Miss W.

It's clear Miss W has suffered both distress and inconvenience as a result of MBNA's actions. And I would expect MBNA to reflect this in their resolution. But Miss W has also further described the impact recording the default had on her. While the default may well have influenced her ability to secure credit, I've not seen any clear evidence to support how that impacted Miss W financially. And not only do I need to be able to clearly identify financial loss, I then need to be able to directly attribute that to MBNA's actions before making any award.

I think it's also relevant to say that despite MBNA's actions, Miss W had benefitted from the money she owed them. And when that debt was sold, that liability remained. So, Miss W remained contractually obliged to repay what she owed, regardless of whether MBNA made a mistake or not. During the time the debt was with the third party, Miss W repaid a total of £800. This reduced the outstanding debt she owed to £1,090.01. I've seen no evidence to suggest that the amount Miss W owed had increased as a result of MBNA's actions. So, had they not recorded the default or sold the debt, that amount would still be owed.

MBNA have removed the default from Miss W's credit file. This is what I would expect them to do here. But they've also agreed to repay the remaining balance for her. So, in simple terms, Miss W has been compensated to the tune of £1,090.01. And I think this amount feels fair in all the circumstances here. I appreciate that Miss W doesn't agree. But it isn't the role of this service to make awards in order to penalise MBNA for their mistakes. Any award is considered based upon the impact MBNA's mistake had upon Miss W. And I think their offer does that here.

I want to reassure Miss W that I've considered her comments and recollections very carefully. And while I realise she will be disappointed; I won't be asking MBNA to do anything more.

### **My final decision**

For the reasons set out above, I don't uphold Miss W's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 16 November 2022.

Dave Morgan  
**Ombudsman**