

## The complaint

Miss R says MBNA Limited (“MBNA”) incorrectly recorded a default on her credit file when her credit card account with them was included in a Debt Management Plan (“DMP”).

## What happened

Miss R held a credit card account with MBNA with a credit limit of £10,000.

In or around February 2022, Miss R contacted MBNA. She said she was experiencing financial difficulties and was struggling to maintain her contractual minimum monthly payments.

She subsequently told MBNA she was talking to a debt management company (“DMC”). So, MBNA agreed to provide 30 days breathing space while she explored her options. They also agreed to temporarily waive interest charges and confirmed this in a letter to her.

Having discussed her situation with the DMC, a DMP was proposed. The DMC provided details of this to MBNA proposing a monthly payment to reduce and repay the amount Miss R owed. MBNA accepted the proposal, but a payment was rejected as the DMC hadn’t quoted the correct reference. This was subsequently resolved, brought up to date and Miss R wasn’t disadvantaged as a result.

Late in March 2022, MBNA wrote to Miss R. Given Miss R’s situation, they proposed to close her account. This meant she wouldn’t incur any further charges and interest. MBNA said closure of the account meant they were required to send a default notice. They said Miss R could avoid closure of the account and a default if the full missed amount was repaid by the date shown within the default notice.

While payments continued to be received by MBNA under the DMP, the amount required to avoid the account closure wasn’t received. So, MBNA sent a default notice to Miss R in April 2022 followed by a Credit Agreement Termination letter in May 2022. Miss R’s account was closed, and the outstanding debt transferred to MBNA’s recoveries team. They also recorded a default on Miss R’s credit file.

Upon discovering the default on her credit file, Miss R didn’t think this was right and complained to MBNA. Miss R said other credit card companies had recorded a “*special arrangement*”. She wanted MBNA to remove the default from her credit file and record a special arrangement like other businesses had. She said they were receiving the monthly amount agreed in the DMP.

In their response to Miss R’s complaint, MBNA didn’t agree they’d done anything wrong. They said Miss R had demonstrated that her financial difficulties were going to be long term. So, they’d closed her account and confirmed this in a letter to her. They’d also sent her a default notice and credit agreement termination letter.

Unhappy with MBNA’s response, Miss R referred her complaint to this service. She said while MBNA have probably registered a default correctly, she thought they had a choice to record a special arrangement instead as other creditors had. She wanted MBNA to remove the default and record a special arrangement instead.

Having considered all the information available, our investigator didn’t think MBNA had done anything wrong when they recorded a default on Miss R’s credit file. Miss R didn’t agree.

She said her account statements showed she'd paid more than required under the DMP. And as there's no evidence that she'd paid less than the minimum required, she thought a default wasn't appropriate here.

As an agreement couldn't be reached, Miss R's complaint has been passed to me to consider further.

### **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 recognise Miss R's personal financial situation will be very concerning for her. And I think it was right that she contacted MBNA promptly to discuss her circumstances and agree a way forward.

MBNA's files and notes show they discussed Miss R's situation at length and the various options available to her. During those discussions, MBNA highlighted organisations and businesses from which she could seek independent debt advice. This is what I would expect in these circumstances as it would ensure Miss R had access to appropriate support.

While Miss R considered her situation and options, MBNA agreed to provide 30 days breathing space waiving interest during that time. Again, I think this was appropriate and what I would expect them to do. So, I can't reasonably say MBNA did anything wrong here.

When a consumer can't make the contractual payments toward their debts and needs help dealing with the businesses they owe money to, a debt management organisation may offer to help. They can carry out debt counselling, debt adjusting, or both. Debt management organisations may be free of charge to use.

Having discussed her situation with a DMC, Miss R decided to enter a DMP. This was presented to MBNA who, in the knowledge of Miss R's financial situation, accepted the proposed repayments under the debt management plan. However, the payments were at a level less than those required under the original credit card agreement.

MBNA's website explains how credit card minimum payments are calculated. It says, *"The minimum payment we ask for is charged on a monthly basis and will be the higher of £25 or the total of:*

- *Any interest charged, plus*
- *Any default charge payable, plus...*
- *A percentage of the total balance you owe (including interest and charges as shown in line with your terms and conditions."*

MBNA have confirmed that the minimum monthly payment Miss R was contractually required to pay was more than that offered under the DMC. So, while they'd agreed to accept the DMP proposed, this meant any shortfall would accrue as arrears.

The Information Commissioner's Office (ICO) issue guidance and principles for the reporting of arrears, arrangements and defaults (PRAAD) 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 the arrears on Miss R's account met this requirement. Although she maintained payments under the DMP, these were at a level lower than required under the credit card agreement. And as any shortfall constituted arrears, I can't reasonably say MBNA did anything wrong when they issued a default notice and recorded this on Miss R's credit file.

MBNA said a default would be recorded when they wrote to Miss R about her account closure and the default notice. So, it appears the consequences were made clear here.

Miss R says the payments she's made under the DMP were for more than the minimum required. While she may have paid more than originally agreed under the DMP, these payments were still less than those contractually required under the original credit card agreement.

Miss R says that other creditors haven't recorded a default on her credit file; only that there's a special arrangement. I'm unable to comment on what other businesses have done as they aren't party to this complaint.

Once the DMP was agreed, MBNA chose to close Miss R's account and transfer the remaining debt to their recoveries department. This is MBNA's process, and this service isn't able to comment on or change that. I would say this isn't unusual given Miss R's account was no longer able to operate as a live and active account within the terms of the original agreement.

Miss R has also referred to subsequent issues she says she's had obtaining information from MBNA. As this doesn't form part of Miss R's original complaint to MBNA, I'm unable to consider that. Miss R believes these information requests would support her original complaint. I realise Miss R will be disappointed and I want to reassure her I've considered everything she's told this service. But I can't reasonably find that MBNA did anything wrong here. So, I won't be asking them to do anything more.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 18 January 2023.

Dave Morgan  
**Ombudsman**