

## The complaint

Mr H complains about MBNA Limited's actions following a series of disputed transactions on his credit card.

## What happened

Mr H held a MBNA credit card. In September 2021, he reported fraud on the credit when he noticed it had been used without his consent. MBNA reviewed things and found that a fraudster had changed the address on Mr H's profile, ordered a new card and PIN, increased the credit limit, and spent around £38,600 on the credit card illicitly.

MBNA agreed Mr H wasn't responsible and agreed to rectify matters within 72 hours. However, due to an error on MBNA's part, the details weren't updated until December 2021. MBNA offered Mr H £350 compensation to recognise the delays and inconvenience.

Mr H said despite MBNA taking actions to put things right, his credit file still showed erroneous spending, and multiple cash advances which wasn't a true reflection of his credit history. He explained the impact of this situation had meant other credit card limits were significantly reduced, caused him to have sleepless nights and had an impact on his mental health. Mr H brought the complaint to our service and asked for £10,000 compensation.

Our investigator upheld Mr H's complaint. In summary he agreed MBNA could have resolved things sooner than they did for Mr H – and he didn't feel £350 fairly reflected the distress caused. So, he asked MBNA to pay an additional £150 – bringing the total compensation to £500.

MBNA agreed to this, however Mr H didn't. Mr H raised several points, but in summary felt MBNA shouldn't have allowed the details to be changed in the first place – he said MBNA had a duty of care which wasn't fulfilled. Mr H only noticed the issue because of a credit card held with another bank. Mr H also received statements of outstanding balances from MBNA after the fraud had been reported.

As an agreement couldn't be reached, the complaint was passed to me.

In September 2022, I issued a provisional decision. In it, I said;

*I'm very aware that I've summarised the events in this complaint in far less detail than the parties and I've done so using my own words. No discourtesy is intended by me in taking this approach. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.*

*Mr H has rightfully pointed out that MBNA has a duty of care and should take actions to protect their customers. While I can't reasonably say MBNA are at fault for the actions of the fraudsters, I can appreciate why Mr H feels further steps could have been taken to prevent*

*this fraudulent account takeover from happening in the first place. MBNA hasn't shared the level of detail with our service to show how the fraudsters were able to illicitly change the address, increase the credit limit and order a new card and PIN. But I don't think that makes an overall difference – I say that because MBNA have confirmed the activity was fraudulent and haven't held Mr H accountable for it. So, there's no dispute here.*

*I've also thought about whether MBNA could have taken actions to inform Mr H of the fraudulent activity before he brought it to MBNA's attention. I don't reasonably think they could. I say that because the contact details were assumingly changed, along with the address on file. And therefore, it's likely MBNA wouldn't have contacted Mr H directly. However, Mr H says he hadn't used his card since around 2009 so I do think a sudden change of spending habits could have highlighted that something was amiss. MBNA could have taken steps to limit the card, which would have significantly reduced the impact the overall situation had on Mr H.*

*MBNA initially told Mr H they'd rectify the fraud within 72 hours. However, due to the fraud taking place over 12 months previously, MBNA were required to order historical statements which caused a significant delay. MBNA admitted to this delay and offered £350 compensation. It appears following this there were further issues with the information held on Mr H's credit file. MBNA confirmed in January 2022, that the fraudulent balance was still showing on Mr H's credit file, the fraudulent address was still linked, and two late payments were reported. I can appreciate why Mr H says this caused him significant distress and had an overall impact on his other credit commitments.*

*I recognise Mr H feels strongly that his credit cards with other banks were reduced because of the information held on his credit file because of MBNA. While it is reasonable to assume that, I haven't seen anything to satisfy me this was definitely the reason. So, while I've carefully thought about this point, I can't fairly uphold the complaint on this point.*

*To date, it doesn't appear that Mr H's credit file is showing a true reflection of Mr H's spending history. It appears the balances which related to the fraudsters spending, is still showing on Mr H's credit file. I consider this should be removed and rectified without undue delay.*

*Overall, I don't doubt this has been a significantly stressful experience for Mr H. And I appreciate the consequences he is continuing to suffer. I consider a compensation amount of £1000 is a fairer reflection of the overall impact this has caused. I say this because, although I appreciate a large part of the distress Mr H suffered was caused by the fraudsters, I think MBNA should have been more proactive when recognising the unusual activity on Mr H's account. I also consider they should have responded to Mr H's requests sooner than they did and should have ensured the credit file was updated when they rectified the transactions. This would have significantly reduced the impact on Mr H.*

*I recognise the amount I've suggested isn't in line with what Mr H wants. But, it's not in my remit to punish businesses and based on what's happened, I don't think I can fairly ask MBNA to pay anything more than £1000.*

So, overall, I thought MBNA should:

- Pay Mr H a total of £1000 compensation for the distress and inconvenience caused. I'm aware MBNA previously offered Mr H £350 compensation and therefore if they have already paid this amount to Mr H then they should pay him an additional £650.
- Rectify Mr H's credit file to show the only spending which was carried out by him directly.

MBNA responded to my provisional decision and didn't have anything further to add.

Mr H responded and reiterated his version of events, supplying evidence in the form of letters from his alternative credit card suppliers to show credit limit decreases. In summary, Mr H felt MBNA were still holding him responsible for the fraud, he sees no other explanation as to why his credit limits with other banks were reduced, and doesn't think an additional £650 compensation is enough.

### **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'd like to reassure Mr H again that I have read, considered, and reviewed all of the information and evidence he has provided to our service throughout the time we have been reviewing his complaint. While I have considered everything, I don't believe it's necessary to address each and every point that Mr H has made in order to meet my statutory duty to determine his complaint. I'm required to do that with minimum formality, and so I'll address the issues that I consider to be the most important.

It's clear Mr H feels very strongly about what's happened and I can appreciate his concerns. I acknowledge Mr H feels MBNA are still holding him responsible for the fraud as the transactions, spending and repayment information being shown on his statements and his credit file are reflective of the fraudulent activity. I can appreciate why Mr H feels this way however I'm satisfied, based on the evidence I've received, MBNA are aware the transactions in question were carried out by fraudsters and they're not holding Mr H responsible. I agree it's disappointing some of the information on Mr H's statements and credit files seem to contradict this, and therefore I consider MBNA need to rectify this.

I've considered the letters Mr H has sent from his other credit card providers relating to the issues around his credit card limits. Mr H feels very strongly that the limits were reduced due to the issues with MBNA. I can appreciate why Mr H feels this way, however none of the letters specifically state any bank has made these decisions to the balance held with MBNA. I am sorry to hear Mr H couldn't rely on his credit card balances and had to use his overdraft facility. However, banks do make decisions on borrowing for a number of reasons, and while I've seen that information on credit reference agencies formed part of the decisions, I can't fairly uphold Mr H's complaint in the way he'd like me to on this point alone; and that's because even if MBNA rectified the information with the credit reference agencies, there is no guarantee from the other credit card companies that Mr H's credit limits wouldn't have been reviewed and amended due to other reasons.

I'm aware Mr H would like significantly more compensation – and he doesn't feel £650 is enough to reflect everything he's been through. Firstly, I'd like to point out that my suggestion of compensation in my provisional decision was £1,000 – not £650. I recognise MBNA previously offered £350; however, I have reviewed things afresh and independently and feel £1,000 is a fairer reflection. Therefore, I'd like to reassure Mr H that the level of compensation I have suggested has not been influenced in any way by MBNA's previous offer and I only require them to pay an additional £650 if they had already paid Mr H £350 to bring the total compensation to £1,000.

I've no doubt this situation had a significant impact on Mr H and his life – but I have to consider the actions of MBNA only. I am aware a lot of the distress caused to Mr H was because of the fraudsters – however, I do consider MBNA could have acted differently at times to prevent or lessen the impact on Mr H. It's important to note that the gravity of the error or how often it was made isn't something I usually consider. This is because I don't

have the power to punish or fine a business for bad practice. What I look at is the effect the error had on the consumer.

### **Putting things right**

Having carefully considered everything, I think it is important MBNA rectify all traces of the fraudulent activity from Mr H's records – this should include his MBNA statements and correspondence, and the credit reference agency data.

I also consider a total payment of £1,000 compensation should be paid to Mr H to recognise the distress and inconvenience caused to him.

### **My final decision**

For the reasons explained above, I uphold this complaint. To put things right, MBNA Limited must do the following:

- Pay Mr H a total of £1000 compensation for the distress and inconvenience caused. I'm aware MBNA previously offered Mr H £350 compensation and therefore if they have already paid this amount to Mr H then they should pay him an additional £650.
- Rectify Mr H's credit file to show the only spending which was carried out by him directly.
- Ensure all future correspondence relating to statements, or transaction history is limited to show the actions of Mr H only.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 December 2022.

Hayley West  
**Ombudsman**