

## **The complaint**

Mr R complains that MBNA Limited failed to properly administer a credit card applied for without his knowledge and delayed the removal of it from his credit record.

## **What happened**

A credit card was opened in Mr R's name by his ex-partner and had operated for a few years before he became aware of it. It had been managed within its credit limit and the monthly repayments made on time. There's no debt associated with this card that Mr R's being pursued for.

The final payment by his ex-partner took place in May 2022 and a few days later Mr R contacted MBNA about it to close the account. At the time, Mr R didn't wish for the issue to be logged as fraud.

MBNA thought they'd closed the account, although it later appeared it hadn't been closed. No further activity was carried out on the account after the final payment in May 2022.

The issue was revisited later that year and around September 2022, Mr R spoke with MBNA about the account which at that point was still open. MBNA again closed the account and backdated it to the original request made by Mr R. He asked for the issue to be dealt with as fraud and made a complaint in October 2022. Part of this was about the handling of a call Mr R had had with an MBNA employee.

MBNA accepted that they'd let Mr R down with how they'd administered the closure of the account and offered £60 compensation. Mr R also wanted a copy of his records and MBNA undertook to provide this as a Data Subject Access Request (DSAR). This was later sent to the address originally shared with his ex-partner, causing Mr R to have to visit the address on several occasions to obtain the DSAR. Mr R eventually received a copy of the DSAR.

Later in October, Mr R was speaking with the fraud team and his call got cut off. MBNA acknowledged that they should have followed up with this through a manager call based on the difficulties Mr R experienced. MBNA have said they decided to add Mr R's other experiences to his overall complaint as opposed to it being closed in error (which Mr R thought had happened).

A series of conversations were held over the next few days to resolve the outstanding matters. MBNA told Mr R that their assessment of his claim for fraud wasn't backed up by the way the card was opened and used. They thought because it had been opened with the correct address, email and phone numbers and had been used normally without any debt being created, it didn't appear as fraudulent. They offered Mr R the opportunity to add any other evidence which they'd consider.

Almost straight away, Mr R provided copies of messages he'd exchanged with his ex-partner which made it clear she was responsible for the application and the spending.

MBNA accepted that Mr R had experienced poor service and made a further payment of

£100 for compensation, £25 to pay for a protective fraud prevention marker and £34 for a mail re-direct from the old address.

MBNA processed the account as fraud which meant it should disappear from Mr R's credit record because he was never responsible for it. MBNA told Mr R they wouldn't provide a refund of any of the payments as they believed they had come from his ex-partner, which meant Mr R hadn't been out of pocket. It's Mr R's case that his ex-partner accessed his bank account and transferred his funds so she could settle the MBNA account.

Mr R remained unhappy with how MBNA had dealt with his issues and brought his complaint to the Financial Ombudsman Service for an independent review.

The complaint was looked into by one of our investigators who considered evidence provided by both parties. The investigator thought that whilst MBNA had let Mr R down with their handling of the complaint, they had provided sufficient compensation and costs to recognise the poor service. A recommendation was made to remove the account from the credit file because it was still showing as closed (giving the impression that it had been a legitimate account owned by Mr R).

Mr R disagreed with the outcome and made further submissions:

- He believed MBNA had told him the account would be removed from his credit file the previous year, and it was still open.
- He believed the compensation should be higher.
- He believed the credit card listing on his credit file could have caused a loan to be turned down.
- He thought the issue of the missent DSAR was underplayed and could have caused humiliation to Mr R.

The investigator responded to Mr R with the following:

- When Mr R first dealt with MBNA about the card, it was to close it rather than be dealt with as fraud. That's why it initially appeared as closed.
- It's accepted that MBNA failed to properly remove it once Mr R asked them to treat it as fraud.
- It wasn't possible to determine if the loan was turned down as a result of this credit card being present on Mr R's credit. There were other similar issues Mr R was dealing with that may have been responsible.
- The compensation was reasonable in the circumstances.
- It was accepted that MBNA had failed to properly deal with how to deliver the DSAR to Mr R and there wasn't any intention to underplay it. But it was also thought that MBNA had addressed their failures.

Mr R wanted his complaint reviewing and MBNA added further comments about the situation, saying:

- There was a delay of one to two months before the account was removed from Mr R's credit file.

- The credit card was well maintained by the user, it was paid on time and no adverse information was generated. The reporting of the credit file reflected that and would likely be seen as positive rather than anything detrimental. They didn't believe it would have impacted the car loan without further evidence to show it was responsible.
- They accepted they'd incorrectly sent the DSAR to an old address, but believed they'd responded appropriately with additional safeguards. They didn't believe there was any evidence that the information was accessed by unauthorised persons.

Mr R wanted to provide further information and was given an additional period of time in which to do so. Nothing further was received from Mr R.

### **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.

Having examined the evidence provided by both parties, it's apparent that a credit card was applied for in Mr R's name. It operated for a few years without issue and was managed in line with the terms and conditions of the account. That meant, as far as MBNA were concerned, there were no particular red flags about the account, either when it was opened or how it was used.

I appreciate Mr R thinks that it was lax of MBNA to allow it to be opened but considering the relationship of who opened and used it, it's not particularly surprising they had the correct details to give MBNA to open the account.

It's Mr R's case that the funds that paid off the monthly bill came from his own account. I've not seen any evidence of that so can't really comment. But, considering the account ran for about three years, it's surprising that Mr R didn't notice the payments leaving his account in that time and question them with his ex-partner.

Once Mr R advised MBNA about it, he wanted the issue dealt with as a closure rather than as a fraud. There were implications for his ex-partner if it was dealt with as fraud and Mr R wasn't prepared, at that point to go down that line.

So, when closing an account, it would still appear on the credit file as though it was a legitimate account operated by Mr R. That wasn't the case and later, Mr R decided that it should be removed from his account, to reflect that he'd never operated the card, and asked for it to be dealt with as fraud.

MBNA's view was that it didn't look like fraud because of how it was used and asked Mr R for more information. He provided copies of messages from his ex-partner that indicated she was responsible for it. MBNA then changed their opinion and accepted that it was fraudulently opened. MBNA declined to refund Mr R because they believed the money had come from the ex-partner's account.

Throughout the process, MBNA's administration of Mr R's issue was less than perfect. They delayed his request to close the account, failed to call him back, sent the DSAR to the wrong address and latterly delayed the removal of the account from his credit file. Mr R had also raised the service he received on a call with a fraud specialist. Whilst the call couldn't be found, MBNA raised feedback with the fraud specialists manager concerning service given to customers.

Whilst they haven't given the service I'm sure they wish they had, they did acknowledge their failures and provided various expenses and payments to Mr R. In total, MBNA paid £160 compensation and £59 for a mail redirect and fraud prevention membership.

I understand Mr R was unhappy with MBNA and argued that the issue had impacted his ability to obtain further credit. There's little doubt here that MBNA's service was lacking, but there's no evidence that the presence of the credit card on his credit file caused any issues with his ability to obtain credit. The evidence presented by MBNA was that the account was well managed and would have been seen positively. It's difficult to be certain what impact this particular card had on Mr R's credit file but considering there were other issues he was dealing with, I think this card was unlikely to have been the reason for other credit problems.

As far as I'm aware, the original DSAR wasn't given to anyone else and Mr R's comments about it relate to potential impacts on him. I don't underestimate the inconvenience here, as Mr R had to visit the address on several occasions to deal with the misdirected DSAR. There would undoubtedly have been worry and stress associated with the DSAR potentially falling into the hands of other persons. I think MBNA's response was reasonable here, in both the additional compensation and the mail redirect and funds to lodge a marker with a fraud prevention agency.

Overall, I don't doubt that the whole experience for Mr R was stressful. It appears that the original request to close the account was made to lessen the impact on his ex-partner, delaying the eventual removal of the account from Mr R's credit file. There was no debt resulting from its use and it's apparent that MBNA made several missteps when dealing with the closure and later removal of the account from Mr R's credit file. I do think their response was reasonable and the various steps they took to counter their earlier mistakes was a fair way for them to recognise the unnecessary stress and inconvenience they caused to Mr R.

### **Putting things right**

The complaint is upheld due to the delay in removing the account from Mr R's credit file, although I recognise that MBNA have since completed it.

### **My final decision**

My final decision is that I uphold this complaint against MBNA Limited. I refer to the above paragraph relating to the settlement of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 2 June 2023.

David Perry  
**Ombudsman**