

The complaint

Mr O complains that MBNA lent to him irresponsibly.

What happened

Mr O's complaint is about two credit card accounts with MBNA.

The first account was opened on 9 November 2006 with a credit limit of £10,000. The credit limit was increased to £16,100 and later decreased to £5000, before being increased to £6,300 in November 2014 and to £7,900 in January 2017.

The second account was opened on 19 March 2009 with a credit limit of £10,000. The credit limit was increased to £16,000 in March 2013.

Mr O complained that MBNA lent to him irresponsibly.

MBNA said the complaint had been brought out of time. One of our ombudsmen looked into this and decided that we could look into the complaint.

Our investigator upheld the complaint. He said there wasn't enough information to say that MBNA hadn't carried out reasonable and proportionate checks before approving the applications but said that further checks should've been carried out when the credit limit on the first account was increased to £7,900 on 31 January 2017. The investigator reviewed Mr O's income and expenditure information leading up to the January 2017 lending decision and said that Mr O didn't have enough disposable income to sustainably afford the additional borrowing.

MBNA didn't agree. It queried whether Mr O's expenditure was solely his, or whether it was split with another member of the household. It also queried whether Mr O's self-assessed expenditure from 2017 could be verified and said that Mr O's bank statements from the time of the application provided clearer confirmation of his expenditure.

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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've had this approach in mind when considering Mr O's complaint.

MBNA needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice, this means that it should've carried out reasonable and proportionate checks to make sure Mr O could afford to repay what was being lent in a sustainable manner. These checks could take into account a number of things, such as how much was being lent, the repayment amount and Mr O's income and expenditure.

Prior to approving the accounts, MBNA looked at the information provided by Mr O in his application. It also obtained information about Mr O's income. Because of the length of time

which has passed since the accounts were opened in 2006 and 2009, there's limited information available about the checks carried out by MBNA and the information it gathered. Mr O hasn't provided any information about his income and expenditure at the time either. So, because of the lack of information, I'm unable to say that MBNA didn't carry out reasonable and proportionate checks or that it acted unfairly in approving the applications.

For the same reasons, I'm also unable to say that MBNA acted unfairly when it approved the first three credit limit increases on the first account, or the credit limit increases on the second account.

I've gone on to consider whether MBNA carried out reasonable and proportionate checks before approving the credit limit increase on the first account in January 2017 and whether the lending decision was fair.

There's limited information on the checks that MBNA carried out. At the time of this credit limit increase, Mr O had a total credit facility of £24,700, which was almost as much as his annual income. Because of the extent of Mr O's credit exposure at this time, I think it would've been proportionate to carry out further checks to obtain information about Mr O's income and expenditure and his other credit commitments.

I don't know exactly what checks MBNA would've carried out or what information it would've gathered. I've reviewed Mr O's financial circumstances at the relevant time because I think this is the best evidence of what MBNA would've found out if it had carried out proportionate checks.

The information I've seen shows that Mr O's monthly income was around £1,718 and his essential expenditure was around £1,350. These figures don't include Mr O's existing credit commitments. Based on what I've seen, Mr O didn't have enough disposable income to sustainably repay any further borrowing. This service has asked Mr O whether he split his expenditure with anyone else and he's confirmed that he was solely responsible for these outgoings.

Based on what I've seen, I don't think MBNA carried out proportionate checks before increasing the credit limit on the first account in January 2017. Had MBNA carried out proportionate checks, it would've discovered that Mr O didn't have sufficient disposable income to sustainably repay the borrowing. Because of this I think the lending decision was irresponsible.

Putting things right

Because I don't think MBNA should've increased the credit limit in January 2017, I don't think it's fair to charge Mr O any interest or charges on balances exceeding £6,300. That said, Mr O has had the benefit of the money, so he should pay this back.

MBNA Limited must;

Rework the account removing all interest, fees and charges applied to balances over £6300 on the first account.

If the rework results in a credit balance, this should be refunded to Mr O along with 8% simple interest per year * calculated from the date of each overpayment to the date of settlement. MBNA should also remove all adverse information relating to the account from Mr O's credit file.

If after the rework there is an outstanding balance, MBNA should arrange an affordable

repayment plan with Mr O for the balance. Once the balance is cleared, MBNA should remove all adverse information relating to the account from Mr O's credit file.

Because MBNA has sold the account to a third party, it must either buy back the debt or liaise with the third party to facilitate the redress I've set out above.

*HMRC requires MBNA to deduct tax from any award of interest. It must give Mr O a certificate showing how much tax has been deducted if he asks for one.

My final decision

My final decision is that I uphold the complaint. MBNA Limited must take the steps I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 17 April 2023.

Emma Davy
Ombudsman