

## **The complaint**

Mrs G complains MBNA Limited unfairly defaulted her account.

## **What happened**

Mrs G held a credit card with MBNA and thought it had been paid off as part of a debt reconsolidation. Mrs G then saw a direct debit leaving her account, to pay MBNA.

Mrs G spoke to MBNA, but it couldn't find an account in her name. Mrs G cancelled the direct debit.

Mrs G then applied for a mortgage, with her husband, looking to refinance other debt. The mortgage was declined, and the broker told Mrs G there was a default on her credit file.

Mrs G saw MBNA had applied a default to a credit card, so she complained.

MBNA said it sent out default notices but didn't get any payments so it defaulted the account and sold it to a debt collector. MBNA said it wouldn't remove the default.

Unhappy with this response, Mrs G brought her complaint to this service and an investigator looked into things. MBNA contacted the investigator and said it would take the debt back from the debt collector, write off the outstanding amount and offered Mrs G £250.

The investigator didn't think this was enough to resolve things, and thought MBNA needed to do more. The investigator thought MBNA should remove the default. The investigator also thought the default caused Mrs G's mortgage to be declined.

Mrs G had since taken a new deal on her existing mortgage, but also had to move this to interest only to continue to afford the repayments. The investigator thought the arrangement fee should be refunded by MBNA.

And Mrs G would need to exit this mortgage and refinance again, so the investigator thought a refund of the early redemption fee was fair. The investigator felt the £250 offered, plus the write off of the outstanding credit card balance was fair to compensate Mrs G.

MBNA asked for further proof of the mortgage decline, Mrs G's credit file and proof of the redemption fee for the mortgage. The investigator sent this to MBNA but it disagreed and said other late payments would have been the reason for the mortgage decline.

The investigator assessed things again, having found out more about the mortgage decline.

The investigator sent this to MBNA and they still felt this decline was because of the default. The investigator's outcome was unchanged.

MBNA didn't respond to the second assessment.

Mrs G provided more information on her losses, and felt the early redemption fee alone wasn't enough to compensate for her loss. Mrs G also sent in some other bills she'd fallen behind on.

The complaint was passed to me to decide things.

### **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.

There doesn't seem to be much dispute MBNA unfairly defaulted Mrs G's credit card. Mrs G rang in to MBNA, and it's said it could have done more to find her account.

Mrs G cancelled the direct debit because MBNA couldn't find her account.

MBNA also said it sent letters to an address it knew had post returned from and didn't try to contact Mrs G another way. Mrs G had no chance to avoid the default as she never received the letters.

MBNA has since said it will remove the default. I think this is the fair thing to do, I think MBNA should remove the default as well as any other adverse information it's recorded.

Mrs G was maintaining her direct debit payments, and would have continued to do so if MBNA had found her account and told her to keep paying. I think any adverse information from MBNA is unfair.

The issue at the core of this complaint is did MBNA's default alone cause Mrs G's mortgage to decline. The investigator got testimony from Mrs G's mortgage broker and the mortgage provider.

The mortgage provider says there is adverse information on Mrs G's credit file, and it won't look at an appeal to the decline. If the mortgage provider had concerns about late payments, on balance I think it's more likely there would have been the potential for an appeal.

Looking at Mrs G's credit file there are some missed payments but they're quite some time ago. At the time of the declines mortgage, one is over a year old and the others are older.

Mortgage brokers are often used where a credit file isn't perfect. Although I'm not assessing Mrs G's mortgage application, I think, on balance, the missed payments didn't mean Mrs G's mortgage was declined without any chance for an appeal.

And looking at what the broker said, I'm persuaded it was the default. The broker explained they have considerable experience of arranging mortgages and, in their professional opinion, the decline was because of MBNA's default on Mrs G's credit file.

I think Mrs G's mortgage and refinance of her debt was declined because MBNA defaulted her credit card in error.

Mrs G feels the investigator's suggested redress doesn't fully compensate her for the losses she's incurred over the last few months. Mrs G says her mortgage, if refinanced, would have increased by a little over £900 a month. Mrs G says she her husband would pay half of this.

Mrs G says she pays around £1,100 a month towards the debt she was looking to refinance in the mortgage application. Mrs G says this means she's paid around £650 per month more than she should have.

But I don't think this potential loss is right. When Mrs G pays £1,100 to her debts, this amount will be reducing the capital of these debts as well as paying interest.

Since the capital's being reduced, it would be unfair to ask MBNA to pay towards this.

I'm confident, if there's been no further spending on the debts between Mrs G's first refinance application and any subsequent application, the amount she needs to refinance will be lower.

And I don't think it would be fair to calculate this loss the way Mrs G has. I'm not sure why Mrs G would only pay half towards the increased mortgage, unless her husband has an identical amount of debt to refinance.

I think this is unlikely, so a fairer calculation would be the increase based on the debt Mrs G is refinancing, as a proportion of the total debt refinance. And then adjusted to only pay the interest each of these debts was accruing.

This would likely result in a lower settlement than the early redemption fee for the mortgage, and potentially lower if considered across the whole term of the current mortgage deal.

What this service tries to do is put Mrs G back in the position she should have been had nothing gone wrong. This means Mrs G should have no default, not have paid an arrangement fee for her current mortgage and able to refinance her mortgage and debts.

Mrs G shouldn't have to pay two arrangement fees, one for her current mortgage and one for the mortgage and refinance she should have qualified for, but for the MBNA default. When Mrs G refinances, she'll need to pay another arrangement fee.

And to be able to refinance, Mrs G needs to be able to exit her current mortgage, and this involves an early redemption fee.

MBNA has said it would be unfair to pay this fee up front, but I disagree. Mrs G needs to be put back as close to the situation she was in prior to the declined mortgage application. This means being able to exit her mortgage, so I think the fee needs to be paid to Mrs G up front.

Mrs G will need to prove to MBNA what her early redemption fee is, and I'm sure her broker can help with this as part of the refinance.

I think the default caused Mrs G some distress and inconvenience.

Mrs G has sent in some information about other debts she has. But I don't think these debts are ones Mrs G was looking to refinance. Although I've considered what Mrs G sent in, I think the offer of compensation from MBNA is fair.

MBNA offered £250 but also wrote off around £180 of legitimately owed credit card debt. I think an effective payment of over £400 is fair to compensate Mrs G.

### **My final decision**

My final decision is I uphold this complaint and MBNA Limited should:

- remove the default and any other adverse information in respect of its credit card from Mrs G's credit file
- write off any remaining debt
- pay Mrs G £995 for the arrangement fee of her current mortgage
- pay Mrs G's early redemption fee for her current mortgage
- pay Mrs G £250 in compensation

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 7 May 2024.

Chris Russ  
**Ombudsman**