

The complaint

Mr R complains that MBNA Limited has refused to accept a money transfer he made was 0% interest. He also complains that MBNA promised to stop interest on his account and refused his attempts to partially settle.

What happened

Mr R had a credit card account with MBNA. In June 2022 he said he made an interest free money transfer. He said this was done online and witnessed by his partner and, similar to all his other money and balance transfers that were made with MBNA, he said this was 0% interest. Mr R said MBNA denied this happened and applied full interest on the account which he disputed in September 2022.

In its first final response letter in September 2022 MBNA said there were no offers for 0% balance transfers at the time Mr R made the transfer in June. It agreed to refund interest on his September statement and suppress interest for October.

Mr R said in January 2023 he called MBNA and offered a partial settlement of 50% which he said was refused. Mr R said MBNA continue to apply interest on the account despite his efforts to explain that he hadn't been satisfied with the outcome. MBNA said it could apply a further three months interest waiver. Mr R said he offered a partial settlement again due to his unemployment status and personal circumstances, but this was refused again.

In its final response letter on 10 May 2023 MBNA accepted it could have given Mr R better service and arranged for £50 to be credited to his account. It arranged for no interest be applied for June July and August and it refunded the interest of £348.32 Mr R had previously been told would happen. It apologised for not refunding interest in February.

In its final response letter dated 2 September 2023 MBNA accepted that it hadn't provided clear information when Mr R spoke to it about offering a partial settlement. To make up for this it offered Mr R £100.

Mr R wasn't happy with this response and brought his complaint to this service. He said at this stage the interest accumulated on the account is fabricated to make up the amount of £18,000. He said MBNA had refused various attempts by him to partially settle the account from February 2023 because of his unemployment status. He said he feels like he's been tricked into defaulting his account.

Our investigator concluded that the complaint point referring to the 0% interest money transfer was time-barred and therefore not something our service could consider. She concluded that Mr R received poor service with respect to the information he received concerning settlement offers so increased compensation he should receive to £200.

While MBNA did not agree with all aspects of our investigator's view it was willing to accept the recommendation of £200 compensation as a gesture of goodwill to settle the case.

Mr R didn't agree with the investigator's view and asked for a decision from an ombudsman.

He said he'd been forced into a corner by being misled. He rejected that part of his complaint was out of time. He said he never accepted the position and was unable to fully challenge and reach an acceptable resolution around the original money transfer. He said he had never missed a payment. I sent a provisional decision on 8 April 2024. I said:

Final Response Letter – 28 September 2022

We don't have a free hand to consider every complaint we receive. Our powers to consider complaints are set out in the Financial Services and Markets Act 2000 and in the rules known as the Dispute Resolution Rules (DISP), written by the Financial Conduct Authority.

The specific section of the DISP rules that applies here is the DISP 2.8 and sets out the time limits for referral. DISP 2.8.2 says:

The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:

(1) More than six months after the date on which the Respondent sent the complainant its final response...;

unless:

(3) In the view of the Ombudsman, the failure to comply with the time limits in DISP 2.8.2 was as a result of exceptional circumstances or

*(5) The respondent has consented to the Ombudsman considering the complaint
Page 2 of 5 where the time limits have expired.*

Mr R complained to MBNA regarding the promotional rate of 0% on his money transfer in September 2022. MBNA sent a final response letter with referral rights to our service dated 28 September 2022. The referral rights say that if Mr R doesn't agree he has the right to complain to the financial ombudsman service but he must do so within six months of the date of the letter. This means he would have to refer the complaint about his money transfer by 28 March 2023. He did not do this.

I can see that MBNA sent the final response letter to Mr R a further two times. I've seen a letter dated 21 October which says:

"I'm sorry you've had reason to call in again and that you didn't receive my previous letter. Please find enclosed a copy of the letter we've sent to you on 28 September. It was sent from our side, I'm not sure why it didn't reach you."

I've also seen a letter dated 11 November to Mr R. It says:

"Thanks for speaking to me about not receiving my final response letter sent on 28 September and again on 21 October...I'm sorry you didn't receive the final response letter. Please find enclosed the letter I sent on 28 September."

During one phone call I listened to Mr R says he has two addresses and one of them is the address on the letters. The complaint handler asks Mr R to confirm he is able to receive mail and he confirms he is.

Mr R said in response to our investigators view that the reason he is out of time is because MBNA were elusive in finding a solution, put the account on hold during

various months and then fed him false information that no more interest would go on to the account and that once it goes into recoveries he would be able to settle. He said despite the letters from MBNA that claimed it had dealt with his original complaint in and around September 2022 he never accepted its position. He said he was unable to fully challenge and reach an acceptable resolution around the original money transfer. But I can see that on the letter it's clear that he was able to challenge and bring the complaint to the Financial Ombudsman Service.

I can see a note from an inbound telephone call on the contact notes dated 27 March 2023 which says:

“the customer also referred to an already closed complaint, advised cust (sic) to approach the Financial Ombudsman if he is dissatisfied by the outcome.”

The final response letter was dated 28 September 2022 which means at that point Mr R still had one day to refer to our service.

While I sympathise with the situation Mr R found himself in and I make no comment on the merits of the complaint point relating to the 0% interest money transfer, the final response letter from MBNA was clear in that if Mr R was not satisfied with the response he could refer to our service but must do so within the timeframe and it was sent three times to him. I can see that Mr R was in contact with MBNA over the following months, but I haven't seen any evidence that there were any exceptional circumstances that would prevent him from bringing the initial complaint point to our service. And MBNA has not given its permission for us to consider this part of the complaint.

Therefore subject to any further information I might receive Mr R's first complaint point relating to the 0% money transfer is not one that our service can consider.

Mr R brought his complaint points to our service in September 2023. MBNA responded to these in its final response letters dated in May and September 2023 so I'm satisfied these are ones I can consider. And I shall now go on to consider the merits of these complaint points.

Final Response Letters – May and September 2023

I realise this will come as a disappointment to Mr R but having reviewed all the information I agree with the conclusions reached by the investigator for the reasons I've outlined below.

I'm sorry to hear that Mr R is having financial difficulty. The Finance and Leasing Association (FLA) Lending Code requires lenders to deal with consumers in financial difficulty fairly, sympathetically, and positively. What this means depends on the consumer's individual circumstances.

MBNA said that Mr R was experiencing financial difficulties after completing a large money transfer which was on the standard rate. This is the rate that Mr R disputed in his first complaint and which I consider to be out of time as I've explained above. MBNA has said the impact of the standard rate increased the balance dramatically.

I've read the contact notes between Mr R and MBNA, copies of letters and listened to the phone calls provided by MBNA. There were many points of contact between MBNA and Mr R over the course of 12 months. Having considered all this I'm satisfied MBNA acted positively and sympathetically towards Mr R with the actions

that it took. I say this because during the phone calls MBNA tried to help Mr R by refunding and waiving interest, putting the account on hold, and discussing payment arrangements. Mr R was offered the opportunity for payment arrangements which would mean completing income and expenditure input but did not take them up. His focus was on a partial settlement.

MBNA has accepted there were some service errors in not refunding the gesture of goodwill interest of £348.32 initially and with the clarity of information provided by the complaint manager in the May phone call. It said it did apply a three-month interest waiver correctly at that point. It said when Mr R contacted MBNA in May 2023 it paid £50 compensation for this error. MBNA said at this point the complaint manager applied three more months of interest waiver. In its final response letter it accepted it should have told Mr R that when an account is transferred to the recoveries team there's a possibility that it would be transferred to a third party for administration or sold. It said before an account is transferred to the recoveries team they are unaware which accounts or how soon the account would be transferred. It offered Mr R £100 for the distress and inconvenience this may have caused. MBNA said the total interest refunded/waived had reduced Mr R's debt by over £1,000.

In its response to our investigator MBNA said:

- It is correct to advise that we can only consider a partial settlement offer once an account is defaulted and with our recoveries team. This is factually correct.*
- At no point did we confirm the offer of 50% would be accepted, only that it could be made. This is factually correct.*
- A complaint manager or recoveries colleague would have no way of knowing which accounts will be sold, so this is not something we could advise. Indeed, as you mention, it is the T&Cs.*
- There was nothing to stop Mr R making the partial settlement offer to the new purchaser. Indeed, they may have been able to accept the offer.*
- Nothing the complaint manager said or did not say would have changed the outcome here.*

I'm not disputing MBNA here. I've listened to the phone calls.

Mr R was clear that he wanted to partially settle. During the phone calls he repeated his concerns about the interest rate and his claim that the money transfer should have been 0% interest. While I cannot comment on the merits of that claim I'm satisfied that Mr R's worry about this, the amount of interest, the size of the debt and his financial difficulty was clear or ought reasonably to have been clear to the call handlers he spoke to. So it was very important that the call handler was very clear on what help they could provide, how the account might be settled and the next steps. In relation to whether MBNA could partially settle I don't think it was as clear as it could be.

I was satisfied MBNA had acted positively and sympathetically towards Mr R with the actions that it took regarding interest and putting the account on hold. It had accepted it could have been clearer with the information regarding settlement and transfer of debt and I agreed with this. So I thought £200 was a fair and reasonable remedy for the distress and inconvenience this caused.

Mr R disagreed with my provisional decision made some further comments to which I have responded below where appropriate.

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.

In his response to my provisional decision Mr R maintained that the main foundation of this complaint had been ignored/dismissed. By this he was referring to the 0% interest complaint which I had concluded was time-barred. Mr R said MBNA had made reference to the fact he could have brought the complaint to the Ombudsman Service in September 2022 and again in November once he received the final response letters from MBNA. He said he had 6 months to do this - 6 months on from September 2022 is March 2023. He said this meant when he received the wrong information from the MBNA call handler from January 2023 onwards that he could settle the account once it goes into the collections department he still had three months left. He said that was why at this stage discussing this with his family they agreed they would take MBNA advice and settle the account at the stage it went into collections. Therefore he didn't raise a complaint with the Ombudsman. He said this right was taken away from him as his account was sold on the same day it went into collections with no prior communication from MBNA.

Mr R went on to say that on one of the calls he was put on hold and there were various discussions between the collections department and the call handler who he had been dealing with in January 2023. He said this didn't sit right with him. He said the six-month time frame to raise the complaint with the Ombudsman timed out because he was led to believe by MBNA that he had the opportunity to sensibly settle the account only once the account went into collections. He said he was at a loss as to how this was lost in consideration and still been used as a valid reason why his account should still remain with a debt collection organisation. He said he never agreed to MBNA's reasoning or resolution that he took a money transfer out with any interest. He maintained that all money and balance transfers he had done with MBNA had been at 0%.

In order for me to be reassured that Mr R understood his referral rights to our service I asked MBNA to send me recordings of calls between MBNA and Mr R, particularly calls made before the end of the six months Financial Ombudsman Service referral time.

The first call I listened to was dated the 21 February 2023. I did find this call to be a little confusing. And I could understand Mr R's frustration as it was clear he was trying to get the account put on hold in anticipation of being able to pay the full balance. But I don't agree he was given the wrong information. The advisor wanted to get more information from Mr R, by which she meant doing an income and expenditure assessment, but Mr R did not want to do this. Mr R does mention the previous 0% interest and the adviser does indeed speak to another department about this. During this call there isn't any mention of specific referral to the Financial Ombudsman Service but the adviser does make reference to a previous complaint.

The second call I listened to was dated 27 March 2023. The flow of this call was much clearer to me. Parts of the call went as such:

Mr R: "I'm not pleased with you guys... It's controversial... I did a balance transfer 0% interest. I know it was... For you to say it's full interest on that it's just shocking."

Advisor: "Is that complaint we've already raised for you?"

Mr R: "You have but it's not been completed, you wrote to me saying it is resolved... I'm not too pleased. That's why I'm in this position now..."

Advisor: "Right, okay, and you have been advised you can approach the Financial Ombudsman if you're not happy with the outcome of the complaint? Is that correct?"

Mr R: "Yeah but it's just time isn't it, the time of it, the fighting... Look so if you can just assure me nothing else will be put on the card..."

There followed some discussion about pausing the account for another month. Then:

Advisor: "For us to agree a solution with you I will have to ask you some questions first of all and possibly going to complete a budget with you, okay?"

Mr R: Well mate I'm not going to complete any budget I haven't got time...I've got the funds to pay it on May 2 that's all you need to know. Guaranteed. I'm paying off, its £18,669, I'm asking you considering the history of it to see if you can put my card on hold as a solution to my complaint. I'll be satisfied with that and not take it any further."

Advisor: "This is not going to be related to that complaint. That complaint has already been dealt with and you have to approach the Financial Ombudsman if you want to take that any further..."

Mr R: "I'm not going to, I'm not going to, I just want..."

Advisor: "If that's your choice sir?"

Mr R: "I just literally want to pay; all I'm doing is calling you to pay this off on May 2... I don't want to get into a long-winded conversation..."

So I don't agree with Mr R's characterisation of what occurred. He was reminded of his rights to refer the complaint to the Ombudsman Service twice during the call, and both times he declined. I don't agree incorrect information was given. I also didn't hear MBNA giving Mr R any advice. He was asked on both calls to do an income and expenditure exercise. And while I accept it wasn't clear what information was required on the call in February I'm satisfied it was clear during the call in March that any solutions MBNA could offer would only be available after further budget information was given by Mr R. I'm also satisfied the advisor on the call in March made clear that the complaint was unrelated to settlement of the account. Having listened to both calls in full I'm not persuaded that the complaint to the Ombudsman timed out because Mr R was led to believe he had the opportunity to settle the account only once the account went into collections.

I understand this isn't the outcome Mr R wanted but I'm persuaded the complaint point relating to the 0% interest money transfer has been brought to this service too late.

With regards to the complaint points relating to partial settlement I've not seen any new information so the conclusions I reached in my provisional decision still stand.

Putting things right

To put things right MBNA Limited must pay Mr R the £100 it offered unless it has already done so. It must also pay Mr R a further £100 in compensation for any distress and inconvenience caused.

My final decision

My final decision is that Mr R's first complaint point relating to the 0% money transfer is not

one that our service can consider. In relation to the complaint point regarding the partial settlement MBNA Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 22 July 2024.

Maxine Sutton
Ombudsman