

The complaint

Mrs S says MBNA Limited irresponsibly lent to her.

What happened

Mrs S took out a loan for £8,000 over 60 months from MBNA on 23 November 2023. The monthly repayments were £201.81 and the total repayable was £12,108.60.

Mrs S says she was already seriously indebted and in financial distress when this loan was approved. She was paying around 50% of her salary towards her unsecured debts which in total were more than her annual salary.

MBNA says Mrs S passed all of its checks so it agreed to lend to her.

Our investigator did not uphold Mrs S's complaint. He said whilst MBNA's checks were not proportionate it could fairly have made the same lending decision had it completed better checks.

Mrs S disagreed with this assessment and asked for an ombudsman's review. In summary, she said the investigator's analysis of her income was flawed as it included transfers her partner made to her account to cover the repayments on three of her loans and two of her credit cards, and not just his contribution to household costs which was around £400. He also paid two other credit accounts directly for her. So it was clear she was already under financial stress.

I reached a different conclusion to the investigator so I issued a provisional decision. An extract follows and forms part of this final decision. I asked for any comments by 18 December 2024.

Extract from my provisional decision

To decide this complaint I need to consider if MBNA's checks were proportionate; if so, did it make a fair lending decision; if not, what would proportionate checks most likely have shown; and finally, did MBNA act unfairly towards Mrs S in some other way.

I've looked at the checks MBNA carried out. It asked Mrs S for her employment status, income, residential status and housing costs. It carried out a credit check to understand her existing commitments and repayment history. It estimated her living costs using national statistics. It asked about the purpose of the loan which was debt consolidation. Based on these checks combined MBNA concluded Mrs S would have a monthly disposable income of £468 after taking on this loan and so it was affordable.

I am not wholly persuaded these checks were proportionate given the term of the loan and Mrs S's existing level of debt relative to her income. I think MBNA needed to verify Mrs S's declared income and check her actual expenditure. However I won't comment further on this as even based on the information it did gather I don't think MBNA made a fair lending decision. I'll explain why.

MBNA understood Mrs S's net monthly income was £2,265 based on what she input when she applied online. It allowed £927 a month for the repayment of her existing debts explaining this was made up of the monthly repayment on any fixed term lending and 3.5% of revolving balances. But this service uses a rate of 5% of revolving balances when considering affordability which would mean MBNA likely needed to allocate closer to £1,200 for Miss S's commitments (MBNA has not provided a breakdown of Mrs S's debt). We allocate 5% of outstanding balance to allow for repayment of interest and capital and to ensure there is no risk of a consumer falling into persistent debt.

This would mean Mrs S was already spending over half her salary to repay her debts. And even using the figures MBNA based its decision on, it would have been around 40%. As the industry knows, such a level of monthly commitment can be indicative of pending financial difficulties. And MBNA needed to consider this – not just the pounds and pence affordability.

I have thought carefully about the fact the purpose of this loan was debt consolidation. But in the circumstances of this case that does not change my conclusion. I cannot see MBNA understood which debts Mrs S intended to repay. The loan would have allowed her to settle around a third of her debt, whilst significantly increasing her overall indebtedness. So I cannot see MBNA had the assurances it needed that this loan would not cause any adverse financial consequences for Mrs S.

Mrs S's testimony supports this finding that she was already struggling financially. She has told us she was unable to meet her contractual repayments. And her bank statements support this testimony showing her partner was transferring in the money needed each month for the repayments to three of her loans and two of her credit cards. I think even from the checks MBNA completed it ought to have realised there was a high risk Mrs S was already under financial strain.

It follows I think MBNA was wrong to lend to Mrs S. I haven't seen any evidence it acted unfairly towards Mrs S in some other way.

I then set out what MBNA would need to do to put things right.

Mrs S accepted the provisional decision. MBNA did not respond.

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.

We've set out our approach to considering unaffordable and irresponsible lending complaints on our website including the key relevant rules, guidance and good industry practice. I've had this approach in mind when considering Mrs S's complaint.

As neither party sent in any comments or new evidence for me to consider I have no reason to change the findings or outcome set out in my provisional decision.

It follows for the reasons given above I think MBNA was wrong to lend to Mrs S.

Putting things right

It's reasonable for Mrs S to have repaid the capital amount that she borrowed as she had the benefit of that money. But she has paid interest and charges on a loan that shouldn't have been given to her. So she has lost out and MBNA needs to put things right.

MBNA should:

- Remove all interest, fees and charges and treat all the payments Mrs S made as payments towards the capital.
- If reworking Mrs S's loan account will result in her having effectively made payments above the original capital borrowed, any overpayments should be refunded. 8% simple interest should be applied to the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
- If reworking Mrs S's loan account results in there being a capital balance outstanding MBNA should agree an affordable repayment plan with Mrs S.
- Remove any adverse information recorded on Mrs S's credit file in relation to the loan once any capital balance has been repaid.

*HM Revenue & Customs requires MBNA to deduct tax from this interest. MBNA should give Mrs S a certificate showing how much tax it's deducted if she asks for one.

I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed above results in fair compensation for Mrs S in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

My final decision

I am upholding Mrs S's complaint. MBNA Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 16 January 2025.

Rebecca Connelley
Ombudsman