

## **The complaint**

Miss B complains that MBNA Limited ('MBNA') unfairly reported a default to her credit file in relation to her credit card account when she was vulnerable, instead of supporting her with a payment plan.

Miss B wants her credit card balance written off and for the default to be removed from her credit file.

## **What happened**

Miss B contacted MBNA in early 2022 about how she planned to pay her credit card, saying Covid-19 had impacted her business and she was experiencing personal problems.

In September 2022 Miss B informed MBNA of the reasons for missed payments on her account but didn't consent for these to be recorded in MBNA's notes. She made a payment of £100 but didn't agree to set up an arrangement to pay.

Between October 2022 and January 2023 MBNA sent letters and electronic notifications to Miss B saying that she was in arrears and could contact MBNA or independent agencies for help. In January 2023 Miss B was sent a default notice requiring her to pay her arrears, followed by a final demand in February 2023 and a termination notice in March 2023. A default was then reported to the Credit Reference Agencies, which appeared on Miss B's credit file. In August 2024, Miss B's account was sold to another company.

Miss B subsequently complained to MBNA about how her account had been handled. MBNA didn't uphold the complaint, saying they'd offered a repayment plan which wasn't accepted, and they'd followed their usual process when defaulting the account.

Miss B referred her complaint to our service saying she'd lacked capacity when the default was applied, and that MBNA should have done more to support her as she had long Covid and a range of health problems. She provided medical evidence and described a very difficult and stressful time in her life. She said MBNA's default marker was stopping her from getting a mortgage, so it was important to her that this matter be reviewed urgently.

Our investigator concluded that although Miss B had been vulnerable, she couldn't conclude Miss B had lacked capacity on the evidence she'd seen, or that MBNA knew this. She also concluded that there was insufficient evidence to show MBNA were aware of the extent of Miss B's health issues and she didn't think MBNA had acted unfairly in the circumstances.

Miss B disagreed, so the matter came to me to decide.

## **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.

I've taken into account any relevant law and regulations, the regulator's rules, guidance and standards, codes of practice and (where appropriate) what is considered to have been good industry practice at the relevant time.

I want to thank Miss B for sharing details about her personal circumstances and for providing her medical notes which support what she has said about her health in recent years. I'm sorry to hear of the cascade of challenging circumstances she's faced since 2022 and I acknowledge that dealing with this matter on top of everything else has been distressing.

I've considered carefully how these events have impacted how Miss B managed her credit card account with MBNA. I've paid attention to what MBNA knew, and how they responded, as they are under an obligation imposed by the Financial Conduct Authority to treat Miss B fairly.

I know this won't be what Miss B was hoping to hear, but I've decided not to uphold her complaint, for broadly the same reasons as our investigator. This doesn't mean I don't believe what Miss B is saying, rather that I haven't seen enough evidence to decide that MBNA have treated her unfairly in the circumstances of her complaint. I'll explain why.

There's no doubt in my mind that Miss B experienced a very difficult time – ill health, acting as a litigant in person in a tribunal matter, and issues with her landlord which led to a no-fault eviction. I think it's likely some of these factors were mentioned to MBNA when Miss B called them in September 2022, so MBNA's agent had some awareness of Miss B's circumstances at that time. I've seen that MBNA's agent responded by offering Miss B a repayment plan, but she declined to complete the necessary budget form and this couldn't be actioned. Prior to this MBNA had placed short holds on her account when she'd mentioned financial difficulties. I don't think MBNA have acted unfairly here.

I'm aware that in September 2022 Miss B refused consent for MBNA's agent to record the reasons behind her arrears on her account – so nothing specific about her health is recorded in her account notes. Miss B didn't contact MBNA after September 2022 until May 2024. So during this period MBNA weren't aware of anything going on with Miss B's health or personal circumstances.

I recognise the Financial Conduct Authority has set out guidance for firms about how they engage with vulnerable consumers, but I am also mindful that it would be unreasonable to expect a firm to change or adapt how they are interacting with a customer if they are not aware of any need to do so.

However I'd expect MBNA to provide Miss B with a fair opportunity to address her arrears with them before defaulting her account, which I think they did. MBNA issued a series of arrears letters, some of which said: *'we think you may be experiencing financial difficulty and want you to know we can help – please contact us.'*

I've considered what Miss B has said about her no-fault eviction in February 2023 and I'm aware she left the country for a short period so may not have got some of her post around the time her account was defaulted. However, MBNA sent their arrears letters and default notice before February 2023. Miss B accepts that she received MBNA's electronic notifications about correspondence that could be viewed in her banking app, although she hadn't set this up to read these.

Miss B didn't engage with MBNA after September 2022 and I can understand why, given what she was experiencing. But as MBNA weren't updated with Miss B's changing circumstances, I can't fairly criticise them for not adapting their collections activity. And given

the correspondence sent, I can't say that MBNA didn't give Miss B a fair opportunity to contact them before they defaulted her account in March 2023.

The Information Commissioner's Office sets out guiding principles for businesses reporting arrears, arrangements and defaults. This sets out that by the time an account is at least three months in arrears, and normally by the time an account is six months in arrears, it's generally expected that a default will be registered.

Taking into account the industry expectations here, and the lack of contact from Miss B, I don't think that it was unreasonable for MBNA to have reported Miss B's default to the Credit Reference Agencies when they did, and I think the default fairly and accurately reflects what has happened with her account.

I know this will come as a disappointment to Miss B and I don't wish to cause her more distress or hardship, but I don't think MBNA have treated her unfairly in these circumstances. This means I've decided not to uphold her complaint, and MBNA don't need to take any action on this occasion.

I would encourage Miss B to access support from Citizens Advice who offer free, impartial, and confidential advice on a range of issues, such as those affecting her. Citizens Advice can be contacted online at [www.citizensadvice.org.uk](https://www.citizensadvice.org.uk) or by telephone on 0800 144 8848.

### **My final decision**

For the reasons I've set out, I don't uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 14 March 2025.

Clare Burgess-Cade  
**Ombudsman**