

The complaint

Mrs R complains that MBNA Limited lent to her irresponsibly.

What happened

In January 2018, MBNA gave Mrs R a credit card (card 1) with a limit of £8,700. In July 2018, it increased the credit limit to £9,500.

In March 2022, MBNA gave Ms R another credit card (card 2) with a limit of £9,500.

Mrs R complains that MBNA did not carry out proper checks before lending to her and increasing her credit limit – and that the lending was unaffordable and caused her financial difficulty. She also complains that MBNA did not acknowledge she'd entered into a debt management plan in October 2022 prior to its closure in March 2023.

The investigator thought that MBNA carried out reasonable and proportionate checks for card 1, both in the original lending decision and when it increased her credit card limit. She thought the decision to give Mrs R card 1 and to increase the limit were reasonable based on the information available to MBNA.

For card 2, the investigator did not think that MBNA had undertaken proportionate checks in view of what it knew about Mrs R and because of the amount of debt she'd taken on since card 1 was approved. She thought it ought to have found out more about Mrs R's committed expenditure and living costs by checking her bank statements. The investigator said if MBNA had done so it would have concluded that further lending would be unsustainable in view of Mrs R's outgoings and reliance on debt. She said MBNA should rework the account as if no interest or charges had been applied – and if that resulted in a credit balance refund that to Mrs R with interest.

MBNA did not accept what the investigator said. It responded to make a number of points, including:

- On average across the three months before card 2 was approved, Mrs R's bank statements show the total regular income received, including Mrs R's partner's income, was £8,031. And the average expenditure was £6,630. That left a surplus of £1,401.
- The new credit card payment, using 5% of the maximum credit limit, was £400 per month. That would leave Mrs R with £1,000 a month to cover all other day to day expenses.
- The statements show that Mrs R was saving £300 a month. She also made payments to investments totalling £184.97. That does not indicate she was struggling financially and could have used those funds to clear her overdraft in a reasonable amount of time.

Mrs R initially accepted what the investigator said. But she later responded to say, in summary:

- While the card 2 was clearly mis-sold, the high credit limits and “extreme” interest rates on both cards created an unmanageable cycle of debt. Her overall financial position, including financial difficulties, reliance on debt and high credit utilisation meant that even card 1 should not have been approved.
- MBNA failed to consider her vulnerability. Between 2022 and 2024 she was under severe financial and mental stress because of changes to her employment. She used her MBNA cards to cover essential expenses and MBNA’s lending decisions failed to take into account clear signs of financial distress.
- MBNA’s interest rates were typically above 30%. That caused her debt to spiral making her repayments unmanageable and exacerbating her financial situation. The minimum payments were barely covering the interest and left her trapped in persistent debt. We should consider a full interest refund on both cards.
- Mrs R considered that MBNA’s actions were not in line with its obligations under the FCA’s Consumer Credit sourcebook (CONC).

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.

MBNA had a duty to make sure it did not lend irresponsibly. In practice, that meant that it should carry out reasonable and proportionate checks to understand what Mrs R could afford to repay before approving the credit cards and increasing the credit limits.

What is reasonable and proportionate will depend on the individual circumstances. For example, it might be reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

On the other hand, we might think a lender needs to do more if, for example, a borrower’s income was low, the amount lent was high or if the information the lender had indicated some financial difficulty. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we’d expect a lender to be able to show that it didn’t continue to lend to a borrower irresponsibly.

Card 1

Before approving Mrs R’s application for a credit card, MBNA said *“In order to qualify for lending, customers must pass credit assessments (using scores), indebtedness assessments (debt/income and industry standard indebtedness scores), policy rules (e.g. employed, good credit history) and an affordability assessment. We used a combination of credit reference agency data, models and customer stated data to assess the application from both a creditworthiness and affordability perspective”*. MBNA gathered information about Mrs R’s income, employment and accommodation costs.

In the circumstances and bearing in mind what MBNA knew about Mrs R, I consider the checks it carried out were proportionate and reasonable. Due to the passage of time MBNA does not have all of the information it would have obtained to make its decision, But we have Mrs R’s bank statements for the time in question.

The bank statements support that it was reasonable for MBNA to decide that the credit limit it set for Mrs R was affordable and sustainable based on her income and outgoings.

In July 2018, the credit limit was increased by £800. Mrs R's circumstances were not materially different at that time than they were when the card was originally taken out. MBNA said it carried out a credit check that showed Mrs R had debt of around £7,000 and no adverse information. It said it also looked at how she had managed her credit card account. Her account with MBNA was well managed.

I consider the checks MBNA carried out were proportionate and fair, bearing in mind what it knew about Mrs R and her financial circumstances. The decision it reached to increase the credit limit was reasonable in the circumstances.

I consider the checks that MBNA carried out and the decision it reached about affordability for both the original decision to give Mrs R a credit card and then to increase her limit were likely in line with the requirements of CONC.

Card 2

MBNA carried out similar checks for card 2 as it did for card 1. Mrs R's debt had increased significantly since card 1 was approved. Bearing in mind the information MBNA had about Mrs R's income and expenditure it ought to have had questioned why she had the need to take on so much debt – and the conduct of her existing credit card might have indicated some problems, including that she was taking relatively small cash advances.

We have copies of Mrs R's bank statements for the three months before card 2 was approved. First, I would say that there are no signs of problem gambling. Nor would a responsible lender have reasonably concluded (in addition to the other information it had) that there were any real signs that Mrs R was experiencing vulnerable circumstances. While I was sorry to hear about the difficult time Mrs R was going through, I can't see that MBNA had any information that meant it should have been on notice about that.

The bank statements are for a joint account that Mrs R had with her partner. So it includes both of their income and expenditure. If we use MBNA's figures, Mrs R was left with a surplus of £1,400 a month – not taking into account the payment due on the new credit card.

If we just look at the card 2's credit limit of £9,500, then I agree that on the face of it the lending might appear affordable. But that would raise questions about why Mrs R needed to rely on debt to the extent she did and whether the way she managed her finances was sustainable.

Mrs R had total credit card limits of over £60,000 already – adding another £9,500 would take her total available credit over £70,000. That is a very significant increase in debt since card 1 was taken out.

Further, Mrs R was using a very high proportion of the credit limits of the credit cards she was using. She had taken out another credit card only three months before card 2 and was at 85% of the credit limit. And she was over limit on another credit card.

I consider there were clear signs that Mrs R was struggling to manage as she was. That was not consistent with her income and I consider a responsible lender acting reasonably would have had good reason to doubt that approving further debt for Mrs R was sustainable or in her best interests. So I agree with the investigator that if MBNA had acted fairly and reasonably it would not have approved Mrs R's application for card 2.

In view of that, I don't consider it was fair for MBNA to charge interest, fees or charges on the credit card – but Mrs R should pay back the amount she borrowed. MBNA should:

- Rework the account removing all interest, fees, charges, and insurances (not already refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Mrs R 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 regarding this account from Mrs R's credit file. If HM Revenue & Customs requires MBNA to deduct tax from the award of interest it should give Mrs R a certificate showing how much tax she has paid if she asks for one.
- Or, if after the rework there is still an outstanding balance, MBNA should arrange an affordable repayment plan with Mrs R for the remaining amount. Once Mrs R has cleared the balance, any adverse information in relation to the account should be removed from her credit file.

Did MBNA act unfairly in any other way?

In respect of the point about the debt management plan, I don't consider MBNA treated Mrs R unfairly. It entered Mrs R into a breathing space agreement and then closed her account. I think that is in line with the steps a lender should take in these circumstances.

Finally, I've thought about whether considering this complaint more broadly as being about an unfair relationship under Section 140A of the Consumer Credit Act 1974 would make any difference to the outcome. I don't think it would because I don't consider card 1 gave rise to an unfair relationship – and I have already upheld the complaint about the lending decision on card 2.

My final decision

My final decision is that MBNA Limited should take the steps set out above to settle this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 1 May 2025.

Ken Rose
Ombudsman