

The complaint

Mr C complains that MBNA Limited accepted funds from his pension to settle his credit card accounts when it knew he was in a vulnerable situation.

What happened

Mr C had two credit cards with MBNA. In early 2020, Mr C told MBNA he had faced difficulties with his mental health, which had in turn affected his finances. Later that year, in June, Mr C contacted MBNA again and proposed a payment to settle his debts using his pension fund. The offers were for £228 and £480 on each respective card – close to 10% of the amounts owed. MBNA accepted Mr C's proposal.

In 2024, Mr C complained to MBNA about how he had been treated in 2020. In summary, he thought it was unfair that MBNA accepted settlement from him knowing that he had cashed in his pension to pay. He said MBNA was aware he was vulnerable with protected characteristics under the Equality Act 2010, and so it shouldn't have allowed him to settle his debts in this way. Mr C also said he felt pressure from MBNA and his other creditors to settle his debts, and therefore they had breached various relevant rules.

MBNA reviewed matters. Ultimately, it didn't think it had done anything wrong, but it agreed to refund the payments Mr C paid towards the debt – a total of £708.

Mr C remained unhappy and brought his complaint to this service. He was concerned that MBNA refunded the payments, yet it didn't agree that it had done something wrong. To resolve the complaint, Mr C asked for his pension fund to be reinstated and for a refund of any growth that had been lost as a result of it being cashed in.

One of our Investigators reviewed matters but didn't recommend that the complaint be upheld. In summary, she didn't think MBNA had pressured Mr C to make the payments, nor did she think it was unreasonable that these were accepted. The Investigator noted that Mr C appeared to have had discussions with a debt management company, so she didn't think MBNA ought to have asked further questions before accepting the funds. She acknowledged that it had since refunded the payments and, overall, thought this was a fair outcome.

MBNA didn't dispute our Investigator's outcome, but Mr C did. In summary, he repeated some earlier points and said he didn't receive advice from a debt management company before making the settlement proposals.

Ultimately, an agreement couldn't be reached. So, the case was passed to me to decide. I issued a provisional decision, which also forms part of this decision. I've outlined what my provisional decision said below:

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint."

Firstly, I understand just how strongly Mr C feels about this matter and I have taken into account all of the submissions that have been provided by both parties. However, it's important I explain that my decision will only focus on what I consider to be the crux of Mr C's complaint. This isn't intended to be discourteous, but instead it reflects my informal role in reaching a decision here.

In his submissions, Mr C has referred to the Equality Act 2010 and has explained that he had protected characteristics under it. He has also made reference to the Financial Conduct Authority (FCA) rules and guidance to support why he thinks MBNA has treated him unfairly. When deciding this case, among other things, I'll take into account relevant laws and regulators' rules, guidance and standards. But I'll be ultimately deciding the case based on what I think is fair and reasonable overall.

Mr C thinks MBNA shouldn't have accepted his proposal because he was unwell at the time, which it was aware of. He also says he cashed in his pension fund because he was under pressure to settle his debts, and that MBNA is therefore in breach of the relevant rules including Section 7 of the FCA's Consumer Credit Sourcebook ("CONC"), which Mr C says includes his situation as an example of what lenders shouldn't do. Having reviewed this, I think the section relevant to Mr C's complaint comments on pressuring customers to raise funds to repay a debt by arranging the receipt of a lump sum from the customer's pension scheme. Mr C says MBNA also breached Principle 6 – part of the FCA's Principles for businesses – which outlines that a firm must pay due regard to the interests of its customers and treat them fairly.

I'll first address Mr C's point that he felt pressured to settle his debts, which in turn led to him cashing in his pension. I've listened to the calls Mr C had with MBNA in early 2020 – around four months before he proposed to settle his debts using his pension. In these calls, Mr C outlines the difficulties he has been facing with his mental health and his finances as a result. Ultimately, it's agreed that interest and charges would be paused for 30 days to give Mr C some time to consider his finances. Having listened carefully to the calls, I don't think the advisers pressured Mr C, to the extent that he was required to cash in his pension.

Mr C said that receiving communications about the arrears on his accounts caused him to feel pressure. MBNA has provided copies of some arrears letters it would have sent Mr C. Having reviewed these, I'm afraid I don't agree that receiving communications about arrears on the accounts and the implications of payment not being made – something lenders are obliged to send to their customers – amounts to MBNA applying pressure in the way Mr C describes.

So overall, I can understand why Mr C may have felt concern in relation to his debts, and why he felt he needed to do what he could to settle these. However, I'm not persuaded this means MBNA applied pressure, to the extent that Mr C needed to settle his debts using his pension.

I'll next turn to MBNA's decision to accept Mr C's partial settlement offer. MBNA hasn't provided a copy of the correspondence received from Mr C about how he intended to settle his debts, which is disappointing given when this occurred. However, it has provided a copy of a contemporaneous note recorded on its systems about the contents of the correspondence. MBNA and Mr C have also provided consistent testimony about the fact that the correspondence outlined the difficulties Mr C was facing with his mental health, and that he intended to make the settlements using his pension fund. So, I think it's reasonable to rely on the contents of this information.

MBNA says it considered Mr C's settlement offer in line with its guidelines around partial settlements, and it ultimately accepted the offer because its guidelines allowed it to. Having

reviewed the notes, it seems that MBNA accepted Mr C's proposal within a week of receiving it. And, as I understand it, there wasn't any further communication with Mr C before MBNA accepted the proposal.

I've thought carefully about the circumstances of this particular case. Having done so, I don't think MBNA should have accepted Mr C's proposal without discussing matters further with him, and understanding more about the impact it might have. I say this because MBNA would have been aware that choosing to cash in a pension to pay debts was an important decision to make. It would have also known that Mr C was making this decision at a time where he was in a very vulnerable position, struggling with his mental health. So, I think MBNA had a duty to support Mr C here and it shouldn't have accepted the proposal without understanding more, given everything it knew about Mr C's circumstances.

I'll next need to think about the impact of MBNA's actions. I appreciate Mr C has asked for MBNA to set up a new pension for him and compensate for any loss of growth as a result of it being cashed in. However, to consider recommending a settlement like this, I'd need to be satisfied that Mr C cashed in his pension because of MBNA's acceptance of his proposal. Having reviewed all the circumstances, I don't think this is the case. Instead, I'm persuaded that Mr C would have likely cashed in his pension anyway, even if MBNA had refused his partial settlement request. I'll explain my reasons why.

As I understand it, Mr C had already started the process of cashing in his pension with his provider before MBNA accepted his offer. So, I think it's likely that Mr C was intending to do this, irrespective of whether MBNA accepted his proposal. Additionally, Mr C also said that he had several creditors he was hoping to pay with the funds from his pension, and that one of his creditors had already accepted his proposal to settle debt he owed. So I think Mr C would have likely gone ahead with the process.

I'm also conscious that another one of Mr C's creditors advised him that it wouldn't accept his proposal to settle his debt. However, Mr C decided to continue with the process of cashing in his pension anyway, despite that creditor's refusal. So, with all of this in mind, I'm persuaded that Mr C would have likely still cashed in his pension when he did, even if MBNA had refused his offer. So, whilst MBNA should have asked more questions at the outset, I'm not persuaded this impacted Mr C's decision to cash in his pension.

I've considered that by the time Mr C paid MBNA, his pension had already been cashed in. However, despite accepting the payments initially, MBNA ultimately then refunded the full amount that Mr C paid as part of the complaint resolution. So, whilst I understand that Mr C remains unhappy, I think this is a fair resolution to the complaint and I don't think MBNA needs to do anything further.

I note Mr C has commented that there were other options MBNA could have taken, such as applying a default like other creditors had. But it's important to explain that this wouldn't mean Mr C didn't still owe MBNA the outstanding balances. And, in any case, MBNA has effectively written this off now. So, I don't think it needs to do anything else.

In his submissions, Mr C raised some points about how MBNA handled his complaint. In summary, this included concerns that MBNA's first response to the complaint came very soon after Mr C raised it, and it initially didn't uphold his complaint. He says MBNA then reviewed matters again and offered to refund the payments he made, but without accepting liability.

I appreciate Mr C's concerns here. He clearly didn't agree with the outcome MBNA reached on his complaint. But MBNA explained why it reached the conclusions it did, and explained that he had the right to come to the Financial Ombudsman Service if he didn't agree. Mr C

has done that, and we've reviewed his complaint. Mr C and MBNA have different views on the fairness of its actions, but I don't think that means MBNA handled his complaint unfairly.

Overall, I currently think MBNA's resolution to the complaint is fair and reasonable, and I'm not persuaded it needs to do anything more.

My provisional decision

My provisional decision is that I currently don't think MBNA Limited needs to do anything more here."

Mr C responded to the provisional decision and expressed his disappointment with it. In summary, he pointed out that MBNA refunded him the money he paid towards his debts, and asked why it would do this if it hadn't done anything wrong. He also reiterated that he doesn't have a pension as a result of what's happened.

MBNA responded to the provisional decision to say it had nothing further to add.

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.

Having done so, I've reached the same outcome as I did in my provisional decision, and for the same reasons.

To be clear, I don't think MBNA should have accepted Mr C's proposal to settle his debts without discussing matters further with him. However, I'm not persuaded that this would have made a difference to Mr C's decision to cash in his pension – I think it's likely he would have done this anyway, for all the reasons I've outlined in my provisional findings.

Therefore, by the time Mr C paid MBNA, his pension had already been cashed in. But despite accepting these payments at the time, MBNA refunded them to Mr C when he complained about its actions. Considering all the circumstances here, I think that's a fair resolution to the complaint, for all the reasons outlined above.

I know how strongly Mr C feels about this matter, and I'm sorry to disappoint him here, however I think MBNA's resolution of the complaint is fair and reasonable. It follows that I don't require it to do anything further.

My final decision

For the reasons I've outlined above, my final decision is that MBNA Limited doesn't need to do anything more here.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 May 2025.

Hana Yousef
Ombudsman