DRN-5538468

The complaint

Mrs K is unhappy that MBNA Limited didn't recognise that she had entered an IVA and sold her account to a debt collection agency.

What happened

Mrs K had a credit account with MBNA. In May 2024, Mrs K entered an IVA. At that time, MBNA should have defaulted Mrs K's account, using the IVA date as the date of default, and engaged with the IVA practitioner. MBNA didn't do this but instead continued to apply their arrears and collections process to the account. This meant that Mrs K received several letters from MBNA regarding her account, which was later defaulted by MBNA using an incorrect date, which then led to MBNA passing Mrs K's account to a debt collection agency ("DCA"). Mrs K wasn't happy about this, so she raised a complaint.

MBNA responded to Mrs K and explained that a system error meant that they had not properly recorded the fact that Mrs K had entered an IVA when they received formal notification of that fact. MBNA apologised to Mrs K for what had happened, recalled her account from the DCA, and corrected the date of default. MBNA also paid £75 to Mrs K as compensation for any upset or inconvenience their mistake may have caused her. Mrs K wasn't satisfied with MBNA's response and felt that a larger payment of compensation was merited, so she referred her complaint to this service.

One of our investigators looked at this complaint. They felt that MBNA had already taken the corrective action required of them by recalling Mrs K's account and correcting the credit file reporting. But they didn't feel that MBNA's payment of £75 provided fair compensation to Mrs K for the trouble and upset she'd incurred. Our investigator therefore recommended that MBNA pay a further £225 to Mrs K, taking the total compensation amount to £300. MBNA accepted the recommendation put forward by our investigator, but Mrs K did not and felt that a higher amount of compensation should be awarded. So, the matter was escalated to an ombudsman for a final decision.

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 don't dispute that they made a mistake here, and they accept that when they were first notified that Mrs K had entered an IVA, they should have defaulted the account at that time and engaged with the IVA practitioner and that Mrs K shouldn't have received the further letters and contact from them that she did.

Where a business has made a mistake, this service would generally expect that business to take the corrective action needed to put their affected customer into the position they should be in, had the mistake never taken place. In this instance, I'm satisfied that MBNA have done this, because they've recalled Mrs K's account from the DCA, corrected the date of default, and acknowledged Mrs K's IVA. Accordingly, I'm satisfied that there is no further corrective action that MBNA should be instructed to take.

However, in addition to corrective action, this service also considers whether a customer affected by a mistake should fairly be awarded compensation for any adverse impact or consequences that mistake may have had upon them.

MBNA also recognised this point in their response to Mrs K's complaint, wherein they apologised to Mrs K for what had happened and paid £75 to her as compensation for the trouble and upset that she may have incurred. Mrs K doesn't feel that MBNA's payment of £75 represents fair compensation for the impact that their error had upon her. And so, I've thought about how Mrs K has been affected by MBNA's mistake and about the level of compensation I feel would fairly recompenses her for what happened.

MBNA have provided this service with their notes for Mrs K's account, and these show that Mrs K spoke with MBNA on 6 June 2024 because she'd received a text message from them about the arrears on her account. By that time, Mrs K had already entered an IVA, but there's nothing in MBNA's notes leading up to that call that show that they'd been contacted by the IVA practitioner and informed as such. Indeed, MBNA's agent states in the call notes that they haven't yet been told that Mrs K was in an IVA, and so the agent placed a 30-day hold on Mrs K's account to allow time for that information to be formally provided to them, which seems reasonable to me.

MBNA's notes show that they next spoke with Mrs K on 20 August 2024, when Mrs K again called because she'd received a text message about her account. At that time, MBNA's agent spoke with their IVA team, who confirmed that MBNA had received confirmation that Mrs K was in an IVA, and which placed a request on Mrs K's account to stop further letters and text messages being sent to her. However, this request wasn't correctly actioned, and on 17 September 2024, MBNA sent a default notice to Mrs K in the post – which shouldn't have happened, because Mrs K's account should have been defaulted in line with her IVA.

In response to receiving that default notice, Mrs K called MBNA on 20 September and again explained that she was in an IVA. MBNA's agent on that call told Mrs K to ignore the letters she was receiving and that the matter would resolve itself. But that agent doesn't appear to have done anything to understand why Mrs K's account wasn't being treated as if Mrs K was in an IVA, or to have taken any action to correct the situation. This meant that MBNA's incorrect pursuance of Mrs Ks account via their collections and recoveries process continued, and a final demand letter was sent to Mrs K on 8 October 2024 because of this.

MBNA's notes don't include any record of Mrs K responding to that final demand, and on 28 October 2024 her account defaulted by MBNA – five months later than it should have been. MBNA then transferred Mrs K's account debt to a DCA, and that DCA then proceeded to contact Mrs K about her account.

It's unclear when MBNA were contacted by the IVA practitioner and informed that Mrs K was in an IVA, but MBNA's notes appear to suggest that this had taken place sometime after 6 June 2024 but before 20 August 2024, when one of MBNA's telephony agents spoke with their IVA team about what was happening. As such, I'm satisfied that Mrs K shouldn't have received the text message that prompted her to speak with MBNA on 20 August 2024, or any of the letters and text messages that she received after that date. And I'm also satisfied that MBNA shouldn't have passed Mrs K's account to a DCA.

In her submissions to this service, Mrs K has explained the difficult personal circumstances that she was unfortunately experiencing at that time, which included that her husband was undergoing tests for potential cancer. I can therefore appreciate how the impact of MBNA's mistake on Mrs K may have been exacerbated by her personal circumstances at that time.

However, upon reflection, and in consideration of both the impact of what happened here on

Mrs K and the general framework this service uses when assessing compensation amounts, details of which are available on this service's website, I feel that a total compensation amount of £300 does represent a fair resolution to this complaint.

Mrs K has said in her submissions to this service that MBNA 'bombarded' her with letters, and that each letter sent her further into distress and despair. But MBNA's notes don't record a high frequency of letters being sent to Mrs K, but instead show that letters included a default notice, final demand, and confirmation of account default were sent, along with a further letter assigning the account debt to the DCA. Additionally, MBNA's notes only show three phone calls from Mrs K to MBNA, none of which record Mrs K as being notably stressed or upset.

Of course, it may have been the case that Mrs K made further calls to the DCA after her account debt was passed to them in December 2024. But Mrs K then raised her complaint with MBNA on 2 January 2025, and so I feel that the time that she may have interacted with the DCA was relatively short.

Mrs K has also explained to this service how thinking about how MBNA were incorrectly administering her account caused her to stay awake at night and how, in July 2024, she had to be admitted to hospital with chest pains. However, while I appreciate that Mrs K feels that what happened to her in July 2024 was a direct result of MBNA's actions, I don't feel that it can be reasonably said that it's most likely that was the case. This is because, as Mrs K explained, she was already very stressed at that time because of her difficult personal circumstances, including that her husband was being tested for cancer. And taking Mrs K's difficult personal circumstances into account, I don't feel that it can reasonably be said that what happened to Mrs K was solely or primarily caused by the impact of MBNA's actions.

This isn't to say that Mrs K wasn't negatively affected by MBNA's mistake, and I readily accept that she was. But it is to say that, as an impartial party, I don't feel that it would be fair or reasonable to consider MBNA to be responsible or accountable for the level of impact that Mrs K feels they should be held accountable for. And because of this, I feel that £300 is a fair total compensation amount.

All of which means that while I will be upholding this complaint in Mrs K's favour, the only instruction I'll be issuing to MBNA is that they must pay a further £225 to Mrs K, taking the total compensation amount payable to £300. I realise that Mrs K most likely won't be happy with this outcome, but I hope that she will understand, given what I've explained, why I've made the final decision that I have.

Putting things right

MBNA must pay a further £225 to Mrs K, so that the total compensation paid is £300.

My final decision

My final decision is that I uphold this complaint against MBNA Limited on the basis explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 9 July 2025.

Paul Cooper
Ombudsman