

The complaint

Miss F says MBNA Limited ('MBNA'), irresponsibly lent to her. She says it didn't take reasonable steps to ensure she could afford the repayments towards two credit cards. She says her finances, and personal circumstances, were not sufficiently checked before the cards were started, and if they had been, it would not have lent to her.

Miss F's complaint has been brought by a representative, and I've referred to Miss F and the representatives' comments as being from Miss F for ease of reading.

What happened

This complaint is about two credit card agreements that Miss F took out. The first was taken out in January 2019 and had a credit limit of £3,200. The second was started in May 2020 and had a credit limit of £3,400.

Miss F made three money transfers into the first card; it was not used other than this. She made payments to the card by direct debit each month and the balance was repaid in full in August 2021. MBNA says Miss F paid no interest on this borrowing.

Miss F completed a balance transfer of £1,000 into the second card. She made repayments regularly to the card until June 2021 when the repayments stopped. The limit was reduced on this card to £1,000 in July 2021. The card was eventually defaulted, and the outstanding balance has been sold to a third party.

Miss F has complained to MBNA saying that it acted irresponsibly when it offered the two cards and she was not made aware that an outstanding balance remained on the second card.

MBNA considered this complaint, and it didn't uphold it. It said thought it'd made proportionate checks, which showed that Miss F could afford the lending. Miss F didn't agree with this and brought her complaint to the Financial Ombudsman Service.

Our Investigator didn't uphold Miss F's complaint. He thought that whilst MBNA couldn't show that it did proportionate checks, if it had made better checks it would have seen that the cards were affordable.

Miss F didn't agree with the Investigator, and she asked that an ombudsman consider the complaint. Because Miss F didn't agree, this matter has been passed to me to make 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.

When someone complains about irresponsible and/or unaffordable lending, there are two overarching questions I need to consider when deciding what's fair and reasonable in all of the circumstances of the complaint. These are:

1. Did MBNA complete reasonable and proportionate checks to satisfy itself that Miss F would be able to repay the credit in a sustainable way?
 - a. if so, did MBNA make a fair lending decision?
 - b. if not, would reasonable and proportionate checks have shown that Miss F could sustainably repay the borrowing?
2. Did MBNA act unfairly or unreasonably in some other way?

And, if I determine that MBNA didn't act fairly and reasonably when considering Miss F's application, I'll also consider what I think is a fair way to put things right.

Did MBNA complete reasonable and proportionate checks to satisfy itself that Miss F would be able to repay the credit in a sustainable way?

There's no set list for what reasonable and proportionate checks are, but I'd expect lenders to consider things such as the amount, duration, and payments of the card being applied for, as well as the borrowers' personal circumstances at the time of each application.

MBNA has explained that it would have looked at the information Miss F provided and verified her income using a tool from a credit reference agency. It also would have looked at her expenditure using what Miss F provided herself and some statistical information. It would also have looked at the data a credit reference agency held to find out about her existing credit commitments and repayments.

The information MBNA provided shows that Miss F applied for the cards online. When she applied for the first card she was employed and earning £16,000 a year, and before the second card this was £17,000 a year. Before the second card was started she said she was single and living in her own property with a mortgage and her monthly mortgage costs were £100 and she was spending another £100 a month.

MBNA has provided some of the information it received from a credit reference agency before the second card, and this doesn't indicate that Miss F was in any financial difficulty. It doesn't have similar information for the first card.

As our Investigator said, MBNA hasn't been able to provide all the information it says it would have obtained before approving the cards. I do know that it typically did perform the checks it says it would have made here. But there isn't enough to show that MBNA did make the checks it said it would have made, or what these checks showed. So, I don't think I can fairly say the checks MBNA did were reasonable and proportionate.

Would reasonable and proportionate checks have shown that Miss F would be able to repay the credit in a sustainable way?

I've gone on to consider what MBNA would likely have found had reasonable and proportionate checks been carried out.

Miss F has provided an up-to-date copy of her credit report. As this also shows historic data, I'm satisfied it gives a good indication of what MBNA would've seen on the credit file it obtained when it considered her finance application. I've not seen that she had a significant amount of other credit or that she was in financial difficulty from this report. And there's nothing on this report that shows me MBNA should've declined her application, or that it should've been unduly concerned about her current financial position.

Miss F has also provided copies of her bank statements for a short period before the first card was started. While I wouldn't have expected MBNA to have asked Miss F for copies of these, I'm satisfied that these statements would give a good indication of what MBNA would likely have taken into consideration had it asked Miss F to verify, or provide more information about, her income and committed expenditure during that specific period.

Our Investigator has calculated the income, and expenditure amounts, that MBNA may have found out if it had made better checks. Miss F's income was around £1,200 a month and she had regular expenditure of about £700 a month. No party to the complaint has said that these amounts are incorrect. And I also don't think that they are. I think that if MBNA had made better checks, it would have found out that Miss F would likely have a reasonable amount left over from her expenditures before she started the cards.

So, and while I appreciate this will come as a disappointment to Miss F, I'm satisfied that, had MBNA carried out reasonable and proportionate checks, I think that it's likely that would have found the cards were affordable.

Did MBNA act unfairly or unreasonably in some other way?

I think it's reasonable to say that much of Miss F's complaint is about her personal situation and the problems she was having at the time. She thinks that because of these MBNA shouldn't have lent to her. I have read all the information she has provided and this is appreciated. I can see she has had a very difficult time, and I hope things have improved for her. I'm not going to provide any detail about Miss F's personal problems partly to protect her privacy, and partly as I don't need to refer to this in detail to make my decision.

Miss F has essentially said that, due to her personal situation, she lacked the capacity to make financial decisions when the cards were started. There is extensive guidance provided by the industry regular regarding vulnerability and the capacity to make financial decisions. But it's worth noting that in CONC 2.10.4 the regulator's rules are that *'A firm should assume a customer has mental capacity at the time the decision has to be made, unless the firm knows, or is told by a person it reasonably believes should know, or reasonably suspects, that the customer lacks capacity.'*

Miss F has said that she told MBNA about her personal problems in June 2021, and MBNA has confirmed it became aware of Miss F's situation at this time. I think it's reasonable to say that MBNA wasn't made aware of Miss F's problems at the time it started the cards and so it couldn't have factored this information into its lending decisions.

MBNA stopped receiving payments to the second card in June 2021. Miss F has said that she sold her property at this point, and I understand that the proceeds of this were used to repay her other credit. But a balance of £758.80 remained on the second card and has not been repaid. It's not clear whether Miss F intended to repay this second card but didn't, and I can understand and appreciate why Miss F says her recollections about this time are not clear.

But I have to consider whether MBNA has acted correctly given the circumstances here. I've seen that it did try to contact Miss F but it was unable to do so. In the letters, and other information, I've seen it contained full information about what was happening with the second card. I can't see that it received a response to these until relatively recently. Given this lack of contact I don't think it was acting unreasonably when it defaulted the second account in December 2021 and then sold it to a third party collection agency in January 2022.

Overall, I don't think I can reasonably say that MBNA did anything wrong here in relation to Miss F's personal situation or when she was unable to repay the card.

And if Miss F has any complaints about the way the third party has handled the debt it she should raise these with them.

I've considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think it lent irresponsibly to Miss F or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

I haven't seen anything to make me think MBNA acted unfairly or unreasonably in some other way.

My final decision

For the reasons set out above, I don't uphold Miss F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss F to accept or reject my decision before 5 February 2026.

Andy Burlinson
Ombudsman