

The complaint

Mr W complains that MBNA Limited irresponsibly provided him with an unaffordable credit card and didn't act on signs of financial difficulty.

What happened

MBNA provided Mr W with a credit card with an original credit limit of £5,300 in July 2018. MBNA went on to increase the limit to £10,000 in October 2020. The facility was withdrawn in February 2025.

Mr W complained to MBNA in June 2025 about irresponsible and unaffordable lending. He said MBNA's checks ought to have been more detailed; and that had they been it would have identified he was already overindebted and that it wouldn't be responsible to provide these limits. Mr W has also complained about the ongoing provision of the facility.

MBNA issued a final response in August 2025 in which it didn't uphold Mr W's complaint. It ultimately considered its checks had been proportionate and that it had gone on to fairly provide these credit limits. It added that it had reasonably reacted to Mr W's management of the account when it was appropriate for it to have done so. Unhappy with MBNA's response Mr W referred his complaint to our service for review.

When MBNA provided our service with its file for this case it said in part it didn't consider this was a complaint we could consider, because Mr W had made his complaint about the original lending event outside of the regulatory timescales. One of our investigators looked at the details of this complaint and considered it was reasonable to interpret it to be about the fairness of Mr W's relationship with MBNA. As such they went on to review the full details of the complaint on this basis. Having done so, they didn't consider MBNA had acted unfairly in its lending decisions, or in any other way during the provision of this credit agreement, so they didn't uphold the complaint.

MBNA didn't respond to our investigator's view; Mr W responded and disagreed. In summary he maintained his position, largely setting out the same information he'd provided during the complaint journey, which I've summarised as:

- Proportionate checks would have led to MBNA identifying both the original credit limit and credit limit increase weren't sustainably affordable for him, and that it therefore didn't make fair lending decisions when providing him with these limits.
- His income was volatile and MBNA ought to have identified this through more detailed checks and taken this into account as part of its affordability checks.
- MBNA didn't follow the regulatory requirements on it, specifically multiple provisions within the Consumer Credit Sourcebook (CONC), when providing him with this credit agreement.
- MBNA should have acted on signs of financial difficulties which he considers were evident within his behaviours and management of the account; and in any event shouldn't have reinstated his facility after it had withdrawn it in early 2024.

Mr W asked for an ombudsman's review, so the complaint has been passed 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.

The information in this case is well known to Mr W and MBNA, so I don't intend to repeat it in detail here. I'd like to assure both parties I've carefully reviewed everything available to me even though I may not have specifically commented on it. This includes the CONC provisions Mr W has referred to within his submissions, as well as taking into account relevant law and the rules and regulations MBNA needed to follow, as I'm required to do in each case I decide. I've purposely taken this approach because I've focused my decision on what I consider to be the key points of this complaint while taking account of our service's overarching fair and reasonable approach. I don't mean to be discourteous to Mr W or MBNA by taking this approach, but this simply reflects the informal nature of our service.

Initially I think it's helpful for me to set out that there are time limits for bringing a complaint to our service, and MBNA has said Mr W's complaint has in part been referred to us late. Our investigator set out within their view why they didn't think we could look at a complaint about MBNA's original lending decision; because it had been made more than six years after the event and more than three years after Mr W's reasonable awareness of his cause for complaint. But they also went on to explain why it was reasonable to interpret Mr W's complaint as being about an unfair relationship as described in section 140A (s.140) of the Consumer Credit Act 1974 (CCA); and why they therefore considered Mr W's complaint about an allegedly unfair lending relationship had been made to us in time.

I don't intend to go into the same level of detail in my decision here to that which our investigator already set out, but for the avoidance of doubt I agree with our investigator that I have the power to look at Mr W's complaint on this basis. I say this because I'm satisfied Mr W's complaint is that MBNA irresponsibly provided him with lending which was unaffordable for him.

The provision of this credit card may have made the relationship between Mr W and MBNA unfair, as he may have paid more in interest and charges than he could afford. I acknowledge MBNA doesn't agree we can look at any events more than six years before Mr W's complaint was made, but as I'm not upholding this complaint I won't be commenting on this further.

As I've set out above, in deciding what's fair and reasonable I'm required to take into account, amongst other matters, relevant law. As I consider Mr W's complaint is about the fairness of his relationship with MBNA, relevant law in this case includes s.140A-C of the CCA.

S.140A says a court may make an order under s.140B if it determines that the relationship between the creditor (in this case MBNA) and the debtor (Mr W), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement.
- the way in which the creditor has exercised or enforced any of his rights under the agreement.
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship. Within its

submissions to this service MBNA has said it is still collecting on the outstanding debt, so I'm satisfied I can consider a complaint about an unfair relationship.

S.140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given the details of Mr W's complaint, I need to consider whether MBNA's decision to lend to him, or any other actions it may have taken, created an unfairness in the relationship between him and MBNA; and if it did, whether MBNA took reasonable steps to remove that unfairness.

We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website. I've followed this approach when considering Mr W's complaint.

In terms of the original credit limit in July 2018 I don't consider MBNA acted unfairly by providing this lending. I say this because:

- MBNA has provided our service with limited information relating to the original lending decision. I don't consider this unreasonable given the time that's now passed since the event, and the data retention obligations on it. However, this does mean I can't be satisfied its checks were reasonable and proportionate before it went on to provide Mr W with this original credit limit.
- Our service's general approach in this situation is to ask a consumer to provide us with documentary evidence from the months leading up to a lending event, usually in the form of bank statements or an historic credit file, so we can reasonably look to recreate what a lender would more likely than not have identified through proportionate checks at the time.
- I note our investigator asked Mr W to provide us with bank statements for the three month period leading up to this lending event, covering April to June 2018. While Mr W was able to provide some statements dated between December 2017 and May 2018; these are largely incomplete and only evidence a period of ten days in April and 11 days in May 2018. Mr W hasn't been able to provide any bank statements for June 2018. So, for the period requested the information Mr W has been able to provide is limited.
- While I acknowledge there is evidence of some non-discretionary expenditure and commitments to existing credit in the period I've reviewed; there's no identifiable income. Mr W has said he paid himself from a business account; however, the statements don't show corresponding credits to support this.
- Given the very limited information Mr W has been able to provide, I don't find I can obtain a reasonable understanding of what better checks would more likely than not have shown MBNA at the time.
- I've gone on to review the credit check information MBNA has been able to provide. This shows Mr W had around £17,300 in non-revolving credit, around £7,900 against available limits of £12,250 in revolving credit, and other non-categorised lending of around £100. While I acknowledge Mr W's total debt was therefore around £25,300, I don't consider this to have been at an overly concerning level relative to Mr W's declared income of £53,000.
- I also note that Mr W largely used the credit limit for two sizeable purchases which benefitted from an interest free promotional rate for around 15 months.

So, I don't find that I can reasonably conclude MBNA made an unfair lending decision when providing Mr W with this original limit.

Mr W has said an unfair burden of proof is being placed on him to provide evidence that MBNA's original lending decision was unfair, given it hasn't been able to provide evidence of the checks it completed and information it obtained from the time. He's also made reference to our service's approach to proportionality in support of his argument. To confirm, I don't disagree with Mr W's comments about our service's approach to reasonable and proportionate checks. However, as I've set out above, our well established approach includes us receiving documentary evidence from around the time of an event, so we can reasonably recreate what better checks at the time would more likely than not have shown.

In this case as neither Mr W nor MBNA has been able to provide our service with sufficient documentary evidence from around the time of this original lending decision, it follows that I can't reasonably conclude MBNA acted unfairly by providing this lending.

Turning to the credit limit increase in October 2020, I haven't seen anything to suggest this credit limit increase was provided unfairly either. I say this because:

- MBNA has been able to provide our service with the information it obtained through its checks at the time of this limit increase.
- Having reviewed this data, I consider its checks were proportionate to the terms of lending being provided, and what it reasonably identified about Mr W's financial circumstances.
- Mr W's income was validated using an online credit tool check; and his housing costs and existing credit commitments were evidenced from the credit check MBNA completed. MBNA also used industry recognised statistical data to reasonably estimate Mr W's monthly living expenses.
- The credit check reported no adverse data such as insolvency, CCJs, defaults or recent arrears; and Mr W had been largely managing the account well since it was originally provided, maintaining his balance within the agreed limit and making at least (and I've seen often above) the contractual monthly minimum payments.
- I've therefore not seen anything within the data MBNA obtained which I consider ought to have caused it concern or warranted more detailed checks.
- MBNA was able to calculate Mr W's disposable income from the data it obtained, and it reasonably concluded that this credit limit increase would be affordable for him.

So, I'm satisfied MBNA made a fair lending decision when providing Mr W with this credit limit increase.

I've gone on to consider if MBNA has acted unfairly in any other way during the term of this agreement.

Mr W has said he was employed as a contractor at the time of these lending events, and was paid into a business account from which he transferred money to his personal account. He's said his income was volatile due to his type of employment, and that this should have warranted more detailed checks. He's also said that when MBNA increased his credit limit in October 2020 the contract he was working at that time had an end date of December 2020.

I've seen part of the application Mr W completed before taking out this agreement in 2018, which shows he declared he was employed by a well known accountancy firm, with an annual salary of £53,000. While MBNA hasn't been able to provide evidence of the automated check it says it completed at this time, it has provided evidence of the income check at the point of the credit limit increase.

While some of the information from the initial lending decision is limited, the use of online credit tool verification methods is an industry recognised approach. And I've not been presented with any information which leads me to conclude MBNA was, or ought reasonably

to have been, concerned with the details it obtained about Mr W's income, to the extent that more detailed checks would have been warranted. I also haven't been presented with any information that Mr W made MBNA aware of the concerns he now raises about the structure of his employment and unpredictability of his income, or that his contract was due to end around two months after he approached it to request the limit increase in October 2020.

Mr W has said MBNA should have identified he was in financial difficulties due to his management of the facility and stepped in sooner to provide support and forbearance.

I've seen Mr W largely managed his account well over the years. Until mid 2024 his utilisation was within the agreed credit limits, and he regularly made payments in excess of the contractual monthly minimum. So, I don't consider MBNA would have been overly concerned with Mr W's management of the account.

MBNA did identify Mr W as a customer in persistent debt, and it engaged with him putting in place an increased monthly payment in order to facilitate Mr W repaying the outstanding debt within a reasonable period of time, in line with its regulatory requirements. I note there were some initial problems when Mr W didn't meet these increased payments, which led to the account being withdrawn in early 2024. However, the contact notes appear to show this was due to a misunderstanding about the monthly direct debit being increased, rather than Mr W not being able to meet the increased payments. The notes show this problem was quickly resolved and that MBNA reinstated Mr W's use of the account, which doesn't appear unreasonable to me, given the plausible testimony Mr W had provided.

Mr W's balance went above its agreed limit in mid 2024 and he failed to maintain his contractual monthly payments around this time. I've seen Mr W informed MBNA of some sensitive personal circumstances in September 2024 which had led to him being out of work and had understandably impacted his finances. MBNA provided forbearance by applying a payment freeze to his account for a period of three months. In December 2024 Mr W made a payment of £1,000 to the account, clearing the arrears that had accrued, which I consider MBNA would reasonably have taken as a positive sign of Mr W's improved financial position.

MBNA has confirmed that the facility was withdrawn in February 2025 following monthly payments below the requirement set out within the persistent debt communication. This appears to have been a reasonable step for MBNA to have taken at this point, given the ongoing signs of financial difficulty Mr W was showing, and not being able to maintain higher payments to repay the outstanding debt within a reasonable period of time.

So, for the reasons I've set out above I'm not persuaded that MBNA acted unfairly when providing Mr W with these credit limits, or in any other way. Where concerns with Mr W's behaviours or management of the account were identified, MBNA reasonably engaged with him, and I consider took reasonable forbearance steps when it was made aware of a change to his circumstances, and in its management of the account that subsequently followed.

I acknowledge Mr W has drawn parallels to other cases resolved by our service, which he considers support his position. I would set out to Mr W that my decision here takes into account the individual details of his complaint, and the rules and regulations on MBNA at the time of the events he complains of.

I accept my decision will be disappointing to Mr W; it isn't intended to doubt or downplay the testimony he's provided about his personal and financial situation, which I am sorry to hear of. But for the reasons set out above I'm not directing MBNA to take any further action in resolution of this complaint.

My final decision

My final decision is that I don't uphold Mr W's complaint about MBNA Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 May 2026.

Richard Turner
Ombudsman