

## **complaint**

Mrs C complains that MBNA Limited is pursuing her for a debt she thought had been paid off by her ex-husband.

## **background**

Mrs C had a credit card with MBNA. When she and her husband Mr C separated in 2015 she believed he paid all their credit cards off leaving nothing outstanding. But this year she received a court summons for a little over £3,200, owed to a debt collecting company I'll call A. This caused Mrs C a lot of worry, at a particularly difficult time.

Mrs C says she was an additional cardholder on her husband's account, and she says she knows this as she was unable to claim back the PPI on the card. MBNA provided evidence that Mrs C opened an "Arsenal" branded card account in June 2000. So she wasn't an additional cardholder on her husband's account. He was an additional cardholder on her account. And the debt was transferred to A in 2012, long before Mrs C says it was paid off by Mr C. So if Mr C did make payments to the card account in 2015, he would have paid A not MBNA. But due to the passage of time there are limited records of what happened then. Mrs C complained to this service.

Our investigator showed Mrs C the evidence that she opened the account not Mr C. But Mrs C is still convinced her husband paid off all their credit cards. As she's in receipt of benefits and undergoing medical treatment she thinks it's unfair of MBNA to pursue her for the debt. And as she was unemployed at the time she shouldn't have been given the card in the first place.

Our investigator said it doesn't look like the debt was cleared by Mr C. But it's A not MBNA which is pursuing Mrs C for the debt. So if she wishes to challenge this she must complain to A. Mrs C says she intends to find out more from Mr C via their children. But she would like an ombudsman to review her complaint.

## **my findings**

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'm not going to uphold it. I'll explain my reasons below.

Firstly I'm sorry to hear Mrs C is suffering from ill health. I appreciate that being pursued for a debt she might genuinely believe had been paid long ago has been very worrying and stressful for her.

MBNA has provided us with a scanned copy of the original application form for the card account. It was originally opened in June 2000 with another business "B" whose card accounts were taken over some while ago by MBNA.

The application was in Mrs C's name with Mr C as the additional cardholder. The form makes clear that as well as being over 18 with a good credit history, earning over £20,000 was a condition of applying for the card. The hand completed sections of the scanned copy aren't easy to read, but there is a figure which looks like "£21,022" in the annual income box. And while the writing in the "occupation" box isn't clear, I'm as sure as I can be it doesn't say

*“unemployed”*. As well as Mrs C’s signature, I can see Mr C signed the application, as he was the additional card holder.

Mrs C believes Mr C took a loan out at the same time and thinks he’s received refunds of PPI for the loan and his card. She says this supports her position that her husband controlled the account. Mrs C says when she tried to reclaim PPI she was told the account wasn’t in her name. MBNA has supplied a copy of a response from October 2017 to a request for a refund of PPI it says was made on behalf of Mrs C. The reply is addressed to a claims management company, but it relates to account ending “1774” which is Mrs C’s account. The response doesn’t say the account isn’t in Mrs C’s name. It says when MBNA acquired the accounts it was told no PPI was present on the account, and MBNA didn’t charge PPI itself. The response also says that the details were sent to the original provider so it could look into the original sale. It’s not relevant to this decision whether Mrs C or the claims management company received any response from that. But I haven’t seen anything to make me think account ending 1774 was opened or controlled by anyone other than Mrs C.

MBNA hasn’t been able to provide statements for the full period between the account being opened in 2000 and when it was defaulted in 2010. But it has provided office copies of statements from March 2005 onwards. It appears the account was mainly being used for grocery shopping and for a monthly payment to an internet provider. There are regular late payment and over-limit fees, and a monthly cheque for £100 was being received. From 2007 the spending continues, and the monthly cheque payment is still being received, but usually for less than £100. The last credit I can see is £50 by cheque in June 2010. Later that year the account was “charged off” which means defaulted. And the debt of £3,281.89 was sold to A in 2012.

I can’t say which spending on the account was by Mrs or Mr C, and I don’t know who was responsible for making the monthly cheque payments. But from what I’ve seen I’m persuaded there was an outstanding balance on Mrs C’s account ending 1774 when it was defaulted in 2010. And the debt hadn’t been cleared when it was sold to A in 2012.

I don’t think Mr C could have paid MBNA in 2015, as it no longer had the account by then. I can’t say if Mr C made a payment to A in 2015 which should have cleared the debt. That A is pursuing Mrs C for the money suggests the balance is still outstanding.

I understand this has come at a really difficult time for Mrs C. I don’t doubt she genuinely believed this wasn’t her account and it was all sorted out in 2015. But the evidence I’ve seen persuades me the account was in her name and the balance is still owed to A. So I don’t think MBNA has done anything wrong here.

In the meantime I would suggest Mrs C contacts A to make it aware of her personal and financial circumstances. And it’s open to her to complain to A if she still thinks Mr C cleared the balance in 2015 after the debt was transferred to it.

### **my final decision**

I don’t uphold this complaint and make no award against MBNA Limited.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs C to accept or reject my decision before 25 October 2018.

Sarah Milne  
**ombudsman**