

complaint

Mr C complains that MBNA Limited acted unreasonably when it applied fees and interest to his credit card account after he entered into a debt management plan. He's also unhappy that it recorded a default on his credit file after the plan had started, and that it sold his debt on to a third party.

background

In late 2005 Mr C contacted MBNA to tell it he was having difficulties keeping up with repayments on his account. In April 2006 a debt management plan was agreed with the help of a debt charity. Under this, Mr C agreed to pay MBNA £39 a month. This meant that he could've repaid his debt in around 10 years. It stopped applying Interest and fees to the account.

Mr C made these payments until November 2009. At this point Mr C said he could only afford to pay £20.80 a month. MBNA says this wasn't enough to keep the account on a formal reduced payment programme. The £20.80 payments meant he wouldn't be able to repay the debt within 10 years. So it recorded a default on his credit file. Mr C continued to make reduced repayments after this. As before, MBNA didn't apply interest and fees to the account.

Our adjudicator recommended that the complaint should be upheld. He didn't think MBNA should've defaulted Mr C's account in 2006. A debt management plan was agreed at this time. And Mr C kept up with payments under it for some time. But he thought that MBNA made some mistakes in the way that it handled Mr C's account. It was given details of Mr C's income and expenditure on 2 February 2006. But the plan wasn't set up until April 2006. It charged Mr C £150 in fees between 2 February 2006 and 12 April 2006, and applied £176.21 worth of "posted credit insurance fees" to the account. He said these fees counteracted the repayments Mr C was making. So MBNA should refund these fees, and pay him £200 for the distress and inconvenience caused.

MBNA only agreed to refund the posted credit insurance fees. It asked for the case to be reviewed. Mr C also disagreed with the adjudicator, as he thinks that MBNA should've defaulted his account in 2006.

my findings

I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I've reached broadly the same conclusions as the adjudicator, and for much the same reasons.

I understand why Mr C is unhappy that the default was recorded on his credit file in 2010, and not before. But I don't think that MBNA made a mistake when it did this. MBNA was required to treat Mr C positively and sympathetically after he told it about the financial difficulties he was experiencing. It appears it did this. It reached an agreement with him to help him service his debt in 2006. Unfortunately that arrangement broke down in 2010 after Mr C said he couldn't afford those payments any longer. I find that MBNA was entitled to take the commercial decision to default Mr C's account at that time given that he couldn't afford to make the payments he had been making.

I understand why Mr C was frustrated by this. He continued to make payments towards his debt after MBNA recorded the default on his credit file. He says that other creditors defaulted his accounts earlier than MBNA did. But I'm not persuaded that means that MBNA should've defaulted his account in 2006. His relationship with it hadn't broken down at this point - he was able to agree a plan with it to repay what he owed.

I don't underestimate Mr C's strength of feeling, or the impact of the matter on him. But taking the matter as a whole, I consider that MBNA treated Mr C fairly when it defaulted his account. So I don't require it to backdate the default. I also consider it was entitled to pass on Mr C's debt to a third party. Taking the matter as a whole, I find that it should pay Mr C £526.21 for what happened. This reflects the £150 in fees that were applied to his account between 2 February 2006 and 12 April 2006, and the "posted credit insurance fees". It also takes into account the time taken to sort this matter out, and the impact of it on Mr C.

my final decision

My final decision is MBNA Limited should pay Mr C £526.21 to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 20 April 2015.

Laura Forster
ombudsman