

complaint

The estate of Mr M complains MBNA Limited lent irresponsibly to the late Mr M.

background

The estate of Mr M said MBNA had increased his credit limit without asking. The late Mr M had a gambling addiction. And MBNA had encouraged him to spend more. His statements would've shown where he was spending the money. He'd repeatedly withdrawn cash at a casino. The estate of Mr M said there aren't any funds to pay the debts. So they want MBNA to write off any outstanding amounts.

MBNA said the account had been well-maintained before the increase in credit. The balance wasn't close to the current limit. And Mr M had been making regular payments above the minimum monthly requirement. MBNA had only granted the increase after reviewing Mr M's credit status and payment history.

MBNA said most of the cash withdrawals were from ATMs at a local food store. And it wasn't able to see if any had been made in casinos. But customers were free to use their cards how they wished. And it wasn't aware of any financial difficulties.

The estate of Mr M wasn't satisfied with MBNA's response. So they contacted our service and our investigator looked into the matter. She could see Mr M had made regular payments to his account. And he had a large available balance when his limit was increased. She couldn't see anything to indicate MBNA was aware of his gambling habit. So she felt MBNA hadn't acted irresponsibly when increasing his limit.

The estate of Mr M didn't agree. Mr M had been struggling financially while he tried to pay his loans and credit cards. And MBNA should've been able to see some of the cash withdrawals had taken place inside a casino. So they've asked for an ombudsman's final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The estate of Mr M is unhappy MBNA allowed the late Mr M to use his card to support a gambling habit. And it increased his credit limit which allowed him to borrow – and spend – more. So I've looked carefully at everything the estate, and MBNA, has said.

If MBNA had been aware of Mr M's situation, or been informed he was in financial difficulty, I'd have expected it to have responded positively and sympathetically. But I've not seen anything to suggest MBNA was made aware of Mr M's difficulties.

I've looked at Mr M's cash withdrawals. But MBNA isn't responsible for the placement of the machines. They are often owned and operated by separate companies. I can appreciate some of the withdrawals were made inside a casino. But the actual location of the machines isn't always apparent from the entry on the statement. For example I wouldn't expect MBNA to know the withdrawals in September 2017 marked as 'broadstairs' actually referred to a machine inside a casino. And it wouldn't be fair to expect MBNA to study each customer's statements and look behind the detail shown.

So I can't really say MBNA should've spotted a pattern of behaviour from the information it had. As I've already explained, I've not seen any evidence that Mr M made MBNA aware of his addiction. So it's not unreasonable for MBNA to have allowed Mr M to have used his card how he wished.

The estate of Mr M is also unhappy MBNA increased the credit limit of the account without asking Mr M first. But it's not unusual for companies to review spending limits. And then make adjustments based upon payment history, credit information and overall account management. And it's within the terms and conditions of the account to do so.

MBNA felt Mr M had handled his account well. He'd made regular payments each month and his balance was below the current limit. In March 2016 MBNA wrote to Mr M to say it would be increasing his limit from £2500 to £3200. The increase would take effect in May but Mr M could contact MBNA if he didn't want the increase.

I appreciate the estate of Mr M feel the increase only encouraged Mr M's spending. And someone of his age would've struggled with the automated telephone systems if he'd wanted to decline the new limit. But there's nothing to suggest Mr M tried to reject the increase. And MBNA wasn't aware of Mr M's situation. So I can't really say it acted irresponsibly. It based its decision on the information it had at the time.

I sympathise with the late Mr M's situation. And the difficulties the estate now face. But I can only look at MBNA's actions. Mr M had managed his account well. And he hadn't indicated to MBNA he was experiencing any difficulties or needed help. So I'm afraid I agree with our investigator that MBNA hasn't done anything wrong.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr M to accept or reject my decision before 11 June 2018.

Andrew Mason
ombudsman