

## **complaint**

Mr S complains MBNA Limited reported inaccurate information to the credit reference agencies.

## **background**

Mr S has two credit cards with MBNA. For the purposes of this decision, I will only be considering account ending 1801 as this is the account Mr S has complained about. However, I will also refer to the other account, as it is relevant to my decision.

Mr S was experiencing financial difficulties and called MBNA to see what his options were. MBNA agreed to apply 'breathing space' to his accounts, that is, suspend any interest and charges for a period of 30 days. It also cancelled the direct debit payments on the accounts, including the ones that collect the minimum payment due each month. Mr S was also encouraged to talk through his situation with its debt solutions team and other debt advice agencies.

The minimum payments for Mr S' cards were due at different times. The payment for the card he's complaining about was due in the middle of the month and the payment for his other card, at the end. Mr S says the representative only mentioned a payment being due to at the end of the month, so he thought he had enough time to get his finances in order.

Mr S didn't make a payment to account 1801 on time and because of this, MBNA applied a late payment marker to his credit file. Mr S wants MBNA to remove this, as he wasn't told a payment was due.

Our investigator didn't recommend Mr S' complaint be upheld. He said Mr S was aware his direct debits had been cancelled and that he'd agreed to this. He also thought MBNA had offered appropriate assistance to Mr S; the payment date was clear on the statements and because of this MBNA had correctly reported the late payment information.

Mr S disagreed, he said he didn't understand what breathing space meant and thought, based on what he'd been told, payments for both accounts were due at the end of the month.

## **my findings**

I've considered all the available evidence and arguments – including the letter Mr S sent us on 16 July – to decide what's fair and reasonable in the circumstances of this complaint.

There are a few issues I need to decide here, so I will deal with each of them in turn.

### *should Mr S have been aware of when his minimum payment was due?*

Mr S is sent a statement each month, which shows the date the minimum payment is due. Mr S hasn't told us he's had a problem receiving these, so I think he was getting them.

I accept Mr S has always paid the minimum payment by direct debit, and therefore the money has been automatically taken from his account. But I do think he had the information available to him, both from his credit card statement and from his bank statements, to be aware his minimum payment was due in the middle of each month.

was it reasonable for MBNA to cancel the direct debit?

Financial businesses should look to take into account a customer's circumstances and treat them fairly when they become aware they may be suffering financial difficulties. This may involve taking action such as suspending interest and charges, as MBNA did here. Or considering other payment arrangements - usually after a full assessment of income and expenditure has been made.

In this case, as well as restricting spending and stopping interest and charges for three months, MBNA also cancelled Mr S' direct debit which took the minimum payment from his bank account each month.

I think this was a reasonable thing for MBNA to do. Mr S explained in the call he had overcommitted on his borrowing and now had little to no money left each month after he'd paid all of his debts. He had six credit cards, which all had similarly high repayment amounts and a loan to repay. He was looking to see what his options were for reducing his payments.

The representative had explained the debt solutions team could tell him what his options were after they had had a full picture of what he could afford each month. She also stressed to Mr S he should contact them quickly.

Mrs S called the debt solutions team a couple of days later. He said he didn't want to go through his finances at that time and he'd speak to a debt advice agency, as they'd be able to deal with all of his creditors.

The direct debit wasn't reinstated, as at that time, Mr S' overall finances and ability to repay hadn't been assessed. It was left that he would speak to the debt advice agency.

Given the reason for Mr S' call was to speak about ways of reducing his payment, MBNA wasn't in the position at that time to know how much Mr S could afford. Had MBNA left the direct debit in place, this could have worsened Mr S' financial position further.

was Mr S told he didn't have to make his minimum repayment?

Mr S has referred, in detail, to the calls he had with MBNA. I don't intend to go into the same level of detail here, I'll concentrate on what I feel are the relevant points.

There were two phone calls between Mr S and MBNA before the date the minimum payment was due. I've listened to both of these. MBNA has also supplied phone calls after this date but I don't think they are relevant to my decision. It's important to note here most of the conversation in the first call focussed on Mr S' other credit card account, but the representative confirmed at the end of the call the same actions would be taken on this account as well.

In the first call, Mr S explained the difficulties he was facing. The representative explained the actions she would take and gave Mr S details of the debt solutions team and a free debt advice agency.

Having listened to the whole conversation, I accept that at the start Mr S did question what 'breathing space' was and the representative didn't answer at that time. But towards the end of the call when she was recapping the actions she was taking, she explained what she

meant. Because of this I'm satisfied that Mr S was aware that it was only interest, and charges for arrears, that were being suspended for 30 days. No mention was made about payments not needing to be made.

In the middle of the conversation, the representative explained she'd be cancelling the direct debit for the minimum payment and that Mr S would have to arrange another method of payment. It was here the adviser mentioned his payment was due at the end of the month and stressed Mr S needed to speak to the debt solutions team quickly to put a plan in place. She did mention he shouldn't need to worry about that [the payment] because they'd usually be in contact within 48 hours.

At that point, the representative was primarily talking about Mr S' other credit card. Mr S however was aware he had two accounts as he specifically questioned later in the conversation if the adviser could deal with this one as well. The adviser then went on to look at this account and confirm the same actions would be taken. I'm satisfied therefore, Mr S was aware this account was separate and the payment date referenced by the representative related to his other account.

Mr S has said the representative told him he wouldn't be contacted about payments until the 30 days were up, so this led him to believe he didn't need to make any payments. What the representative explained in the conversation was that if Mr S missed any payments, the arrears would still be due and he would still be sent letters about them. Then she went on to explain he wouldn't be contacted about those arrears for 30 days but after that time he would receive calls and letters about them.

Having considered everything, and while I appreciate the situation Mr S has found himself in, I can't say that MBNA told Mr S he didn't have to make any payments to his account. I think it's more likely than not Mr S simply didn't realise a payment was due. Because of this, MBNA has correctly recorded the late payment marker and I won't be asking it to do anything more.

### **my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 16 September 2019.

Alison Gore  
**ombudsman**