

## **complaint**

Mrs G complained about MBNA Limited ("MBNA") not refunding a payment to her credit card account – which had been transferred to MBNA from another credit card provider – following a claim she made under section 75 of the Consumer Credit Act 1974 ("section 75") for services she did not receive from a merchant.

Due to the refund not being actioned, and Mrs G not making any repayment in respect of the debt, her credit card account defaulted and a default was placed on her credit file. It should be noted that the account was then sold to another company and it appointed representatives to act for it.

In order to resolve this complaint, Mrs G wanted MBNA to restore the credit facilities she held with it from before the matters complained of occurred; and remove adverse entries and the default from her credit file. Mrs G has also sought compensation and reimbursement of her representative's costs.

## **background**

In my provisional decision in January 2013, I concluded that the complaint should be upheld in part. I did not consider that MBNA should be required to pay further financial compensation to Mrs G. The original credit card provider had offered payment of financial compensation, at a level that I considered to be more than I would have required Mrs G to be paid for the financial loss, and distress and inconvenience suffered by her, in respect of the whole affair.

And I did not consider she should receive reimbursement of her representative's costs, as it did not seem to me to be essential for her to have employed the services of a representative in order to pursue her concerns.

I also did not consider that there was any basis on which I might require MBNA to alter the credit limit on facilities provided to Mrs G. I said that we would not generally interfere with a lender's legitimate commercial decision about lending.

It is for MBNA to decide what level of borrowing it is prepared to continue to provide and it is not required to explain its reasoning should it decide to reduce that facility. I was not persuaded that the credit limit would not have been reduced by MBNA even if the events complained of had not taken place.

But I did not consider Mrs G should have adverse entries on her credit file in respect of non-payment of the sum transferred to MBNA, moving forward. I understood how any such entries came to be added, while the dispute was ongoing, but insofar as the credit file should reflect accurately Mrs G's credit worthiness, it did not seem fair and reasonable that the file should contain adverse entries for non-payment of a debt that was originally a debit on an account but was then fully refunded by the bank that created the debit entry.

I understood that MBNA recorded some of the adverse entries before selling the debt on which in itself prompted further information to be recorded. I considered that it was for MBNA to remove all adverse information in whatever way it could. My provisional decision was that MBNA should remove the adverse entries that it could, itself, and to arrange with the representative of the company that MBNA sold the debt to, for the removal of its adverse entries and, I understood, the default.

I did note however that Mrs G had now repaid the debt – albeit not the full amount, although this was with agreement – and I recognised that MBNA and/or the representative of the company that was sold the debt required this to be done before all the adverse information could be removed. And if the three parties were agreeable to resolving the complaint, in respect of removing the adverse entries from the credit file as I described, in principle, then I said I would make a final decision on that basis and leave the parties to discuss the best way for the debt to be repaid in full and all adverse entries removed.

MBNA replied, indicating its acceptance of my provisional decision, along with the acceptance of the representative of the company that MBNA sold the debt to.

Mrs G, in representations submitted by Mr G, maintained that MBNA unfairly reduced credit limits – as a result of the matters complained of – and wants their restoration with adverse credit file entries removed. There were no new material arguments and evidence submitted, however, to suggest that MBNA has acted inappropriately in reducing Mrs G's credit limits.

### **my findings**

I have reconsidered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, and noting that there have been no new material arguments or evidence presented in response to my provisional decision that affect my overall assessment of the complaint, having regard for all the evidence available, I do not consider that I should depart from that provisional decision. To be clear, I do not consider that I can fairly and reasonably require MBNA to increase the credit limits in respect of Mrs G's facilities with MBNA.

### **my final decision**

My final decision is therefore that, on the basis that Mrs G makes a further payment, settling the full amount of the debt that was owed, MBNA must arrange for all adverse credit file entries made by itself and the representative of the company that it sold the debt on to – including default markers – to be removed.

Ray Neighbour  
**ombudsman**