

complaint

Mr B complains that MBNA Limited irresponsibly gave him a credit card in 2015 when he was in an IVA, had outstanding debt and as it should've seen he was experiencing financial difficulties. He wants all the interest and charges he's paid refunded, the debt written off or reduced and his credit file amended.

background

MBNA said in its final response that when it received Mr B's application it considered the information he supplied and held by credit reference agencies. At the time this showed some debt but his payments were up to date. There was no record of an IVA. It recognised Mr B was in financial difficulty and applied a restriction on the account to prevent any new transactions. As soon as it was contacted by a debt management charity on Mr B's behalf it waived interest and fees on the account. Its fees and interest were applied correctly and the information on Mr B's credit file is accurate.

Our investigator felt this complaint shouldn't be upheld. She said:

- MBNA carried out checks on Mr B's application. It verified what he said with credit reference agency information. There was no reference to an IVA and although there was some debt Mr B's payments were up to date.
- Even if MBNA had been aware of an IVA that doesn't mean it shouldn't lend to Mr B. And he would've been aware of the terms of any IVA. He was responsible for applying for the card and then using it whatever his personal circumstances were.
- When in 2017 MBNA recognised Mr B was in financial difficulty it put a restriction on the account. And when contacted by the debt management charity it immediately stopped interest and charges on the account.
- So, she won't be asking MBNA to do any more.

Mr B doesn't agree. He says there was clear evidence of him being in an IVA and he shouldn't legally have been lent money.

my findings

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

It's up to MBNA to decide who it deals with and gives credit to. That's a matter of it making a commercial decision which we wouldn't normally interfere with. But we'd expect it to carry out proportionate checks before doing so.

Here I agree with the investigator that MBNA carried out proportionate and appropriate checks. There was nothing to show Mr B was in an IVA and although he had some debt his payments were up to date. Consequently I think it was reasonable for MBNA to decide to give Mr B a card and some credit as he'd requested.

When MBNA later became aware of Mr B's financial difficulties it also acted positively and sympathetically. It placed a restriction on his card to stop the balance increasing and stopped applying interest and charges when contacted by the debt management charity.

MBNA also has an obligation to ensure the information recorded on Mr B's credit file accurately reflects the conduct of his account.

Mr B wants the outstanding debt written off or reduced. But he's had the benefit of the money he borrowed and I think it's fair for him to repay it to MBNA.

Taking everything into account I think MBNA has acted fairly throughout and I don't think it's done anything wrong. As a result I don't think I can reasonably ask it to refund any interest or charges, write off or reduce the debt or amend Mr B's credit file as he'd like.

my final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 20 April 2019.

Stephen Cooper
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