

## **complaint**

Mr M says that his father opened an MBNA credit card account in his name, but without his knowledge or authority. He's complained that, when he found out what had happened, MBNA Limited wouldn't write off the debt on the account.

## **background**

In April 2016 MBNA received an online application for a credit card in Mr M's name, along with an application for an interest-free balance transfer. The application was approved and, later that month, a transfer of £1,800 was made to an account in the name of Mr M's mother; at the same time a direct debit was set up to pay the minimum balance due each month from another account in Mr M's mother's name. The minimum payment was made in May 2016, but the direct debit was cancelled the following month.

There was some further retail spending in May 2016, and the balance on the account increased by the addition of interest and charges. In July 2016 MBNA restricted the account and wrote to Mr M to tell him it was doing so. In August and September it sent a number of further letters telling Mr M that the account balance was over the credit limit and that it was in arrears.

In August 2016 Mr M applied for a £7,500 loan with a different bank. He's explained that he did so to help out his father, who had run into financial difficulty. It appears that a large proportion of that loan was used to reduce the debt on another credit card (again, not with MBNA) in Mr M's name.

At around the same time Mr M says he realised that his father's debts included that on the MBNA credit card account. Towards the end of September 2016 his mother contacted MBNA to explain that the account had been opened fraudulently and without Mr M's knowledge or consent. Mr M later confirmed what his mother had said and told MBNA that his father had done the same thing to his mother and his brother and that other banks had written off the debts that had arisen.

MBNA however didn't agree to write off the debt on the credit card account. It thought that Mr M must have known about the account and suggested that the operation of it indicated that he or his mother probably benefited from it. Mr M's father had been given a degree of control over the family finances and MBNA didn't accept that Mr M had had no benefit from the account. It also indicated that this was a matter for the family to resolve amongst themselves.

Mr M referred his complaint to this service, and one of our investigators considered it. She didn't think there was enough evidence to show that Mr M had agreed to open the credit card account. She said that MBNA shouldn't hold Mr M responsible for the debt but should write it off and make appropriate adjustments to his credit file. MBNA didn't agree, however, and asked that an ombudsman review the investigator's findings.

I did that and, because I reached a different conclusion from that reached by the investigator, I issued a provisional decision. I noted that the primary reason for taking out the MBNA credit card had been to make use of an interest-free balance transfer offer. That had been used to pay off debt on an account in the name of Mr M's mother; a direct debit had also been set up on his mother's current account to pay the MBNA debt.

I also noted that Mr M took out a loan a few months later to help his father repay his debts. It appeared that those debts included those taken out in his (Mr M's) name. I thought it more likely than not that Mr M had known about the loans and credit cards his father had taken out, either when they were taken out or soon afterwards. It was, however, some months before he told MBNA about his concerns. In the circumstances, I didn't think it would be fair to require MBNA to write off the debt.

Mr M didn't agree. As well as repeating some of his earlier arguments, he invited us to look into the accounts that had been opened in the names of other family members.

### **my findings**

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

I note Mr M's suggestion that this service consider more closely what happened to other members of his family. However, this service was set up primarily to deal with individual complaints, not groups of connected complaints. So, whilst I understand Mr M's point here, it would involve examining a number of loans taken out in different names and involving different lenders.

As I indicated in my provisional decision, I'm prepared to accept that Mr M didn't initially know that MBNA had opened an account in his name. The information needed to open it would have been known to his father, and his father would have been in a position to deal with any correspondence relating to it – at least initially. But the fact that the credit card account was used for a balance transfer from an account in his mother's name – and that a direct debit was set up from his mother's account to make the monthly payments – makes it more likely that he and his mother found out about it soon afterwards.

It's also significant in my view that in August 2016 Mr M took out a loan to help his father with his debts. Those debts included a different credit card debt which Mr M said his father had taken out in his (that is, Mr M's) name. I said in my provisional decision that I found it surprising that Mr M would have agreed to help his father without identifying which debts he was, in effect, agreeing to take on. I thought it likely too that, having found out about one credit card account Mr M didn't know by that point about the MBNA debt. Once he knew about it, he should have told MBNA immediately that there was a problem.

Mr M also said that his father was away from about July 2016. MBNA wrote several letters about the credit card account after that point. Mr M said he ignored them, because he didn't (he thought) have any credit cards in his name and so assumed they weren't relevant. MBNA said, however, that its envelopes were plain. I accept that. So Mr M would have had to open them to find out what the letters were about. I think therefore that Mr M must have known about the MBNA credit card by no later than July 2016. It was, however, a further two months before he raised the matter with MBNA (initially, through his mother), and in the meantime he took out a loan to help his father with his debts. In doing so, he effectively indicated to MBNA that he was prepared to accept the debt as his own – whatever the circumstances in which the original application was made.

The evidence here indicates to me that Mr M was prepared to help with the family finances – and especially his father's difficulties – but that things changed when his father left without paying off the liabilities that Mr M (and other family members) had incurred. He has my sympathy if indeed that's what has happened. But in the circumstances I don't believe it would be fair to require MBNA to write off the debt.

**my final decision**

For these reasons, my final decision is that I don't require MBNA Limited to take any further steps to resolve Mr M's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 10 January 2020.

Michael Ingram  
**ombudsman**