

## **complaint**

Ms A complains about the way MBNA Limited treated her when she told them she was having some financial difficulty and wanted a payment holiday on her credit card account. She's also unhappy that MBNA then sent her a letter telling her it was closing her account.

## **background**

The background and circumstances leading up to this complaint are well known to both parties. So while I have carefully read everything submitted as part of this complaint, I only include a summary here.

Ms A held a credit card account with MBNA.

Ms A phoned MBNA earlier this year because she was struggling financially – she was going through the process of selling her house. Ms A says she was simply advised by MBNA to miss the payment as this was, in their terms, a short term issue.

Ms A says she was then charged for doing what they advised her to do. And she says MBNA sent her emails and texts about the missed payment, which also upset her.

A few weeks' later Ms A received a letter from MBNA, which she says said that because she'd missed some payments it was closing her account and she should destroy her card. It said it would also be informing the credit reference agencies. Ms A says the letter was threatening and added to her worry at what was already a stressful time. She also asks why she wasn't told it was doing this during her phone conversations with MBNA or on the monthly statement she'd just received.

In summary MBNA says that Ms A was told during the phone calls about the impact of late payments in terms of her credit file and charges. It has provided us with call recordings of the conversations Ms A had with it. It's also said that the letter Ms A was sent told her the account was restricted – not that it would be closed – and the reasons why. It told Ms A in its final response letter that she wasn't told about this earlier because the decision to do this hadn't been made then.

It went on to say that it had already refunded a late payment fee and an over-limit fee as a gesture of goodwill. It also says that Ms A would've received emails and texts about her late payment because although she told them this would happen, it says it was obliged to send her this information.

In summary our investigator said that, from listening to the calls, Ms A was told that MBNA didn't offer payment holidays and that if she missed payments she would incur charges, her account would go into arrears and her credit file might be impacted.

She went on to explain that MBNA told Ms A that it has a team who could go through her financial position with her. But the MBNA advisor said that it sounded like Ms A's financial difficulty was a short-term one and she wasn't in arrears, so there wasn't much it could do. But if things changed it could look to help.

She concluded by saying that the letter MBNA sent Ms A told her the account was restricted and that this was a decision MBNA had taken, which it was entitled to do. And its reasons were set out in its final response to her.

Ms A disagrees with our investigator's conclusions, so the complaint comes to me to decide.

### **my findings**

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

Having done so, while I know this isn't the answer Ms A was hoping for, I've decided that MBNA hasn't acted unfairly or unreasonably towards Ms A in relation to the matters complained about. I'll explain why I think this below.

Firstly I recognise that any period of financial pressure can be stressful and difficult, which is why financial business, in this case MBNA, has a duty to act positively and sympathetically towards consumers who say they are in financial difficulty. And I think this applies in Ms A's case. But this doesn't mean MBNA *has* to follow any particular course of action. I've kept this in mind in my consideration of this complaint.

In cases where there is a dispute about what happened or what was said during a phone call(s), the best evidence is a recording of the conversation. In this case this is what we have, so I've listened to the three calls Ms A had with MBNA.

But it is the second call, which I think is the most relevant to addressing Ms A's concern. I've listened to this call carefully.

Ms A asked MBNA in this call if it would give her a payment holiday and she described her situation and the reasons why. The adviser said this wasn't something MBNA offered. He also quite quickly said there's "*not much we can do*", which I acknowledge might not have come across to Ms A as being very helpful. But I think Ms A's account of her situation described a short-term scenario or position – she was looking for a bit of breathing space (as she described it, a payment holiday). She wasn't saying she *couldn't* meet the minimum payment. And at this stage she wasn't in arrears.

The adviser did go on to talk about financial difficulty and he explained that there was a separate team who might be able to help if Ms A's situation went on for longer than she expected. But I don't agree with Ms A that she was told or advised by MBNA that in her circumstances she should not make her payments. And I think it was made clear to her what would happen if she didn't. The adviser told Ms A that missing payments/late payments might impact her credit file and that she would go into arrears and incur charges. I'd add here that MBNA is entitled to make these charges.

The adviser did say later on this will "*be ok.*" But I think he meant MBNA would allow it and it wouldn't cause her any problems beyond what he'd already clearly told Ms A would or might happen if she did miss / was late with her payments. I'm satisfied this wasn't advice on what she *should* do in the circumstances.

I can see Ms A has also complained that she received texts and emails about late payments despite her informing MBNA about her financial position. But as MBNA has said, it automatically sends these out to alert customers of the position. I don't think it acted unfairly here.

I turn next to the letter Ms A received a short time after the phone calls, which she said was distressing to her because it said MBNA was immediately closing her account and would report on her credit file.

I've seen a copy of this letter. And I'm satisfied it did not say this. It said that following a review MBNA had *restricted* Ms A's account. It did tell her to destroy her card. But it said it would only close the account once any outstanding balance was repaid. It said it would then inform the credit reference agencies. MBNA has already told Ms A that the account restriction will *not* be reported on her credit file – only the account closure. And because MBNA is required to report accurate information to the credit reference agencies this is fair.

I can understand Ms A was upset to learn of this news and so soon after discussing her financial situation with MBNA. But as a responsible lender MBNA is under a duty to carry out ongoing reviews of the suitability of providing credit and I'm satisfied this is what it did here. I'd also add that using credit reference agencies to help with this kind of review is usual practice and what I'd expect it to do.

I know Ms A is also frustrated that she's not been given sufficient reason – in her view – as to why MBNA took the decision to restrict her account. But it did give a reason - it said it had reached the decision by *"using a scoring system that takes into consideration our own experience of you as a customer, and information from credit reference agencies"*

I don't think in the circumstances MBNA reasonably needs to say or explain anything more. Ultimately the decision MBNA took in Ms A's case was a commercial one and it isn't something we'd usually interfere with. And I see no reason to depart from that approach in this case.

Overall and in terms of the duty on MBNA to act positively and sympathetically towards Ms A – I understand she feels let down here. But MBNA refunded a late payment and over-limit fee – it didn't have to do this. And it offered her assistance if her difficulties carried on. I'm also mindful that in the third telephone call Ms A had with MBNA she was also assured by the adviser that her late payment wouldn't impact her credit file this time.

So in conclusion and for the reasons I've set out above I don't think MBNA has acted unfairly or unreasonably towards Ms A in its dealings with her, which warrants an award or requires any action by MBNA to put things right.

### **my final decision**

For the reasons I've given above, I've decided that MBNA Limited has not acted unfairly or unreasonably towards Ms A in the matters complained about, so I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms A to accept or reject my decision before 13 November 2017.

Paul Featherstone  
**ombudsman**