

complaint

Mr T complains that MBNA Limited increased the interest rate on his credit card on 30 July 2007 by 7%, from 27.9% to 34.9%, without prior notification. He says that this increased interest rate led him to being unable to manage his debt.

background

Mr T registered his complaint with the Financial Ombudsman Service in April 2012. MBNA responded to this complaint by making a settlement offer as follows:

1. Refund the extra interest above 27.9% charged to Mr T's credit card account from 29 January 2007, and reduce the current interest rate to 27.9%.
2. In addition, pay Mr T £150 as a gesture of goodwill.

Our adjudicator considered this offer to be fair and reasonable. Mr T disagreed, saying it was insufficient because:

- MBNA also increased the interest rate before July 2007 without making him aware.
- His credit card expired in 2010 and was not replaced, and MBNA posted adverse references on his credit file.

MBNA said:

- The account was defaulted in July 2012.
- Mr T registered his complaint with the bank in January 2012.
- It had been unable to locate any record before January 2012 of Mr T telling the bank that he was experiencing financial difficulties.

MBNA also said that the default had been correctly registered, and could not agree that it occurred because of interest rate increases in 2005 and 2007. The bank added that it had offered to put Mr T back into the position he would have been in, had the June 2007 rate increase not occurred. But it was unable to go back to 2005, and believed this to be time-barred.

The interest rate was 21.9% in December 2004, which increased by 3% to 24.9% on 25 May 2005, and by a further 3% to 27.9% on 29 January 2007. MBNA did not provide evidence to demonstrate that it gave Mr T prior notification of these two increases, or the later 7% increase on 30 July 2007.

Our adjudicator did not disagree with MBNA about registration of the default or the adverse references on Mr T's credit file. But she did not consider the May 2005 rate increase to be time-barred, and concluded that MBNA should extend its settlement offer as follows:

- Refund the extra interest above 21.9% charged to Mr T's account from 25 May 2005, and reduce the current interest rate to 21.9%.
- In addition, pay Mr T £150 for distress and inconvenience.

MBNA declined to increase its offer.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Where evidence is incomplete, inconsistent or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider most likely to have happened in light of the available evidence and the wider circumstances.

It is not uncommon for a bank to be unable to provide a copy, personalised to a particular customer, of rate increase notifications it has sent to many customers. But the bank can often provide other evidence to indicate that such a notification was sent.

In this instance, Mr T says he was unaware of the rate increases and, although MBNA has said that it sent notifications, it has provided no supporting evidence. On balance, and like our adjudicator, I find that Mr T was not given prior notification.

I also agree with our adjudicator's view regarding registration of the default and the adverse references on Mr T's credit file.

However, we do not have a free hand to consider every aspect of complaints referred to us, and I am unable to conclude that rate increases over six years before January 2012 (when Mr T complained to MBNA) are not time-barred. Under our scheme rules, we cannot usually deal with a complaint referred to us more than six years after the event being complained about, or – if later – more than three years after the complainant ought to have been aware they had cause for complaint.

Therefore, although we can consider interest rate increases in both July and January 2007, I find that we cannot extend that consideration back to 2005. On this basis, I conclude that MBNA should extend its settlement offer as follows:

- Refund the extra interest above 24.9% charged to Mr T's account from 29 January 2007, and reduce the current interest rate to 24.9%.
- In addition, pay Mr T £150 for distress and inconvenience.

my final decision

For the reasons explained above, I uphold this complaint in part. In full and final settlement of it, I order MBNA Limited:

1. To refund the extra interest above 24.9% charged to Mr T's credit card account from 29 January 2007, and reduce the current interest rate to 24.9%.
2. To pay £150 directly to Mr T for distress and inconvenience.

Roy Mawford
ombudsman