

The complaint

Miss J complains that MBNA Limited irresponsibly provided her with a credit card account.

What happened

In May 2018, MBNA opened the account with a credit limit of £1,900. No increases to the limit were applied but MBNA did decrease the limit in December 2022.

In 2023, Miss J complained to MBNA that it had lent to her irresponsibly in 2018, causing her financial difficulty.

MBNA didn't uphold the complaint. It said it had carried out appropriate checks which would have showed Miss J could afford the credit she was provided with.

Unhappy with MBNA's response, Miss J complained to this service. Two of our investigators looked into the complaint and both recommended that it should be upheld. They believed, in essence and on balance, that MBNA hadn't carried out sufficient checks to ensure Miss J could afford the credit. They said if it had, it would have seen that Miss J couldn't afford the credit in her circumstances.

MBNA didn't agree with either of the investigators' findings. It said it had carried out sufficient checks and that, even if further checks were undertaken, they wouldn't have demonstrated that the lending was unaffordable for Miss J.

Because the complaint couldn't be resolved informally, it was passed to me to review afresh.

What I've decided – and why

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, I uphold this complaint. I'll explain why.

MBNA was required to complete proportionate affordability checks prior to advancing credit to Miss J. What's considered proportionate will vary in each case as it is unique to each lending decision. In deciding how thorough a check should be, MBNA needed to consider things such as (but not limited to) the amount of credit being advanced, the type of credit, the size and frequency of the repayments, the cost of the borrowing and Miss J's personal circumstances.

I firstly need to consider what affordability checks were undertaken by MBNA and think about whether they were proportionate. In applying for the credit, Miss J declared that she was employed and had a gross annual income of £23,400. In addition to this, MBNA says it obtained information from a credit reference agency (CRA). MBNA says these checks revealed nothing of concern and that Miss J's application met its lending criteria for a credit limit of £1,900.

I note that the CRA searches revealed Miss J had an outstanding mortgage balance and further unsecured borrowing of almost £18,000. Although no county court judgments or defaults had been detected on her credit file, I believe these levels of borrowing alone ought to have been of more concern to MBNA when compared with her income. £18,000 represented a relatively high level of indebtedness.

This indicates to me that MBNA ought to have undertaken additional checks before lending to Miss J. It's difficult to say what specific checks MBNA should have carried out or what they might have revealed. But I think it's fair to try to gain a picture of Miss J's financial situation by reviewing her credit file and bank statements from the time.

Having reviewed Miss J's bank statements in the months leading up to May 2018, I share the same concerns as our investigators. Namely, that Miss J was apparently reliant on her overdraft to the extent that she was consistently hundreds of pounds in overdraft debt in the months leading up to her application with MBNA.

I appreciate what MBNA says about Miss J banking with another business – the suggestion being it wasn't to blame for the state of her current account. I realise this wasn't MBNA's fault. But I'm satisfied this information would likely have been made available to MBNA had it asked for it – just as it was made available to us as part of our investigation. This could then have formed part of the overall picture of Miss J's financial situation.

I've also thought about MBNA's argument regarding Miss J's overdraft usage being mainly for non-essential spending such as eating out. However, I think the pattern of spending was enough to suggest these were regular purchases for Miss J and effectively formed part of her regular expenditure. As such, it would have been reasonable for MBNA to have taken this into account when assessing affordability.

Finally, MBNA's said the credit card account aided Miss J's financial situation by allowing her to benefit from balance transfers and consolidate her debts. That said, I've placed emphasis on Miss J's circumstances at the time of MBNA's decision to advance more credit rather than attempt to approach the complaint with the benefit of hindsight.

Overall, I think if MBNA had carried out proportionate checks, it would have declined Miss J's application on the basis that the lending was unaffordable. As such, I'm persuaded MBNA lent to her irresponsibly.

Putting things right

MBNA should put things right for Miss J from the start of the credit card account, albeit she's had the benefit of the money borrowed and so may need to repay the principal amounts. So, MBNA should:

- Rework Miss J's credit card account so that all the interest, fees and charges applied to it from the start are removed.
- If an outstanding balance remains on the account once these adjustments have been made, MBNA should contact Miss J to arrange a suitable repayment plan for this.
- If no outstanding balance remains, any relevant adverse information should be removed from the credit file.

And

- If the refund means there's no remaining balance on the account, any extra should be treated as overpayments and returned to Miss J.

And

- Pay interest of 8% simple a year on any overpayments from the date they were made (if they were) to the date of settlement†.

† HM Revenue & Customs requires MBNA to take off tax from this interest. MBNA must give Miss J a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons given, I uphold this complaint. I require MBNA Limited to put things right for Miss J as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss J to accept or reject my decision before 13 June 2024.

Nimish Patel
Ombudsman