

The complaint

Mr E says MBNA Limited irresponsible lent to him.

What happened

Mr E took out a credit card from MBNA in October 2019. It gave him a £3,800 credit limit that it reduced to £3,400 in November 2022.

Mr E says when he applied online for the credit card his mental capacity was damaged and he could not think so well about things. He thinks had MBNA carried reasonable and proportional checks it would have found that he had other debts (and was in a debt management plan (DMP)), was the main provider to the family budget and as a pensioner his income was limited.

MBNA says it completed proportionate checks that showed a credit limit of £3,800 would be affordable for Mr E.

Our investigator did not uphold Mr E's complaint. He said MBNA's checks were proportionate, showed that the card would be affordable for Mr E and did not show anything that ought to have concerned the lender. As MBNA had not been made aware of Mr E's limited mental capacity or existing DMP he could not fairly expect it to have taken these factors into account.

Mr E disagreed with this assessment and asked for an ombudsman's review.

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.

We've set out our general approach to complaints about unaffordable and irresponsible lending - including the key relevant rules, guidance and good industry practice - on our website and I've taken that into account when considering Mr E's complaint.

MBNA needed to take reasonable steps to make sure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr E could afford to repay what he was being lent in a sustainable manner. This means without having to borrow to repay or suffering other adverse financial consequences. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts, Mr E's income and expenditure and his credit history. This means to reach my decision I need to decide if MBNA carried out proportionate checks at the time of the applications and the limit increase; if so, did it make fair lending decisions based on the results of its checks; and if not, what better checks would most likely have shown. Also, did it act unfairly towards Mr E in some other way.

I can see that MBNA considered certain information to make its lending decision. It asked Mr E for his income and employment status. It asked for his housing costs. It estimated his

living cost based on national averages. It carried out a credit check to understand Mr E's existing current commitments and his repayment history. From these checks combined MBNA concluded Mr E could afford the credit card with a £3,800 limit as he had monthly disposable income of £1,231.

I think these checks were proportionate given the stage in the lending relationship and what the initial results showed. I'll explain why.

Mr E declared that he was retired with an annual income of £38,000 – so £2,448 net a month. He said his rent was £525 and MBNA's credit check showed his existing credit commitments were £385. It modelled his living costs to be £307. So its assessment showed he had ample disposable income. The credit check showed no adverse data. Mr E was also applying to allow him to transfer in a £1,400 balance. As this was on a promotional rate his monthly credit commitments would be reduced, freeing up more disposable income.

So in these circumstances, I don't think there was any reason for MBNA to carry out further checks and I think it made a fair lending decision based on the information it gathered.

Mr E has informed us and given details of the DMP he has for a large amount of historic debt costing him £159 a month. This related to debts for him and his wife in the past and is in both their names. The DMP started in 2006 and is due to end in 2044. I have thought about this as it's a significant commitment. But, unfortunately, as this started some years ago and as credit files only extend back six years, it's likely that the accounts in the DMP were no longer on Mr E's credit file.

So, unless Mr E told MBNA about this DMP in October 2019 then it's not likely it would have known of this. I have no evidence that indicates Mr E did tell the lender he was in a DMP when he applied for the card. So, I don't think it knew which means I cannot fairly expect MBNA to have taken it into account.

Mr E says he had limited mental capacity when he applied and he has sent us medical evidence, dated 16 December 2019, to support this. But again, unless Mr E had informed MBNA of this when he applied for the card then I can't fairly expect it to have known of this. And there's no evidence that MBNA was informed. Mr E sent in an extract from some relevant regulatory guidance that indicates even when a firm was not aware, it should be considered whether extra care would more likely than not have resulted in a different lending decision.

But I haven't found that MBNA's checks fell short of what we would expect, or in other words lacked the requisite level of care. So I cannot conclude it ought to have done anything differently at the point of sale given what it knew about Mr E's circumstances at that time. Now it is aware, it must of course take steps to understand Mr E's current mental health and any capacity limitations, as well as what reasonable adjustments he may need in any interactions the parties have. I can see MBNA has told us that Mr E has since gone into detail about the issues he's facing with one of its colleagues and his account has been referred to its Customer Priority Team.

In the round, I do not find MBNA was wrong to lend to Mr E.

I've also considered whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think MBNA lent irresponsibly to Mr E or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

I am not upholding Mr E's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 31 July 2024.

Rebecca Connelley
Ombudsman