

## The complaint

Miss L complains that Barclays Bank UK PLC, trading as Barclaycard, failed to apply her credit card repayments to her account for several years, leaving her with an enormous bill to pay, and about related issues.

## What happened

Miss L has a credit card account with Barclaycard. She set up a direct debit to make her monthly repayments. After a couple of years, an unexplained error occurred on Barclaycard's systems which resulted in the direct debit somehow being transferred to a third party's account, but in such a way that Miss L still had access to it via her online banking. Barclaycard has accepted that it is responsible for this error, whatever it was.

This meant that the third party was now making Miss L's credit card repayments for her. At the time, Miss L received a text message from Barclaycard telling her when her first direct debit was due. She was puzzled by this, since she hadn't set up a new direct debit, so she phoned Barclaycard to check if everything was alright. Barclaycard checked her account and assured her that everything was fine – she had a direct debit set up for £180 a month. Reassured, Miss L thought no more about it.

This situation was allowed to continue for around seven years, unnoticed by Miss L, by Barclaycard, or by the third party. Miss L says she didn't notice it because she doesn't check her bank statements, so she didn't see that the payments were not leaving her current account. It's not clear why Barclaycard and the third party didn't notice it.

The matter finally came to light in 2020, when the third party died. Barclaycard froze Miss L's credit card and sent a letter to her parents, addressed to the executors of their late daughter's estate.

Miss L was without her credit card for a few months while Barclaycard looked into it (although she did have another credit card with another bank). Then Barclaycard told her that she owed them about £14,600 in unpaid credit card bills, presumably because it had reimbursed the third party's estate. Due to the nature of Miss L's job, she had to tell her employer.

By way of apology, Barclaycard offered Miss L £200 for her trouble. It also removed the debt from her credit file, and cancelled or waived interest and charges. But this still left her with about £13,000 to repay. So she brought this complaint to our Service.

Barclaycard argued that Miss L should have noticed what was happening, since it would have been obvious if she had checked her bank statements. Our investigator pointed out that Barclaycard hadn't noticed it either, and it had been Barclaycard's error in the first place. So he recommended that Barclaycard pay Miss L £500 in compensation, instead of £200.

Barclaycard accepted that opinion, but Miss L did not. She argued that both she and Barclaycard were jointly responsible, and so half of her debt to Barclaycard should be written off. The investigator did not agree that this would be fair, because Miss L had had the benefit

of spending that money, and so she should pay it back. So this case has been referred to me for an ombudsman's decision.

By then, Barclaycard had offered a repayment plan for the debt. It is willing to offer Miss L an interest-free loan over ten years (or such shorter time as she asks for), without reporting it to her credit file. That will replace her credit card account, and the monthly repayments on the loan will actually be slightly cheaper than the monthly payments she has been making towards the debt since the mistake came to light. This arrangement would still leave her with some disposable income. So Barclaycard has argued that she is slightly better off under its repayment plan (in terms of her monthly budget) than she is now.

I wrote a provisional decision which read as follows.

### **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.

It is not in dispute that this sorry state of affairs came about as a result of Barclaycard's error, so it only remains for me to decide what would be fair compensation. To do that, it is not necessary for me to establish exactly how this error came about, and we may never know. Miss L may not find this to be entirely satisfactory, but my role here is only to resolve this complaint, and I think I can fairly do that without learning more about what went wrong.

I have considerable sympathy for the unfortunate and unenviable situation in which Miss L now finds herself, as a result of a mistake which was not hers. It must have come as a great shock to her to learn that she owed so much money, after having been under the honest impression that she had kept on top of her financial position and had been keeping her credit card up to date. I am quite certain that she would never have allowed such a large debt to accrue if she had been aware of the true position. And I think that Barclaycard's error is compounded by the undisputed fact that Miss L called Barclaycard to query the text message she received at the time, only to be reassured that everything was alright.

For the avoidance of any possible doubt on the matter, I accept that Miss L did not know what had happened or that she was unaware that she had not actually been making her credit card payments. (This finding is based not only on the evidence I have summarised above, but also on other matters which I have omitted for the sake of brevity.)

I have carefully considered Miss L's proposal that her debt be reduced by half. It is not an entirely unreasonable proposal and I can see how she arrived at it. However, I do not agree that it would be fair to adopt it. I have come to that conclusion for two reasons. Firstly, that debt represents money which she spent, and my starting point in every case about a debt is that a debt should, generally, be repaid by the person who incurred it. That is a rebuttable presumption, of course, but it is nevertheless a strong one. Secondly, every complainant has a duty to mitigate her loss, and it is strongly advisable that everyone with a bank account should check their statements sometimes. If Miss L had checked her bank statements from time to time, she would have seen that the direct debit was missing, and then she would have realised that she had been misled by Barclaycard on the phone call I have referred to above. The debt would then not have grown to its current, formidable size. I rather regret that this reason sounds like criticism of Miss L; it is certainly not intended to be. It is simply a factor which I am obliged to take into account in determining what is fair. To be clear, I agree that Barclaycard is primarily responsible for what happened, but I don't think it automatically follows that I should compel it to write off half of the debt (or some other fraction of it).

Instead, I am minded to increase the compensation that Barclaycard should pay Miss L for her distress. It must have been quite a shock to be told that she owed so much money when she thought she had been making regular payments. It must also have been embarrassing to have to tell her employer about it. And while I cannot compensate her parents for the undoubtedly distressing letter they received, because they are not eligible complainants in this case, I can still compensate Miss L for her own distress which I am sure she felt on their behalf when they told her about it. Taking all of these matters into account, I am firmly of the view that £500 is not enough. I am provisionally of the view that £2,000 would be fair, and so I will award that amount unless either party changes my mind.

My provisional decision is that I intend to uphold this complaint. Subject to any further representations I receive from the parties by the date below, I am currently minded to order Barclays Bank UK PLC, trading as Barclaycard, to pay Miss L £1,500 (instead of the £200 or £500 previously proposed).

### **Responses to my provisional decision**

Barclaycard argued that the award I had proposed was excessive. It said that once the direct debit had been set up, there would have been no way for it to realise that there had been an error, other than by Miss L or the other customer telling it. It suggested that not enough consideration had been given to the fact that Miss L had spent so much money, over so long a period, without ever noticing that she wasn't paying for it. Barclaycard specifically referred me to a page on our Service's website which summarises our approach to cases where a complainant could have done more to mitigate their loss. It emphasised that Miss L's failure to check her statements in seven years had contributed very significantly to the position in which she now found herself.

Miss L reiterated that Barclaycard had sent a letter to her executors at a time when it had known, or should have known, that she was still alive. She said she had spent a lot of time on the phone with Barclaycard sorting the matter out. She reminded me that the matter had been started in the first place by Barclaycard's error. (She also questioned whether Barclaycard had accurately calculated her outstanding debt, but because I don't think that has been part of this complaint before, I think she would have to raise that with Barclaycard before our Service could consider it.)

### **Putting things right**

I don't entirely agree that Barclaycard had no opportunity to discover its error. I think that when Miss L queried the text message about the new direct debit shortly after the error happened, it ought to have been discovered then. After that, I accept that Barclaycard would not have picked up on it until it was reported by one of its customers. But balanced against that mitigation is the magnitude of the error in the first place.

I completely agree with Barclaycard's point about Miss L failing to mitigate her loss by not checking her statements, but I have already taken that into account in my provisional findings. That is why the compensation is not higher than I have proposed.

I have reconsidered that point anew, in the light of both of Barclaycard's arguments, in case I was too generous, but on further reflection I still remain of the view that £1,500 is fair.

### **My final decision**

My decision is that I uphold this complaint. I order Barclays Bank UK PLC, trading as

Barclaycard, to pay Miss L £1,500.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss L to accept or reject my decision before 26 May 2021.

Richard Wood  
**Ombudsman**