

The complaint

Mr K complains that Barclays Bank UK PLC made an irresponsible lending decision when it provided him with a loan. And it's failed to treat him fairly when he's later found himself in financial difficulties.

What happened

Mr K took out a personal loan with Barclays in August 2015. He borrowed £4,300 over a period of five years with a monthly repayment amount of £107.87. Mr K struggled to make the payments to the loan from August 2016 and Barclays defaulted the account on 28 November 2016.

Mr K feels the loan shouldn't have been given to him. He's explained he's struggled with gambling transactions for a number of years and provided medical reports to show the impact of this on his mental health. He's now asked that Barclays write off the outstanding loan amount and remove any negative information from his credit file. As together with the loan been provided when it shouldn't have been, he's got no reasonable prospect of repaying the loan now or in the future.

Barclays has said it is not currently pursuing the debt and no payments are currently expected. But it hasn't been written off. It's effectively put this on hold for 12 months and the situation will be reviewed at the end of the period. Notifications of arrears will still be provided during this time as it is required to send these biannually. It's taken these steps as it's considered the medical evidence provided by Mr K which details his mental health and impact of his gambling. It accepts he is unable to repay the debt at this point but hasn't agreed this could never be repaid – it will review the account annually and make future decisions based on what it thinks is most appropriate at the time.

Our investigator looked at the unaffordable lending complaint. They said they didn't think Barclays had been irresponsible with its lending decision. He didn't give any comment on the steps taken by Barclays now in relation to the debt.

I issued a provisional decision on Mr K's complaint on 21 April. I said that I wasn't planning on upholding Mr K's complaint. I've copied what I said below:

Mr K's complaint has two parts to it, the lending decision made when the loan was taken out and whether Barclays is acting fairly now with the decisions it's taking in relation to the outstanding debt. I'll review each of these in turn.

The lending decision

Our approach to unaffordable/irresponsible lending is set out on our website and I've followed this approach when looking at Mr K's complaint.

The regulations in place at the time when Mr K took out his loan with Barclays are set by the FCA in the Consumer Credit Sourcebook (CONC) rules. These required Barclays to carry out a credit worthiness assessment with reasonable and proportionate checks to determine

whether Mr K could afford to repay the loan in a sustainable way. These checks needed to be borrower focused, so give consideration to whether making the repayments in a sustainable way would likely result in difficulties for Mr K.

There is no set list of checks, and as these are borrower focused, it follows that they can differ from one customer to the next. But consideration to the size of the borrowing and the term of the commitment would likely impact when more checks might be needed to be deemed reasonable and proportionate.

Our investigator explained that he thought the checks carried out by Barclays were reasonable and proportionate, based on the amount of borrowing and term it was being taken over. The credit file for Mr K at the time the borrowing was taken out didn't show anything to suggest the loan might be unaffordable or likely unsustainable. And although there was evidence of gambling transactions on the account in the months ahead of the borrowing, these were minimal compared to Mr K's overall disposable income. And even when taken into consideration he felt the loan was affordable.

I agree with our investigator on the unaffordable lending. I think the checks carried out by Barclays were reasonable and proportionate. Mr K didn't have a huge amount of monthly commitments and the loan repayment were well within the total amount he had available each month as his disposable income. There was little to show the borrowing might be unaffordable from his credit file and the gambling transactions, although not insignificant, didn't suggest that Mr K was spending more than he could afford each month with his account often maintaining a positive balance. So I don't think it was evident that the loan was unaffordable or unsustainable.

I don't think Barclays acted irresponsibly when lending to Mr K and won't be asking it to take any further steps in relation to its lending decision.

Forbearance and support

CONC doesn't just set out the obligations on lenders when providing credit. It also gives direction on the steps a lender must take when a consumer is experiencing financial difficulties. This includes the obligation to treat customers in financial difficulties with forbearance and due consideration. Put simply, they need to treat the consumer fairly. There is further guidance for lenders on what is expected when working with vulnerable consumers who are suffering with mental health conditions. One of the requirements here is to make sure these customers are dealt with by individuals with the appropriate skills and capability to recognise and respond to the needs of each person. And where it is clear the consumer doesn't have the capacity to make relevant financial decisions about the management of their debt and engage with the debt recovery process at the time, it should suspend the pursuit of the debt recovery.

Mr K has shared a great deal of information with us and Barclays to support the impact of his gambling and how this has affected his mental health. I'm grateful for him providing this. Mr K is currently under the care of the NHS and it is supporting him with his gambling and mental health and the reports shared by Mr K show how he has struggled with this for some time. It has put a plan in place to help assist Mr K with his mental health and gambling addiction and I hope he is successful with this. Mr K feels as a result of this, the fairest option for Barclays and himself now would be for it to write off the remaining balance of the loan and to remove any negative information from his credit file. I understand why he's requested this, but I don't agree it's an appropriate step at this point.

Barclays has referred Mr K to its vulnerable consumer team and it has been working with him and his outstanding debt. It's taken steps to recognise whether there is currently any

prospect of Mr K being able to repay this and engage with the debt recovery process. Currently it has paused all collection activity in relation to the debt for 12 months with a view to review this at the end of the period. So it has recognised from the information provided that Mr K might not have the capacity to make relevant financial decisions at this point. I think it's acted fairly here and in line with the obligations placed upon it.

CONC makes it clear that when dealing with financial difficulty and arrears, firms should not ask consumers to make payments with short notice or at a level which could result in harm. Mr K isn't being asked to make any payment at the moment and the interest and charges on the account have been frozen for some time. I think Barclays is taking positive steps to help reduce the impact of the money owed to it with this not being pursued now, it hopes this will support Mr K and his mental health. But it doesn't think at this stage it would be fair to write off the debt completely. I must stress it hasn't said this will never be an option but that at this point it is acting fairly and in line with the guidance.

Barclays has, as I've said above given Mr K 12 months breathing space with its debt and I think this is fair and reasonable. I know other lenders have agreed to write off Mr K's debts but there is no obligation on them to do this. And each business will assess the circumstances of its lending and their debts on an individual basis. I think Barclays has demonstrated it is treating Mr K fairly, offering forbearance and due consideration to his current situation and because of this, I'm not planning on asking it to do anything else in relation to the outstanding loan balance.

Barclays responded to say it agreed with the outcome but confirmed it will continue to support Mr K as a vulnerable consumer within its dedicated team.

Mr K disagreed and reiterated that all of his other debts have been written off by the relevant providers and he provided his most recent health assessments, detailing the impact of his gambling and the debts.

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.

I've reviewed everything on this complaint again as well as the information supplied in response to my provisional decision by Mr K. He had no response to my comments on the lending decision so I don't intend to cover this again. My decision follows that of my provisional, detailed above. And I don't think Barclays made an irresponsible lending decision when it opened the loan account for Mr K.

Mr K has said again that he feels Barclays should be writing off this debt and it is the last of his accounts left open with a negative balance. He's said all others have been written off by the relevant providers.

In my provisional decision I explained that I felt Barclays acted fairly with the steps taken to support Mr K. It has, for some time now, been working with Mr K and his debt and when given details of how this and his gambling addiction has impacted his mental health, it suspended all activity on the account for 12 months. I still think it's acted fairly here and been reasonable with the steps taken.

Mr K originally provided evidence to show he was under the care of the NHS and was due to start treatment for his gambling addiction and mental health issues and it didn't seem unreasonable for Barclays to wait and review the position in 12 months.

However, the complaint has been with this service for some time and in response to the provisional decision, Mr K provided a “Debt and Mental Health Evidence Form” which was completed by a mental health nurse at the end of March this year (2022). It is an assessment of Mr K and his mental health problems, giving a diagnosis of his conditions as they are now. It highlights gambling related harm with these and it’s clear he is still struggling with his gambling addiction. It says the following in relation to how this impacts him:

“Addiction prevented him from making sound financial decisions and resulted in a significant debt, which in turn, had detrimental effect on his mental health and overall well-being.”

Barclays said in response to the provisional decision that it will continue to work with Mr K and its vulnerable consumer team. I think it’s important that Barclays does this and review’s Mr K and his ongoing mental health and how he is progressing with his treatment. The report confirms that there has been a significant reduction in Mr K’s gambling but he hasn’t been able to stop completely and that Mr K has expressed suicidal ideation. So while I’m still of the opinion Barclays hasn’t acted unfairly with the steps taken previously, it may well decide to do something differently with the debt in the future when it considers whether the pursuit of the debt could lead to further harm to Mr K.

This service has provided the updated records to Barclays and asked that it reviews Mr K’s account and its position now based on this. I expect it to contact him directly with this response. If Mr K is unhappy with the response, he may bring a new complaint and we can consider whether Barclays is still acting fairly with the relevant forbearance and support. But as I think it acted fairly with the steps taken previously and complained about, I don’t see any reason to depart from the outcome in my provisional decision.

My final decision

I don’t uphold Mr K’s complaint against Barclays Bank PLC.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr K to accept or reject my decision before 3 June 2022.

Thomas Brissenden
Ombudsman