

The complaint

Mrs D complains about how Clydesdale Financial Services Limited trading as Barclays Partner Finance (“BPF”) administered a loan she had with it.

What happened

Mrs D had a loan with BPF. Mrs D was under the impression that she had paid off the loan in full in December 2020. Therefore, she cancelled the direct debit after she’d made her payment in December 2020. Mrs D explains she did this having experienced problems previously with direct debits which continued beyond the point they should have done.

Mrs D said she was then surprised when BPF tried to take a full monthly payment in January 2021. Mrs D called BPF to find out what was going on. It told her that she still owed it some money, but it was only a very small amount. Mrs D offered to pay off this amount there and then. But she says she was told she did not need to. Instead, she suggests she was told the outstanding balance would be written off. However, this did not happen, instead she received a missed payment letter in February 2021.

Once again Mrs D called BPF. Mrs D says that, once again BPF told her it would write off the debt. But what actually happened is that she received monthly missed payment letters from March 2021 until March 2022.

Mrs D didn’t contact BPF again until March 2022. The reason she did not act between March 2021 and February 2022 was because *“I assumed because of my name etc, there might be some unconscious biases going on hence their hesitance in acting on my complaint.”*

Mrs D underlines that she found the late payment letters distressing, all the more so because this was happening during the Covid-19 pandemic. Mrs D explains that she is clinically vulnerable and had to shield at times during lockdown. She says she became distressed by things she thought might happen as well. For example, Mrs D envisioned scenarios where bailiffs acting for BPF would enter her home, potentially exposing her to catching Covid-19.

Mrs D asks that BPF remove any negative information it might have asked the credit reference agencies to register on her credit file in relation to the late payments from January 2021 onwards. She also asks for compensation for distress and inconvenience which she says was severe and which, from her perspective, she only experienced due to BPF’s actions.

BPF tells us it told Mrs D in December 2020 that there was a small balance on her loan which it would collect by direct debit in January 2021. It tried to collect this balance in January 2021, which was not a full monthly payment, but the direct debit was returned unpaid. It assumes this was because Mrs D had cancelled her direct debit in December 2020. BPF says it has no record of speaking to Mrs D in January 2021. BPF says it spoke to her in February 2021.

BPF agrees that it did tell Mrs D in February 2021 that it would write off the small balance. But by mistake it did not. As a result, direct debits were sought and returned unpaid between March 2021 and 2022. In mid-March 2022 Mrs D called it and BPF logged her complaint. It explained what had happened. It agreed it had made a mistake and offered to write off the balance, ask the credit reference agencies to remove any negative information it had asked

them to register about the loan after February 2021 and to pay her £40 for distress and inconvenience. BPF was under the impression that Mrs D had accepted this redress. The first it knew that she had not, was when it received Mrs D's complaint from our service. In the circumstances BPF considered it had already agreed to do enough to put things right and it was not willing to take any further action.

After her call in March 2022 with BPF Mrs D complained to this service.

Once Mrs D's complaint was with us she explained that she thought she may have got the date of the January 2021 call wrong, it could have been in December 2020. But she was certain she had called BPF before March 2021. Mrs D also sent us a copy of a letter she'd received from BPF dated late December 2020 which told her she still owed a small balance under the loan, and which also told her that the payment would be requested in January 2021 via direct debit.

One of our investigators looked into Mrs D's complaint. He recommended that the complaint be upheld in part. To put things right he recommended that in addition to the steps BPF had already taken it should ask the credit reference agencies to amend Mrs D's credit file to mark the loan as settled in February 2021. However, BPF had asked the credit reference agencies to register a late payment for January 2021 on Mrs D's credit file. Our investigator did not agree that BPF had to ask the credit reference agencies to remove this.

BPF accepted our investigator's recommendation Mrs D did not. In brief, her response covered the following points. Mrs D reiterated her previous stance. Mrs D added that she considers that in trying to collect the direct debits from her BPF committed fraud. Specifically, Mrs D suggests this was fraud as, in her view, BPF was not entitled to the money it sought to collect.

In his view our investigator suggested Mrs D might have mitigated the impact of BPF's behaviour on her by acting sooner. Mrs D found this to be "*victim shaming*".

Mrs D does not agree that £40 for distress and inconvenience and the impact on her credit rating and file is enough.

Moreover, Mrs D mentioned that the Financial Conduct Authority (FCA) should be protecting individuals such as her.

Mrs D asked that an ombudsman review her complaint.

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.

First, I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.

Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

I think the sequence of events here and the root cause of why Mrs D ended up being chased for the debt are very important here, so I am going to look closely at this.

Mrs D and BPF don't always agree about key events. For example Mrs D says BPF agreed in either December 2020 or January 2021 that it would write off the balance of the loan. Whereas BPF says it only agreed to this in February 2021. Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the

balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

The parties agree that in December 2020 BPF sent Mrs D a letter telling her she owed a final payment on her loan and that this would be collected in January 2021 by direct debit. It appears that Mrs D had cancelled her direct debit by then. But I think this letter made it clear that BPF was going to seek to collect money owed to it by direct debit in January 2021. I have seen nothing to suggest that this balance was incorrect or was not owed.

Mrs D says she may have had a conversation in December 2020 with BPF and it agreed during this call, to write off the balance of loan, although she is not entirely sure that she got the date correct. BPF has no record of any such telephone call. I don't find it likely that its records would be inaccurate on this point. It is in its best interests to keep accurate records about contact with its customers. Moreover, I find it unlikely BPF would have written the letter reminding Mrs D about the balance and the direct debit if it had already agreed to write off the balance. It also follows that in the circumstances, I am not persuaded by the evidence that this call took place in December 2020.

It also follows that as at December 2020 BPF had done enough, I think, to let Mrs D know what was going to happen in January 2021 in relation to the balance of the loan. Nothing I have seen persuades me that Mrs D told BPF she'd cancelled the direct debit and indeed Mrs D has not made that point. I think therefore BPF acted reasonably in seeking payment by direct debit in January 2021. Unsurprisingly, because it had already been cancelled, the direct debit was returned unpaid. The fact that this direct debit was returned is not in dispute.

In the alternative, Mrs D suggests she may have had a conversation by phone with BPF in January 2021. She tells us during this call it agreed to no longer seek to pursue her for the debt. As I have already mentioned there is no suggestion that the debt was not owed. But again BPF has no record of this call, which I think it would have done if the call happened, for the reasons I went through above. I note again that Mrs D is not entirely sure of the date of this call, but she tells us that it was before March 2021. So I think it is more likely than not that the call she is referring to is the call of February 2021.

For all of these reasons I find that up until the call of February 2021 BPF had done nothing wrong. It tried to collect a payment that was due from Mrs D. It tried to collect it via the method Mrs D had agreed to (direct debit). Mrs D did not make the payment as she was bound to under the loan agreement.

It follows therefore that I have no proper basis for telling BPF it must ask the credit reference agencies remove the late payment marker it asked them to register on Mrs D's credit file for January 2021.

But I do find that BPF must ask the credit reference agencies to register the debt as being fully paid in February 2021. I say fully paid rather than settled because I think it likely that given we are talking about a balance of less than £3 Mrs D would have paid in full if asked to do so. Nothing I have seen suggests that Mrs D short settled either.

BPF must also ask the credit reference agencies to remove any adverse data it asked them to register on Mrs D's credit file about the loan from February 2021. I've not seen anything to suggest that Mrs D experienced any detriment or loss due to the information that may have been on her credit file in relation to late payments between February 2021 and March 2022. But I am satisfied Mrs D has had a fair opportunity to provide this information if she had been affected, for example, by being refused credit elsewhere as a direct result of the late payment markers on her credit file.

Mrs D has mentioned fraud. Fraud is a criminal offence. This service is not able to decide on criminal offences we don't have that power. But what I actually think she may mean is that BPF acted inappropriately because she thinks she did not owe it the balance because BPF had written it off. However, even if this is what she means it gets her no further. I say this

because, for the reasons I set out above I don't agree at any point before February 2021 BPF had agreed to write off the balance. And even after this point it was not the case that Mrs D did not owe the balance, rather, BPF decided that it was going to write off the debt as a goodwill gesture. It was not saying she no longer owed the money, rather it was saying it was no longer going to pursue her for it. There is a difference.

Both parties agree that they talked in February 2021 and BPF agreed it would write off the balance of the loan. But it did not, instead it recorded the debt on its systems as a debt it was still trying to recover, hence all the chasing letters between March 2021 and March 2022.

Mrs D suggests BPF acted as it did due to unconscious bias. I've seen nothing to suggest that this was a factor in this individual complaint. That said, it would be hard for her to provide such evidence. However, if BPF was intuitionally unconsciously biased which is what Mrs D appears to be suggesting, then I would have expected BPF to continue not to correct its mistake when Mrs D brought it to its attention. Instead it appears to have taken action immediately. Albeit not the action she wanted in full. Its actions when it realised its mistake suggest to me its mistake was due to human error by the individual who probably keyed in something incorrectly on BPF's system when trying to write off the debt February 2021.

Once the mistake had been made and the balance was noted as still being a debt that BPF was pursuing there was not much chance that BPF was going to notice this until someone brought it to its attention. I think it likely that the debt recovery process was an automated process that would need a manual intervention to bring it to an end. And no manual intervention was likely going to happen in the circumstances until someone at BPF was told what it had done wrong. I recognise Mrs D may find this disappointing. What systems a bank has is an internal matter for individual businesses to decide. We don't have the power to tell a business to change its systems. But we can look at whether those systems mean that Mrs D was treated unfairly. That's what I've thought about here.

I recognise that Mrs D chose not to follow up with BPF until March 2022. That was her choice to make. This service is not here to victim shame anyone as Mrs D has claimed, far from it. I think it likely that if Mrs D had contacted BPF sooner it would have acted as it did in March 2022 and stopped the chasing letters, which seem to have been the main source of distress for Mrs D. In the circumstances, I don't think I have any proper basis for saying that BPF must pay Mrs D more compensation.

Mrs D mentions the FCA, I am not sure if she did mean the FCA or this service, the Financial Ombudsman Service. The FCA is a separate organisation to this service and regulates financial businesses. I can't compel it to do anything. If Mrs D meant this service we are not a consumer champion, rather we are an impartial body.

I realise Mrs D will in all likelihood be dissatisfied with my decision I recognise all of this took place during a very difficult time for her. But it brings to an end what we, in trying to resolve her dispute with BPF informally, can do for her.

My final decision

My final decision is that Clydesdale Financial Services Limited trading as Barclays Partner Finance must:

- Write off the remaining balance of the loan with nothing further owed by Mrs D, if it has not already done so, and stop pursuing her for payment.
- Ask the credit references to register that Mrs D fully paid off the loan in February 2021.
- Ask the credit reference agencies to remove any adverse data it asked them to register on Mrs D's credit file from February 2021 in relation to the loan.

- Pay Mrs D £40 for distress and inconvenience if it has not already done so.

BPF must pay the compensation within 28 days of the date on which we tell it Mrs D accepts my final decision. If it pays later than this it must also pay interest on the £40 from the date of my final decision to the date of payment at the rate of 8% a year simple.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any correspondence about the merits of it. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 15 December 2022.

Joyce Gordon
Ombudsman