

The complaint

Mrs M has complained that Barclays Bank UK Plc lent to her irresponsibly when they agreed a fixed sum loan for her on 15 April 2019.

What happened

I issued my provisional decision to both parties which set out the background to this complaint and my provisional findings. These are copied below and form part of this decision.

What happened

By way of background to this complaint, on 24 August 2015 Mrs M arranged a Barclayloan for £15,000 over 60 months (Loan 1), with an interest rate of 4.9% and a monthly payment of £281. The loan was used to clear Mrs M's Barclaycard and pay for sundries. And on 4 August 2016 a second loan was taken out to repay Loan 1 and use the additional funds for general use (Loan 2). Loan 2 was for £15,000, over 60 months. The interest rate was 5.8% and the monthly payment was £287.56.

Mrs M has shared that due to building up debts because of gambling, she and her husband sold their property in February 2018 and downsized, using the proceeds of the sale to clear some of Mrs M's other outstanding debts and reduce the amount she owed on Loan 2. However, by April 2019 Mrs M had 'maxed out' her available credit through gambling and general use.

On 15 April 2019 Mrs M took out a Barclayloan for £25,000 over a term of 60 months (Loan 3). The interest was 6.22% fixed per annum, the monthly payment was £486.50 and the total to be repaid was £29,190. This loan was taken out for debt consolidation. The funds from Loan 3 were used to repay the outstanding balance on Loan 2, and of the remaining amount (£17,426) £9,999 was used to reduce the outstanding balance on the Barclaycard. Mrs M also used the remaining funds largely towards gambling.

In October/ November 2019 Mrs M approached a charity for help with her outstanding debts, and she entered into a debt management plan. Mrs M says that at the time she approached the charity her outstanding debts were in the region of £69,000. Around this time Mrs M also submitted her complaint to Barclays.

Loan 3 was defaulted in November 2019, and was later sold to a third-party in April 2021 with an outstanding debt of £19,933.

Mrs M's complaint to Barclays was that they should not have sold her the loan. Mrs M said it was unsolicited and unnecessarily increased her borrowing. Mrs M has said she told Barclays during a phone call on 15 April 2019 that she was struggling financially and that she was in debt, and gambling in the hope of clearing her debts. Mrs M says Barclays should've realised this due to the outgoings showing on her Barclaycard, and it would've been apparent if they had properly considered her circumstances and carried out appropriate credit checks. Mrs M told us Barclays had said to her that the loan would cost

less than continuing to repay her credit cards. Mrs M also said that Barclays should not have allowed her to gamble using her Barclaycard.

Barclays did not uphold Mrs M's complaint. They said consideration had been given to her income and expenditure at the time and there was nothing to suggest she was unable to afford Loan 3.

Mrs M brought the matter to our service where our investigator concluded Barclays could've carried out more checks when agreeing to lend to Mrs M. The investigator said if Barclays had done this then a more in-depth assessment would have shown Mrs M should not have been given the loan.

Barclays did not accept they had done anything wrong as they maintained that proper consideration had been given to Mrs M's loan application. They also noted Barclaycard was a separate entity so they would not have had access to specific details of Mrs M's spending on that card. Barclays also pointed out that the interest Mrs M was paying on her Barclaycard (19.37% standard rate and 25.10% cash rate) was significantly higher than the 6.22% interest rate being applied to the loan, so the loan would've benefited Mrs M when consolidating her debts.

That said, as a gesture of goodwill only, Barclays agreed to write off the interest Mrs M had been charged for the increased amount of borrowing taken out in April 2019. Barclays calculated this figure as £809 and explained they would pay this sum towards the outstanding balance of the loan.

Mrs M did not accept this as a resolution to her complaint and said it would do little to clear the outstanding balance of around £19,000 that she still owed for this loan. Mrs M also felt Barclays had benefited because she had paid £9,999 to her Barclaycard, and that the gesture of goodwill was an admission by Barclays that they had done the wrong thing when lending to her in April 2019.

To resolve things Mrs M explained to our investigator she was seeking a refund for the capital difference between Loan 2 and Loan 3, with interest and charges to be repaid as well as statutory interest paid on these sums. Mrs M also felt an apology from Barclays for the distress caused to her and her family would be appropriate, and that any negative information relating to this loan should be removed from her credit file.

As our investigator could not resolve things, the matter has come to me to decide. Before reaching my findings I requested some further information from Barclays about what happened when Mrs M first took out the loan. The additional information is referenced in my findings below, and as these are my provisional findings both parties will have an opportunity to respond once they've had a chance to consider them.

What I've provisionally 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 may help Mrs M to be aware that our service has explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Mrs M's complaint.

Having done so, while I agree with our investigator that Mrs M's complaint should be upheld, my reasons for doing so differ as I've set out below.

Reviewing the submissions from both parties about how the loan was sold to Mrs M, it is not clear to me exactly what happened. Mrs M says she was approached by Barclays on the phone and Barclays, while initially suggesting the sale was 'colleague assisted' on the phone, have more recently said there was no sales call.

I asked Barclays to evidence their searches for a call with Mrs M from around the time in question, and their screenshots show no record of a call. I also asked for a copy of Mrs M's credit agreement and this records that the sales channel was an online third-party broker service. So while it seems most likely the application was made online, it's difficult for me to say with any certainty that Barclays did not speak to Mrs M at some point during the sales process.

That said, Barclays still needed to carry out reasonable and proportionate checks to ensure Mrs M would be able to repay the credit in a sustainable way.

There is no set list of what reasonable and proportionate checks should look like, rather greater thoroughness might be reasonably expected where a person on a lower level of income may be borrowing a high sum, or taking out borrowing over a longer period which could potentially cost more in the longer term. Or it could be that a greater number of loans taken out within short succession could potentially indicate that further scrutiny would be warranted.

Barclays have said Mrs M would not have been offered the loan if she had not passed their checking criteria. They explained that part of their checks involved reviewing a customer's account to assess the individual's income and expenditure, and they also used information from the person's live credit file.

Mrs M was borrowing a significant amount, but Mrs M was also in permanent employment on a good salary – as evidenced through her current account statements – earning on average £3,400 net per month. She also received a regular monthly payment of £600 into her account from Mr M towards the mortgage payment, as well as child benefit of £82.80.

Barclays' submissions note that at the time, Mrs M had no adverse credit showing on her credit file and that she was managing payments to her creditors. Barclays also completed a retrospective income and expenditure assessment using Mrs M's current account statements, which they submit showed a monthly disposable income in the region of £1,700.

Given the above it would appear Mrs M was able to sustainably afford the new payments for Loan 3. However, I think it would be fair to say there was more information available to Barclays when considering Mrs M's circumstances and I think it reasonable to say this would have highlighted that further consideration was warranted to decide if lending to Mrs M would be a fair thing to do.

Barclays' submissions to this service hinted that their systems would have highlighted any potential issues about Mrs M's transaction history to them as part of their checks. With this in mind, I don't think it's unreasonable to suggest that it wouldn't have taken much to bring to light Mrs M's struggles with gambling.

For example, through Mrs M's current account statements it's possible to see multiple gambling transactions totalling over £1,000 in the six months prior to Mrs M taking out Loan 3.

And while I've considered what Barclays have said about being a separate entity to Barclaycard, I'm mindful of the privacy terms Barclays have in place to share information about their customers with other Barclays companies. I also understand it is possible for

customers to view both their current account and Barclaycard account through the Barclays app. So it doesn't seem a stretch or unreasonable to say Barclays' systems would be able to access Mrs M's Barclaycard details or that they should use that information as part of what they already know about their customer when considering a decision to lend a significant amount of further money.

I'm also mindful of Mrs M's submissions that she alerted Barclays to her situation during a phone call. She says she made it clear she was struggling with her gambling and that she was doing this to try and clear her debts, and that the Barclays staff member told her the loan would be a cheaper way of repaying her debts. While there appears to be no record of the call, Mrs M has remained consistent with her submissions on this point and given she approached the debt charity around six months after Loan 3 was taken out, I find it plausible that Mrs M was looking for help.

In their submissions Barclays also mentioned Mrs M's current account statements showing that a large sum of money (£112,611) was paid into her current account in 2018, and that subsequent large payments were made from these funds to Barclaycard and other third-party creditors. As noted earlier, Mrs M said that by April 2019 she had again 'maxed out' her available credit. The available submissions set out that by April 2019 Mrs M's Barclaycard was over its limit with a balance of £20,219.

In view of the above, I therefore feel it would've been reasonable of Barclays to further query Mrs M's circumstances at that time given she had made a significant payment to reduce her Barclaycard debt, but in a little over a year had exceeded the credit limit of £20,000 and was applying for another loan.

Mrs M's Barclaycard statements show that she was gambling heavily using her credit card. And having queried Barclays about the transactions on Mrs M's Barclaycard, it appears that in the five months leading up to April 2019, Mrs M's gambling transactions totalled around £17,000.

While I agree it would appear from the checks Barclays did carry out that Mrs M was able to afford the monthly payments for Loan 3, I have to consider - given the above - whether it was fair in the circumstances for Barclays to approve Loan 3 for Mrs M. And taking everything into account, I'm unable to say that it was.

I think Barclays had information available to them about their customer that would have highlighted Mrs M's gambling to them, and I don't think it was unreasonable to say that Barclays could have looked at this information given the size of the new loan. So I think with minimal further investigation and questioning it would have been possible to see that Mrs M was potentially vulnerable.

By agreeing Loan 3 and repaying Loan 2 Barclays was putting Mrs M in a worse financial position as the interest rate on Loan 2 was lower than Loan 3, and with only around two years remaining on Loan 2, rolling Loan 2 up into Loan 3 extended Mrs M's time to repay Loan 2 and increased the amount of interest she would pay for that borrowing.

After repaying Loan 2, this meant Mrs M was left with new money of £17,426, and while I acknowledge this money and the purpose of Loan 3 was for debt consolidation, this did give Mrs M access to money that could significantly increase her indebtedness if she did not use all of it to repay existing debt and close down other revolving lines of credit available to her.

Given the level of Mrs M's gambling, I think it's fair to say if Barclays had better reviewed her circumstances at the time they could have considered Mrs M's vulnerability in terms of making decisions about her financial affairs at this point and considered what measures they

had available within the Barclays group to help her.

Taking everything into account, I therefore think Mrs M should not have been sold Loan 3 and so I can't say that Barclays' decision to lend to Mrs M in April 2019 was fair in the circumstances.

Responses to my provisional decision

Barclays replied to say they accepted the provisional findings.

Mrs M responded to my provisional decision and said that while it appeared her complaint had been upheld, it seemed that Barclays were getting away with irresponsible lending without even being asked to apologise for their part in her stress and anxiety, and losing her family home. Mrs M said she felt that big corporations were taking advantage of individuals and not being appropriately punished for their actions.

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 considered Mrs M's additional comments in reply to my provisional decision, but there is nothing here to make me change my findings as set out in my provisional decision.

The section below '*Putting things right*' also formed part of my provisional decision and set out to both parties what I proposed to fairly resolve the complaint, and responded to Mrs M's previous request for an apology. I said:

I understand Mrs M is also seeking an apology from Barclays for agreeing this loan. While I understand Mrs M's situation has not been easy, I feel it would be unfair to say that Barclays should apologise given Mrs M's overall circumstances are not a direct cause of Barclays alone, and I think what I have suggested above to put things right is fair and reasonable in the circumstances of this complaint.

While I understand Mrs M was seeking the capital difference between Loan 2 and Loan 3, I maintain that this would not be fair given I am unable to ignore that Mrs M had use of the money. In the circumstances, I also see no reason to change what I previously said with regards to Mrs M's request for an apology.

Mrs M feels that Barclays should be punished. However, the role of this service is not to fine or punish firms – that is for the financial regulator, the Financial Conduct Authority to consider. The role of this service is to resolve complaints on the basis of what is fair and reasonable in the circumstances of the case.

So based on my further considerations, I uphold Mrs M's complaint for the reasons above, and Barclays Bank UK Plc should put things right as I've described below.

Putting things right

When I find that a business has done something wrong, I'd normally direct that business – as far as it's reasonably practicable – to put the complainant in the position they would be in now if the mistakes made hadn't happened.

In this case, that would mean putting Mrs M in the position she would now be in if she hadn't been given Loan 3.

However, this isn't straightforward when the complaint is about irresponsible lending. Mrs M was given Loan 3 and she used the money. In these circumstances, I'm unable to undo what has already been done, and the loan agreement for Loan 2 no longer exists and cannot be reinstated. So it isn't possible to put Mrs M back in the position she would be in if she had not been given Loan 3 in the first place.

Instead, I must consider another way of putting things right fairly and reasonably given the circumstances of this complaint. Having done so, I think Barclays Bank UK Plc should:

- a) Remove all interest, fees and charges applied to the loan from the outset. The payments Mrs M made should then be deducted from the new starting balance. If the payments Mrs M has made total more than the amount she was originally lent, then any surplus should be treated as overpayments and refunded to her.
- b) Add 8% simple interest* calculated on any overpayments made, from the date they were paid by Mrs M to the date the complaint is settled.
- c) Remove any adverse information recorded on Mrs M's credit file as a result of this loan (once Mrs M has repaid any outstanding balance).

*HM Revenue & Customs requires Barclays Bank UK Plc to deduct tax from this interest. Barclays Bank UK Plc should give Mrs M a certificate showing how much tax they've deducted, if she asks for one.

It is my understanding that Barclays Bank UK Plc have not paid out the offer previously made to Mrs M; however, if this has already been paid, then the payment already made should be deducted from any sum calculated using the above approach.

My final decision

For the reasons above, my Final Decision is that Mrs M's complaint is upheld and Barclays Bank UK Plc need to put things right as I've described.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 28 December 2022.

Kristina Mathews
Ombudsman