

## **The complaint**

Mrs H says Barclays Bank UK PLC, trading as Barclaycard, irresponsibly lent to her.

## **What happened**

Mrs H opened an Egg credit card in April 2001. The account was transferred to Barclays in 2011. It is not known what the opening credit limit was, by October 2004 it was £5,500. The account was included in a debt management plan (DMP) in early 2006.

Mrs H says as soon as she became aware of the practice of irresponsible lending in August 2023, she raised a complaint. She said the lender did not complete adequate checks to ensure she could repay the credit. By the end of 2005 she had 31 creditors and owed £155,000 of unsecured debt.

Barclays initially said Mrs H's complaint could not be considered as she had brought it outside the time limits set by the regulator that this service must adhere to. On 10 January 2024 we issued a decision setting out the reasons why we could investigate the merits of Mrs H's complaint. Following this, Barclays explained that due to the age of the account it has no information about the checks that were completed, or the results.

Our investigator did not uphold Mrs H's complaint. She said without details of the checks completed at the time of the application and what was done for any subsequent credit limit increases she could not fairly find Barclays to be at fault. She noted Mrs H had provided a copy of her credit file from 2004 and of the creditors in her DMP, but explained why this information did not assist her to know if Barclays had lent irresponsibly in 2001.

Mrs H disagreed with this assessment and asked for an ombudsman's review. She said her broader circumstances should be taken into account. Her DMP illustrates just how many agreements she had in place and this service's guidelines say more thorough checks should be done the greater the number and frequency of loans.

## **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 are independent and impartial and our role is to listen to both sides of a complaint, take evidence from both parties, and then decide on a fair and reasonable outcome. So - it's important that we must see evidence from both the customer and the firm concerned to do this. And that is difficult in this case as we are lacking evidence-based information relating to what happened in 2001.

The Office of Fair Trading (OFT) was the regulator when Mrs H applied for this credit card. The Consumer Credit Act 1974 set out the factors the OFT needed to consider when looking at how businesses lent to its customers, and it stipulated that the lender needed to assess the consumer's creditworthiness using both information supplied by the applicant as well as data obtained from a credit reference agency.

Barclays has been unable to provide any information about what checks were done at the time of account opening, nor does it have details of the credit limit increases. It has told us the account was closed and had defaulted in 2006 prior to it taking ownership in 2011. By then there was no credit facility and so it did not increase/decrease the credit limit.

It is not surprising or unreasonable that Barclays has no evidence to share given the age of the account, and this is further complicated by the transfer of ownership in 2011. This means I cannot know if the checks carried out at account opening, or at the time of any limit increases, were proportionate.

In such cases we can consider other sources of information (eg. bank statements, payslips or credit files) that indicate what proportionate checks would have shown the lender. But here there is no such evidence from April 2001.

Mrs H provided a copy of her credit file from 2004 and I can see that in April 2001 she had 15 active accounts and looked to be paying around £250 each month for three of the accounts that were loan accounts. I do not know the limits or balances of the other accounts and as the investigator said some had a zero balance, so I cannot know the overall cost of credit to her. So whilst I accept she had a number of accounts, without knowing the credit lines they provided and how she was managing the debt, I cannot fairly say this evidences Barclays was wrong to approve her credit card application. I can see that there was no significant adverse data such as defaults or CCJs recorded on her file in the six years prior to 2006.

I note Mrs H would like more weight to be placed on her DMP and the level of debt placed into that plan in 2006. She also submitted what she recalls her income and expenditure to be in 2001. But I cannot fairly rely on a 2006 summary of creditors to know what Barclays most likely learnt in 2001, and nor can I fairly rely solely on Mrs H's recollections of her financial position from over 20 years ago. For me to come to a decision as to whether Barclays lent irresponsibly, or not, I need to see the information it saw at the time for Mrs H – or a proxy for what it would have seen had it completed proportionate checks (in the scenario where it hadn't). And this just isn't possible in this case given the time since the event(s).

It follows I can't fairly conclude Barclays was wrong to lend to Mrs H. So I am not instructing it to take any action.

I am sorry to hear about Mrs H's challenging situation. I can see how difficult things have been for her and her family over the years. I hope she now has the support she needs. I anticipate she will be disappointed by my decision, but I hope she can see why it is the only fair conclusion I can reach based on the available evidence, and we are an evidence-based service.

### **My final decision**

I am not upholding Mrs H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 27 March 2024.

Rebecca Connelley  
**Ombudsman**