

Complaint

Ms E has complained about an overdraft that Barclays Bank UK PLC ("Barclays") provided to her.

She says the overdraft she was provided with encouraged a cycle of perpetual debt and her being charged excessively.

Background

Barclays initially provided Ms E with an overdraft that had a limit of £100 in June 2007. The limit was then increased to £500 in August 2017; £700 and then £800 in October 2017; £1,000 in November 2017; £1,100 and then £1,200 in December 2017; £1,500.00 and then £1,700.00 in January 2018; £1,850.00 and then £2,000.00 in April 2018; £3,000.00, £3,250.00 and then £3,300.00 in August 2018; £4,000.00 in November 2018; and finally £4,150.00 in December 2018.

One of our investigators reviewed what Ms E and Barclays had told us. And he thought Barclays hadn't done anything wrong or treated Ms E unfairly. So he didn't recommend that Ms E's complaint be upheld.

Ms E disagreed and asked for an ombudsman to look at the complaint.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having carefully considered everything provided, I'm not upholding Ms E's complaint. I'll explain why this is the case in a little more detail.

Before I go any further, I want to be clear in saying that I haven't considered whether the various amounts Barclays charged over the years were fair and reasonable, or proportionate in comparison to the costs of the service provided. Ultimately how much a bank charges for services is a commercial decision. And it isn't something for me to get involved with. This is the case, despite the legislation which Ms E has referred to.

That said, while I'm not looking at Barclays's charging structure per se, it won't have acted fairly and reasonably towards Ms E if it applied these interest, fees and charges to Ms E's account in circumstances where it was aware, or it ought fairly and reasonably to have been aware Ms E was experiencing financial difficulty, and/or she couldn't repay what she owed within a reasonable period of time. So I've considered whether there were instances where Barclays didn't treat Ms E fairly and reasonably.

It's fair to say that Ms E used her overdraft over the years and she appears to be suggesting that this in itself was an indication that Barclays ought to have taken action in relation to the facility.

However, I think that it is far too simplistic to say that it automatically follows someone was in financial difficulty simply because they were using a financial product that they were entitled to use. Repeated use of an overdraft can be indicative of a customer being in financial difficulty or indicative of them using the facility unsustainably. However, it doesn't automatically follow that this is the case.

In my view, it's important to look at the overall circumstances of a customer's overdraft usage – particular in light of what this may suggest about their overall financial position. So, in this case, I've considered Ms E's incomings and outgoings as well as any overdrawn balance and thought about whether it was possible for her to have repaid her balance and stopped using her overdraft, based on this.

After all if Ms E was locked into paying charges because there was no reasonable prospect of her exiting her overdraft (by clearing what she owed within a reasonable period of time) then her facility would have been unsustainable for her. I've therefore carefully considered whether this was the case.

In considering this matter, the first thing for me to say is that I'm mindful that Ms E was in receipt of regular credits into her account which had the potential to clear what she could owe within a reasonable period of time. So Ms E's case isn't one where the borrower was permanently in their overdraft and certainly not one involving a customer who was constantly their overdraft as much as they possibly could.

There were periods where Ms E was in credit – although I do accept that there were times where Ms E might have met the criteria of someone who displayed a pattern of repeat use of their overdraft and that Barclays sent her letters about her being overdrawn for periods.

That said, even though this is the case, the question here is whether Barclays ought to have removed Ms E's overdraft completely, because Barclays had sufficient information to realise that it was unsustainable for her and that she was likely to be in financial difficulty. And having considered matters, I don't think that this is the case here.

To explain, while I'm not seeking to make retrospective value judgements over Ms E expenditure, nonetheless there are significant amounts of non-committed, non-contractual and discretionary transactions going from her account.

I accept neither of these things in themselves (or taken together) mean that Ms E wasn't experiencing financial difficulty. But I'm mindful that Ms E's account statements don't obviously suggest that any of the potential signs of financial difficulty contained in the regulator's guidance on financial difficulty (set out in CONC 1.3) – such as Ms E failing to meet consecutive payments to credit, borrowing from payday or other high-cost lenders, or Ms E failing to meet her commitments out of her disposable income – were present in her circumstances at the time. This is especially the case when Ms E was using her overdraft most frequently.

I also think that the consequences of Barclays taking corrective action in this instance would have been disproportionate. I say this because I don't think that it would have been proportionate for Barclays to demand that Ms E immediately repay her overdraft, in circumstances where Ms E was adhering to the terms and conditions on the account. It's also fair to say that Ms E often had combined savings balances which could have been used to clear her overdraft in full had she wished to do so.

So, in these circumstances and in the absence of being told anything by Ms E, I don't think that it was unreasonable for Barclays to have proceeded with adding the charges that it did.

For these reasons, I don't think Barclays lent irresponsibly to Ms E or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A Consumer Credit Act 1974 would, given the facts of this complaint, lead to a different outcome here.

Overall and having carefully considered everything, I don't think that Barclays treated Ms E unfairly or unreasonably and I'm not upholding Ms E's complaint. I appreciate this will be very disappointing for Ms E. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Ms E's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms E to accept or reject my decision before 25 November 2024.

Jeshen Narayanan
Ombudsman