

The complaint

With the help of a professional representative (PR) Mr S complains that Barclays Bank UK PLC trading as Barclaycard lent to him irresponsibly. For ease, I'll refer to the actions of Mr S's PR as being his.

What happened

In May 2016, Mr S applied for and received a credit card with Barclaycard.

Date	Credit Limit (CL) event	New limit
13 May 2016	Account opening CL	£5,000
20 June 2017	CL increase	£5,500
24 May 2021	CL decrease	£3,700
1 August 2022	CL decrease	£100

On 24 January 2024, Mr S complained to Barclaycard. He said it had failed to carry out adequate checks at the outset or when it increased his limit later. He said if it had, Barclaycard would have seen that he had other debts, and he wouldn't be able to afford the initial credit limit or the increase offered. He didn't receive a response to his complaint, so referred it to our service on 29 April 2024.

Barclaycard told us it hadn't received Mr S's complaint until we made it aware of his contact with us. It issued a final response on 15 July 2024 and said Mr S had brought his complaint too late under the complaint handling rules of the Financial Conduct Authority (FCA).

Mr S didn't agree with Barclaycard's response so asked us to investigate. One of our investigators looked into it and didn't agree with Barclaycard that the complaint had been brought too late. He said it was reasonable to consider the complaint as being about Mr S's credit relationship with Barclaycard being unfair as described in Section 140A of the Consumer Credit Act 1974 (s.140). He said as the relationship was ongoing, the complaint had been brought in time. But our investigator thought that Barclaycard hadn't treated Mr S unfairly and didn't uphold the complaint.

Mr S didn't agree with our investigator's opinion of the complaint. He hasn't said why he disagrees or provided any new information. But nonetheless, as there was no agreement, it has been passed to me for a decision.

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.

There are time limits for referring a complaint to the Financial Ombudsman Service, and Barclaycard thinks this complaint was referred to us too late. Our investigator explained why he didn't, as a starting point, think we could look at a complaint about the lending decisions that happened more than six years before the complaint was made. But he also explained why it was reasonable to interpret the complaint as being about an unfair relationship as

described in s.140, and why this complaint about an allegedly unfair lending relationship had been referred to us in time.

For the avoidance of doubt, I agree with our investigator that I have the power to look at the complaint on this basis. I think this complaint can reasonably be considered as being about an unfair relationship as Mr S says he could never afford the repayments to the card. This may have made the relationship unfair as he had to pay more in interest than he could afford and was unable to reduce the debt. I acknowledge Barclaycard still doesn't agree we can look at this complaint, but as I don't think it should be upheld, I don't intend to comment on this further.

In deciding what is fair and reasonable I am required to take relevant law into account. Because Mr S's complaint can be reasonably interpreted as being about the fairness of his relationship with Barclaycard, relevant law in this case includes s.140A, s.140B and s.140C of the Consumer Credit Act 1974.

S.140A says that a court may make an order under s.140B if it determines that the relationship between the creditor (Barclaycard) and the debtor (Mr S), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing or, if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship.

S.140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

Given what Mr S has complained about, I need to consider whether Barclaycard's decision to lend to him and increase his credit limit, or its later actions, created unfairness in the relationship between him and Barclaycard such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness. Mr S's relationship with Barclaycard is therefore likely to be unfair if it didn't carry out proportionate affordability checks and doing so would have revealed its lending to be irresponsible or unaffordable, and if it didn't then remove the unfairness this created somehow.

I think there are key questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- Did Barclaycard carry out reasonable and proportionate checks to satisfy itself that Mr S was in a position to sustainably repay the credit?
- If not, what would reasonable and proportionate checks have shown at the time?
- Did Barclaycard make a fair lending decision?
- Did Barclaycard act unfairly or unreasonably towards Mr S in some other way?

Barclaycard had to carry out reasonable and proportionate checks to satisfy itself that Mr S would be able to repay the credit sustainably. It's not about Barclaycard assessing the likelihood of it being repaid, but it had to consider the impact of the repayments on him.

There is no set list of checks that it had to do, but it could take into account several different things such as the amount and length of the credit, the amount of the monthly repayments and the overall circumstances of the borrower.

Account opening

When Mr S applied for the account in May 2016, he told Barclaycard he was working, had an annual income of £34,000, owned his own home (with no mortgage). Barclaycard verified his income through a widely used verification tool provided by a credit reference agency and used statistical information to estimate his expenditure. It calculated Mr S had a monthly disposable income of around £800.

Barclaycard also checked Mr S's credit file and saw he had a loan with a balance of around £25,500 to which he paid £564 a month. He was up to date with the loan and had no mortgage or credit cards. He was up to date with his commitments and had no defaults or County Court Judgments (CCJs).

I think the information Barclaycard received and gathered is sufficient to meet the bar of a reasonable and proportionate check provided nothing of concern is identified. In this case, I don't think there was anything to have caused Barclaycard any concern which would have caused it to ask any further questions.

Based on all that information, Barclaycard agreed to open the account and granted an opening limit of £5,000. I think it reached a fair decision to lend.

Credit limit increase to £5,500

Barclaycard used the information it already knew about Mr S including the performance of his existing account. It carried out a further review of his credit file and found that he now had credit card debt of £2,117, an overdraft of £4500 and his loan balance had reduced to £15,350 with monthly repayments of £417. He still had no mortgage. Barclaycard also checked his income data through the verification tool.

All Mr S's credit was up to date and his Barclaycard was working within the limit and the terms and conditions. I think this was reasonable and proportionate where there was nothing of concern.

Based on the information Barclaycard had and obtained, I don't think there was any indication that Mr S was struggling with the account or with his finances generally. I don't think there were signs that Barclaycard should have noticed that Mr S wouldn't be able to sustainably afford a relatively small increase in his credit limit (£500). I don't think it's decision to offer CLI2 was unfair.

Did Barclaycard act unfairly or unreasonably towards Mr S in some other way?

As can be seen from the table above, Barclaycard took the decision in May 2021 to reduce Mr S's credit limit to £3,250 and later to £100. Prior to the limit reductions, it wrote to Mr S to explain why it was taking that action. It explained it wanted *"to make sure no one's borrowing more than they can comfortably afford"*. When it did so, Mr S was comfortably within the new limit and stayed within it after the reduction.

When Barclaycard reduced Mr S's limit to £100, he had repaid the balance in full and hadn't used it for a couple of months.

Having reviewed the activity and evidence from both parties to the complaint, I haven't seen

anything to suggest that Barclaycard treated Mr S unfairly in some other way.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 14 May 2025.

Richard Hale

Ombudsman