

## **Complaint**

Ms T complains that Clydesdale Financial Services Limited (trading as Barclays Partner Finance ("Barclays PF")) unfairly entered into a conditional-sale agreement with her. She's said the agreement was unaffordable for her.

Ms T is being represented by a Claims Management Company ("CMC").

## **Background**

In October 2016, Barclays PF provided Ms T with finance for a used car. The cash price of the vehicle was £21,589.00 and Ms T purchased £349 worth of extras meaning the total amount of the purchase was £21,947.99. While the agreement states that Ms T made an advance payment of £6,667.67, it would appear that this would have been to settle a previous finance agreement. And Ms T entered into a 49-month conditional sale agreement with Barclays PF for the full amount of the purchase.

The loan had interest, fees and total charges of £4,625.77 (made up of interest of £4,327.77, a credit facility fee of £99 and a completion fee of £199) and the balance to be repaid of £26,573.76 was due to be repaid in a first monthly instalment of £407.87 followed by 47 monthly instalments of £308.87 and then an optional final repayment of £11,649.00 which Ms T had to pay if she wished to keep the vehicle.

The finance was repaid in full in March 2019 and Ms T complained, via the CMC, in January 2024. After the eight weeks for Barclays PF to have responded to the complaint had passed, the CMC referred Ms T's complaint to our service.

Ms T's complaint was considered by one of our investigators. She didn't think Barclays PF had done anything wrong or treated Ms T unfairly. So she didn't recommend that Ms T's complaint should be upheld.

The CMC, on Ms T behalf, disagreed with our investigator's assessment and asked for her complaint to be passed to an ombudsman for a final decision.

## **My findings**

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

We've explained how we handle complaints about irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Ms T's complaint.

Having carefully thought about everything I've been provided with, I'm not upholding Ms T's complaint. I'd like to explain why in a little more detail.

Barclays PF needed to make sure that it didn't lend irresponsibly. In practice, what this means is that Barclays PF needed to carry out proportionate checks to be able to understand whether Ms T could make her payments in a sustainable manner before

agreeing to lend to her. And if the checks Barclays PF carried out weren't sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

Barclays PF says it agreed to this application after it completed an income and expenditure assessment on Ms T. During this assessment, Ms T provided details of her monthly income which I understand that it cross-checked against the amount of funds which entered into Ms T's main bank account each month.

Barclays PF says it also carried out credit searches on Ms T which not only showed that she didn't have any significant adverse information – such as defaulted accounts or County Court Judgments ("CCJ") - recorded against her, but that she had a low amount of existing credit in her name.

Furthermore, in Barclays PF's view, when repayments to the amount Ms T already owed plus a reasonable amount for Ms T's living expenses was deducted from her monthly income the monthly payments were still affordable. On the other hand, Ms T says she was already struggling at the time and that these payments were unaffordable.

I've thought about what Ms T and Barclays PF have said.

The first thing for me to say is that bearing in mind the term of the agreement and its total cost, like our investigator, I'm satisfied that Barclays PF needed to take further steps to ascertain Ms T's actual living costs, rather than assuming Ms T's living expenses in order for its checks to have been reasonable here. Barclays PF did not do this so I'm satisfied that its checks before lending in this instance weren't proportionate.

As Barclays PF should have done more, I've gone on to decide what I think Barclays PF is more likely than not to have seen had it done that here. Given the circumstances here, I would have expected Barclays PF to have had a reasonable understanding about Ms T's regular living expenses as well as her income and existing credit commitments.

I've considered the information Ms T has provided us with. Having done so, I'm satisfied that the information provided appears to show that when Ms T's committed regular living expenses are combined with her credit commitments and then deducted from what Barclays PF believed she received at the time, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I've seen that the CMC has questioned the inclusion of some of the funds that Ms T was transferring into her account. However, CONC 5.3.1G, which was in place at the time, lists a number of factors which a lender should consider when determining whether repayments are sustainable for a prospective borrower. CONC 5.3.1G (6) states that a customer should be able to make their payments *'out of income and savings and without having to realise security or assets'*. It seems to me that the regulator's guidance envisaged savings being included when assessing a customer's disposable income. As the savings considered were regular payments going into Ms T's account, I think it is reasonable to include them.

Furthermore, while the CMC has reiterated that the monthly payments for the agreement weren't sustainable, it appears to have overlooked the fact that Ms T also received a quotation where she would only have monthly repayments of around £220 and then a higher optional final payment. In these circumstances, I can only assume that Ms T considered that the higher monthly payments were sustainable for her.

Finally, while I accept that this is not in itself determinative, I do think that it's also worth noting that the payments being affordable for Ms T does appear to be supported by her not only having made all the monthly payments she needed to on time, but she also settled the agreement some eighteen early. The final payment Ms T made also included the optional final payment. Ms T's payments history simply doesn't support the CMC's assertion that Ms T's financial position was far more precarious than the investigator concluded.

Overall and having carefully considered everything, while I don't think that Barclays PF's checks before entering into this conditional-sale agreement with Ms T did go far enough, I'm satisfied that doing more won't have prevented Barclays PF from providing these funds, or entering into this agreement with her.

In reaching these conclusions, I've also considered whether the lending relationship between Barclays PF and Ms T might have been unfair to Ms T under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Barclays PF irresponsibly lent to Ms T or otherwise treated her unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here. So I'm not upholding this complaint.

I appreciate that this will be very disappointing for Ms T. 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**

My final decision is that I'm not upholding Ms T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 10 February 2025.

Jeshen Narayanan  
**Ombudsman**