

Complaint

Miss M 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 Barclays PF accepted that it may not have correctly assessed her affordability and as she needed family help to make payments after getting into difficulty her complaint should be upheld.

Background

I've noted that in her response to the investigator assessment, Miss M referred to the possible effect of the commission arrangements that may have been in place between Barclays PF and the motor dealer the car was purchased from, at the time of the sale. However, as any concerns about commission did not form part of Miss M's initial complaint to Barclays PF, this is a matter Miss M will need to raise with it in the first instance. Therefore, this decision is solely looking into the complaint Miss M made about the affordability of the agreement.

In March 2018, Barclays PF provided Miss M with finance for a used car. The cash price of the vehicle was £6,398.00. Miss M paid a deposit of £400.00 and entered into a 60-month conditional sale agreement with Barclays PF for the remaining £5,998.00 she needed to complete the purchase.

The loan had interest, fees and total charges of £2,496.60 (made up of interest of £2,148.60, a credit facility fee of £149 and a completion fee of £199) and the balance to be repaid of £8,494.60 (which does not include Miss M's deposit) was due to be repaid in 59 monthly instalments of £138.26 followed by a final repayment of £337.26. The agreement was settled in full in March 2023.

In June 2023, Barclays PF wrote to Miss M to explaining that it may not have correctly assessed her affordability for this agreement prior to entering into it with her. Barclays PF invited Miss M to request a review of what had happened if she felt that the agreement had been unaffordable. Miss M requested a review and completed the information required.

Barclays PF went on to review Miss M's application as well as the information she provided as part of the review. However, it did not consider that it had done anything wrong and considered the loan to be affordable. Miss M was unhappy with the conclusions of this review and formally complained about the affordability of the agreement.

Barclays PF carried out a further review based on Miss M's additional concerns. However, it remained satisfied with its initial conclusion that the agreement was affordable for Miss M at the time it was taken out. Miss M remained dissatisfied at Barclays PF's response and referred the matter to our service for consideration.

Miss M's complaint was subsequently considered by one of our investigators. He didn't think Barclays PF had done anything wrong or treated Miss M unfairly. So he didn't recommend that Miss M's complaint should be upheld.

Miss M 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 Miss M's complaint.

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

Bearing in mind everything that has happened during the course of this complaint, I think that it would be helpful for me to set out that we consider what a firm did to check whether the monthly payments were affordable (asking it to evidence what it did) and determine whether this was enough for the lender to have made a reasonable decision on whether to lend.

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.

That said, I think that it is important for me to explain that our website does not provide a set list of mandated checks that a lender is expected to carry out on every occasion – indeed the regulator's rules and guidance did not and still do not mandate a list of checks to be used. It simply sets out the types of things that a lender could do.

It is for a lender to decide which checks it wishes to carry out, although we can form a view on whether we think what was done was proportionate to the extent it allowed the lender to reasonably understand whether the borrower could make their payments.

Furthermore, if we don't think that the lender did enough to establish whether the repayments to an agreement was affordable, this doesn't on its own mean that a complaint should be upheld. We would usually only go on to uphold a complaint in circumstances where we were able to recreate what reasonable and proportionate checks are likely to have shown – typically using information from the consumer – and this clearly shows that the repayments in question were unaffordable.

I've kept this in mind when deciding Miss M's complaint.

Barclays PF says it agreed to this application after it completed an income and expenditure assessment on Miss M. During this assessment, Miss M provided details of her monthly income. Barclays PF says it also carried out credit searches on Miss M 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 little in the way of existing credit outstanding.

Furthermore, in Barclays PF's view, when repayments to the amount Miss M already owed plus a reasonable amount for Miss M's living expenses was deducted from her monthly income the monthly payments were still affordable. On the other hand, Miss M says that the payments to the agreement were unaffordable and she needed family help to get out of the difficulty that making the payments created.

I've thought about what Miss M and Barclays PF have said.

The first thing for me to say is that bearing in mind the term of the agreement and the fact that Miss M was recorded as being a tenant who was renting, I'm satisfied that Barclays PF needed to take further steps to ascertain Miss M's actual living costs, rather than assuming Miss M'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 Miss M's regular living expenses as well as her income and existing credit commitments.

In order to do this, I've considered the information that Miss M has provided from the time. However, having considered this information, I've not seen sufficient evidence to corroborate the fact that Barclays PF obtaining further information on Miss M's actual living costs, rather than relying on the assumptions that it did, would have shown it that the monthly payments were unaffordable.

I accept that the possibility that Miss M may have found it more difficult to make her payments than she anticipated when entering into the agreement and I'm sorry to hear about the personal difficulties that Miss M has had. But I don't think that Barclays could have known about Miss M's personal difficulties and I've not seen enough here to be persuaded that it obtaining further information on Miss M's living costs would have alerted it to the fact that this agreement was unaffordable for her either.

This is particularly in circumstances where Barclays PF would also have seen that Miss M had paid a deposit equivalent to three months' worth of monthly payments too. So while I sympathise with everything that Miss M has told us has happened since, I don't think that the information provided from 2020 onwards means she shouldn't have been lent to.

In reaching my conclusions, I've also considered whether the lending relationship between Barclays PF and Miss M might have been unfair to Miss M 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 Miss M 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 overall and having carefully considered everything, while I don't think that Barclays PF's checks before entering into this conditional-sale agreement with Miss M did go far enough, I've not been persuaded that Barclays PF doing more, in this instance, would have prevented it from providing these funds, or entering into this agreement with Miss M.

I appreciate that this will be very disappointing for Miss M. Particularly as the complaint was instigated by Barclays PF inviting her to request a review as a result of it determining that it didn't do everything it needed to in March 2018. But I hope she'll understand the reasons for

my decision – that I’ve not been provided with sufficient supporting evidence to be persuaded that Barclays PF doing more would have seen it reach a different outcome on lending - and that she’ll at least feel her concerns have been listened to.

As I’m not upholding Miss M’s complaint, I’ll leave it to Miss M to decide whether to accept the £75 Barclays PF initially offered her, should it not have been paid already and it remain available for her to accept.

My final decision

My final decision is that I’m not upholding Miss M’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss M to accept or reject my decision before 3 March 2025.

Jeshen Narayanan
Ombudsman