

## The complaint

Miss D complains that Barclays Bank UK PLC trading as Barclaycard lent to her irresponsibly.

## What happened

On 6 November 2016, Miss D opened a Barclaycard account as follows:

Date	Event	Credit limit
6 November 2016	Opening limit	£3,400
26 June 2017	Credit Limit Increase (CLI) 1	£4,900
26 February 2018	CLI2	£5,400

Miss D repaid the account in full and closed it in March 2022.

On 15 January 2024, Miss D complained to Barclaycard. She said it should never have allowed her to open the account and shouldn't have allowed the credit limit increases. She said she had a high level of credit use and has been in persistent debt for most of her working life. She didn't have a high level of income and was unemployed from January 2018 to the end of 2019. Miss D said she used the card *"heavily for gambling"*. Overall, she said Barclaycard had lent to her irresponsibly and she asked it to refund all interest and charges she had paid on the account.

Barclaycard looked into Miss D's complaint and said she had complained too late under the complaint handling rules of the Financial Conduct Authority (FCA) for it to consider the account opening and CLI1. It said more than six years had passed since those lending decisions had been taken.

But Barclaycard did look into both CLI's. For CLI1 it said there was no evidence Miss D was experiencing financial difficulty as she made her payments on time and her card usage was low. For CLI2 it said she had stayed comfortably within the limit and used the card for two balance transfers with low day to day use. It acknowledged her complaint about gambling transactions and said there was evidence of that in December 2018 (after the increases had been given), but at the time, this wasn't against the terms and conditions of the account. Barclaycard didn't uphold the complaint about irresponsible lending but said it had taken too long to provide an answer so it offered Miss D £150 as an apology for that.

Miss D didn't accept Barclaycard's response to her complaint, so she referred it to our service. One of our investigators looked into it and said she felt it could reasonably be considered as a complaint about Miss D's credit relationship with Barclaycard being unfair as described in Section 140A of the Consumer Credit Act 1974 (s.140). She said for that reason, the complaint hadn't been brought too late under the rules. But when she did look into the merits of the complaint she didn't think Barclaycard had lent irresponsibly or treated Miss D unfairly.

Miss D didn't agree with our investigator's opinion of the complaint, so 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 she 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 she 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 Miss D says the account was unaffordable from the outset and the credit limit increases made her situation worse. She says Barclaycard ought to have seen she was using the account for gambling and stepped in to help her. This may have made the relationship unfair as she had to pay more in interest than she could afford. 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 Miss D's complaint can be reasonably interpreted as being about the fairness of her relationship with Barclaycard, relevant law in this case includes s.140A, s.140B and s.140C.

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 (Miss D), 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.

Given what Miss D has complained about, I need to consider whether Barclaycard's decision to lend to her and increase her credit limits, or its later actions, created unfairness in the relationship between her 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. Miss D'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 Miss D 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 Miss D in some other way?

Barclaycard had to carry out reasonable and proportionate checks to satisfy itself that Miss D 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 her.

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 Miss D applied for the account in November 2016, she told Barclaycard she was working, had an annual income of £22,000, lived in rented accommodation and had no dependents. Barclaycard verified her income through a widely used verification tool provided by a credit reference agency and used statistical information to estimate her expenditure. It calculated Miss D had a monthly disposable income of around £450.

Barclaycard also checked Miss D's credit file and saw she had a number of credit accounts elsewhere with a balance of around £1,500. She was up to date with her 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 £3,400. I think it reached a fair decision to lend.

### CLI1 and CLI2

Barclaycard used the information it already knew about Miss D including the performance of her existing account. It carried out a further review of her credit file and found that her debt had increased to around £4,700 and her balance with Barclaycard was around £750 against her £3,400 limit. All her credit was up to date and the 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 Miss D was struggling with the account or with her finances generally. It follows that I don't think its offer of CLI1 was unfair.

### CLI2

Barclaycard went through a similar process for CLI2 as it did for CLI1. It found her external credit had fallen to £3,519 albeit perhaps due to external balances being transferred to this account and was all up to date. Her balance with Barclaycard was just over £2,300 (of which £1,740 was interest free due to balance transfers) against her £4,900 limit, and she was making the required payments.

While I only have detailed statements on the account from 2 November 2017, the only transactions from then until the limit increase were three payments for taxi journeys taken in

October 2017. I've not seen any gambling transactions or indications that Miss D was struggling financially.

Based on this information, I don't think there were signs that Barclaycard should have noticed that Miss D wouldn't be able to sustainably afford a relatively small increase in her credit limit (£500). I don't think its decision to offer CLI2 was unfair.

Did Barclaycard act unfairly or unreasonably towards Miss D in some other way?

Miss D stayed comfortably within her £5,400 limit for a few months after CLI2. She made further balance transfers amounting to a total of £4,592 which meant she was paying no interest on the balance on her statement dated 4 December 2018.

But the 3 January 2019 statement shows she then had several gambling transactions which took the account very close to the limit of £5,400. At the time, the rules allowed gambling transactions, so I don't think it was unfair of Barclaycard to allow them. There was one small gambling transaction (£4.50) the following month and no more until June 2019 when there were two more totalling £7.92. While the transactions from the January 2019 statement might have caused concern had they continued, as they didn't, I wouldn't have expected Barclaycard to step in at that stage.

Miss D began to miss payments from June 2019 but was up to date by January 2020. She then missed a series of payments, fell into arrears and a few gambling transactions began again. Barclaycard reached out to Miss D to discuss the gambling transactions and account performance and she spoke to it in March 2020. Interest was suspended for 30 days, and in May 2020, Barclaycard wrote to her in an effort to set up a repayment plan. Interest was suspended from June 2020 and Miss D repaid the balance in July 2021 when the plan was about to end.

Having reviewed the activity and evidence from both parties to the complaint, I haven't seen anything to suggest that Barclaycard treated Miss D unfairly in some other way. I know my decision will come as a disappointment to Miss D but I hope my explanation is helpful.

Barclaycard offered Miss D £150 for the delay in issuing its response to this complaint. It's not clear whether that has been paid or not, but Barclaycard should do so now if it hasn't already.

**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 Miss D to accept or reject my decision before 12 May 2025.

Richard Hale  
**Ombudsman**