

The complaint

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

What happened

Miss F applied for – and received – two credit cards with Barclaycard as follows:

	Date	Event	Credit limit
Account 1	November 2014	Account opening	£400
	October 2015	Credit limit increase (CLI) 1	£800
Account 2	February 2019	Account opening	£400
	November 2021	CLI1	£1,200
	June 2022	CLI2	£1,600
	April 2023	CLI3	£2,800

On 11 March 2024, Miss F complained to Barclaycard. She said Barclaycard didn't properly carry out affordability checks on her applications for the cards, and since she had Account 1, her *"debt has spiralled...[which]...led [her] to open further accounts she could not afford"*.

Barclaycard looked into Miss F's complaint. It said her complaint about Account 1 had been made too late for it to consider under the complaint handling rules of the Financial Conduct Authority (FCA). But it did look into her complaint about Account 2 as that had been brought in time. Barclaycard said while it believed the account was affordable, because she had another active Barclaycard at the time, her application should have been automatically refused. To put matters right, it said it had *"refunded all interest and fees you've been charged since inception"* and *"waived all future interest and closed your account"*.

Miss F didn't accept Barclaycard's response, so she referred her complaint to this service. She said Account 1 should also have been upheld and she believes the balances on the accounts should be *"wiped"*. She didn't think the bank had refunded all the interest and charges as promised.

One of our investigators looked into Miss F's complaint. He felt it was reasonable to consider that Miss F's complaint is not just about the lending decisions made, but also about her credit relationship with Barclaycard being unfair as described by Section 140A of the Consumer Credit Act 1974 (s.140). With that in mind, he didn't agree Miss F's complaint about Account 1 had been brought too late.

Our investigator went on to consider Miss F's complaint about Account 1, but he didn't uphold it. He said it appeared the account opening and CLI1 appeared to be affordable for Miss F based on the information she had provided on the application and that Barclaycard had obtained. He felt Barclaycard's offer on Account 2 was reasonable in the circumstances too.

Miss F didn't agree with our investigator. She said Barclaycard had already said Account 2 shouldn't have been opened, so she should be compensated. As there was no agreement, the complaint has been referred 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 Miss F says the increases simply made her situation worse. These may have made the relationship unfair as she had to pay more in interest than she could afford and was unable to reduce the debt. 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 F'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 F), 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 Miss F 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 F'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 F 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 F in some other way?

Barclaycard had to carry out reasonable and proportionate checks to satisfy itself that Miss F 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 1 – Opening limit of £400

When Miss F applied for the credit card in November 2014, she told Barclaycard she had an annual income of £7,400 and was living with parents. Barclaycard calculated her monthly income as being £616 which it verified using a credit reference agency. It checked her credit file and found she had no existing credit elsewhere, no defaults or County Court Judgements (CCJ). Barclaycard was happy to agree the account and authorise a credit limit of £400.

I think the checks carried out by Barclaycard were reasonable and proportionate in the circumstances. Miss F had a 'clean' credit record, was working and appeared to have little in the way of committed expenditure. It agreed a relatively small credit limit which is in line with what I'd expect in the circumstances. I think it reached a fair decision to lend.

Account 1 – CLI1 to £800

In the year prior to CLI1, Miss F ran the account reasonably well. There were occasions where she exceeded the limit by a few pounds, but she brought it back into line quickly. She made repayments in excess of the minimum most months (over the year, she'd paid £398 against a minimum of £172) demonstrating she could afford the required repayments.

With this in mind, Barclaycard checked Miss F's credit file. I can see that by this time, she had some credit elsewhere including around £1,800 of credit / store card balances and a loan of £6,000. It appears she was up to date with her payments to these accounts too.

Bearing in mind the increase in Miss F's indebtedness over the last year, I'd have expected Barclaycard to look further into her financial situation to ensure she could afford the increase. While there's no set list of things a bank should do to gain a better understanding, a good place to start is often a review of the customer's bank statements as they generally provide a good picture of what's going on.

Miss F has provided three months statements from just before CLI1 was agreed. These show a higher income than a year ago – between £815 and £927 a month. There is evidence that she may not have been living with her parents anymore as there are payments to a third party referenced as 'Bills' and one payment to what appears to be a landlord or estate agent.

But there is nothing of concern in those statements – she was still able to maintain her account in credit, meet her obligations and had money left for non-essential spending. So

even if Barclaycard had carried out further checks on Miss F's circumstances, I think it's likely that it would still have agreed to CLI1 and I think it was a fair lending decision.

In May 2016, Miss F was in arrears on the account having missed a month's payment. Barclaycard suspended her use of the account until she brought it up to date in June 2016, and she was able to use the account again. Miss F regularly exceeded her limit over the following year or so, before bringing the account back under control in September 2017. She repaid the card in full and closed the account in February 2020.

Account 2

Barclaycard has said that it shouldn't have agreed Account 2 for Miss F because she already had an active account with it. It said its own rules meant a second account shouldn't be agreed. Such rules are a matter for its own judgement – I can't say it's wrong for a business to allow a consumer to have two cards.

Barclaycard hasn't reached a finding on whether the lending it made was responsible or not, and I don't propose to do so either. That is because Barclaycard has already agreed to refund to Miss F all the interest and charges she paid on the account. This is in line with what we would recommend if we thought the bank had lent irresponsibly.

Miss F has said she thinks the remaining balance of the account should be written off. But where a consumer has spent the money and benefited from it, I think it's right that they should repay what they borrowed. But equally, if the money shouldn't have been lent in the first place, the business shouldn't benefit from interest and charges on it.

I've seen nothing which suggests Miss F didn't spend the money, so I think it's right she should repay it. And Barclaycard has refunded what it had charged and is not charging interest on the remaining debt. I think this is fair and reasonable in the circumstances. I realise my decision will come as a disappointment to Miss F. I'd encourage her to talk to Barclaycard to agree a payment plan she can afford in order to repay the outstanding balance. I'd remind Barclaycard of its obligation to treat consumers fairly.

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 F to accept or reject my decision before 12 June 2025.

Richard Hale
Ombudsman