

The complaint

Miss M complains Barclays Bank UK PLC trading as Barclaycard (Barclaycard) lent to her irresponsibly.

What happened

Miss M opened a credit card with Barclaycard on 14 April 2017 with an initial limit of £1,500. There were no other lending decisions.

Miss M complained to Barclaycard because she felt it had irresponsibly provided her with credit. She does not think Barclaycard carried out adequate checks to ensure she could afford the lending including when the promotional offer ended. She feels had it looked at her financial situation, it would have realised it wasn't affordable. She feels this is shown on her bank statements and credit report. Additionally, Miss M said Barclaycard has not offered her forbearance to help her reduce the balance. She said she was in persistent debt for five years and Barclays never once helped. The only way out of the credit card was to take out a consolidation loan which she is still paying off.

Miss M referred the complaint to our service. One of our Investigators looked into it. Barclaycard told our Investigator that it felt the complaint had been brought too late for us to consider under the complaint handling rules of the Financial Conduct Authority (FCA). Our Investigator didn't agree with Barclaycard about the time limits, so went on to consider the complaint. However, she didn't think the complaint should be upheld.

Miss M didn't agree with our Investigator's findings. In summary, she said:

- She made a complaint within the three-year time limit and is concerned we haven't properly looked at her complaint. She was young when she initially took out the credit and was only alerted to Barclaycard's responsibilities by an article on social media. She said she was asked when she felt she was having difficulties, rather than when she knew she was having difficulties.
- She opened two cards in quick succession and only one month before she applied for the account with Barclaycard. Both Barclaycard and our Investigator said the credit search didn't show the most recent card, but she said the hard credit search would have been displayed. It could have then done more to confirm if she had additional credit or debts, and to find out the new balances. If a human had looked at her application and credit report, more would have been done to check it was affordable and responsible to lend.
- She had been in her overdraft every single month and she had maxed it out. She said she was mainly only making minimum payments towards her existing credit, and she had high utilisation.
- Barclaycard did not do enough to support her throughout the five years she had the credit card. It didn't make sure she was bringing the balance down and had a duty to do so. It did nothing more than send her an email/letter about her repayments. It would have seen her financial situation had worsened and ought to have suspended

fees and interest or even close the account and set up a payment plan. Instead, it encouraged her to spend more with promotional material.

- She maxed out the credit card almost every month since she had it and she was mostly only making minimum payments. Prior to the account closing, she was over her credit card limit and is concerned our Investigator didn't accept this.
- Barclaycard failed to monitor her repayment record (and any other relevant information) and take appropriate action where there are signs of actual or possible financial difficulties. This is a requirement as set out in the Consumer Credit Sourcebook (CONC) specifically in CONC 6.7.3A R. She does not feel one notice in October 2019 is sufficient here. Barclaycard also failed to take action in respect of the rules around persistent debt as set out in CONC 6.7.3A R and CONC 6.7.3B G. She said she was only paying the minimum and it ought to have done more in this respect.

As Miss M didn't agree with our Investigator's view, the complaint has been passed to me to decide.

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 think we could look at a complaint about the lending decision 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 Section 140 of the Consumer Credit Act 1974 (Section 140), and why this complaint about an allegedly unfair lending relationship had been referred to us in time.

Mrs R has disagreed with our Investigator about the time limits, and I've considered the additional information which has been provided. Barclaycard has also confirmed it doesn't agree. I acknowledge neither party agrees with what's been set out. For the avoidance of doubt, I agree with our Investigator and think this complaint is one I can consider. I think this complaint can reasonably be considered as being about an unfair relationship because Miss M has explained Barclaycard's lending was unaffordable and it hasn't adequately supported her. This may have made the relationship unfair. However, I don't intend to make any award to Miss M, so I won't comment on this further.

In deciding what is fair and reasonable I am required to take relevant law into account. Because Miss M's complaint can be reasonably interpreted as being about the fairness of her relationship with Barclaycard, relevant law in this case includes Section 140A-C.

As explained by our Investigator, Section 140A says that a court may make an order under Section 140B if it determines that the relationship between the creditor (Barclaycard) and the debtor (Miss M), 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.

But the case law also says that the court may not make an award for an unfair relationship where the claimant had knowledge of the facts relevant to their claim, but substantially delayed making it. So I've taken this into account when deciding a fair and reasonable outcome for this complaint.

The case law doesn't provide a fixed period that would constitute a substantial delay, but in the case of *Smith v Royal Bank of Scotland Plc* [2023] UKSC 34, the Supreme Court approved the District Judge's comment that a court would be slow to remedy unfairness in a situation where the claimant delayed more than six years after knowing the facts.

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 M has complained about I need to consider whether Barclaycard's decision to lend to her, 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 M's relationship with Barclaycard is therefore likely to be unfair if it didn't carry out reasonable and 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's fair and reasonable:

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

Barclaycard had to carry out reasonable and proportionate checks to satisfy itself that Miss M would be able to repay the credit sustainably. It's not about Barclaycard assessing the likelihood of being repaid, but it had to consider the impacts of the repayment 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.

Did Barclaycard carry out reasonable and proportionate checks to satisfy itself that Miss M was in a position to sustainably repay the credit?

What's important to note is that Miss M was provided with a revolving credit facility rather than a loan. And this means that Barclaycard was required to understand whether the credit limit of £1,500 could be repaid within a reasonable period of time (rather than all in one go). I'm satisfied such a credit limit wouldn't require a particularly large monthly payment in order

to clear the full amount within a reasonable period. It is with this in mind that I've thought about the checks carried out by Barclaycard.

Barclaycard have said Miss M completed an online application form and gave some information about herself and her financial circumstances. She declared she was living with parents and had a gross annual income of £28,000. So, Barclaycard could expect Miss M to receive a net monthly income of around £1,800.

Barclaycard undertook a check with a credit reference agency. I've reviewed this and I can see it showed Miss M's overall indebtedness wasn't particularly high. At the time, she had five active accounts with an overall credit balance of around £1,288 and she seemed to be managing the repayments. The results showed three credit accounts, a current account and a communication account. She didn't have any recent significant adverse information such as missed payments, defaults or county court judgments. I appreciate Miss M has said she took out some more recent credit. But I don't think there was anything which ought to have suggested to Barclaycard the credit search might not reflect her circumstances. So, it reasonably would have seemed that she was managing her existing credit commitments.

I can see the checks also included an affordability assessment which considered costs for essential spend, living, rent and credit repayments. It also took into account application information and verification of Miss M's declared income. This showed Miss M was likely to have sufficient disposable income to be able to afford the lending.

Taking everything into account, I'm satisfied the checks Barclaycard carried out were reasonable and proportionate in the circumstances. It had information regarding Miss M's declared income, her employment and that she was living with parents. It also had information to show she was managing her existing credit, and its checks included an affordability assessment. Considering the information Barclaycard obtained and the relatively modest credit limit, I don't think there was anything which ought reasonably to have prompted Barclaycard to undertake further checks or question the information it had.

Did Barclaycard make a fair lending decision?

I'm satisfied Barclaycard's checks were reasonable and proportionate in the circumstances. However, I need to now consider whether it made a fair lending decision based on the information it obtained. I've thought about Miss M's net monthly income, as well as how much she would need to meet her existing credit commitments and repay her revolving credit within a reasonable period. Additionally, I've taken into account Barclaycard's affordability assessment. Having done so, I'm satisfied the credit seemed affordable. The information showed Miss M would likely be able to sustainably afford the relatively modest repayment amount which would enable her to repay the total balance within a reasonable period. There isn't anything which ought to have led Barclaycard to conclude it wouldn't be fair to lend to her in the circumstances.

This card also came with a promotional offer for 0% interest on balance transfers for a set period. I can see Miss M transferred a balance of £1,250. Balance transfer offers such as these enable consumers to transfer credit from other accounts where interest is probably being applied and gives consumers the opportunity to secure more favourable terms. It enables consumers to reduce their credit balances more quickly because it provides a set period where no additional interest is applied to the transferred balance.

Taking everything into consideration, I'm not persuaded Barclaycard acted unreasonably by providing Miss M with the level of credit it did here. I think the checks carried out were proportionate in the circumstances, and it seemed Miss M would be able to sustainably afford the credit.

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

I've thought about how Miss M managed her account, her comments and correspondence sent by Barclaycard. When thinking about whether Barclaycard treated Miss M fairly, I've considered the relevant rules and regulations at the time. This includes rules around account monitoring, persistent debt and financial difficulties as highlighted by Miss M.

Miss M made a balance transfer on 25 April 2017 for £1,250. This meant 0% interest would be charged on this amount for the promotional period. I've seen Barclaycard wrote to Miss M on 15 January 2019 to explain the promotional rate was ending. It said at the time of writing she had around £1,206 to repay. I don't think the way in which Miss M managed her account leading up to this point ought to have caused Barclaycard any concern even though I appreciate she didn't pay off the balance. She had been using the card and, in some months, had made some significant repayments. For example, in October 2017 she repaid £100, in August 2018 she repaid £191 and in January 2019 she repaid £290. There are also examples outside of this.

Thinking then about what Miss M has said about only making minimum repayments and the rules around persistent debt, I don't think there was anything which ought to have alerted Barclaycard that there might be a problem in this respect. Firstly, I can see in some months Miss M did only pay the minimum. However, there were also months where she paid more. Her overall balance didn't seem to reduce because she continued to use the card. But I don't think this ought to have caused Barclaycard any concern given the size of some of the monthly repayments she had made.

As time went on, I can see the overall amount of Miss M's monthly repayments did reduce. But I still don't think it would necessarily have seemed to Barclaycard that she had a problem with persistent debt because she still paid more than the minimum and sometimes significantly more. The pattern of her repayments throughout the duration of the account seems to show she was able to afford payments which were over the amount of interest being charged. So, I don't think Barclaycard needed to do anything more in this respect.

I do note some of these repayments were also to bring the account back within the limit and I'm aware from the account notes that Miss M was over her limit from around January 2021 to when she closed her account in April 2022. I've been provided with evidence which shows Barclaycard wrote and text Miss M about this throughout the period. The statements and account history don't seem to indicate that there were additional charges. From the correspondence I've seen, I can see Barclaycard invited Miss M to contact it and also signposted her to services who might be able to help.

Whilst I understand Miss M's position that Barclaycard ought to have done more during this time, I'm mindful it did send regular correspondence. She was also still making repayments, brought the card within the limit and continued to use it. I can't see Miss M informed Barclaycard that she was in financial difficulty, so I'm unable to conclude it ought to have done more. I'm also mindful any forbearance measures, such as freezing interest or repayment plans, which might have been put in place had Barclaycard understood Miss M was in financial difficulties were likely to impair Miss M's credit file. Additionally, I understand Miss M took her own steps to mitigate her situation and consolidate her borrowing.

Weighing up all the information I have, the evidence doesn't satisfy me Barclaycard ought to have done more here, and I can't say it treated Miss M unfairly or unreasonably in some other way. It seems to have regularly contacted her about how she was managing her account but doesn't appear to have been contacted for support. In the circumstances, I don't think it was unreasonable that it didn't do more.

Summary

Overall, and based on the available evidence I don't find that Miss M's relationship with Barclaycard was unfair. It's not clear enough to me that Barclaycard created unfairness in its relationship with Miss M by lending to her irresponsibly initially or with how it responded to her account management. I don't find that Barclaycard treated Miss M unfairly in any other way either based on what I've seen.

My final decision

For the reasons outlined above, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 24 July 2025.

Laura Dean
Ombudsman