

The complaint

Ms I complains that Barclays Bank UK PLC trading as Barclaycard lent to her irresponsibly.

What happened

In January 2005 Ms I opened a credit card account with Barclaycard. The credit limit applicable was as follows:

Date	Event	Amount
28 January 2005	Account opening	£2,750
11 June 2007	Credit Limit Increase (CLI) 1	£3,250
21 September 2010	CLI2	£4,250
25 May 2011	CLI3	£6,250
6 January 2012	CLI4	£8,350
10 June 2013	Credit limit decrease (CLD) 1	£7,900
11 March 2021	CLD2	£250

On 5 February 2025, Ms I complained to Barclaycard. She said her limit had been increased despite missed payments, high credit utilization and escalating fees which should have alerted Barclaycard to the fact that the limit was unaffordable for her. The increases only made her situation worse.

Barclaycard looked into Ms I's complaint and issued a final response letter. It said that the complaint had been brought too late under the complaint handling rules set by the Financial Conduct Authority (FCA), because the lending decisions had taken place more than six years earlier. It didn't investigate the complaint further for that reason.

Ms I didn't accept Barclaycard's response so she referred her complaint to our service. One of our investigators looked into it and felt it was reasonable to consider the complaint as being about an unfair relationship as described in Section 140A of the Consumer Credit Act 1974 (s.140). That being so, she went on to look into the complaint but didn't have enough information from either party to uphold it.

Ms I didn't agree with our investigator. She provided credit card statements which she said showed she was only making minimum payments which only covered interest, so it should have been evident the lending was unsustainable.

As there was no agreement, the complaint 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 Ms I 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. 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 Ms I'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 of the Consumer Credit Act 1974.

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 (Ms I), 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 Ms I 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.

Ms I'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 Ms I 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 Ms I in some other way?

Barclaycard had to carry out reasonable and proportionate checks to satisfy itself that Ms I 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.

Due to the time elapsed, Barclaycard is unable to provide all the information it used to assess Ms I's application for the card and what it considered for the CLI's. I don't find this surprising as businesses aren't required by law or good industry practice to hold records indefinitely – typically, they hold data for around six years – and the last increase took place over 13 years before the complaint was raised.

In order to try to see what Barclaycard might have found at the time of the application and CLI's, our investigator asked Ms I for statements of her current account from the various times. Again, unsurprisingly given the time elapsed, she's been unable to provide any.

So as our investigator said, I can't reasonably reach a finding that Barclaycard did anything wrong in agreeing the account or increasing the limit as it did. I have no information to demonstrate that the limits were unaffordable for Ms I at the time they were provided.

I acknowledge that Ms I feels the bank ought to have done more to help her and she's provided credit card statements from 2018. These show she was making the minimum payments which covered little more than the interest charged (and sometimes didn't quite cover it).

In March 2018, the FCA brought in rules for banks to address persistent debt on credit card accounts. These are set out in the Consumer Credit Sourcebook (CONC). Persistent debt is defined as when a consumer has paid more in interest, fees and charges than they've repaid towards the capital they owe over the previous 18 months. From a review of the statements she's provided, Ms I's account was showing signs of persistent debt – and possibly for a few years. But I can only consider what the bank ought to have done in this regard from when the regulations came into force.

CONC 6.7.27 set a series of milestones credit card providers should follow in relation to persistent debt. Banks were given six months (so to September 2018) to begin to write to consumer's who had been identified as being in persistent debt. The letters began with writing to consumers encouraging them to get in contact to discuss their accounts among other warnings about future use if the situation didn't improve.

Once they had been in persistent debt for 36 months lenders were expected to take further action from asking the consumer for their repayment plans, rescheduling debt onto a loan and suspending account. Following the introduction of the rules, these letters began to be sent to consumers in March 2020, although lenders were asked to use some discretion due to the onset of the Covid-19 pandemic.

I don't have copies of any letters regarding persistent debt sent by Barclaycard, but I can see that Ms I paid the full statement balance of £7,034.99 on her account in full on 5 December 2020. This is within 36 months of the persistent debt rules coming into force, so I don't think Barclaycard would have been required to take further action in this regard.

For the reasons I've already given, I can't conclude that Barclaycard lent irresponsibly to Mrs I or otherwise treated her unfairly in relation to this matter. I haven't seen anything to

suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

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 Ms I to accept or reject my decision before 13 April 2026.

Richard Hale
Ombudsman