DRN-5785839

Financial Ombudsman Service

The complaint

Mrs M complains that Barclays Bank UK PLC lent to her irresponsibly.

What happened

Mrs M applied for and received two loans with Barclays. They were agreed on the following basis:

	Date	Amount	Term	Repayment
Loan 1	22 December 2018	£19,000	48 months	£554.08
Loan 2	13 September 2019	£22,000	60 months	£607.01

Loan 1 was repaid by Loan 2. Loan 2 was repaid in full a few months early on 9 June 2024.

On 2 November 2024, Mrs M complained to Barclays. She said the loans had been unaffordable for her and caused her financial difficulties. She said she struggled to meet the repayments during the Covid-19 pandemic and had to rely "on credit cards for basic groceries and using one credit card to pay another to make ends meet". To resolve her complaint, Mrs M asked Barclays to refund interest and charges she'd paid along with statutory interest.

Barclays looked into Mrs M's complaint and issued a final response letter. As part of its investigation into the complaint, it completed an income and expenditure assessment (i&e) based on the activity through her current account at the time of the applications. It concluded she had more than sufficient disposable income (in excess of £800 per month) to comfortably afford the repayments. It didn't uphold her complaint.

Mrs M didn't accept Barclays response and referred her complaint to our service. One of our investigators looked into it. He noted that Barclays had carried out an i&e at the time of her applications and reviewed information on her credit file. He felt this was sufficient to demonstrate that reasonable and proportionate checks had been carried out at the time. But he felt the i&e was flawed because it had included Mrs M's partners income as being her own. Our investigator said that using just her income (as her partner couldn't be expected to pay towards her credit agreements) the loans were not affordable for Mrs M. He upheld the complaint and explained how he felt it should be put right.

Mrs M accepted our investigator's view of the complaint, but Barclays didn't. It said the regulations allow it to consider income received by another person in an affordability calculation provided it is reasonable to expect it to be available to the customer to make repayments under the agreement. It said Mrs M's partner had been paying into her current account since 2014, so it felt it was reasonable to consider that income as helping towards the loan repayments.

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.

Having done so I reached a different conclusion from that of our investigator. I issued a provisional decision saying:

"We've set out our approach to complaints about unaffordable and irresponsible lending on our website – including the key relevant rules, guidance, good industry practice and law. I've considered this approach when deciding this complaint.

Barclays needed to carry out reasonable and proportionate checks to ensure that it didn't lend to Mrs M irresponsibly. 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 Barclays carry out reasonable and proportionate checks to satisfy itself that Mrs M was in a position to sustainably repay the loans?*
- *If not, what would reasonable and proportionate checks have shown at the time?*
- *Did Barclays make fair lending decisions?*
- *Did Barclays act unfairly or unreasonably towards Mrs M in some other way?*

Barclays had to carry out reasonable and proportionate checks to satisfy itself that Mrs M would be able to repay the loans sustainably. It's not about the bank assessing the likelihood of it being repaid, but it had to consider the impact of the loan 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 each loan, the amount of the monthly repayments and the overall circumstances of the borrower.

When it disagreed with our investigator's view of the complaint, Barclays referred to the regulations which set expectations for lenders in terms of the checks they should carry out prior to agreeing to lend to consumers. These are set by the Financial Conduct Authority, in its Consumer Credit Sourcebook (CONC). Barclays highlighted CONC 5.2A.12 which says:

"The firm must consider the customer's ability to make repayments under the agreement:
(1) as they fall due over the life of the agreement and, where the agreement is an open-end agreement, within a reasonable period;
(2) out of, or using, one or more of the following:
(a) the customer's income;
(b) income from savings or assets jointly held by the customer with another person, income received by the customer jointly with another person or ***income received by another person in so far as it is reasonable to expect such income to be available to the customer to make repayments under the agreement****;…" [my emphasis]*

Loan 1

As part of the application process, Barclays conducted an i&e exercise and, based on the activity through her current account, calculated a monthly income of £3,840; debt repayments of £957 and council tax of £135. It used statistical information to estimate other expenses such as housing, utility bills and other essential expenditure giving a total of £1,266, which when added to her council tax gave a figure of £1,401 for her household expenditure excluding her credit commitments.

Barclays subtracted all her expenditure including payments to creditors – a total overall of

£2,358 – from the joint income giving a monthly disposable income of £1,480 from which to pay the £554 repayment to Loan 1.

Barclays had also conducted a review of Mrs M's credit file and was satisfied with what it saw. I agree with our investigator that I think the checks Barclays carried out to assess her application were fair and reasonable in the circumstances.

Our investigator felt that Barclays should not have included Mrs M's partners income in the i&e and, while he felt it was reasonable for items such as rent and utility to be split between her and her partner, he said she was solely liable for her commitments to her existing creditors. And on that basis, he felt the loan was unaffordable for her.

But half of the household expenses (£1,401) comes to £700. Mrs M at the time was earning £1,717 per month on her own. At the time, she was paying £957 to her existing creditors which left her with just £60 disposable income each month. But the purpose of Loan 1 was to repay her existing creditors which meant she would no longer be paying £957. Instead, she'd be paying £554 a month – a saving of around £400. So based on her income alone, and half the household bills, she would be left with a monthly disposable income of £463 per month.

So I think Loan 1 was affordable for Mrs M at the time and it follows that I think Barclays reached a fair decision to lend to her.

Loan 2

Again, Barclays carried out an i&e exercise when reviewing Mrs M's application. The income through her account had fallen to £2,835 (although her personal income had increased to £1,910 per month). Her other household expenditure (excluding creditors) had fallen slightly to £1,259 of which her 'share' would have likely been half - £630 or so.

But the i&e shows she was also paying £208 to a credit card and a further £208 to another loan – a total of £416, plus the payment to Loan 1. So all told, Mrs M was paying a total of £970 to creditors. Added to her living costs of £630 (a total expenditure of £1,600) this left her with a monthly disposable income of around £310.

Again, it seems Loan 2 was to be used to clear those other debts, reducing her spend from £970 to £607 which seems sensible, increasing her disposable income to £673. That said, this loan application was only nine months after Loan 1 had been agreed, and Mrs M had found herself back in a position where she needed to consolidate her debt once more. Given the proximity of this application to the previous refinance, I would have expected Barclays to take a closer look at Mrs M's finances to make sure the loan would be affordable.

I've thought carefully about what Barclays would have found had it taken a closer look at things. In order to do so, I've looked closely at Mrs M's statements following Loan 1 and this application. I think that is a good way to gain a reasonable understanding of her financial circumstances.

I can see that in that time, her account was well run. There was the occasional overdraft, but no more than £100 which was quickly corrected by transfers from another account. She continued to receive income from her partner and appears to have got married.

Overall, I've not seen anything to suggest Mrs M was experiencing any financial difficulties or was finding it difficult to manage. She had clearly accrued a little more debt following Loan 1, but given she had just married, I don't think that is unusual. Loan 2 would reduce her payments to creditors by £360 or so.

On balance, if Barclays had taken a closer look at Mrs M's application, I think it's likely it would have reached the decision to lend to her. It follows that I think it reached a fair decision to lend to Mrs M.

Mrs M has told us she was solely responsible for all her financial commitments including rent and the bills I've included above. She suggests this demonstrates she couldn't afford the loans. That may technically be the contractual arrangement with the landlord and utility companies, so I've thought carefully about that.

I can see that her partner transferred money each month and in unusual amounts – for example £2,012.46 on 31 October 2018 and £2,048.30 on 30 November 2018 prior to Loan 1. Prior to Loan 2 he sent £1,304.22 on 25 July 2019 and £1,551.78 on 23 August 2019. These seem to me to be more than 'extra help' from a partner, and certainly more than half of the household bills mentioned above. These payments continued after Loan 2 was drawn.

In any event, if I were to accept that Mrs M was expected to fund the commitments on her own, I must also bear in mind the regulatory framework within which Barclays considered her applications. Income from Mrs M's partner has been received into her account since at least 2014, so I think it would be reasonable for Barclays to consider that it was likely to be available to Mrs M throughout the life of the loans.

<u>Did Barclays act unfairly or unreasonably towards Mrs M in some other way?</u>

I've carefully read and considered all the information provided by each party to this complaint. I can see Mrs M made all the payments as they fell due with the exception of those due between July and September 2020 (she made payments due on 1 June and 1 October 2020), when the bank had agreed a payment holiday – presumably due to the Covid-19 pandemic. I can see that Barclays spoke to Mrs M on 5 November 2020 in relation to the end of the payment holiday and she confirmed she was ok to continue paying. I've seen nothing which makes me think Barclays treated Mrs M unfairly in some other way.

For the reasons I've already given, I don't think Barclays lent irresponsibly to Mrs M or otherwise treated her unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A of the Consumer Credit Act 1974 would, given the facts of this complaint, lead to a different outcome here."

Barclays accepted my provisional decision, but Mrs M didn't. She said (in summary):

1. Her partner's contributions were not guaranteed and were irregular.
2. The loans were solely in her name and disproportionate to her income.
3. The lack of an overdraft was not a sign of stability. Barclays had refused to extend her overdraft.
4. I'd made an unfair assumption that her marriage explained the increase in debt. Her partner was in no position to provide sustainable support.
5. Timing between loans should have raised red flags.
6. Reliance on present day credit reports is misleading.
7. Escalation of debt demonstrates that loans were unaffordable.

I explained in my provisional decision the circumstances in which CONC allows a business to take into account the income of another person in its creditworthiness assessment. Mrs M's partner has been paying into her account almost every month from 2014. The amounts paid in were more than enough to cover a part share of rent, bills etc and were generally received around the turn of the month. I consider this to have been regular in terms of timing, although I acknowledge the amount varied each month – as I've described above.

As Mrs M says, the loans were in her sole name – as was the current account into which her partner paid - so I wouldn't expect Barclays to be aware of any financial issues he may have had. It could see significant sums of money coming from him into the account on a regular basis for a sustained period of time. Given the regulations within which Barclays has to work, I don't think it was wrong for it to expect the receipts to continue and therefore take the money into account when assessing the affordability of the loans.

I don't think Barclays refusal to grant an overdraft is an indication that it shouldn't agree a loan. The two are very different products and have different lending criteria, costs and risk factors for both parties.

There was a relatively short space of time between the loans – nine months. I note her comments about the increase in the amount of debt involved. But for the reasons I explained in my provisional decision, in my experience, I don't think that is unusual given the circumstances at the time. That said, an increase in debt can occur for many different reasons and may have been entirely unrelated to Mrs M's wedding, so I apologise for any offence my comment may have caused. However, as I've set out earlier, I think Barclays fairly assessed her application for Loan 2 which brought her debt into one agreement and increased her disposable income.

In point 6, Mrs M has said quite rightly that *"Barclays' lending decisions should be assessed against my financial position at the time, not with the benefit of hindsight"*. Barclays did make those decisions based on her circumstances at the time – clearly it can't have used hindsight. In my role, I do have to look back at the evidence provided by each party, and have considered what Barclays knew at the time, what Mrs M told it and what it found for itself. I've reached a view that the information it considered was sufficient for it to *"satisfy itself that Mrs M was in a position to sustainably repay the loans"* – one of the tests I set out in my provisional decision. I am satisfied that based on that information, it reached fair decisions to lend.

I appreciate that Mrs M will be disappointed by my decision, and I am sorry for that. However, my role is to decide complaints based on the evidence available, the law, regulations and good industry practice and on the basis of what I believe is fair and reasonable in all the circumstances. If Mrs M is currently in financial difficulties, I'd encourage her to talk to her creditors to see how they can assist her.

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 Mrs M to accept or reject my decision before 1 October 2025.

Richard Hale
Ombudsman