

Complaint

Mr D has complained about credit cards Barclays Bank UK PLC (trading as “Barclaycard”) provided to him. He says that the credit cards were unaffordable and caused ongoing difficulty.

Mr D is being assisted in his complaint by his daughter. However, for ease of reference, I’ll refer to Mr D throughout this final decision.

Background

This complaint is about four credit cards, which Barclaycard initially provided to Mr D. The history of these cards (in relation to the lending decisions pertinent to this decision) is as follows:

Account A

Date	Event
May 1984	Account opened with limit of £2,300.00
April 1997	Limit increase to £3,300.00
January 2005	Limit increase to £6,750.00
April 2009	Limit increase to £8,750.00
December 2009	Limit increase to £10,750.00
August 2010	Limit increase to £12,000.00

Account B

Date	Event
November 1992	Account opened with limit of £1,500.00
December 1996	Limit increase to £1,800.00
October 2000	Limit increase to £2,300.00
July 2001	Limit increase to £2,700.00
December 2009	Limit increase to £4,700.00
August 2010	Limit increase to £7,100.00
June 2011	Limit increase to £9,500.00

Account C

Date	Event
April 2008	Account opened with limit of £4,000.00
March 2011	Limit increase to £5,000.00

Account D

Date	Event
July 2008	Account opened with limit of £10,250.00

In March 2024, Mr D complained saying that the credit cards and the limit increases Barclaycard provided to him were unaffordable and caused him difficulty as he had to use his pension to repay the debt.

Barclaycard did not uphold Mr D's complaint as it believed that he had complained too late. When responding to our request for its file on Mr D's complaint, Barclaycard reiterated its view that Mr D had complained too late.

One of our investigators reviewed what Mr D and Barclaycard had told us. And he thought Barclaycard hadn't done anything wrong or treated Mr D unfairly in relation to providing either of the credit cards, or increasing Mr D's credit limits on the occasions that it did. So he didn't recommend that Mr D's complaint be upheld.

Mr D disagreed and asked for an ombudsman to look at the complaint.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Basis for my consideration of this complaint

There are time limits for referring a complaint to the Financial Ombudsman Service. Barclaycard has argued that Mr D's complaint about the decisions to provide the credit cards and the limit increases was made too late because he complained more than six years after these lending decisions; as well as more than three years after he ought reasonably to have been aware of his cause to make this complaint.

Our investigator explained why Mr D's complaint was one alleging that the relationship between him and Barclaycard was unfair to him as described in s140A of the Consumer Credit Act 1974 ("CCA"). She also explained why this complaint about an allegedly unfair lending relationship had been made in time.

Having carefully considered everything, I've decided not to uphold Mr D's complaint. Given the reasons for this, I'm satisfied that whether Mr D's complaint about the specific lending decisions was made in time or not has no impact on that outcome.

I'm also in agreement with the investigator that Mr D's complaint should be considered more broadly than just the lending decisions. I consider this to be the case as Mr D has not only complained not about the respective decisions to lend but has also alleged that this created unfair lending relationships as he found it difficult to make his payments.

I'm therefore satisfied that Mr D's complaint is a complaint alleging that the lending relationships between himself and Barclaycard were unfair to him. I acknowledge Barclaycard may not agree that we can look at Mr D's complaint, but given the outcome I have reached, I do not consider it necessary for me to make any further comment, or reach any findings on these matters.

In deciding what is fair and reasonable in all the circumstances of Mr D's case, I am required to take relevant law into account. As, for the reasons I've explained above, I'm satisfied that Mr D's complaint can be reasonably interpreted as being about the fairness of the lending

relationship between him and Barclaycard, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (Barclaycard) and the debtor (Mr 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. S140B 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 Mr D's complaint, I therefore need to think about whether Barclaycard's decisions to initially lend to Mr D, increase his credit limits on the occasions it did, or its later actions resulted in the lending relationships between Mr D and Barclaycard being unfair to Mr D, such that it ought to have acted to put right the unfairness – and if so whether it did enough to remove that unfairness.

Mr D's relationships with Barclaycard are therefore likely to be unfair if it lent contrary to the rules, regulations and expectations at the relevant times. And if this was the case, Barclaycard then didn't somehow then remove the unfairness this created.

I've considered Mr D's complaint in this context.

The expectations expected of Barclaycard when it agreed to provide these credit cards and credit limit increases to Mr D

We do have an explanation about how we handle complaints about unaffordable and irresponsible lending on our website. However, the vast majority of our website guidance covers regulated lending. So I think that the information on our website and our typical approach to lending complaints has only very limited, if any, relevance to Mr D's complaint about the decision to provide the credit cards and all the increases bar the final one on Card B.

Mr D applied for credit cards in May 1984, November 1992, April 2008 and July 2008. These decisions to lend not only predated the current regulator's (the Financial Conduct Authority ("FCA")) rules and guidance which came in, in April 2014, the first two cards were provided before the regulation of consumer credit and the second two cards were provided before the then regulator of consumer credit the Office of Fair Trading ("OFT"), published its Irresponsible Lending Guidance ("ILG") in March 2010.

Prior to the regulation of consumer credit, while a number of lenders signed up to various voluntary codes, a lender wasn't required to be regulated in order to provide credit. Therefore, the decisions Barclaycard made to offer Mr D his credit card and increase his limit on all bar the final occasion on Card A, the final two decisions on Card B and the decision to

increase the limit on Card C¹ all took place prior to the introduction of the main regulations and standards in relation to irresponsible and unaffordable lending.

Indeed, irresponsible lending only became a nebulous concept when the 2006 revisions to the Consumer Credit Act 1974 came into force on 6 April 2007. Even then, the main guidance regarding this wasn't introduced until the OFT published its ILG in March 2010. So it's fair to say that all but four of the lending decisions Mr D is complaining about took place prior to there being any sort of clear regulatory requirements in place on Barclaycard.

That's not to say that there weren't any expectations or standards in relation to lending at the time it provided Card A² and Card B as well as the first eight limit increases on those cards. The then British Bankers' Association ("BBA") had a Banking Code, which was in place at the time and represented good industry practice.

However, it would be fair to say that its obligations and responsibilities were much more limited and they certainly were not the same as they are now. For example, the concepts of irresponsible lending, borrower focused assessments and proportionate checks were not part of the expectations or requirements at the time. Indeed, it's fair to say that any checks were more concerned with a lender assessing the likelihood of it getting its money back rather than the impact of any repayments on the customer.

What a subscriber to the banking code – such as Barclaycard here - agreed to do at the time of the above lending decisions, was assess whether it felt that a borrower would be able to repay any credit provided. I therefore need to consider Mr D's complaint about the decision to provide these cards and all the increases bar the final one on Card B in relation to the expectations that were in place on a lender at this time.

Application to Mr D's complaint – Bearing in mind the expectations at the time did Barclaycard act fairly and reasonably towards Mr D when agreeing to provide the credit cards and the credit limit increases that it did prior to March 2010?

Barclaycard hasn't been able to say much about the checks that it carried out at the time it accepted Mr D's applications or increased his credit limits on the occasions that it did prior to the ILG being published in March 2010.

Nonetheless, what's important to note is that Mr D was provided with revolving credit facility rather than a loan. And this means that for Card A, Barclaycard was required to understand whether credit limits of between £2,300.00 to £10,750.00 for Card A, credit limits of between £1,500.00 to £7,100.00 for Card B, a credit limit of £4,000.00 for Card C and finally a credit limit of £10,250.00 for Card D, could all be repaid within a reasonable period of time.

Barclaycard hasn't been able to provide any details on what it found out about Mr D as a result of the credit checks that it carried out before accepting Mr D's initial applications for these cards, or offering the relevant limit increases. Given the most recent of these lending decisions took place over fifteen years ago and the earliest decision took place over four

¹ The decisions to provide Card A and the first two limit increases as well as Card B and the three limit increases on it all took place prior to it being a requirement for a lender to obtain a licence, from the Office of Fair Trading ("OFT"), in order to carry out consumer credit activities. While the decisions to provide Card C and Card D, the third and fourth limit increases on Card A and the fifth limit increase on Card B took place after the requirement to hold a licence from the OFT came into force on 6 April 2007, these decisions took place before the OFT issued its main guidance on what constituted irresponsible lending.

² As Card A was provided in 1984, there were no standards of note in relation to lending at all at the time Barclaycard took its decision to provide Mr D with a credit card.

decades ago, I simply wouldn't expect a lender to have retained this information. Therefore, I've not drawn any adverse conclusions as a result of Barclaycard not being able to provide this information.

In any event, I'm also mindful that I've not been provided with any information and neither has it even been argued, that Mr D had any significant adverse information – such as defaulted accounts or county court judgments (“CCJ”) recorded against him at the time he was provided with this credit card or the first five limit increases.

Furthermore, Barclaycard clearly felt that Mr D could repay amounts of £2,300.00 to £10,750.00, £1,500.00 to £7,100.00, £4,000.00 to £10,250.00 within a reasonable period of time. As I've explained, it's fair to say the limited guidance and standards in place during this time, were more geared to a lender taking steps to ensure it would get its money back rather than requiring a lender to understand how a borrower would make their payments.

In these circumstances, I think it is unlikely that Barclaycard would have lent in circumstances where it didn't consider that there was a reasonable chance of it being repaid any sums that it advanced. Given all of this, without anything to show that this clearly wasn't the case, I'm not persuaded that it was unreasonable for Barclaycard to feel that Mr D could repay amounts of between of £2,300.00 to £10,750.00, £1,500.00 to £7,100.00, £4,000.00 to £10,250.00 within a reasonable period of time.

As this is the case, I'm satisfied that it was not unfair for Barclaycard to have accepted Mr D's application for these credit cards, or increase his credit limits on the first four occasions that it did on Card A, or on the first four occasions that it did on Card B and therefore there was no unfairness created at these respective stages.

The expectations expected of Barclaycard when it agreed to provide the final limit increase on Card A, the final two limit increases on Card B and the limit increase on Card C to Mr D

Barclaycard's decision to increase Mr D's credit limit on the final occasion it did on Card A, the final two occasions that it did on Card B and the only occasion it did on Card C all took place after the FCA took over regulation of consumer credit and it had published its Consumer Credit Sourcebook (“CONC”). By this stage, the OFT's ILG set out that a lender was required to carry out proportionate checks into a customer's circumstances in order to reach a reasonable determination on whether they could repay any credit provided

I understand that that before providing these credit limit increases, Barclaycard carried out credit checks. Once again, Barclaycard hasn't been able to provide the results of these checks and I wouldn't expect it to have retained this information given the length of time that has passed. Although there is still no suggestion of Mr D having any significant adverse information recorded against him at these stages.

However, as Mr D was being provided with credit limits of £7,100.00, £9,500.00, £5,000.00 and £12,000.00, I think that such limits will have required reasonably chunky monthly repayments, in order to repay what could have been owed within a reasonable period of time. To be clear, while a reasonable period of time wasn't defined it was generally accepted that the typical term a fixed-sum loan for an equivalent amount would be taken over, provided a useful yardstick. Amounts of this much were typically repaid over terms of five to seven years.

In these circumstances, I would have expected Barclaycard to have found out more about Mr D's income and expenditure, including information on his regular committed living costs, before offering to increase Mr D's credit limit on the four occasions that it did after the introduction of the ILG.

As Barclaycard hasn't provided me with any indication that it did do this, let alone what the results showed, I don't think that the checks it carried out before it increased Mr D's credit limit for the final time on Card A, the final two times it did on Card B on the occasion that it on Card C were reasonable and proportionate. I'll now proceed to consider whether it is more likely than not that Barclaycard finding out more about Mr D's circumstances, would have resulted in it taking a different decision to lend to him.

Would further checks have made a difference to Barclaycard's decisions to offer the final limit increase on Card A, the final two limit increases on Card B and the limit increase on Card C to Mr D

I've already explained why it is that Barclaycard has not persuaded me that it carried out proportionate checks on Mr D's circumstances, prior to providing the limit increases that it did after the introduction of the ILG.

However, even though I've not been persuaded that Barclaycard did enough to establish whether the payments to the final four limit increases were affordable, this doesn't on its own mean that Mr D's complaint should be upheld. This is because where a firm failed to carry out reasonable and proportionate checks before providing credit or increasing the amount available to a customer, I'd usually go on to recreate reasonable and proportionate checks in order to get an indication of what such checks would more likely than not have shown.

I've therefore considered the information Mr D has provided with a view to determining whether Barclays carrying out further checks would more likely than not have made a difference to its decision on providing the final four limit increases if offered to Mr D. Having done so, the information Mr D has provided doesn't persuade me that proportionate checks would have made a difference here.

I say this because it seems to me that when what I've seen Mr D's non-credit related committed expenditure is added to his existing credit commitments and then deducted from his income he did have sufficient funds to be able to repay the extra he could have to as a result of these credit limit increases. In these circumstances, I don't think that Barclaycard finding out more about Mr D's income and other living expenses would, in any event, have resulted in it determining that Mr D would be unable to make the monthly payment he could have had to make as a result of using the additional credit that was made available to him.

I accept that Mr D has referred to his overall financial position being worse than what I've able been able to discern. I note that he has provided details of what he was paying to HMRC and referred to the content of his bank statements. But what I need to think about here is what Barclaycard is likely to have known if it had carried out proportionate checks, not what it would have known if it had carried out a full review of Mr D's financial circumstances. After all, Barclaycard wasn't providing Mr D with financial advice, it was deciding whether it wished to offer him the option of further credit.

Bearing in mind checking bank statements and asking for tax returns, wasn't the only way for Barclaycard to have found out more about Mr D's actual living costs isn't even what is necessarily expected now, I don't think that proportionate checks would have extended into obtaining the bank statements provided, or looking at the various other products Mr D has provided details on.

It's clear that Mr D feels strongly about his complaint and I do sympathise with the difficulties that he says he had making his repayments, that he's had to use his pension to repay his balances and the impact he's said that this will have on his retirement. I also accept that given the rules, guidance and standards in place today - in relation to a lender now needing

to ensure that it does not lend irresponsibly rather than just considering the credit risk – it's possible that Barclaycard might not take the same lending decisions today.

However, as I explained earlier on in this decision, all I can do is consider whether Barclaycard lent contrary to any rules and regulations (where applicable) and expectations in place at the relevant times. Finding that a firm was required to do something that it wasn't, or retrospectively applying rules that didn't apply at the time, would not only result in a decision that is not fair and reasonable all the circumstances, such action would result in a decision that was unlawful.

So I can't view whether Barclaycard treated Mr D fairly and reasonably through the prism of today's standards. Indeed, some of what Mr D has said that Barclaycard should have considered – such as bank account statements, tax returns and different products as well as carrying out overdraft style annual reviews – aren't even requirements today.

Furthermore, most of what Mr D has read and has referred to, in support of his complaint, relates to irresponsible lending. And I've explained that this simply wasn't a concept that Barclaycard would have had to have had regard to, when all bar the final four lending decisions in this case were made. I'm satisfied that Barclaycard didn't act unfairly bearing in mind everything that I've been required to consider in the circumstances of this case.

Overall, and based on the available evidence I don't find that Mr D's relationships with Barclaycard were unfair. I've not been persuaded that Barclaycard created unfairness in its relationships with Mr D by irresponsibly lending to him whether when initially agreeing to provide him with credit cards, or in respect of offering credit limit increases on them. I don't find Barclaycard treated Mr D unfairly in any other way either based on what I've seen.

So while I can understand Mr D's sentiments and appreciate why he is unhappy, I'm nonetheless not upholding this complaint. I appreciate this will be very disappointing for Mr D. But I hope he'll understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 2 March 2026.

Jeshen Narayanan
Ombudsman