

complaint

Mr E and Ms O complain that Barclays Bank UK Plc:

- Didn't take steps to protect their respective positions when it was aware – or ought reasonably to have been aware – that there was a marital dispute between them.
- Hasn't treated them fairly when they experienced financial difficulty
- Has unfairly recorded a default on their credit files.

background

The background to this complaint was set out in my provisional decision, which is attached and forms part of this decision.

Subject to any further submissions, my provisional decision was to uphold the complaint. In summary, I found:

- It's not clear how Mr E's other accounts really affected the joint account. While it was reasonable to take the other accounts into account, they didn't really make any difference to the affordability of the joint account or the ability of Mr E and Ms O to come to an acceptable arrangement to repay the overdraft.
- Barclays ought reasonably to have known there was a dispute between Mr E and Ms O at the latest in April 2016. It wasn't fair or reasonable for Barclays to do nothing once it was aware of the dispute. In the circumstances of this case, it should have made sure all transactions were authorised by both parties and sent any correspondence to both account holders.
- Barclays hadn't done enough to communicate with Ms O in a way that was clear, fair and not misleading – both when it spoke to her and by not sending all of the correspondence to her.
- It would have been reasonable for Barclays to have concerns about whether Mr E and Ms O were in financial difficulty when the overdraft exceeded its limit in March 2016.
- It was in line with good industry practice to obtain details of income and expenditure, but there were a number of shortcomings in the way that Barclays gathered and dealt with that information that I set out in detail in my provisional decision. While Mr E and Ms O must bear some responsibility for the position they were in and Barclays had acted reasonably by giving them "breathing space" and agreeing other arrangements, it was due to Barclays' errors that no payment arrangement was reached.
- I agree that Barclays is obliged to record true and accurate information about the conduct of Mr E and Ms O's account. But for the reasons I've explained above, I think the default largely came about because of failures by Barclays to deal with Mr E and Ms O in a fair and reasonable way. I'm not persuaded that the default is a true reflection of Mr E and Ms O's creditworthiness.
- I didn't consider it was fair for Barclays to record a default against Mr E and Ms O in the individual circumstances of this complaint. I considered that Barclays should remove the

default from Mr E and Ms O's credit file. In this case, there are a number of variables that could have affected how the account operated. So I think the fairest outcome would be to show the joint account as settled in full at the time the account was defaulted. But I will consider the responses from all parties about what should be recorded on the credit files in regard to the joint account once the default is removed.

- Barclays should pay Mr E £350 and Ms O £250 for any trouble and upset they suffered as a result of this matter.

responses to my provisional decision

Mr E and Ms O's representative responded to say that they had no further comments on the facts of the complaint or my analysis and they accepted my provisional decision. Mr E said that he didn't think £600 compensated him for the distress he suffered – but he was prepared to accept the decision.

Barclays didn't accept my provisional findings. It made a number of points, including:

- When Ms O asked for the account to be changed to a sole account it would have been unfair to apply restrictions to the account. It wasn't aware of divorce proceedings in March 2016. And in any event, if restrictions had been placed on the account, it wouldn't have made any difference as only charges were debited from the account.
- It was aware of potential signs of financial difficulty and issued letters in March and April 2016 alerting the customer to the account's position and asking that they contact Barclays for support.
- Barclays froze charges and placed "breathing space" holds on the account to help the customers. It also managed Mr E's other accounts and another joint account within limits, preventing adverse data being recorded across all of the accounts.
- Ms O did not make any offer of payment according to its phone notes of the calls of 29 July and 1 September 2016. The second call took place after the "default expiry date" and any action could not prevent the default being applied.
- The account was not brought within the agreed overdraft limit until October 2016. The excess on the account was not paid during the period.
- The account was terminated and defaulted in line with the termination notice that was sent to both Mr E and Ms O on 27 July 2016 – and it also set out that information about the account would be recorded with credit reference agencies.
- The defaults were applied in line with the termination notices. In the call of 6 May 2016 Mr E says that he doesn't have the funds to clear the full balance and requested a payment arrangement of £50 a month. That would be insufficient to bring the account balance within its limit. If Mr E were to receive a bonus payments in April 2017, this would be outside the twelve months since the account was passed to Barclays collections department. It wouldn't ordinarily take bonus payments into account.
- The "CRA Guidance" says that an overdraft in excess of its limit for "at least three months with no evidence that the account is to be brought in order or no credit recorded

for three months are triggers for defaults” – and Mr E and Ms O met at least one of those conditions at the time the account defaulted.

- The Information Commissioner’s Office (ICO) guidance – Principles of Reporting Arrears and Arrangements at Credit Reference Agencies says a default shouldn’t be applied where: a payment is made on time that fully meets the terms set out in the default notice; an arrangement is reached with the lender and the arrangement is kept; if the amount outstanding is solely made up of fees and charges, or; if a customer is deceased. None of those things applied here.
- The ICO guidance says that default should be applied three to six months after the account is in arrears, but recognises latitude for some accounts, including current accounts. Barclays considers it has given Mr E and Ms O time and opportunity to bring the account in order.
- The terms and conditions of the account only require information to be submitted to credit reference agencies at the point of default. So it wasn’t accurate to say the customers’ account would be clear – “*the account would not be submitted in any form*”.
- The account was managed by Barclays’ collections team from March 2016, with excesses on the account from February to November 2016 and its collections process would have required excesses to be cleared to prevent the account being transferred to Barclays’ recoveries team.
- Amending the credit file data to show it was settled on the date of default is inaccurate, misleading and not in line with the ICO guidance or responsible lending. The account wasn’t paid in full until April 2018, which suggests Mr E didn’t receive a bonus in April 2017.
- Employers will have their own criteria and levels of credit checks when making a job offer. It is up to each employer to assess the level of risk of a candidate.
- Reviewing account ending 5279 in isolation is not representative of the complainants’ financial positions at the time. Barclays’ actions prevented the other accounts defaulting.

my findings

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 have reached largely the same outcome as in my provisional decision. I’ll explain why.

marital dispute

I think it is likely that Barclays would have known about the marital dispute in April 2016 when Ms O asked for the account to be switched to sole names. But even if it didn’t, Barclays phone note of 6 May 2016 records a “*marital breakdown*”. It should clearly have acted on that at that point at the latest. It wasn’t fair or reasonable to wait until September 2016.

I accept that the position of this account hasn’t been affected by not placing a block on the account. Neither party is saying that transactions were made on the account without their authorisation. But I still consider that in view of its knowledge of the dispute, Barclays should

have done more to make sure that Ms O understood what was happening with the account by sending all correspondence to both account holders.

While the terms and conditions of the account might say that it is for the customers to ask for the bank to write to both joint account holders, I think it would be reasonable for Barclays to have told Mr E and Ms O of this requirement once it was aware of the marital dispute. If it had done so, I see no reason why both Mr E and Ms O would not have wanted any correspondence to be sent to each of their addresses. So if Barclays had acted fairly it would have written to both Mr E and Ms O.

I can see all the correspondence was sent to Mr E. I'm satisfied that Barclays took reasonable steps to make him aware of the termination of the account and that included that the overdraft limit had been withdrawn – I will deal with the fairness of that below.

Barclays has given a copy of a termination notice that was sent to Ms O at her home address on 27 July 2016. That letter sets out that it was terminating its agreement on 10 August 2016 and that the full overdrawn balance was repayable by that date.

In my provisional decision I found that Barclays didn't communicate clearly with Ms O during a phone call on 1 September 2016. Barclays now says, that it was too late by then to stop a default being applied. Even if that is correct, there was a missed opportunity in the July phone call to set out that Ms O was jointly and severally liable for the debt on the account and that she could provide details of her income and expenditure so that Barclays could assess if a payment arrangement was appropriate.

default

I accept all of the points that Barclays makes about its usual procedures – and applying those procedures may result in a fair outcome for many customers. I also note the assistance that it gave to Mr E and Ms O. But it doesn't follow that Barclays has treated Mr E and Ms O fairly and reasonably in the individual circumstances of this complaint.

I also accept what the ICO guidance says. I have taken that into account in deciding what I think is fair and reasonable in the circumstances of this case. I note it does not say that a default *must* be applied in these circumstances. And in fact, I don't consider it helps Barclays here.

Barclays has pointed out that the ICO guidance says that a default shouldn't be applied if a payment arrangement is reached and that as no payment arrangement was reached, it was reasonable for it to apply a default. But my point is that I consider in the circumstances of this case, Barclays should have considered and offered a payment arrangement to Mr E and Ms O in an effort to treat them fairly and engage with them in a reasonable way, instead of just going ahead with the default.

I note the other information provided by Barclays. The "steering committee on reciprocity Data Quality Reference Guide" is dated January 2019. That is after the events I'm considering here. But even if I were to take that into account, along with all the other guidance, I don't consider it follows that the default was applied fairly in the circumstances of this case. I say that because the guide says that a default "*may be recorded to show that the relationship has broken down.*" First, that does not oblige a lender to record a default in every case, only that it may do so. There are likely to be circumstances where it isn't fair. Secondly, it suggests the reason for the default is that the relationship has broken down. While there were some failure by Barclays to engage and communicate in a fair and

reasonable way, I consider that Mr E wanted to come to an arrangement. Based on the information we have was likely to be able to afford to do so. So the breakdown in the relationship was largely one sided – and I think any failure of Mr E to engage was down to a lack of clear communication from Barclays as I will explain below.

Barclays failed to reach an agreement with Mr E and Ms O before the account defaulted. But I don't consider that was largely Mr E or Ms O's fault. Barclays had an overriding obligation to communicate in a way that was clear, fair and not misleading. After listening to the phone calls that Barclays had with Mr E and Ms O, I don't consider that it explained to Mr E and Ms O in an appropriately clear way what was happening. Barclays may have been following its procedures, but Mr E and Ms O would not have been aware of them. I think it is more likely than not that a suitable payment arrangement could have been reached if Barclays had communicated more clearly. I say this for largely the same reasons I set out in my provisional decision:

- When Mr E spoke to Barclays on 2 June 2016, the details of his income and expenditure were sufficient for Barclays to agree a payment arrangement – he had a surplus of £580 a month. It wasn't agreed because Mr E didn't know the exact amount he paid for his water bill. Realistically this was never going to have a significant impact on Mr E's disposable income (the water bill turned out to be £40 a month). I consider it would have been reasonable for Barclays to come to a payment arrangement at this point. And it supports my point that this wasn't a case where Mr E and Ms O couldn't afford a payment arrangement – or that they weren't willing to pay – but rather an unfortunate breakdown in communication. It doesn't seem fair to apply a default in these circumstances.
- When Mr E spoke to Barclays on 29 July 2016, Barclays told him it didn't understand why a payment arrangement wasn't put in place on 2 June and it "*would definitely be able to put something in place before it defaults*". It was reasonable for Mr E to understand from that statement that an arrangement would be put in place shortly. If time really was of the essence at this point it would have been reasonable for Barclays to set out the time constraints much more clearly than it did.
- The communication in the phone call of 30 August 2016 was poor. There was confusion about the amount Mr E was paying towards child care, care for adults, his pension and internet/landline. Bearing in mind the importance of the income and expenditure figures I think Barclays could have done more to ensure that the figures it recorded were accurate. After listening to this phone call I am not confident that the figures gathered during this phone call were correct or properly reflected Mr E's expenditure. I don't agree with Barclays' view that this phone call meant it couldn't agree to a payment arrangement.

Even if expenditure was correct (and I am not persuaded it was) there was clearly room for Mr E to budget in a number of areas. If Barclays had done more to communicate clearly and fairly I think it is likely that he could have reduced his expenditure in a number of areas. The objective of the phone calls should have been to arrive at a sensible payment arrangement that was fair to both parties. There should have been some flexibility in the way Barclays dealt with these conversations.

- I note the points that Barclays made about Mr E's bonus. It might have been the case that it wouldn't have been acceptable to Barclays for any number of reasons – although I'm not sure it will always be fair to apply its policies so rigidly. But the difficulty is that we

don't know if the bonus would have been acceptable, because Barclays didn't adequately explore this point. I think it would have been reasonable to do so, whether it materialised or not. As it didn't this adds weight to my decision that the default came about because Barclays didn't engage with Mr E and Ms O fairly.

- On 12 September 2016, Barclays told Mr E it had agreed a payment arrangement only to withdraw it the following day. Mr E was understandably confused by the change in approach (and tone) by Barclays when he spoke to it on 13 September. Barclays said it had made a mistake on 12 September – and it accepted that. But it didn't handle the mistake well. In the circumstances, it could have done more to set out what Mr E needed to do.
- Barclays missed opportunities to explain the position of the account fully to Ms O. I accept that she ought reasonably to have been aware that the overdraft had been withdrawn. But she was led to believe during the last phone call Barclays had with her that it was likely that an arrangement could be reached. Barclays now say that in fact, it was too late by this point as a default had passed its "expiry date". If that was the case, it would have been reasonable to tell Ms O that during that call. It was wrong to lead her to believe that an arrangement with Mr E was imminent.

Bearing in mind Barclays' duty to communicate in a way that is clear, fair and not misleading, Barclays could have made clear to her that she remained jointly and severally liable for the debt. It's not clear why Barclays didn't take steps to attempt to obtain details of her income and expenditure to assess whether she could contribute towards a payment arrangement. It is more likely than not that if Barclays had asked Ms O for this information she would have supplied it. It follows that it would have been more likely that an acceptable payment arrangement could have been reached.

Barclays did not have to rely on Mr E's sole income and expenditure – and the potential difficulties it has identified. It always had the option of approaching Ms O, which it failed to do. Considering it had spoken to Ms O and had her contact details, it wouldn't have been difficult to go back and speak to her to see if a payment arrangement could have been reached.

If Barclays had acted fairly and reasonably, I consider that it is likely that it would have reached a payment arrangement with Mr E following the conversation of 2 June 2016. It was wrong to rely on the flawed income and expenditure details taken during the phone call of 30 August 2016. And if it had given Ms O full information about the account and her liability, it's more likely than not that she would have given details of her income and expenditure, making it more likely that an arrangement could be reached to avoid a default.

I consider that if Barclays had dealt fairly with Mr E and Ms O it is likely it would have reached an arrangement with them that prevented the account being defaulted. Bearing in mind the importance of not having a default to Mr E, I think it is likely that he would have maintained the payment arrangement if one had been agreed. I say this as Mr E has given evidence that he made regular monthly payments to the debt collection agency before clearing the debt in full with a lump sum payment.

Barclays says that the debt wasn't paid until April 2018 and that suggests that Mr E and Ms O couldn't afford to pay back the debt faster than that – so a default would have been inevitable in any case. I don't agree. The circumstances were different once the default had already been applied. It doesn't follow that Mr E and Ms O couldn't afford to set up a

payment arrangement with them. Mr E was engaging with Barclays. But Barclays failed to gather accurate income and expenditure details from him. And in the circumstances of this case, it also failed to do enough to ask Ms O for her income and expenditure details.

I note that Barclays says that it's not reasonable to look at this account in isolation and that the only way the other accounts didn't fall into trouble was because of the steps it took in this case. But I can't see why Barclays wouldn't have taken into account any other liabilities Mr E and/or Ms O held with it when carrying out income and expenditure exercises. It is difficult to see how any of the accounts were sustainable if the income and expenditure exercise on 30 August 2016 was accurate. But Barclays says the other accounts were operating within agreed limits. It supports my finding that the information gathered on 30 August was likely to be flawed. Looking at the information Barclays has given us I don't consider it has shown that all of the accounts were unsustainable and that defaulting one was unavoidable.

I agree that Barclays is obliged to record true and accurate information about the conduct of Mr E and Ms O's account. But for the reasons I've explained above, I think the default largely came about because of failures by Barclays to deal with Mr E and Ms O in a fair and reasonable way. I'm not persuaded that the default is a true reflection of Mr E and Ms O's creditworthiness.

So I don't consider it was fair for Barclays to record a default against Mr E and Ms O in the individual circumstances of this complaint. I consider that Barclays should remove the default from Mr E and Ms O's credit file.

Barclays has told us that it would not have recorded anything with credit reference agencies in respect of this account if the account wasn't defaulted. It follows, that I consider any record of this account should be removed from both Mr E and Ms O's credit files.

putting things right

I've reached the same conclusions I did in my provisional decision. Other than saying that Barclays should remove any record of the account from both Mr E and Ms O's credit files, my proposed redress hasn't changed.

I've already found that Barclays didn't properly deal with the marital dispute. While Ms O had some information about the account, she didn't know everything that happened. I consider this has caused her some unnecessary worry and inconvenience. And there was some avoidable confusion about what the overdraft limit was and whether it had been withdrawn.

I also think the way that Barclays dealt with Mr E has caused him trouble and upset. He had to provide very detailed information about his income and expenditure a number of times. That wouldn't have been necessary if Barclays hadn't lost the information he provided on 2 June 2016.

Barclays raised Mr E's hopes by leading him to believe that a payment arrangement would be agreed in its phone call of 12 September. But when he phoned back the following day, it told him that was a mistake. I don't consider Barclays handled that with appropriate sensitivity and it reasonably should have done more to see if there was anything else it could do to put a mutually acceptable payment arrangement in place.

Both Mr E and Ms O have also suffered stress and worry because of the default that has been recorded against them. Mr E particularly has had the worry that if he were to look for a

new job in the financial services sector, any prospective employer is likely would carry out a credit check and discover the default. I've already found that if Barclays had acted reasonably it's likely that a default could have been avoided – and that it wasn't fair for it to record a default in the individual circumstances of this case.

Barclays passed the debt to a debt collections agency. Ms O has said that she found the contact from this agency stressful. And that would also have been avoided had Barclays acted fairly in the first place.

Taking all of that into account, I consider that Barclays has caused Mr E and Ms O material distress and inconvenience. The amount of trouble and upset that Mr E and Ms O have suffered will be different. So I think that Barclays should make a payment to each of them. Bearing in mind the circumstances set out above I consider it would be fair for Barclays to pay Mr E £350 and Ms O £250 to reflect the trouble and upset they have each experienced as a result of this matter.

my final decision

My final decision is that I uphold this complaint. Barclays Bank UK Plc should:

- Remove any record of the joint account that was defaulted from both Mr E and Ms O's credit files.
- Pay Mr E and Ms O £600 for any trouble and upset. The £600 should be divided as follows:
 - pay £350 to Mr E
 - pay £250 to Ms O

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E and Ms O to accept or reject my decision before 7 March 2020.

Ken Rose
ombudsman

copy of provisional decision

complaint

Mr E and Ms O complain that Barclays Bank UK PLC:

- Didn't take steps to protect their respective positions when it was aware – or ought reasonably to have been aware – that there was a marital dispute between them.
- Hasn't treated them fairly when they experienced financial difficulty
- Has unfairly recorded a default on their credit files.

background

Mr E and Ms O held a joint bank account with Barclays. The account had an overdraft facility. In March 2016, Mr E and Ms O separated and began divorce proceedings. The balance of the joint account was over the agreed overdraft limit. Despite Mr E speaking to Barclays to try and address the situation, Barclays defaulted the account in September.

Mr E and Ms O don't consider that Barclays has treated them fairly for a number of reasons, including:

- It didn't take any action once it was aware of the marital dispute.
- It should have known that Mr E and Ms O lived apart and so should have written to each of them separately.
- There was confusion about what the overdraft limit was. Mr E says he understood that his overdraft was withdrawn during the period in question, but Barclays' response suggests it wasn't. The overdraft was only £300 over the limit and that was easily rectifiable if the bank had communicated clearly.
- Although Barclays took some steps to find out Mr E's financial circumstances it didn't ask Ms O so therefore had an incomplete picture of the overall financial position.
- Barclays should have done more to propose a solution to address the arrears. It was clear that Mr E was keen to avoid a default and had made payments to bring the account within the previously agreed overdraft limit of £2,500. It was unfair to close the account and register a default without agreeing an affordable repayment plan.
- Barclays defaulted the account prematurely. There was no breakdown in the relationship, Mr E and Ms O were in contact with the bank. Mr E was cooperative and was clear that he would clear the debt when his circumstances improved. There were payments being made to the account and Barclays had not attempted to put a payment plan in place.

In addition, Mr E says that he didn't receive the letters from Barclays about the account, that its records and recording of his conversation with it are incomplete and don't match his own records. He says that he was given contradictory information about what was happening. And that the default will have a significant impact on his ability to find work.

Barclays accepted that it had given Mr E incorrect information about a temporary repayment plan. But it said it corrected this misunderstanding the following day. It offered Mr E £100 for any trouble that caused. Barclays said it had otherwise followed the correct process, so it didn't think it had done anything wrong.

my provisional findings

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

I'm only looking at Mr E and Ms O's joint account with Barclays ending in 279. I note that other Barclays accounts held by Mr E do come up in discussions – and Barclays says that looking at this account in isolation was not a true reflection of Mr E and Ms O's financial position at the time.

But considering the information we do have about Mr E's other accounts, it's not clear how they really affect the joint account. While it was reasonable to take the other accounts into account, they didn't really make any difference to the affordability of the joint account or the ability of Mr E and Ms O to come to an acceptable arrangement to repay the overdraft.

marital dispute

Barclays says that it didn't record a formal dispute between Mr E and Ms O on its systems until 13 September 2016. But it ought reasonably to have known that there was a dispute between them earlier than that. Looking at Barclays' own records it appears that it knew of the dispute at the latest in April 2016, when Ms O asked for the joint account to be switched to her sole name.

I don't consider it was fair or reasonable for Barclays to do nothing once it was aware of the dispute. It should have quickly taken steps to make sure that both parties authorised any transactions on the account.

I also think that in the circumstances of this case it would have been reasonable for Barclays to send any correspondence relating to the joint account to both account holders. I can see the argument that a reasonable bank would do this in every case once it is aware of a dispute and where (as in this case) it had both parties' addresses. But that is particularly so in the individual circumstances of this case, where the account was operating in excess of its overdraft limit, the account holders were jointly and severally liable for the debt and Barclays went on to issue a termination notice and default on the account.

While the terms and conditions of the account might say that it is for the customers to ask for the bank to write to both joint account holders, I think it would be reasonable for Barclays to have told Mr E and Ms O of this requirement once it was aware of the marital dispute. If it had done so, I see no reason why both Mr E and Ms O would not have wanted any correspondence to be sent to each of their addresses. So, if Barclays had acted fairly it would have written to both Mr E and Ms O.

I can see all the correspondence was sent to Mr E. I'm satisfied that Barclays took reasonable steps to make him aware of the termination of the account and that included that the overdraft limit had been withdrawn – I will deal with the fairness of that below.

Barclays has given a copy of a termination notice that was sent to Ms O at her home address on 27 July 2016. That letter sets out that it was terminating its agreement on 10 August 2016 and that the full overdrawn balance was repayable by that date.

Barclays has also given us evidence that it spoke to Ms O on 1 September 2016 about the joint account. It says that she asked for an update on the account and that it "*advised her of current situation and advised waiting to hear back from Mr with update on [income and expenditure]. Unsure of what will happen or what plan may be agreed depends on [income and expenditure].*" The notes go on to say that Ms O "*...feels out of the loop and worried about these accounts*".

I accept that Ms O knew that the joint account had been terminated. But I consider from the conversation she had with Barclays after that she could have taken some comfort that a plan would be agreed with Mr E. There was no mention of a default. But there was another missed opportunity to make sure all correspondence went to Ms O – particularly as she said she was worried about the joint account and felt "*out of the loop*".

There was one letter after Ms O spoke to Barclays and before the default was issued that wasn't sent to her. If it had been sent to Ms O she would have known that no arrangement had been reached between Mr E and Barclays in respect of the joint account and that action was required to prevent a default.

Barclays has an obligation to communicate in a way that is clear, fair and not misleading. To do that in this case, Barclays should have sent all correspondence to both account holders. It also should have done more when it spoke to Ms O to give a more balanced explanation of the position the account was in, the likelihood of a default, that she remained jointly and severally liable for the debt and that it could carry out an income and expenditure exercise to determine how much she could contribute to repaying the debt.

financial difficulties

Barclays had an obligation to deal positively and sympathetically with Mr E and Ms O when it was aware of their financial difficulties. I think it would have been reasonable for Barclays to have concerns about whether Mr E and Ms O were in financial difficulty in March 2016. That's when the overdraft exceeded its limit. Barclays also knew that Mr E and Ms O had separated at that point. In view of that along with the apparent strain on their finances, it was reasonable to assume that they were in a vulnerable position. And Barclays should have adjusted its approach accordingly.

Mr E spoke to Barclays a number of times until the account was defaulted in September. It's clear from listening to those phone calls that he is keen to freeze the accounts and come to an arrangement to clear the overdrawn balance. During those calls Barclays took details of Mr E's income and expenditure to determine his financial situation and to see what he could afford to pay to clear the overdrawn balance.

While obtaining details of income and expenditure is in line with good industry practice, I think there were some shortcomings in the way that Barclays gathered that information and in the way it dealt with it:

- Barclays made Mr E go through his income and expenditure a number of times during a short period when it knew that his circumstances weren't materially different. But I accept that it was necessary for Barclays to obtain this information.
- Barclays was inflexible when assessing the figures. In the 2 June 2016 income and expenditure it shows a surplus of over £580 a month. Despite this Barclays didn't agree a payment plan because Mr E didn't know the amount he paid towards his water bill to hand. Realistically this was never going to have a significant impact on Mr E's disposable income (the water bill turned out to be £40 a month). I consider it would have been reasonable for Barclays to come to a payment arrangement at this point.
- When Mr E spoke to Barclays on 29 July 2016, Barclays told him it didn't understand why a payment arrangement wasn't put in place on 2 June and it "*would definitely be able to put something in place before it defaults*". But the information Mr E had given Barclays previously about his income and expenditure wasn't available when he spoke to it.
- There was scope for confusion when Barclays gathered information about Mr E's expenditure. I consider this led to him finding himself in an apparent deficit during the 30 August 2016 phone call. There was confusion about the amount he was paying towards child care, care for adults, his pension and internet/landline. Bearing in mind the importance of the income and expenditure figures I think Barclays could have done more to ensure that the figures it recorded were accurate. After listening to this phone call I don't have confidence the figures gathered during this phone call were correct or properly reflected Mr E's expenditure

Even if expenditure was correct (and I am not persuaded it was) there was clearly room for Mr E to budget in a number of areas. If Barclays had done more to communicate clearly and fairly I think it is likely that he could have reduced his expenditure in a number of areas.

- Barclays insisted on a payment arrangement where the overdraft could be repaid in 12 months. Even if the lower disposable income figure was correct, Mr E said that he was due a bonus in March/April 2017 that he would use to clear the full balance. I can't see that Barclays took the bonus payment into account when deciding whether to offer an arrangement or not. It's not clear why Barclays couldn't accept payments until the bonus was due and then full payment of the debt.
- On 12 September 2016, Barclays told Mr E that it could set up a payment arrangement for him. But when he contacted Barclays the following day he was told there had been a mistake and

Barclays wasn't prepared to set up a payment arrangement. It said that was because the arrangement would lead to a default in any case because of the rules that were in place.

I accept that the guidance from the Information Commissioner's Office is that it would usually expect a default to be recorded when an account is between three and six months in arrears. But that is because it would usually reflect that a consumer can't make the payments due to the debt. I don't consider that it was reasonable for Barclays to consider that the position here, for the reasons set out above. And Barclays didn't set out the six month "deadline" in any of its previous phone calls.

Mr E was understandably confused by the change in approach (and tone) by Barclays when he spoke to it on 13 September. It had clearly made a mistake on 12 September – and it accepted that. But it didn't handle the mistake well. In the circumstances, it could have done more to set out what Mr E needed to do. While it asked Mr E to call back that day, I can see how Mr E could have left that call with the impression that there weren't any options left available to him – and rightly concerned that he would have to submit full details of his income and expenditure again. I think that Barclays took an overly rigid stance when thinking about what it could do to help Mr E and this has contributed to the default being recorded.

- On 26 September 2016, Barclays wrote a final letter to Mr E before the account was defaulted. I don't see how Mr E would have understood that the position was any different to the phone call of 13 September. He'd already given Barclays details of his income and expenditure a number of times. Barclays had given him conflicting information about whether a payment arrangement was possible. I can see how he might have thought that there was little point in contacting Barclays again.
- Barclays missed opportunities to explain the position of the account fully to Ms O. Although I accept that she ought reasonably to have been aware that the overdraft had been withdrawn, she was led to believe during the last phone call Barclays had with her that it was likely that an arrangement could be reached. Bearing in mind Barclays' duty to communicate in a way that is clear, fair and not misleading, Barclays could have made clear to her that she remained jointly and severally liable for the debt. It's not clear why Barclays didn't take steps to obtain details of her income and expenditure to assess whether she could contribute towards a payment arrangement. It is more likely than not that if Barclays had asked Ms O for this information she would have supplied it. It follows that it would have been more likely that an acceptable payment arrangement could have been reached.

For the reasons set out above, I don't consider that Barclays has dealt with Mr E and Ms O in a fair and reasonable way in respect of their joint account. I accept that some responsibility lies with both Mr E and Ms O in letting the overdraft exceed its limit and failing to repay it or come to an arrangement to pay it. And Barclays has acted reasonably by giving Mr E and Ms O "breathing space" to come to an arrangement – and in previously agreeing arrangements to reduce unauthorised overdrawn balances. But Mr E and Ms O didn't know Barclays' policies or procedures. And I think that it was due to Barclays' errors that no payment arrangement was reached.

If Barclays had acted fairly and reasonably, I consider that it is likely that it would have reached a payment arrangement with Mr E following the conversation of 2 June 2016. It was wrong to rely on the flawed income and expenditure details taken during the phone call of 30 August 2016. And if it had given Ms O full information about the account and her liability, it's more likely than not that she would have given details of her income and expenditure, making it more likely that an arrangement could be reached to avoid a default. Even if no arrangement could then have been reached, I don't believe that Barclays gave proper consideration to the fact that Mr E said he was due to receive a bonus in March/April 2017 that would allow him to repay the debt in full within a year.

I consider that if Barclays had dealt fairly with Mr E and Ms O it is likely it would have reached an arrangement with them that prevented the account being defaulted. Bearing in mind the importance of not having a default to Mr E, I think it is likely that he would have maintained the payment

arrangement. I say this as Mr E has given evidence that he made regular monthly payments to the debt collection agency before clearing the debt in full with a lump sum payment.

I agree that Barclays is obliged to record true and accurate information about the conduct of Mr E and Ms O's account. But for the reasons I've explained above, I think the default largely came about because of failures by Barclays to deal with Mr E and Ms O in a fair and reasonable way. I'm not persuaded that the default is a true reflection of Mr E and Ms O's creditworthiness.

So I don't consider it was fair for Barclays to record a default against Mr E and Ms O in the individual circumstances of this complaint. I consider that Barclays should remove the default from Mr E and Ms O's credit file.

In this case, there are a number of variables that could have affected how the account operated. So I think the fairest outcome would be to show the joint account as settled in full at the time the account was defaulted. But I will consider the responses from all parties about what should be recorded on the credit files in regard to the joint account once the default is removed.

putting things right

I've already found that Barclays didn't properly deal with the marital dispute. While Ms O had some information about the account, she didn't know everything that happened. I consider this has caused her some unnecessary worry and inconvenience. And there was some avoidable confusion about what the overdraft limit was and whether it had been withdrawn.

I also think the way that Barclays dealt with Mr E has caused him trouble and upset. He had to provide very detailed information about his income and expenditure a number of times. That wouldn't have been necessary if Barclays hadn't lost the information he provided on 2 June 2016.

Barclays raised Mr E's hopes by leading him to believe that a payment arrangement would be agreed in its phone call of 12 September. But when he phoned back the following day, it told him that was a mistake. I don't consider Barclays handled that with appropriate sensitivity and it reasonably should have done more to see if there was anything else it could do to put a mutually acceptable payment arrangement in place.

Both Mr E and Ms O have also suffered stress and worry because of the default that has been recorded against them. Mr E particularly has had the worry that if he were to look for a new job in the financial services sector, any prospective employer would carry out a credit check and discover the default. I've already found that if Barclays had acted reasonably it's likely that a default could have been avoided – and that it wasn't fair for it to record a default in the individual circumstances of this case.

Barclays passed the debt to a debt collections agency. Ms O has said that she found the contact from this agency stressful. And that would also have been avoided had Barclays acted fairly in the first place.

Taking all of that into account, I consider that Barclays has caused Mr E and Ms O material distress and inconvenience. The amount of trouble and upset that Mr E and Ms O have suffered will be different. So I think that Barclays should make a payment to each of them. Bearing in mind the circumstances set out above I consider it would be fair for Barclays to pay Mr E £350 and Ms O £250 to reflect the trouble and upset they have each experienced as a result of this matter.

my provisional decision

Subject to any further submissions, my provisional decision is to uphold this complaint. I propose that Barclays Bank UK PLC should:

- Remove the default from Mr E and Ms O's credit file.

- Mark the joint account as settled in full on the date it defaulted.
- Pay Mr E and Ms O £600 for any trouble and upset. The £600 should be divided as follows:
 - pay £350 to Mr E
 - pay £250 to Ms O

Ken Rose
ombudsman