

complaint

Mr M complains that Barclays Bank Plc took advantage of him and encouraged him to take a loan he could not afford.

background

Mr M took a loan of £15,000 from Barclays. He says that the loan offer was automatically applied to his account by Barclays, without any prior checks to make sure that he could afford it.

Mr M says that when he was unable to keep up repayments, Barclays refused to agree a repayment plan with him and caused him worry and hardship. He considers that the loan is unenforceable in the circumstances and that Barclays (which has instructed recovery agents to collect the debt) is not entitled to ask him to pay it.

Barclays did not accept that it had been irresponsible in providing the loan and did not agree it was unenforceable. As things were not settled, Mr M brought his complaint to this service where an adjudicator investigated it.

From the evidence, the adjudicator was not satisfied that Barclays had made a proper assessment of the affordability of the loan before making it. In particular, she noted that Mr M's income and outgoings seemed roughly equal and would not cover the extra money needed for the monthly loan repayments. There had also been 'pay day' loans seen on Mr M's account prior to Barclays granting the loan.

The adjudicator noted that Mr M had actively applied for and taken the loan. Taking everything into account, the adjudicator proposed that Barclays should:

- agree an affordable repayment plan with Mr M, based on his current income and expenditure;
- refund all the interest and charges Mr M has paid on the loan, so that he has to repay only the capital that he borrowed;
- remove the default registration for the debt from Mr M's credit file and ensure that any adverse credit information about the loan is removed; and
- pay Mr M £250 for trouble and upset.

Barclays did not agree. It said that, applying its current lending assessments to the loan proposition in 2012, Mr M would not have been eligible for the loan. But it considered that it had made a reasonable assessment of the loan application using its criteria at the time, though accepting that the loan had gone though in the lowest quality risk group.

It accepted that the movements on Mr M's account may have inflated its view of his income beyond reality – which it agreed was not ideal. Overall, it said that the lending decision was sound at the time although it would make a different decision now.

Barclays was not willing to refund charges and interest, or to remove credit reference information – which it says accurately reflected the position at the time. But it said it was willing to arrange an affordable repayment plan and also agreed to offer the £250 recommended by the adjudicator.

my findings

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

Barclays initially invited Mr M to apply for the loan. Barclays agrees that, given the position on Mr M's account at the time and the evidence of financial strain, the loan application would not succeed under its current affordability checks. But it feels that it made a reasonable assessment of affordability using its criteria in place at the time.

I accept that lending criteria may change over time. However, Barclays has not been able to provide any real information about what criteria it used to assess Mr M's loan application and how Mr M fulfilled them. It is difficult to see how the loan could, objectively, have been regarded as affordable at the time. It is evident that the loan repayments were a struggle, and caused problems.

I am also conscious that Mr M was not a passive party in the granting of the loan; he took the decision to apply for it and, once it was granted, did not take advantage of the 'cooling off' period that allowed him to change his mind. I note Mr M's explanation that, because of his financial position at the time, he was vulnerable to the approach by Barclays. But he took the loan, and used the money from it.

I am satisfied that Barclays made efforts to agree a repayment plan with Mr M. When it wrote to Mr M about the arrears, it explained the options open to him and gave him information about how he could get free help with his debts. Mr M has now taken steps to get help from a reputable debt advice agency, which is a positive development even though I appreciate that he is finding things difficult.

Whilst I accept that the credit reference information registered by Barclays about this debt was accurate in terms of the strict position on the account at the time, this does not make any allowance for the fact that the loan was not, realistically, affordable when it was made. I think that point needs to be addressed as part of an overall fair outcome.

In arriving at a fair settlement for this complaint I have considered all the circumstances here – including what both Barclays and Mr M did (and failed to do). Having done so, I find that the settlement proposed by the adjudicator represents a fair and balanced outcome in this particular case. I have worded my award slightly differently than did the adjudicator, though the broad effect remains the same.

my final decision

My final decision is that I uphold this complaint and direct Barclays Bank Plc to:

- refund all the interest and charges Mr M has paid on the loan, and not apply any going forward, so that he has to repay only the capital that he borrowed;

- remove the default registration for the debt from Mr M's credit file and ensure that any adverse credit information previously registered about the loan is removed;
- contact Mr M (or his representative) and work proactively with them to agree an affordable repayment plan based on Mr M's current financial position, but subject to review if his financial position changes; and
- credit Mr M £250 for trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 December 2015.

Jane Hingston
ombudsman