

complaint

Mr F complains that Barclays Bank UK PLC ("Barclays") allowed him to get into financial difficulties by giving him lending he couldn't repay.

background

The background to this complaint, and my initial conclusions, were set out in my provisional decision dated 24 June 2019 – a copy of which is attached and forms part of this final decision.

In my provisional decision I explained why I intended to uphold Mr F's complaint and order Barclays to:

- Adjust Mr F's outstanding overdraft balance to remove any debt accrued after 30 September 2016, including all interest and charges applied after this date;
- Adjust Mr F's outstanding credit card balance to remove any debt accrued after the March 2016 limit increase, including all interest and charges applied after this date;
- Adjust his credit file reporting to reflect the above adjustments; and
- Pay Mr F a further £150 compensation for the trouble and upset caused.

I invited both parties to send any additional evidence or comments they wished to make.

Barclays accepted my provisional decision and said:

- Mr F's overdraft balance would be reduced to £1,047.16 if it was adjusted to remove any debt accrued after 30 September 2016;
- Barclays proposed to go further than this and clear the overdrawn balance in full, using the £150 additional compensation proposed to offset the difference;
- Mr F's outstanding credit card balance would be reduced to £9,427.75, being the balance before the March 2016 increase; and
- Barclays was not currently pursuing this debt.

Mr F's representative accepted my provisional decision on Mr F's behalf and agreed to Barclays' suggestion.

my findings

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

Both Mr F's representative and Barclays accepted my provisional decision to uphold the complaint, so I see no reason to change this conclusion.

I think Barclays' proposal to clear Mr F's remaining overdraft balance – using the £150 proposed compensation to offset the difference – is fair and reasonable. Mr F's representative is also in agreement with this approach.

my final decision

For the reasons I've given here and in my provisional decision, I uphold Mr F's complaint and order Barclays Bank UK PLC to:

- Clear Mr F's outstanding overdraft balance in full;
- Adjust Mr F's outstanding credit card balance to £9,427.75; and
- Adjust his credit file reporting to reflect these adjustments.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 2 September 2019.

Katy Pillai
ombudsman

copy of provisional decision

complaint

Mr F complains that Barclays Bank UK PLC ("Barclays") allowed him to get into financial difficulties by giving him lending he couldn't repay.

background

This complaint has been brought by Mr F's authorised representative but to keep things simple and for ease of reading, I've written my decision as if Mr F has contacted our service directly.

Mr F complains that Barclays allowed him to borrow money over several years even though he couldn't afford to repay it, and increased his lending when he was already struggling to repay his other debts. The complaint covers Mr F's personal loan, overdraft and credit card.

loan

Mr F took out a £15,000 loan over five years in January 2012. He first missed a loan repayment in July 2015, then again in May 2016 and from November 2016 onwards. Barclays recorded a default on the loan in April 2017. Barclays says that because the loan was made over six years ago, it doesn't have a record of whether it carried out an 'income and expenditure' check before approving it - but says that the loan was affordable because Mr F's bank account at that time was regularly in credit and he could meet the monthly repayments. Barclays' system notes show its last record of Mr F's income was from 2010 and say that Mr F was self-employed and his income was seasonal.

overdraft

Before 2014, Mr F had an overdraft limit of £500 and a personal reserve of £1,000. Then his overdraft limit was increased to £975 and his personal reserve was replaced by an emergency borrowing limit of £525 - so in total he could go overdrawn by £1,495.

Mr F used the overdraft and emergency borrowing limit more from 2015. Barclays' system notes say it reviewed Mr F's income and expenditure with him in September 2016 when he missed a loan repayment and discussed a payment plan, but it wasn't finalised and his bank account went into arrears from October 2016. In January 2017, Mr F said he was in discussions with a debt management charity but again a payment plan wasn't finalised so the account stayed in arrears, with the emergency borrowing limit removed. The overdraft was cancelled in April 2017, a termination notice issued in May 2017, and the account closed in August 2017. The outstanding balance was transferred to an external debt collection agency but returned to Barclays' management in November 2017.

credit card

Mr F's Barclaycard credit card limit was increased three times between 2012 and 2016, from £6,000 to £12,950. His card was withdrawn in June 2016 after a missed repayment. By then outstanding balance was at the limit. Barclays says the limit increases were automatic because Mr F met the criteria, and 'income and expenditure' checks weren't carried out. Barclays also says Mr F had the right to decline the limit increases but he didn't.

As well as this lending, Mr F took out a £9,000 loan from another bank in November 2015 and says he borrowed £6,000 from a relative.

Mr F - through his representative - complained to Barclays in January 2018 that he'd been given too much debt and couldn't repay it. He provided a doctor's letter dated October 2017 that said he had severe health issues, which he says have stopped Mr F working and made it hard to manage his financial situation. He says Mr F's only income is incapacity benefits and this isn't expected to change, and that Barclays contributed to Mr F's health problems by offering him unaffordable lending and that this was irresponsible of it.

In its final response letter to Mr F's complaint, Barclays didn't agree that the original lending was irresponsible. As a gesture of goodwill, Barclays wrote off the loan, agreed to not sell on his remaining overdraft debt, or apply any more interest or charges to it. It paid Mr F £200 compensation for the time taken to respond to his complaint - through a cheque it says was cashed in June 2018. Barclaycard also didn't uphold Mr F's complaint about irresponsible credit card lending and said that the remaining balance wouldn't be written off, but it wouldn't apply any more fees or charges.

Mr F didn't think this was enough because he wants Barclays to write off his debts in full, so he brought his complaint to us. An investigator considered what had happened and thought that Barclays acted reasonably in most cases - but that it should've carried out more checks before the final credit card limit increase in 2016. The investigator recommended that Barclays reverse the charges applied to his account from that time, increase compensation by £150 and apply interest to the compensation. Barclays agreed to the extra compensation but disagreed that it should pay interest. And Mr F's representative disagreed because he felt Barclays still wasn't doing enough. Because neither party accepted our investigator's view, the complaint was referred to me for decision.

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. Where the evidence is incomplete, inconsistent or contradictory, I have made my decision based on the balance of probabilities - that is, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I haven't commented on every point raised here and I hope Mr F and his representative don't take this as a discourtesy or a failure to review the evidence thoroughly. If I don't comment on something, I haven't ignored it but I don't think it's material to the decision. I also haven't commented on Mr F's health in detail because to do so would risk his anonymity when this decision is published - but I have taken it fully into consideration.

The relevant industry regulations that apply here say that if a customer is at risk of financial difficulties, a bank must 'take appropriate action' - for example, contact the customer to discuss their situation, waive fees and charges, or accept token payments. And banks have a duty to treat customers in financial difficulties positively and sympathetically. I've considered Mr F's accounts with Barclays with this in mind.

loan

Because of the time that's passed, I can't confirm if an 'income and expenditure' check was carried out - or, if so, if Mr F's loan would've been considered affordable at the time. I've considered Barclays' argument that Mr F's bank account statements for the six months before the loan was taken out show he could afford the loan. I agree that Mr F's bank balance over these six months was usually enough to meet the monthly repayments on this new loan and his other lending. His bank account was usually in credit, with regular payments from work. Mr F used the overdraft occasionally, but stayed within the limit - which fits with the seasonal nature of his work he'd told Barclays about. And there's nothing to suggest he'd told Barclays about health issues or anything else that would've stopped him from managing his financial position. So although the available evidence here is limited, I don't see anything here to suggest that when the loan was taken out in 2012, Barclays could have reasonably been expected to know that Mr F wouldn't be able to afford to repay it. For this reason, I'm not persuaded that Barclays acted irresponsibly when it made this loan.

I've thought carefully about whether Barclays did enough to treat Mr F positively and sympathetically when his position got worse - and, on balance, I think it did. When Mr F missed loan repayments in July 2015 and May 2016, he was able to continue his loan on the same terms and Barclays agreed he could miss the June 2016 repayment. From September 2016, Barclays discussed a payment plan with him and - from what I've seen - didn't charge him the late payment fees it was entitled to under the terms and conditions Mr F had agreed to when he took out the loan. Mr F made payments by standing order over this time, so Barclays didn't take money from his account through a direct debit

when it knew he was having financial difficulties. And ultimately, Barclays agreed to write off the remaining balance of Mr F's loan. Taking everything together, I think it would be unfair to say that Barclays needs to do anything more about Mr F's loan account.

overdraft

Barclays has explained that it changed its overdraft policy for all customers in 2014. It replaced personal reserves with an emergency borrowing limit, which was "an extra amount that you can borrow if you occasionally exceed your overdraft". Although Mr F's overdraft limit increased, the total amount he could borrow changed slightly because his emergency borrowing limit was lower than his old personal reserve. At the time, Mr F's bank account was often in credit and there were no defaults on his other Barclays accounts. Taking everything together, I don't see anything to suggest that this change to Mr F's overdraft was unreasonable and I'm not persuaded that Barclays acted unreasonably when it made it.

I've considered whether Barclays did enough to support Mr F when it knew he was in financial difficulties. As I've already discussed, Barclays knew Mr F was struggling to manage his lending from September 2016 and there were several conversations about a payment plan over the following months - but one wasn't agreed. From everything I've seen, I think this was the result of back and forth between Barclays, Mr F, and the debt management charity he was speaking to. I've seen nothing to suggest any deliberate attempts by Barclays to give Mr F more unaffordable lending, which he contends. I also see that Barclays brought his debt back under the management of its specialist team that works with vulnerable customers once it knew about his medical condition, and hasn't pursued him for repayment or added more fees since. Taking everything together, I think Barclays has tried to treat Mr F positively and sympathetically.

However, on balance I think Barclays could've done more to support Mr F. I say that because its notes suggest that most of the contact with Mr F from September 2016 until the end of 2017 was initiated by him. There were long gaps between conversations and letters, even though Barclays knew he was struggling with his debts - so even if the bank was waiting for him to send information, I think it could've done more to follow up. During this time, Mr F continued to use his overdraft so his lending increased and he continued to be charged interest and fees. Although I don't think that was deliberate, I think that in the circumstances it's reasonable to expect Barclays to have done more during this time - and that not doing so led to a worse outcome for Mr F. Although I haven't upheld Mr F's complaint about Barclays' original lending decision, I find that Barclays could've done more to help him when it knew he was struggling financially - which leads me to uphold this aspect of his complaint.

credit card

Mr F's credit card limit increases were applied automatically. I see that the Barclaycard terms and conditions that Mr F would've agreed to when he opened the account allow for this type of limit increase. Barclays hasn't got copies of the letters sent to Mr F when the limit was increased, but its shared template letters that explain that a customer can reject or opt out of the credit limit increase and how they can do so. This opt-out is in line with the FCA's voluntary guidelines for credit card providers - which weren't in place when Mr F's limit was increased, but represent industry good practice. I also can't see anything to suggest that Barclays had a particular reason to exclude Mr F from these increases. On balance, I'm satisfied that Barclays followed the account terms and conditions when it considered Mr F's account for limit increases in this way.

I've considered if Barclays acted fairly towards Mr F when it applied these particular limit increases. Barclays says there were no missed payments or defaults on Mr F's credit card in the six months before, and he met the affordability criteria each time. I accept this, but for several months before the limit increases in August 2014 and March 2016, the balance had been close to the old limit and Barclays had commented on this in his monthly statements. The statements also note that Mr F was making the minimum repayment each month. I don't think this is enough to say the limit shouldn't have been increased, but I've looked into these two particular limit increases in more detail.

When the limit was increased in 2014, Barclays' records show that Mr F comfortably met the scoring criteria for an increase and it was a fairly small increase of £1,250. Mr F stayed within the new limit for some time, and at that time was managing his other accounts without problems. I don't see anything to suggest that this increase was unaffordable. But in March 2016, Mr F only just met the criteria for an increase and his limit was increased by a higher amount of £3,000. By that time, his credit card balance was increasing each month, including from regular, large cash withdrawals - a change in his pattern of spending that could be seen from his credit card activity. I think that there were several signs of possible financial difficulties by March 2016 that lead me to think that Barclays should've carried out more checks before increasing Mr F's limit as it did here.

I also think that if these checks had been carried out, Barclays would've realised Mr F was in financial difficulties. Even if its credit card team didn't have access to the bank's information about his other Barclays accounts, an 'income and expenditure' review or a credit file search would've shown his reduced income and increased lending. Because the checks weren't carried out, I can't be sure that they wouldn't have been met. But considering Mr F's financial position at that time, on balance I think that's the most likely outcome - and that Mr F by not making these checks, Barclays gave Mr F access to lending he couldn't afford at that time.

Taking these points together, I'm not persuaded that Barclays acted reasonably when it increased Mr F's limit in March 2016 because there were signs that he couldn't afford this extra debt. I think this led to his credit card lending increasing and more fees, charges and interest being applied to his account. For this reason, my provisional decision is to uphold this aspect of Mr F's complaint.

summary

From the available evidence, I'm not persuaded by Mr F's representative's argument that Barclays irresponsibly or deliberately fed Mr F unaffordable debt over several years. And I don't see anything to suggest that his loan, overdraft or first credit card limit were unaffordable when they were originally put in place. But, for the reasons I've explained, I think Barclays could've done more here to support Mr F when it knew he was struggling to manage his lending. I think it could've done more to stop his overdraft lending increasing after September 2016, which would have also saved him fees and charges. And I'm not persuaded that Barclays did enough checks when it increased his credit card limit in 2016, which resulted in him taking on more debt on this account as well. For this reason, I intend to uphold Mr F's complaint.

I've thought carefully about what Barclays should do to put things right here. Our investigator thought that Mr F should remain responsible for his spending because he had use of the funds - but I've taken a different approach. I think Barclays continued to lend to Mr F when it should've realised he was struggling to repay his existing lending - which leads me to think it also should've realised he would struggle to be able to repay this extra borrowing. Mr F didn't ask for further borrowing or to be able to exceed his overdraft limit - but, when Barclays made this available to him, he used it to meet other repayments and expenses and got further into debt. So I think that this extra lending - and the fees and interest he was charged on it - made it harder for Mr F to repay his other accounts and made his financial position worse. Because I think this lending was unaffordable, and led to a worse outcome for Mr F here, I don't think Mr F should have to repay it or any associated borrowing costs.

For that reason, my provisional decision is that Barclays should refund any increase in Mr F's overdraft balance from 30th September 2016 - when he first discussed a payment plan - including any fees, interest or charges. Barclays must also refund any spending, interest or fees on Mr F's credit card from the date of the final limit increase in March 2016. I'd like Barclays to provide these calculations when responding to this provisional decision.

Mr F, through his representative, argues that all his debts should be written off so I appreciate he'll be disappointed by this decision. I sympathise with Mr F and agree that his ill health and current income means that unless something changes he's unlikely to be able to repay his remaining lending. I've considered whether to direct Barclays not to pursue Mr F for repayment for any of these remaining debts. But, on balance - and recognising that Mr F's situation is complex and he has other lending accounts that aren't dealt with in this complaint - I think the most reasonable outcome is for Mr F and

his representative to discuss a payment arrangement directly with Barclays. He might want to work with a debt management charity to do so. I expect Barclays to treat Mr F positively and sympathetically as it's required to.

I've considered whether Barclays should remove the debts from Mr F's credit file - but I don't think that would be appropriate. The credit file reporting is accurate. And Mr F accepts that he has difficulty controlling his finances, so I think it's right that other lenders can see this information when deciding whether to lend to him in future. But Barclays should update Mr F's credit files with the refunds and adjustments awarded in my final decision.

I've also considered whether the £150 extra compensation proposed by our investigator - and accepted by Barclays - is enough here. Mr F's representative makes a strong argument that his growing debt with Barclays has affected his health and recovery. But I'm satisfied that once Barclays knew about his health issues, it tried to respond positively and sympathetically to them and transferred his accounts to a specialist team. And although I've upheld Mr F's complaint, I haven't seen anything to suggest that Barclays deliberately offered him debt that he couldn't repay or took advantage of his illness. Because of this, I think the proposed £150 extra compensation is a fair outcome here.

my provisional decision

For the reasons I've given, I propose to uphold Mr F's complaint and order Barclays Bank UK PLC to

- Adjust Mr F's outstanding overdraft balance to remove any debt accrued after 30th September 2016, including all interest and charges applied after this date;
- Adjust Mr F's outstanding credit card balance to remove any debt accrued after the March 2016 limit increase, including all interest and charges applied after this date;
- Adjust his credit file reporting to reflect the above adjustments; and
- Pay Mr F a further £150 compensation for the trouble and upset caused.

Katy Pillai
ombudsman