

## **complaint**

Mr D complains about Barclays Bank Plc (t/a Barclaycard). He says after he told it of his financial difficulties it promised to put a hold on charges on his account. He says he's now been given more than £300 in extra charges. And he says his credit file has been marked with a default. He wants compensation and his credit record corrected.

## **background**

Mr D tells us he called Barclaycard to let them know he was having money problems. He said he was told to send a letter in explaining this. And that the account was being put on hold for 30 days - during which no extra charges would be made - to give him some breathing space. Now he says he's had a letter from solicitors saying his debt's increased by almost £300. And his credit file shows this debt has defaulted. Mr D has also told us that he's paying other debts off and asks us to consider why he would pay those off and not Barclaycard. He's told us he's got serious health problems and wants charges stopped so he can get the balance down.

Barclaycard told us that Mr D opened his account in 2014. At the time it said he was employed and earning an annual salary of over £20,000. Subsequently, he'd complained about fees and charges being imposed - but the matter was dealt with and Barclaycard refunded some charges. Late in 2015 it said Mr D had emailed them and again complained about charges for exceeding his credit limit. He'd said, in terms, he was suffering financial difficulties. On this occasion it said it refunded £24 in charges. And its agent had agreed to suspend interest for one month - to allow Mr D to get the account back within its agreed limits. It pointed out that Mr D had also requested an increase in this credit limit - but this had been declined.

Subsequently it received further complaints from Mr D about charges and it made other "goodwill" refunds and a small payment of compensation in March. After this it said it had no contact from Mr D but that he'd made a payment towards his debt in May. However the following month a further purchase had been made using his account. Whilst it said it sent statements and texts and tried to phone Mr D - there was no actual contact. And so early in 2017 the decision was made to sell the debt. And whilst it said it was not required to tell Mr D of this - it did accept that earlier letters from its collection department had been sent to an address linked previously with Mr D - but which it accepted was not a usual contact point.

Whilst expressing sympathy with Mr D's ill health and financial difficulties it felt he should have told it of problems before stopping payments and also kept in touch. After the intervention of our investigator it did agree to compensate Mr D (£100) for sending some letters to the wrong address.

Our investigator who looked into this matter did not recommend the complaint should be upheld. He noted Mr D's belief that he was on a payment break - but said that Barclaycard had no record of such a break between the date when Mr D cancelled a direct debit and the date it sold the debt. And even if that had been the case he would've expected Mr D to make contact with Barclaycard to explain he was unable to make repayments.

He said he'd seen statements sent by Barclaycard in this period - and these showed outstanding balances - and contained notices that Mr D should contact it if he was having difficulties making repayments. He says that as Barclaycard had tried to contact Mr D he couldn't say that he wouldn't have been aware of the need to make payments.

He found that Mr D had agreed to the terms and conditions which included charges being applied - if payments were missed or credit limit exceeded. And he felt the level of these charges was fair. He noted that Mr D had been making other payments at the time payments due to Barclaycard had been missed. So he couldn't see why those payments were not included in those outgoings.

But he did accept that Barclaycard had sent letters to an incorrect address and this included those that related to the default. A warning letter telling Mr D he had to pay a lump sum to avoid the account being put into default. And the letter notifying the default had been applied to the account.

He felt this amounted to poor service and said that during discussions he'd had with it - Barclaycard had offered £100 to acknowledge the distress and inconvenience caused. But having seen the bank statements that Mr D had supplied - he didn't think that Mr D would've been able to pay the sum required - even if he'd received the letter warning of the proposed default. So he felt the account would have defaulted in any case.

In summary, he said that he considered the charges had been applied correctly. And that Barclaycard had been entitled to sell the account as it had been seven months since the last payment. Both actions were in accordance with the terms and conditions. He felt the default had been applied correctly. And so other than pay the £100 they'd offered for the distress caused - he wouldn't be asking Barclaycard to do anything else.

Mr D didn't agree and asked that the matter be referred to an ombudsman to make the final decision.

## **my findings**

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

I understand that Mr D would have felt considerable concern when he found his account debit balance was significantly more than he thought. And as he's been suffering ill-health it came at a difficult time. And I can see that he has been paying off other debts and trying to deal with his debts responsibly. So I accept it's a bit strange that the debt owed to Barclaycard has apparently been overlooked.

But by Mr D's own explanation he was only offered a 30 day "breathing space" and whilst Barclaycard can't find any evidence even of this - it doesn't really affect the outcome. That's because for a period of over six months - well beyond any "breathing space" he thought he had - no payments were made and there's no record of Mr D contacting Barclaycard. And so whilst it's easy to be wise in hindsight it *may* be that Mr D's illness had some effect on his remembering to contact Barclaycard.

However I've seen no evidence that Barclaycard was aware of the extent of such difficulties and it's clear it did try to contact Mr D over several months. So I can't - with the one exception - say it did anything wrong. And even that error didn't really affect matters. The majority of the correspondence - including statements - did go to the correct address. So Barclaycard were entitled to apply the charges in accordance with its terms and conditions.

And in fairness, it had in the past shown what appears to be a significant degree of generosity in applying those terms. (I should explain that the Supreme Court has ruled that provided fees and charges are set out in the terms and conditions - they can't normally be challenged as being unfair or too high).

So it was also entitled to sell the debt and record a default. I can't say it was unreasonable to record a default after a period of several months without either payments or contact. And I can't ask it to remove it - as it's an accurate reflection of the conduct of the account. And whilst I express considerable sympathy for Mr D in his unenviable situation I have to reach my decision in accordance with the rules under which our scheme operates.

So whilst I know this will disappoint Mr D it would not be fair and reasonable of me to ask Barclaycard to do anything else. So I'm not upholding this complaint - other than to confirm that Barclaycard will pay the £100 it offered - if its not already done so.

In conclusion I would simply add that if Mr D explains his situation to the new owners of this debt - they are required to treat him positively and sympathetically. And I hope he will be able to reach a satisfactory means of resolving this issue.

#### **my final decision**

For the reasons given above I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 24 July 2017.

Stephen D Ross  
**ombudsman**