

complaint

Mrs C complains that Barclays Bank UK PLC, trading as Barclaycard, has lent to her irresponsibly and that it hasn't treated her fairly. She's being helped with her complaint by her representative.

background

Mrs C opened a credit card account with Barclaycard in April 1998 and she took out a loan from another part of the bank of £10,000 in 2005 which she says she used to repay her credit card debt. She received a letter from Barclaycard in November 2018 in which it said that a review had identified that, for customers that had fallen behind on their payments, it hadn't always met its expected standards for assessing their circumstances or engaging with them. And it agreed to refund all interest and fees applied to affected customer's accounts during the period from October 2013 to July 2016. But Barclaycard had defaulted Mrs C's account in 2015 and sold it to a third party. So the refund of £351.38 in fees and interest was offset against the balance owed on her account.

Mrs C complained to Barclaycard that the credit card and the loan had been provided to her irresponsibly and that it hadn't treated her fairly. It said that it hadn't been able to evidence any errors by it so was unable to support her complaint. She wasn't satisfied with its response so complained to this service. Her complaint about the loan is being dealt with separately.

The adjudicator didn't recommend that this complaint should be upheld. He said that the actual sale of the Barclaycard took place longer than six years ago and it was also more than three years since he would 've expected that Mrs C ought to have reasonably been aware that she had reason to complain about the sale of the Barclaycard. So he said that he was unable to consider the irresponsible lending aspect of her complaint.

And he said that Barclaycard's response to how it had treated some customers between October 2013 and July 2016 seemed reasonable. He said that Barclaycard had communicated with Mrs C and her representatives regularly during that period and agreed a number of reduced payment plans as well as interest and charges freezes – and that a default was applied only after several repayment plans had failed and payments been missed. So he didn't agree that Mrs C was treated unfairly by Barclaycard.

Mrs C's representative – on her behalf - has asked for this complaint to be considered by an ombudsman. He says, in summary, that:

- the alleged indebtedness arises from a revolving account credit agreement and, as a result, doesn't expire by virtue of the Limitation Act 1980;
- if the indebtedness and complaints arising are time barred, then it must follow that any claim for the alleged indebtedness is also time barred and that the third party debt owner is not able to pursue a claim for it;
- Mrs C is financially unaware and has no financial acumen so wouldn't have known that she had reason to complain about the sale of the credit card; and
- the third party to which the debt's been sold has taken responsibility for any mis-selling of the credit card.

my findings

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

We don't have a free hand to consider every complaint that is referred to us. Our rules, which we are required by law to follow, say – amongst other things – that we can't normally deal with a complaint if it's referred to us more than six years after the event complained of; or (if later) more than three years from the date on which the complainant became aware (or ought reasonably to have become aware) that she had cause for complaint. This is set out in the rules relating to this service and not the Limitation Act 1980.

Mrs C complains that the credit card was mis-sold to her by Barclaycard. But she opened that credit card account in April 1998 and that is when I consider that any irresponsible lending would've taken place as that's when the credit was provided to her. So the event about which she complains happened in April 1998 but she didn't complain to this service about that until December 2018 – which is more than six years after the event complained of.

And there has been extensive and detailed correspondence between Mrs C and Barclaycard about her account over many years. So I consider that Mrs C ought reasonably to have become aware that she had cause for complaint more than three years before she complained to this service.

The credit card was provided to Mrs C in April 1998 – nearly 22 years ago. And Barclaycard says that due to the amount of time that's passed since then it doesn't have complete information about the application process. But, for the reasons set out above, I find that this service doesn't have the legal power to consider Mrs C's complaint that Barclaycard has lent to her irresponsibly.

There have clearly been issues with Mrs C's credit card account. She took out a £10,000 loan in 2005, some of which she used to clear her credit card balance. Barclaycard says that it reduced Mrs C credit limit and removed the cash facility from her account in November 2009 and that it's agreed repayment plans with her. It says that it was contacted by a debt management company acting on her behalf in 2014 and an informal repayment plan was set up under which it accepted reduced payments and it suspended interest on the account.

Mrs C wasn't able to return to the required contractual payments and a termination notice and a default notice were sent to her in early 2015. She didn't make the required payment so the account was defaulted and sold to a third party in August 2015. That third party didn't provide the credit to Mrs C and it wouldn't be responsible for the way that the credit was made available to her.

Barclaycard wrote to Mrs C and other customers in November 2018 because a review had identified that, for customers that had fallen behind on their payments, it hadn't always met its expected standards for assessing their circumstances or engaging with them. And it agreed to refund all interest and fees applied to affected customer's accounts during the period from October 2013 to July 2016. Mrs C's account had been sold to a third party before that letter was sent so Barclaycard said it had asked the third party to reduce Mrs C's outstanding balance by £351.38.

A credit card provider is required to respond to a customer's financial difficulties positively and sympathetically. That doesn't mean that it's obliged to refund charges, or to take any other particular action, as what's appropriate in each case will depend on the customer's individual circumstances.

I consider that the actions that Barclaycard has taken in response to Mrs C's financial difficulties show that it has responded to those financial difficulties positively and sympathetically. Although it did write to Mrs C in November 2018 to say that it hadn't always met its expected standards for some customers, I'm not persuaded that there's enough evidence to show that it failed to deal with Mrs C fairly and reasonably. And it has reduced her debt to the third party by £351.38. So I'm not persuaded that it would be fair or reasonable for me to require it to take any further action in response to her complaint.

my final decision

For these reasons, my decision is that I don't uphold Mrs C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 1 March 2020.

Jarrold Hastings
ombudsman