

complaint

Miss M complains that she was not given proper notice that Barclays Bank Plc intended to default her account and register a default with credit reference agencies.

background

Miss M had a bank account and from 2007 had an overdraft on that account. But she spent over that limit and eventually in 2008 Barclays sent her a notice terminating the account.

our adjudicator's view

The adjudicator considered that the complaint should be upheld. He said that the termination notice sent by Barclays did not meet the requirements of the Lending Code regarding default notices. He thought that Miss M would have repaid the money sooner if she had had a default notice and the default would never have been registered. He recommended that Barclays should remove the default registration and pay Miss M £50.

Barclays disagreed. It said that the Lending Code requirements had been met. The registration did not occur until 7 October 2008. It said it should have registered the default date as 4 August 2008 (when it sent the termination notice) rather than 2 August but suggested that made no material difference.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Miss M and to Barclays in May 2013. I summarise my findings:

The current Lending Code only came into force in 2009 - after the crucial events in this complaint. There were similar, but slightly less stringent, requirements for the wording of default notices in the Banking Code which applied in 2008, and were based on relevant regulations. The termination notice sent by the bank on 4 August 2008 did make it clear that if Miss M did not pay the full amount in 14 days, it intended to terminate her account, that it might transfer the debt to recovery agents and that it intended to register details of the account with credit reference agencies which might seriously affect her ability to obtain credit. The bank's records show that Miss M telephoned the bank on 12 August (which suggests she received the notice and knew it was important to take action).

While the termination notice did not refer specifically to registration of a 'default', it did make it clear that failure to pay the debt would be notified to credit reference agencies which could cause serious problems for Miss M in future. I am satisfied that Miss M received the notice and should have been aware that failure to pay would seriously affect her credit rating. Although she was able to pay off the outstanding amount later that same year, it appears she did not have the money available at the crucial time. In all the circumstances I could not see that it would be fair and reasonable for me to expect Barclays to remove the record of a default: and I noted that Miss M's credit record did correctly show the account as settled.

Subject to any further representations by Miss M or Barclays, my provisional decision was not to uphold the complaint.

Miss M responded to my provisional decision in some detail, describing how this was her first bank account and how the debt had developed. She considered that it was irresponsible

lending by the bank to have allowed her to exceed the overdraft to the extent she had. She said the bank had given her the distinct impression that there was no cause for concern with how she had used her account for some time. There was a lack of awareness throughout of the risk to her credit score, until the bank demanded repayments within a short time.

Barclays accepted the provisional decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The complaint which Miss M put to us, after it had been considered by Barclays, was about the default registered on the account and whether Miss M had been given adequate notice of that. She has now raised a range of other issues, particularly regarding whether it was irresponsible for the bank to have lent to her in the way it did and how the account was managed by the bank. The issues now raised are significantly different from the original complaint, and as far as I know have not been put to the bank. I therefore cannot deal with those here. Regarding the original complaint, about the notice given of the default, my view remains the same.

my final decision

My final decision is that I do not uphold this complaint.

Hilary Bainbridge
ombudsman