

complaint

Mr K is unhappy Barclays Bank UK PLC (trading as Barclaycard) defaulted his credit card account without notifying him.

background

In July 2016, Mr K experienced financial difficulties and stopped paying his contractual minimum payments for his credit card account.

To assist Mr K, Barclays agreed a 30 day hold on the account. They didn't agree a payment plan as Mr K was also struggling to pay his priority debts including his mortgage.

On 8 November 2016, Barclays sent Mr K a default notice. This notice warned Mr K that if he didn't pay the default balance by 6 December 2016, they would be required to report a default with the credit reference agencies. Mr K disputes receiving this notice and has explained this is the reason he didn't comply with it.

On the 26 December 2016, Mr K says he had a conversation with Barclays about his account. He's said that he wasn't informed about the default and a further 30 day hold was agreed.

On 29 December 2016, the default was applied, and Mr K was sent a default registration notification. On 12 January 2017, the account was sold to a third-party business.

Mr K asked Barclays to change their decision and raised a complaint. In their final response, Barclays said the default was correctly applied due to the amount of missed payments on the account.

Mr K asked us to consider the complaint in 2018 as he received a letter from Barclays explaining that they'd refunded interest and charges for the same time period. He therefore believed this was additional grounds for suggesting his default should be removed. Barclays consented to our service considering this complaint in the circumstances.

Our investigator considered the complaint and concluded Barclays acted fairly by applying the default. He said he was confident the default notice was sent, and, in any event, Mr K wasn't in the financial position to be able to settle the default balance.

Mr K has requested a decision as although he doesn't dispute that he was experiencing financial difficulties, he's said he would have found a way to borrow the money – if he'd been told about the default notice. He also doesn't understand why Barclays registered the default despite the fact they agreed a 30 day hold on the account.

I've therefore considered the complaint afresh.

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've taken into account that The Information Commissioner's Office (ICO) says a default may be registered when a consumer is at least three months behind with their payments. And it

would expect a default to be registered by the time the consumer is six months behind with their payments. So I need to decide whether Barclays acted fairly by registering a default when it did.

Mr K doesn't dispute that his account was approximately five months in arrears at the time of the default notice or that he was experiencing financial difficulties. But this does mean it was appropriate for Barclays to consider defaulting the account in the circumstances.

I've reviewed the default notice Barclays sent Mr K on 8 November 2016 and I think it was sent to the right address. I don't dispute that Mr K has said he didn't receive this letter, but I'm satisfied it was sent and correctly addressed. I do appreciate there may have been problems with the post, but this isn't something Barclays is responsible for and I can't see that Mr K mentioned this to Barclays at the time.

In any event, regardless of whether Mr K received the default notice, I think he should reasonably have been aware about the potential for his account to default. I say this because Mr K was aware he'd stopped making his payments and his statements showed his account was in substantial arrears.

The default notice asked Mr K to pay the default sum by 6 December 2016 and warned him about the consequences of not complying. As Mr K didn't contact Barclays until after the default notice expired – I can't say Barclays did anything wrong by arranging for the default to be registered.

I've considered Mr K's argument that Barclays shouldn't have registered the default because they agreed a 30 day hold on 26 December 2016. Unfortunately, the call recording for this conversation isn't available and there aren't any telephone notes available. This means there is no evidence to clarify what happened during the call.

However, I think it is likely the outcome would have been the same in any event. I say this because at the time of the call, the default notice had already expired, and Mr K hadn't paid the default balance. Based on the information I've seen I think it is unlikely Mr K would have been able to make the necessary payment as he was struggling to pay his living expenses. Although Mr K says he'd have been able to borrow money from a family member this isn't a guaranteed source of income and therefore this doesn't change my thoughts about the outcome of this complaint.

I also don't think the 30 day hold meant Barclays acted inappropriately by registering the default on 29 December 2016. I say this because putting recovery action on hold doesn't stop arrears accruing on an account or a default being applied.

I also note that Mr K was warned about this in the 30 day hold letter as it says:

Other than formal notices we are required to issue under the Consumer Credit Act well (sic) not contact you over the next 30 days.

As the default notification letter was a formal notice under the Consumer Credit Act – this means Mr K should reasonably have been aware that the hold wouldn't stop Barclays from registering the default.

In summary, I think Barclays complied with the appropriate ICO guidance by defaulting the account when they did and gave Mr K enough notice before doing so. As Mr K didn't settle the default balance, this means Barclays acted fairly by defaulting the account so I don't think they should remove it.

my final decision

I don't uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 29 November 2019.

Anna Wilshaw
ombudsman