

complaint

Mr T complains that Barclays Bank PLC was irresponsible in its lending to his late father. He considers that Barclays should write off the debt owed to it by his late father's estate. Mr T brings the complaint as personal representative of the estate.

background

Mr T's father had two credit cards and a loan with Barclays. He used both credit cards up to their credit limit. In 2010 he took out a loan to consolidate the existing loan and one of the credit cards. The loan was duly used to pay those off. But within a year, Mr T's father spent up to the limit on the card he had paid off.

The adjudicator recommended that the complaint should be upheld in part. She accepted that it is the customer's responsibility to monitor their spending. But she also considered that the pattern of spending on the credit card should have prompted Barclays to ensure that the debt could be repaid. Mr T's father had used his credit card exclusively for cash withdrawals. The adjudicator considered that this should have caused Barclays concern.

Barclays had commented that the aim of consolidating borrowing is to allow the customer to reschedule debt over a fixed period of time, replacing a revolving credit facility. The adjudicator considered that Barclays should have closed the credit card account once the outstanding balance had been consolidated into the new loan. This would have prevented the debt from spiralling out of control again. She considered that its failure to do so seemed contrary to the very aim of the consolidation.

The adjudicator didn't consider that Barclays should write off the outstanding balance. This was because Mr T's father had had the benefit of the money. But she did consider that it should refund all interest and charges applied to the credit card account after the consolidation loan was advanced.

the parties' further comments

Barclays disagreed with the adjudicator's view. It said it wasn't a condition of the consolidation loan that the credit card was cancelled or the balance reduced. It had no record of Mr T's father telling it he was in financial difficulty. It was his responsibility to monitor his spending. He operated the card in accordance with the terms and conditions and made at least the minimum payment each month. So there was no reason for the card to come under review.

Mr T was disappointed that the adjudicator hadn't recommended that the complaint should be fully upheld. He considers that Barclays should have assessed the overall position of his late father's accounts. He says it knew that his father was using a large proportion of his disposable income to service his borrowing. It neglected any moral duty of care by agreeing loans that enabled him to service debts for many years at a high rate of interest.

my findings

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

I have seen nothing to convince me that Barclays was irresponsible in its lending to Mr T's father before 2010. There has been no suggestion that he told Barclays he was experiencing

financial difficulty. And he made the loan repayments and paid at least the minimum balance due on both credit cards each month. So I have no comment to make in respect of Mr T's other credit card. All references below to "the credit card" are to the credit card account that was paid off with the consolidation loan in 2010.

Nor can I see any reason to criticise Barclays for agreeing to the 2010 loan. Although the interest rate on the consolidation loan was higher than on the original loan, it was substantially less than that on the credit card. So from the time the loan was advanced, Mr T's father was effectively paying off the existing balance on his credit card at the loan rate rather than the credit card rate. This was clearly to his advantage.

But I do think that Barclays should have considered what should happen to the credit card account more carefully after it was paid off using the loan in 2010. At the time the loan was agreed, Mr T's father had, for some time, only been using his credit cards for cash withdrawals. This is an expensive way of borrowing money that might indicate he had no reasonable alternative. And he had only been making the minimum payment or slightly more each month. Even though there is no reason to believe that Mr T's father had told Barclays that he was in financial difficulty, I consider that it ought to have been clear to Barclays that it was at least probable that he was struggling to service his existing debt. The very fact that he applied to consolidate his borrowing also suggested this. And the debt was only likely to continue to accumulate.

Like the adjudicator, I consider that allowing Mr T's father to continue to spend on the credit card after the loan was advanced defeated the purpose of the loan. The loan was designed to consolidate Mr T's father's borrowing in a way that helped him to repay it. Once the credit card had been paid off using the loan, I consider that Barclays should have closed down the credit card account to stop further debt from accruing.

But like the adjudicator, I can't ignore the fact that Mr T's father had the benefit of the money he spent on the card. As he chose to spend the money, I do not consider it would be reasonable to require Barclays to write it off. In the circumstances, I consider the following to be a fair and reasonable outcome to this complaint.

my final decision

In full and final settlement of this complaint, I order Barclays Bank PLC to:

1. re-credit the credit card account ending in 9001 with all interest and any charges from 17 September 2010; and
2. pay Mr T £150 for the inconvenience of having had to pursue this complaint at what is already a difficult time.

Juliet Collins
ombudsman