

## The complaint

Mrs J complains that Barclays Bank UK PLC trading as Barclaycard unfairly applied a default to her account.

## What happened

I issued my provisional decision on this complaint on 18 November 2022, and this is what I said:

I've considered the relevant information about this complaint. Based on what I've seen so far, I intend to uphold this complaint. Before I issue my final decision, I wanted to give everyone a chance to reply. I'll look at any more comments and evidence that I get by 16 December 2022. But unless the information changes my mind, my final decision is likely to be along the following lines.

### The complaint

Mrs J complains that Barclays Bank UK PLC trading as Barclaycard unfairly applied a default to her account.

### What happened

Mrs J holds a Barclaycard account in her name and relied on her husband to make her monthly payments from his bank account.

Mrs J's husband made a series of on-line payments towards the end of 2020. However, these payments weren't credited to Mrs J's Barclaycard account. This led to Barclaycard sending overdue statement letters. Mrs J thought these letters were a mistake and took no action. This is because Mrs J's husband said the payments had left his account.

In December 2020, Barclaycard sent a further overdue letter informing Mrs J that she had missed three payments. They asked her to get in touch to avoid the card being permanently cancelled.

As no payments were received in January 2021, Barclaycard sent a further letter marked '*Your account is overdue - please get in touch straight away.*' They informed Mrs J that missed payments were being reported to credit reference agencies. Also, that a default notice, which would give her 28 days to fully clear outstanding arrears, would be sent if payments continued to be missed.

Mrs J spoke to Barclaycard representatives in late January and early February 2021 to explain that she had made payments and they had all left her husband's account. Barclaycard confirmed payments had been returned and said they would investigate. They asked for copies of Mrs J's husband's bank statements. There was a delay and redacted copies were not received until 21 April 2021.

As Barclaycard hadn't received any payments, they sent Mrs J a default notice on 26 March 2021. This notice said Mrs J had broken the agreement and gave her a deadline to fully

clear the arrears.

As Mrs J didn't have confidence to make any further payments, she requested her account and the default action be put on hold until the payments were found. Mrs J gained the impression that this was agreed. However, Barclaycard continued to request payments and, as these were not actioned, Mrs J's account was defaulted on 21 May 2021.

In June 2021, Mrs J was informed of the result of the investigation and shown that the missing payments had been refunded straight back to her husband's account. Mrs J complained as the default went ahead when she thought there was a hold on her account. Barclaycard said that Mrs J was informed that the payments hadn't been received and the default was correctly applied.

Mrs J complained to our service. Our investigator's view is that Barclaycard should remove the default from the account and bring it back within their internal collections department. She said this is because they should've put the account on hold and explained to Mrs J in more detail what the situation was with her account. Also, that Mrs J should be awarded £100 compensation for the distress and inconvenience caused when chasing responses and updates.

Barclaycard do not fully agree. They accept the award of £100. However, they say that prior to the default action, it would've been clear, because of the reference on Mrs J's husband's statements, that the payments had been re-credited, and this confirmed information given in February 2021. They therefore question affordability, the intent to pay and the appropriateness of lifting the default.

This case has therefore been referred to me to look at.

What I've provisionally decided – and why

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

As Mrs J's account had outstanding payments, Barclaycard weren't obligated to suspend interest, charges or recovery action. However, I've considered whether it would have been fair to do that.

It looks like the reason the payments were missed until April 2021 was because of the arrangement between Mrs J and her husband. That's not something Barclaycard could fairly be held responsible for. Ultimately Mrs J is Barclaycard's customer and they sent her statements which made the situation with the account clear. Also, refunds were showing on Mrs J's husband's statement and if Mrs J's husband didn't tell her about these then, again, that's not Barclaycard's fault. So, I think Barclaycard is entitled to apply interest and charges to these missed payments until April 2021 and that they remain on her credit file.

But at the point that Mrs J called Barclaycard, I think things became slightly confused. Call recordings show that Mrs J requested a hold on her account to allow for a payment investigation to be completed. Barclaycard representatives didn't provide clarity on whether the account was on hold or not. Also, they didn't give an update on the investigation or specify a completion timeframe. This lack of clarity and Mrs J's call comments persuade me that she was under the false impression that the investigation was on-going and a hold was in place. In addition, Mrs J was told that letters would continue to be sent automatically, however I can't see that it was explained that she needed to respond to these to avoid a default.

Also, contact notes show that Barclaycard conducted both a preliminary and full investigation which confirmed the refunds. However, I can't see that an outcome was communicated to Mrs J until after the default was completed. Furthermore, when discussing the investigation and the eventual outcome, Mrs J sounded eager for it to be completed and surprised the refunds had been missed.

I'm satisfied that there was a lack of clarity and that this led to confusion. I think Barclaycard could have done more to communicate this more clearly for Mrs J. Had they have done so and had they have completed the investigation before the default was registered, then I think Mrs J would have paid what was needed to avoid the default. I say this because she has confirmed as much to this service. Mrs J has said that if the default is removed then she can afford to start paying back what's owed but would like to do so on a monthly basis rather than a one off sum – which seems fair to me in the circumstances here.

I accept there is an unanswered question about why Mrs J's husband struck out the refunds on submitted statement in which some of his account information can be seen. Also, I can see that there would be questions as to why Mrs J was relying on her husband to pay her account. However, Mrs J's husband's redacted bank statements were only submitted to view relevant debits and credits and therefore it wouldn't be right or fair to draw any conclusion about Mrs J's intent from his submission.

Furthermore, Mrs J's husband's payments did leave his account and although I don't have the transaction details, the rejection reason was the reference used. Therefore, I think it unlikely that there was a plan for these to be returned unpaid. Also, whilst I do not know Mrs J's wider financial circumstances, on the calls she sounded eager to resolve the situation and surprised that the refund had been processed after all. And she has told this service that she is able to start paying back what's owed too. So, I'm not persuaded that there was any intent to avoid payment.

So, with all this in mind, I don't think it's fair for Mrs J's account to be defaulted, or for her account to be charged interest and fees between 21 April 2021 and 21 May 2021. The reason for these dates being mentioned is 21 April 2021 is the date Barclaycard were provided with information to conduct an investigation and the 21 May 2021 is the date the default occurred. Nor do I think Barclaycard should report any adverse information after this time either.

Finally, it is not in dispute that the service provided to Mrs J could have been better with regard to communication clarity, which caused Mrs J to make a number of calls. I therefore agree that £100 compensation is fair for the inconvenience and distress caused.

My provisional decision

For the reasons I've given above, it's my provisional decision to uphold this complaint.

I require Barclays Bank UK PLC trading as Barclaycard to:

- refund any interest and charges applied between 21 April 2021 and 21 May 2021;
- remove any adverse information recorded between April 2021 and May 2021 including the default;
- bring back the account from any third-party collection agent (if this is the case) so that Barclaycard itself can agree a way forward with Mrs J in terms of payments, and;
- pay £100 compensation for distress and inconvenience

I'll look at anything else anyone wants to give me – so long as I get it before 16 December 2022. Unless that information changes my mind, my final decision is likely to be as I've set out above.

**I invited both parties to let me have any further comments or evidence before the deadline.**

Mrs J didn't agree with the amount of compensation and said:

*"I am rather disappointed that the proposed compensation value is only £100, especially considering that Barclays Bank has consistently denied their unprofessionalism in dealing with this matter. In the last two years, they have put me in a bad credit rating and due to that I was unable to sort out my mortgage at a favourable rate, could not get loans or increase credit. Furthermore, by instigating a bad debt which resulted a debt agency putting a default on me. Given the above, I am now requesting you to reconsider the compensation value of £100 to a more appropriate compensation for a stress and anxiety caused as well as a financial situation I have been put in."*

Barclaycard said:

*"If Ms J is willing to agree to the outcome proposed and the default is removed, the account would be returned to the contractual terms. This would mean monthly repayments are required in line with the contractual terms and conditions. If Ms J is unable to meet the minimum payments as shown on the monthly statements, she would need to contact us to discuss a repayment arrangement. We'd need to review Ms J income and expenditure before agreeing to any reduced repayment arrangements and her credit file would reflect any missed payments or repayment arrangements which occur after the default is removed. If Ms J is unable to maintain sufficient repayments, the account could default again in the future. Contractual interest and charges would also resume once the default is reversed. If Ms J contacts us to confirm she's unable to meet the minimum payment, we can arrange for these to be stopped and a repayment arrangement discussed."*

### **What I've decided – and why**

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

Thinking about everything again and in light of Mrs J's comments, I re-considered the compensation award.

I first looked at the time between late 2020 until 21 April 2021 and I didn't think compensation would be fair for this period. This is because I'm satisfied that Barclaycard were entitled to apply interest, charges and to report missed payments to credit reference agencies. Also, the payments were missed due to the arrangement between Mrs J and her husband. And, I don't think it is fair to hold Barclaycard responsible for events in this period as they sent Mrs J statements which made the account position and payment situation clear. In addition, refunds were showing on Mrs J's husband's statement and if Mrs J's husband didn't tell her about these then that's not Barclaycard's fault. And, Barclaycard didn't receive information to conduct an investigation until 21 April 2021.

I then looked again at the period 21 April 2021 to 21 May 2021 together with the information on file about the impact of the default. I still think the default could've been avoided with better communication and clarity from Barclaycard, however I also had to take the following points into consideration:

Mrs J had been relying on her husband to pay her account and Barclaycard's investigation discovered he struck out clearly displayed refunds on his submitted statements. And, there remain unanswered questions about the necessity of placing a hold on Mrs J's account to undertake an investigation into refunds that weren't missing. Consequently, Barclaycard question Mrs J's ability and intent to repay the amount owed. Also, there is limited information on file to understand the impact of the default on Mrs J's financial affairs.

So, although a request for a greater level of compensation is understandable in a case where the decision is for a default is to be reversed, which I acknowledge must be both inconvenient and stressful, it is difficult to make an award for this when considering the above-mentioned wider circumstances.

However, there was a lack of clarity and it was necessary for Mrs J to chase responses. So, I consider the £100 award proposed by Barclaycard for distress and inconvenience to be fair and reasonable.

Finally, regarding agreeing a way forward with Mrs J, in terms of payments once the default is lifted. As pointed out by Barclaycard, this would mean monthly repayments are required in line with the contractual terms and conditions. And, I think the following request, requirement and statement from Barclaycard is reasonable should Mrs J be unable to meet the minimum payments as shown on the monthly statements:

*Mrs J "would need to contact us to discuss a repayment arrangement. We'd need to review Ms J income and expenditure before agreeing to any reduced repayment arrangements and her credit file would reflect any missed payments or repayment arrangements which occur after the default is removed. If Ms J is unable to maintain sufficient repayments, the account could default again in the future. Contractual interest and charges would also resume once the default is reversed. If Ms J contacts us to confirm she's unable to meet the minimum payment, we can arrange for these to be stopped and a repayment arrangement discussed."*

So, taking everything into consideration, I will be directing Barclaycard to lift the default and pay £100 compensation.

### **My final decision**

My final decision is that I uphold this complaint and I require Barclays Bank UK PLC trading as Barclaycard to:

- refund any interest and charges applied between 21 April 2021 and 21 May 2021;
- remove any adverse information recorded between April 2021 and May 2021 including the default;
- bring back the account from any third-party collection agent (if this is the case) so that Barclaycard itself can agree a way forward with Mrs J in terms of payments, and;
- pay £100 compensation for distress and inconvenience

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 7 February 2023.

Paul Douglas  
**Ombudsman**