

## **Complaint**

Miss M complains that Clydesdale Financial Services Limited (trading as Barclays Partner Finance (“Barclays PF”)) unfairly entered into a conditional-sale agreement with her. She’s said the agreement was unaffordable for her as she was a student with limited income and this resulted in her having to take out high cost loans to make her payments.

## **Background**

In November 2015, Barclays PF provided Miss M with finance for a used car. The cash price of the vehicle was £17,995.00. Miss M paid a deposit of £1,000.00 and entered into a 49-month conditional sale agreement with Barclays PF for the remaining amount needed to complete the purchase.

The loan had interest, fees and total charges of £6,164.16 (made up of interest of £5,830.16, a credit facility fee of £135 and a completion fee of £199) and the total amount to be repaid of £23,159.16 (not including Miss M’s deposit) was due to be repaid in 48 monthly instalments of £311.67 followed by an optional final repayment of £8,199.00 which Miss M had to pay if she wished to keep the vehicle.

Miss M’s complaint was considered by one of our investigators. He didn’t think Barclays PF had done anything wrong or treated Miss M unfairly. So he didn’t recommend that Miss M’s complaint should be upheld.

Miss M disagreed with our investigator’s assessment and asked for her complaint to be passed to an ombudsman for a final decision.

## **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’ve explained how we handle complaints about irresponsible and unaffordable lending on our website. And I’ve used this approach to help me decide Miss M’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Miss M’s complaint. I’d like to explain why in a little more detail.

Barclays PF needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that Barclays PF needed to carry out proportionate checks to be able to understand whether Miss M could make her payments in a sustainable manner before agreeing to lend to her. And if the checks Barclays PF carried out weren’t sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

Barclays PF says it agreed to this application after it completed an income and expenditure assessment on Miss M. During this assessment, Miss M provided details of her monthly income which it cross-checked against the amount of funds which entered into Miss M's main bank account each month.

Barclays PF says it also carried out credit searches on Miss M which not only showed that she didn't have any significant adverse information – such as defaulted accounts or County Court Judgments (“CCJ”) - recorded against her, but that she had little in the way of existing credit outstanding.

Furthermore, in Barclays PF's view, when repayments to the amount Miss M already owed plus a reasonable amount for Miss M's living expenses was deducted from her monthly income the monthly payments were still affordable. On the other hand, Miss M says she was already struggling at the time and that these payments were unaffordable.

I've thought about what Miss M and Barclays PF have said.

The first thing for me to say is that bearing in mind the term of the agreement and its total cost, unlike our investigator, I'm satisfied that Barclays PF needed to take further steps to ascertain Miss M's actual living costs, rather than assuming Miss M's living expenses in order for its checks to have been reasonable here. Barclays PF did not do this so I'm satisfied that its checks before lending in this instance weren't proportionate.

As Barclays PF should have done more, I've gone on to decide what I think Barclays PF is more likely than not to have seen had it done that here. Given the circumstances here, I would have expected Barclays PF to have had a reasonable understanding about Miss M's regular living expenses as well as her income and existing credit commitments.

I've considered the information Miss M has provided us with. Having done so, I'm satisfied that the information provided appears to show that when Miss M's committed regular living expenses are combined with her credit commitments and then deducted from what Barclays PF believed she received at the time, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept that Miss M may have found it more difficult to make her payments than she anticipated when entering into the agreement. But I don't think that Barclays could have known this. Indeed, while I accept that this isn't in itself determinative, I do think that it's worth noting that the fact that Miss M made her payments on time before settling the finance ahead of term including the optional final payment, does tend to support the agreement being affordable for her.

I note that there has been some dispute over the income figure which Barclays PF used. However, I understand Barclays PF was informed that Miss M earned around £18,400.00 a year. And as Barclays PF took steps to cross-check this declaration of income against the funds going into Miss M's account and this did not indicate she was receiving less funds into her account at the time, I'm satisfied that it was entitled to rely on Miss M's declaration. This is particularly as Miss M paying a deposit of £1,000.00 was also consistent with the actions of a potential borrower with such an income.

Miss M has disputed the income used. I accept that while Miss M's account did receive funds each month consistent with the income declared, I accept that the funds were from a variety of different sources and not just Miss M's employer. However, I don't see how Barclays PF would have known this. I've also considered that Miss M has referred to the role of the broker she used to secure this agreement and queried whether it might have provided incorrect information to Barclays PF.

In the first instance, I note that Miss M has provided copies of documentation from the broker at the time of this transaction which includes bank statements that have items crossed out. I don't know why the broker obtained this information. What I do know is that Barclays PF didn't consider Miss M's bank statements as part of this application and for the reasons I've explained, I don't think that it was required to do so in this instance either.

Indeed, I note that the email Miss M has supplied where the broker requests bank statements from her is dated 2 November 2015. And it also attaches a copy of Miss M's credit agreement for her to sign and returns. This suggests the statements were requested after Barclays PF had already agreed to lend.

Furthermore, given Miss M was in possession of the bank statement information she referred to both at the time of the sale and since, it's difficult for me to make the finding that Barclays PF ought to have known that any inflated declaration of Miss M's income was made without her knowledge.

I say this particularly bearing in mind that Barclays PF cross-checked the declaration of income it received. In these circumstances, should Miss M believe that the broker she used acted unfairly and this led to Barclays PF lending to her in circumstances where it ordinarily wouldn't have done so, this is a matter she needs to take up with the broker. Ultimately, it is the party best placed to respond to the allegations that Miss M appears to be making.

However, for the purposes of the complaint that's before me, I've not been persuaded that Barclays PF ought reasonably to have known the declaration of income it received was inaccurate and it was entitled to rely on this. Furthermore, I've not seen anything else to indicate that it ought to have realised that this agreement was unaffordable for Miss M.

So overall and having carefully considered everything, while I don't think that Barclays PF's checks before entering into this conditional-sale agreement with Miss M did go far enough, I'm satisfied that doing more won't have prevented Barclays PF from providing these funds, or entering into this agreement with her.

In reaching this conclusion I've also considered whether the lending relationship between Barclays PF and Miss M might have been unfair to Miss M under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Barclays PF irresponsibly lent to Miss M or otherwise treated her unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here. So I'm not upholding this complaint.

I appreciate that this will be very disappointing for Miss M. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

### **My final decision**

My final decision is that I'm not upholding Miss M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 30 September 2024.

Jeshen Narayanan  
**Ombudsman**