

The complaint

Ms D and Miss M complain that Barclays Bank UK PLC won't agree to Miss M being removed from their joint mortgage so Ms D can take it over on her own.

What happened

Ms D and Miss M, two friends, bought a property together with a mortgage from Barclays.

Miss M has now decided to move out and buy her own property, so they applied to Barclays for Miss M to be released from their joint mortgage.

Ms D says she completed the application in September 2019 and Barclays agreed to it and sent her a mortgage offer in her sole name. So it instructed solicitors to act jointly for them and to start the process of transferring the property and completing the change to the mortgage.

The solicitors said they could not progress matters because they hadn't received any instructions from Barclays. But Barclays told Ms D that it had instructed the solicitors and she should chase them instead.

In January 2020 Barclays issued a new mortgage offer (following a change of name by Ms D). But by March 2020 the transfer had still not completed.

In March 2020, the UK entered the first coronavirus pandemic lockdown. Ms D and Miss M were therefore concerned to make sure the application completed as quickly as possible. The solicitors assured them that the final paperwork had been completed and sent to Barclays.

Ms D contacted Barclays via her mortgage adviser. The adviser said that Barclays said Ms D and Miss M had withdrawn the application. Ms D contacted Barclays direct, who told her the solicitors had closed due to lockdown.

Ms D was able to contact the solicitors, who were unable to explain the delay. By now, in April 2020, the mortgage offer had expired. So Ms D and Miss M had to re-apply. Barclays re-considered their application, but reduced the amount it was willing to allow Ms D to take over on her own, meaning the mortgage balance would now have to be reduced first. Ms D considered applying to a new lender, but doing so would incur an early repayment charge (ERC) as they were still in a fixed rate period.

Ms D managed to raise the additional funds by borrowing from friends and family. Barclays then re-considered the application – only to reduce the balance it would agree to transfer further. It said it would not consider her full overtime pay as part of the affordability assessment, even though Ms D said it was guaranteed overtime.

Ms D and Miss M complained. Barclays said that it didn't know why there had been delays and advised Ms D to contact the solicitors. It said the expired offer could not be extended. It

suggested they wait until pandemic restrictions had eased, when it might change its lending criteria back to what they were before, making the mortgage affordable for Ms D again.

The ERC period has now expired and Ms D has been able to go elsewhere, releasing Miss M from the mortgage. But they complain about the delays, and the resulting costs, distress and inconvenience – and the strain on the friendship – that resulted.

Our investigator thought that most of the delay was caused by the solicitors. But he noted that Barclays had instructed the solicitors and hadn't done enough to get matters progressed in a reasonable timescale. He thought Barclays should pay Ms D and Miss M £500 compensation for its part in the upset and inconvenience that resulted.

Barclays didn't accept that. It said while it had instructed the solicitors it didn't have the resources to chase applications itself and that Ms D and her mortgage adviser should have done that. So the case came to me for a decision to be made. Although I reached the same outcome as the investigator, I did so for different reasons. So I issued a provisional decision to allow the parties to comment on my thinking before I make a final decision.

My provisional decision

In my provisional decision I said:

In this case I've seen evidence from Ms D, from her mortgage adviser, and I've seen emails from the solicitors explaining their position, as well as emails from Barclays. I've set out above the broad timeline of events, which isn't contested. What is contested is who is at fault for the delay. So I'll need to review the evidence about that, and come to my own findings.

Barclays originally issued a mortgage offer in October 2019. Ms D asked for the offer to be amended as she had changed her name. A revised mortgage offer was issued on 15 January 2020, expiring 27 March 2020. This was a variation of the original mortgage, remaining on the same fixed rate until January 2021.

Barclays says it instructed solicitors I'll call E in October 2019, and in turn E instructed another firm I'll call R in December 2019. It says this is because E doesn't deal with properties in Scotland, so had to refer to R.

I've seen correspondence from both R and the mortgage adviser setting out their versions of events.

R said that they were instructed by Barclays in mid-December 2019. They were progressing the application. But on 24 March 2020, as part of lockdown restrictions, the offices of the Registers of Scotland closed without notice. This meant that all land transactions in Scotland – including property title transfers and re-mortgages, as in this case, could not be progressed. And this in turn meant that the deadline for completion of 27 March 2020 could not be met. The solicitors said that Barclays had closed its offices too, which meant they could not communicate with Barclays. New procedures were put in place a few weeks later – but by then Ms D's mortgage offer had expired.

I've checked the guidance issued by the Registers of Scotland at the time, and I can see that on 24 March 2020 it issued a notification that it had closed to applications. However, on 25 March 2020 there was a dedicated phone line made available for transactions that had to complete that day. And on 26 March, there was an announcement by the Law Society of Scotland that solicitors should not progress housing transactions – though there was by now a process in place for the Registers of Scotland to deal with urgent transactions.

I don't know if R tried to make use of the urgent application process between 25 March and when the offer expired on 27 March. I have no power over the solicitors and if Ms D and Miss M have any concerns over whether the solicitors acted promptly or not, they may wish to contact the solicitors or the Scottish Legal Complaints Commission¹ - noting there are time limits for doing so.

The mortgage adviser said that she had been chasing Barclays throughout to get the application processed and the mortgage moved to completion. She tried to persuade Barclays to extend the mortgage offer once it expired in March, but Barclays was unwilling to do so. By April it had changed its lending criteria in light of the covid-19 lockdown and was no longer willing to lend Ms D the full amount. The adviser said she asked Barclays to reconsider on the basis that the first offer had been issued six months earlier and had the solicitors been instructed promptly the mortgage would have completed before 27 March, but it was still unwilling to do so.

Ms D and Miss M therefore waited for the ERC to expire, and Ms D moved to another lender in February 2021, releasing Miss M from the mortgage.

Barclays says that it has spoken to R direct to investigate what happened, and R has said that it needed documents from Ms D to prove her identity, but Ms D didn't provide them until mid-February. But Barclays hasn't been able to provide us with evidence of this.

Ms D says that she was in regular contact with R and chasing them to provide an update on progress, but nothing was heard from Barclays – but Barclays says R requested redemption statements for the previous mortgage in February, which suggests it was ready to proceed then.

I've taken all this evidence into account. Much of it is contradictory. There are a number of parties involved here, and each seems to be blaming the others for the delay.

As I said above, I have no power over the solicitors – and the same is true of the mortgage adviser and indeed of Ms D and Miss M themselves.

I'll therefore focus on where I think Barclays went wrong in this case – and in my view there's one crucial factor here.

Barclays instructed E to carry out the conveyancing work in October 2019. But E does not deal with cases involving Scottish property, and so E passed the work on to R in December 2019. If Barclays had instructed Scottish solicitors direct, in October, that two month delay would not have happened. And had that been done it's more likely than not that the re-mortgage would have completed before the offer expired in March 2020.

That on its own is enough, in my view, for me to uphold this complaint. Even if Barclays is right that the solicitors delayed matters, that Ms D didn't provide the solicitors with required information and the mortgage adviser should have been more pro-active – all or some of which may or may not be true – the fact remains that the whole process started two months later than it should have done because Barclays instructed a solicitor that couldn't do the work.

I'm satisfied that – whatever the faults of other parties may or may not have been – Ms D's re-mortgage would have completed in time but for this error on Barclays' part.

¹ www.scottishlegalcomplaints.org.uk

It's therefore fair that Barclays compensate Ms D and Miss M for the distress and inconvenience they were caused – Ms D in having to wait for and chase completion, and having it fall through at the last minute, Miss M for the delay this caused to her own plans, and both of them for the strain on their friendship that resulted. I'm satisfied £500 is fair in all the circumstances.

The responses to my provisional decision

All parties accepted my provisional decision.

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.

I've also considered again the findings in my provisional decision. Having done so – and noting that all parties accepted them – I see no reason to change my mind. For the reasons I gave, I uphold this complaint and I'm satisfied £500 is fair compensation in all the circumstances.

My final decision

For the reasons I've given I uphold this complaint and direct Barclays Bank UK PLC to pay Ms D and Miss M £500 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D and Miss M to accept or reject my decision before 24 May 2022.

Simon Pugh
Ombudsman