

The complaint

Mr B's complaint against Barclays Bank UK plc (Barclays) is about the link between the selected retirement age (SRA) for his pension plan and the term of his mortgage.

What happened

I've considered Mr B's complaint before. I issued a provisional decision on 21 April 2022. I've recapped here what I said about what had happened and my provisional findings.

'Mr B (with his wife) has a main mortgage with Barclays and a further advance – an Open Reserve Plan (OP2). Both loans are interest only. Mr B's pension was the intended repayment vehicle. Mr B is unhappy with the link between the term of his mortgage and the latest date he's likely to retire. Mr B says he may work until he's 70 but his pension plans have a SRA of 65.

The mortgage was taken out in 1998. It was due to be repaid in June 2018. Mr B would then be 62. Mr B had an existing group personal pension (GPP) with Scottish Widows into which his employer was contributing £312.50. Contributions were invested in the with profits fund. Mr B's SRA was his 65th birthday in October 2020. Barclays advised Mr B to set up a second plan so he could top up the pension contributions to the maximum allowed on which he'd get tax relief. That was £7,000 pa so he'd pay a further £270.83 gross pm into a new pension plan with a different provider – Royal Sun Alliance (RSA). Mr B's contributions were to be invested in the Managed Growth Fund. His SRA was again his 65th birthday. He'd indicated he wanted to retire sometime between 55 and 58 but he'd possibly work until age 65 to maximise his pension.

The OP2 was taken out in 2000. That was also on an interest only basis. It seems there was some confusion about when it was to be redeemed. Mr B understood it was to be repaid in 2019. And that the term of his main mortgage had been extended by a year to match that. But it appears that the OP2 was to be repaid at the same time as the main account and both loans were due to be repaid in June 2018. I think Barclays agreed that repayment of the main mortgage would be postponed until 2019. The mortgage and the OP2 weren't redeemed then. Mr B and his wife wanted the terms of the loans to be extended but Barclays didn't agree. As I've mentioned below, Mr B and his wife have a separate complaint about the mortgage.

Barclays didn't uphold the complaint about Mr B's pension. It said Mr B had been correctly advised to set up his RSA plan with a SRA of 65. At the time of the advice that was the latest age at which Mr B considered he'd retire. And his existing GPP had been set to that age too. But, in any event, the benefits from the RSA plan don't have to be taken at age 65. There's a penalty free early retirement option. And Mr B could've continued making payments beyond age 65 and deferred taking benefits until any time up to age 75. But Barclays did say that it had taken too long to respond to Mr B's concerns and paid him £150 for that.

The investigator issued his view on 3 September 2021. He didn't think the complaint should be upheld. He explained that the complaint about the mortgage was being looked at separately and so he was only considering the complaint about when Mr B could take his

pension benefits. The investigator didn't think Barclays had been wrong to record Mr B's SRA as 65. And Mr B wasn't restricted by that – he could take his pension benefits earlier or later.

Mr B didn't accept the investigator's view. We told Mr B and Barclays that an ombudsman would review the complaint.

Since then I've seen that Barclays sent two letters on 10 November 2021 to Mr B and his wife. Mr B didn't receive them until 16 November 2021. One letter was formal notice of referral to solicitors to start repossession proceedings. Mr B said the other letter – asking him to contact Barclays within 14 days to prevent legal proceedings - suggested he'd done nothing to try to resolve the issue about repayment of the mortgage and didn't refer to any complaint having been made to Barclays and this service.

The letter also said that Barclays had attempted to contact him on all available telephone numbers between 17 April 2019 and 10 November 2021 but had been unable to agree an acceptable proposal for repayment of the outstanding balance(s).

Mr B said he'd been in almost constant contact with Barclays since 2018 and had had dozens of email exchanges with various people. He described it as another example of what he considered was Barclays' 'appalling communications with both customers and internally.' He'd understood Barclays wouldn't take any further action until our investigation into his complaint was complete. He'd then agree with Barclays to continue to make the mortgage payments until an agreed future date or, if we didn't uphold his complaint, make arrangements to access the tax free cash sums from his pension plans (although that would take some time).

When we queried the letters with Barclays it confirmed that no further action would be taken pending our final decision. It said that when the investigator had issued his view (on 3 September 2021) the hold (not to issue court proceedings) was removed. That was normal procedure. But when Mr B had asked for an ombudsman's decision, the hold should've been put back on but that was overlooked. Barclays apologised.

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 I've said, we're dealing with a complaint about the mortgage and OP2 separately. I've seen a jurisdiction decision issued by a colleague on 21 December 2021 in connection with the mortgage complaint. In it he summarised the issues Mr B and his wife had raised about their mortgage. Two of the points are confined to the mortgage and the OP2 loan (first, Barclays not aligning the term of the mortgage with the further advance, when that further advance was taken in 2000 and, secondly, Barclays declining a request to extend the term of the mortgage after it had matured and how Barclays had handled the account since then).

But the two other issues relate to Mr B's pension as well. Namely:

- The advice given by Barclays when Mr and Mrs B took out their mortgage in 1998 to take the borrowing over a term of 20 years, which would expire before they retired, bearing in mind the repayment vehicle they have in place.*
- Barclays not providing information proactively about changes to regulations around pension withdrawals, which Mr B considers Barclays should've done, given a pension was the intended repayment vehicle for the mortgage.*

On the first point, although there's an overlap with the complaint about the mortgage, I'm only looking at the issue from the perspective of the advice Mr B was given in connection with the RSA plan and, in particular, if he was correctly advised to set up that plan with a SRA of 65.

My understanding is that Mr B isn't complaining about the sale of the RSA pension plan or how it's performed, just that he was advised to set it up with a SRA of 65 whereas his mortgage was to be repaid before then. Mr B is concerned that, if he takes tax free cash from his pension plans to repay the mortgage and the OP2, he won't then be able to make further pension contributions although he doesn't intend to retire until age 70.

Although Mr B says he may now work until he's 70, at the time the RSA pension was set up, he'd said he planned to retire sometime between age 55 and 58. And the latest he intended to retire was age 65. On that basis I don't think a SRA of 65, being the latest age Mr B was then planning to retire, was incorrect. And it's consistent with the SRA for Mr B's other pension plan, the GPP. I'm not looking at the GPP as Barclays wasn't involved in setting it up – the GPP was already in existence when Mr B took out his mortgage and so Barclays isn't responsible for the sale of the GPP.

When the mortgage was set up, it was due to be redeemed before Mr B reached his SRA. So I can understand why Mr B might say, as he was intending to use the tax free cash from his pensions to repay his mortgage (and the OP2), the maturity dates for the mortgage and his pension should've been the same. Or his SRA shouldn't have been after the redemption date for his mortgage.

But, as has been pointed out, the SRA wasn't 'set in stone'. It was open to Mr B to take his benefits earlier. And without penalty. Or to take benefits later, assuming he was able to repay his mortgage and the OP2 loan by the due date from another source – I note the application form for the mortgage records an intention to reduce ('chip away') the loan using bonus payments. So I don't think setting a SRA of 65 for the RSA pension arrangement was wrong.

I can understand, if Mr B is now going to continue to work until he's 70, he'd like to make further provision for his retirement which he fears he'll be unable to do if he takes his tax free cash from his pension plans. I'd advise Mr B to seek independent financial advice. My understanding is that it may be open to him to take just his tax free cash without triggering the money purchase annual allowance and which would restrict the amount of the amount of future pension contributions Mr B can make. But, and as I've said, he'll need to take his own advice.

About the second issue, my colleague suggested in his jurisdiction decision, that it might be more appropriate for this to be dealt with as part of the pension (ie this) complaint. So I've considered it below. I'm mindful that Barclays may not have had an opportunity to comment on this part of the complaint but, given that I'm issuing a provisional decision and taking into account what I've said, I'm hoping it won't be necessary to treat it as a further and new complaint.

I can understand why there might be some suggestion that Barclays should've kept Mr B informed about changes to pensions legislation and when Barclays was aware that his pension was the intended repayment vehicle. But I don't think Barclays had any duty to provide Mr B with ongoing information about pensions in general. It's a very wide and complex subject and has been subject to much regulatory and legislative changes, for example, the pensions freedoms introduced in 2015. I think if there were legislative changes which might impact on the arrangement that Mr B had with Barclays – that he could take tax free cash from his pension to repay his mortgage – that might be different. But that wasn't

the case – in general, the position remains that up to 25% of a pension fund can be taken as a tax free cash lump sum. And, as I've said above, I think it may be open to Mr B to take tax free cash without impacting on his ability to continue to pay into a pension plan.

Lastly, I've mentioned above the two letters Barclays sent Mr B and his wife on 10 November 2021. I'm conscious this matter could be considered as pertaining more to the mortgage complaint, as those letters concerned the possibility of repossession proceedings being instigated. But Barclays has accepted those letters were sent in error, given that Mr B had asked for an ombudsman's decision in connection with this complaint. So I think the letters can be treated as part of the (pension) complaint I'm considering here. Again I think it's convenient to do that, rather than treating the matter as a new and separate further complaint.

Barclays has apologised for sending the letters. But I think the letters would've worried and concerned Mr B. The threat of imminent court proceedings to repossess the property would've been very upsetting. And, as he's pointed out, some of what the letters said (such as Mr B not having been in contact with Barclays) appears to be incorrect. I think Barclays should pay some compensation for the distress and inconvenience the letters would've caused. I'd suggest a figure of £250.'

Mr B was disappointed with my provisional findings. He said although I'd said the rules had changed about drawing down tax free cash from pension plans, that hadn't been the case when he'd first brought his complaint back in 2018/2019. He didn't think that had been fully taken into account in considering how he and his wife had been treated by Barclays at the time. Mr B suggested that delays by Barclays over the past four years had worked in Barclays' favour and my decision hadn't reflected that or the stress and anxiety caused over that period.

Barclays didn't object in principle to my findings. Although it felt that the letters which shouldn't have been sent in November 2021 were more to do with the mortgage complaint, it was prepared to agree to pay the compensation I'd suggested as part of this complaint about Mr B's pension.

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 set out in full my provisional findings and which form part of this decision.

I'm sorry Mr B is disappointed and feels that the compensation I've suggested isn't sufficient. But, in the main (and aside from the letters which Barclays accepts shouldn't have sent), I haven't been able to uphold Mr B's complaint about his pension.

I note what Mr B says about the rules regarding pensions having changed. But I'm not sure that the position about taking tax free cash from a money purchase arrangement has changed since 2018/2019. I don't see that any delay has benefited Barclays. Further, and as I said in my provisional decision, I don't think there was any onus on Barclays to give Mr B ongoing information about changes to pension legislation and/or regulations. I'd repeat that Mr B may want to seek advice about what options he has and the impact of taking tax free cash from his pension arrangements.

I'm not upholding Mr B's complaint except in respect of the letters Barclays sent on 10 November 2021. As I've said, the letters would've caused worry and upset. Barclays should pay £250 in recognition of the distress and inconvenience the letters would've caused.

I'd stress that I'm only considering the pension aspects of the complaint. The complaint about the mortgage will be considered separately.

My final decision

I'm upholding the complaint only in part. Barclays Bank UK plc must pay £250 as compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 June 2022.

Lesley Stead
Ombudsman