

## **The complaint**

Miss C complains that Barclays Bank UK PLC gave her inconsistent and incorrect information about the early repayment charge (ERC) if she repaid her buy to let mortgage. She says this caused delays and her sale fell through. While Barclays offered compensation, she asks that it increases this to cover her legal costs, council tax and lost rental income.

## **What happened**

Miss C decided to sell her buy to let property. She checked the amount of her ERC with Barclays and was told it was 1% of the balance of her mortgage. On this basis she accepted an offer for the property. When she received the redemption statement the ERC was 2%. Miss C asked Barclays to investigate this. However, her buyer pulled out before Barclays responded.

Our investigator said while Barclays made errors, its payment of £750 compensation and offer to apply an ERC of 1% was fair. The investigator said Barclays wasn't responsible for the costs Miss C incurred in relation to her sale.

Miss C didn't agree. She said she wouldn't have tried to sell her property if she'd known the ERC was 2%.

## **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.

Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Barclays accepts it made errors. It says while the ERC was 2%, it had told Miss C it was 1% on more than one occasion. Because of this, Barclays agreed to apply an ERC of 1% if Miss C repaid her mortgage while the product applied. And it offered compensation of £750.

Had the sale of Miss C's property completed, she might well have considered that to be fair compensation for the upset and inconvenience caused by Barclays' error. But Miss C's sale fell through. Miss C says this was due to the delay while she waited for Barclays to respond to her complaint.

Miss C says Barclays should pay her costs related to her failed sale as well as compensation for lost rental income of about £2,300 per month from November 2020 to March 2021, and the costs related to the property during this period. She says the sale fell through due to delays caused by Barclays. And if she'd known at the outset the ERC was 2% she wouldn't have marketed the property for sale and incurred these costs.

I've set out briefly what happened, based on what the parties have told us.

- Miss C took out a new product in March 2019. This had an ERC of 2%, in place until May 2021. Barclays says this would have been stated on the mortgage information sheet. Miss C says she was told the ERC would be the same as her previous product (1%). After Miss C took out the product Barclays sent a confirmation letter saying the ERC was 1%. Barclays says it sent a further letter correcting this, but can't find a copy. It says its notes on the account suggest this letter also said the ERC is 1%.
- Miss C's tenants left her property in early November 2020. Miss C provided evidence that the tenancy agreement ended on 8 November 2020.
- Miss C says she put the property on the market in November 2020. She provided her contract with the estate agents, which she signed on 23 November 2020.
- Miss C says she accepted an offer for the property and provided a memorandum of sale dated 3 December 2020. This said the proposed dates for exchange and completion were ASAP. It said the purchaser was to place a deposit to show intent.
- Miss C called Barclays in late November 2020 to check the amount of the ERC (Barclays said it was 1%) and asked for a redemption statement (which she didn't receive).
- In early January 2021 Miss C was told the ERC was 2%. She made a complaint and told Barclays the matter was urgent due to her sale.
- Miss C says she didn't want to exchange contracts for her sale until she knew how much the ERC was. She told Barclays in early February 2021 she was due to exchange contracts for her sale the following week.
- Barclays told Miss C it would apply a 1% ERC on 19 February 2021. Miss C told Barclays her sale had fallen through the previous day.

#### *Did Barclays make an error?*

I've listened to a recording of Miss C's call with Barclays in November 2020 when it told her that the ERC was 1%. It was clear about this, even when Miss C asked it specifically to confirm that it was 1% and not 2%. This discussion was important as Barclays had sent Miss C inconsistent information previously about whether the ERC was 1% or 2%. Barclays confirmed the products on both sub accounts expired in May 2021. Miss C asked for a redemption statement, which she says she didn't receive.

Barclays made errors. It had previously told Miss C several times that the ERC was 1%, and it told her this again in November 2020. I think Barclays took too long (until 19 February 2021) to respond to Miss C's complaint and confirm what ERC it would apply.

#### *Did Barclays error cause Miss C's sale to fall through?*

Miss C says her buyer wanted to benefit from the stamp duty holiday which was due to end on 31 March 2021. She told Barclays on 4 February 2021 that she was expecting to exchange contracts the following week.

The implication of what Miss C says is that waiting for Barclays to confirm the amount of the ERC was the only matter holding up the sale. However, Miss C hasn't been able to provide evidence to support this – such as an email from her solicitor confirming they were otherwise ready to exchange contracts. I asked if Miss C could provide a copy of her solicitor's invoice, as this would usually set out what work had been carried out. I also asked if Miss C could

provide other evidence, such as the cover letter or email attaching the contract ready to sign. Miss C didn't provide this. She provided a fee estimate dated 2 December 2020 addressed to a family member. But this doesn't evidence the work carried out by the solicitor, or that Miss C and the buyer were ready to exchange contracts.

Barclays said it would apply an ERC of 1% on 19 February 2021. Miss C told it that the sale had already fallen through. This was about a week after she'd been due to exchange contracts – and more than five weeks before the stamp duty holiday was due to end. If her buyer was keen to buy the property and in a position to exchange contracts, they could at this point have gone ahead and done so.

While Miss C says her buyer pulled out due to delays caused by Barclays she hasn't provided evidence to support this. There are a number of reasons for property sales falling through. I don't think, based on the available evidence, I can reasonably find that the only or the main reason Miss C's sale fell through was due to delays caused by Barclays.

*Is Barclays responsible for Miss C's losses during the sales process?*

Miss C's tenants left the property in early November 2020 and Miss C put the property on the market in late November 2020.

While the property was marketed for sale, it was empty and Miss C lost rental income or at least the opportunity to try to let it. She had costs, such as monthly mortgage payments and council tax.

The balance of Miss C's mortgage was about £400,000. The ERC would have been about £4,000 (if it was 1%) and about £8,000 (if it was 2%). Miss C contacted Barclays in November 2020 to check the amount of the ERC. Most likely this was one of the factors she took into account when making decisions about the property.

However, Miss C had taken the decision to market the property for sale rather than to re-let it, and had instructed the selling agent before the call in November 2020 when Barclays wrongly said the ERC was 1%.

Miss C appointed the selling agent in mid-November 2020 and marketed the property for sale at about £650,000. She'd accepted an offer of £615,000 before 2 December 2020. This means Miss C accepted an offer of £35,000 less than the asking price after she'd marketed the property for about two weeks. This could suggest that Miss C was keen to sell the property quickly. Miss C could have avoided paying any ERC if she'd waited to sell the property after the product expired in May 2021.

Barclays gave Miss C incorrect information about the amount of the ERC. The difference between the ERC Miss C was told she'd pay and the actual amount due was £4,000. I think it's reasonable for Miss C to say this was a significant amount of money that she'd have taken into account when making decisions about the property.

But I don't think I can fairly find that Miss C wouldn't have continued with the sale of the property if she'd been given correct information about the ERC when she called in late November 2020. Her tenants had left in early November and the property was vacant. She'd already instructed selling agents and started to market the property for sale. Miss C could have avoided paying an ERC by waiting until May 2021 to sell the property. And Miss C accepted an offer of £35,000 less than the asking price when the property had only been marketed for about two weeks. This could suggest that selling the property at that time was a higher priority for Miss C than achieving the highest possible net proceeds from the sale.

I've considered what Miss C has said very carefully. I'm sorry that her sale didn't proceed as she'd hoped. I don't think, in the circumstances, that I can fairly find that Miss C would have acted differently if she'd been given correct information about the ERC in November 2020. It follows that I don't think it's fair and reasonable to require Barclays to pay compensation for any costs she incurred related to the sale process or the property, or for lost rental income.

There's no doubt though that this caused Miss C upset and inconvenience. It's quite reasonable for Miss C to want to know how much the ERC would be if she repaid the mortgage. It must have been frustrating that Barclays took more than a month after she raised her complaint to confirm it would apply an ERC of 1%, especially as she was hoping to sell the property. Taking all this into account, I think compensation of £750 is fair and reasonable in the circumstances.

### **My final decision**

My decision is that Barclays Bank UK PLC should pay £750 to Miss C, as it offered to do. It can deduct any amounts it has already paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 18 July 2022.

Ruth Stevenson  
**Ombudsman**