

The complaint

Mrs E and Mr E complain Barclays Bank UK PLC failed properly to respond to their concerns they'd treated their residential mortgage as a buy to let mortgage, wrongly disclosed their personal data, and put them in a potentially difficult position with HMRC.

What happened

In 2000 Mrs E and Mr E re-mortgaged from their existing lender to a company I'll call "W", for £60,000 on an interest only basis over a term of 19 years. W was acquired by Barclays many years ago and Barclays took the mortgage over. Mrs E and Mr E understood they had a residential mortgage. In 2019, when they were arranging to redeem their mortgage, they had reason to think a company they'd never heard of, which I'll refer to as "T", was involved with their mortgage account.

Mrs E and Mr E became concerned their mortgage had been treated as a buy to let (BTL) rather than as a residential mortgage, which could have led to them paying higher rates of interest and charges; their personal data had been provided to T; and issues could arise with HMRC if they thought they'd had BTL mortgages.

Barclays said Mrs E and Mr E had had a residential mortgage. They sent them a copy of their mortgage offer and explained how they could request additional documents. They said it was difficult to investigate the issues due to the time that had passed. And they apologised and offered compensation of £150.

Mrs E and Mr E didn't feel Barclays had responded to all their concerns. And documents Barclays then provided were confusing. So, they brought their complaint to the Financial Ombudsman. Our investigator said Barclays should increase the level of compensation to £250 because they hadn't fully responded to the complaint at first. And he said Barclays should provide confirmation to Mrs E and Mr E there was no evidence they'd had a BTL mortgage.

Barclays acknowledged the time they'd taken to resolve things and agreed to increase the compensation to £250. They said it would be more accurate for them to confirm that Mrs E and Mr E had had a residential mortgage and it was incorrectly placed on their BTL system with T when it was taken over from the original lender. Mrs E and Mr E wanted a more detailed explanation from Barclays about what had happened.

Since Mrs E and Mr E's complaint hadn't been resolved, it was passed to me to review afresh. I recently issued a provisional decision, an extract of which follows:

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. Since my conclusions and outcome differ in part to those of our investigator, I'm issuing a provisional decision to give the parties time to provide any additional comments or evidence they'd like me to consider.

I understand Mrs E and Mr E's concerns about how Barclays managed their mortgage. I've noted the points Mrs E and Mr E have raised about inconsistencies in documents they've seen. And I acknowledge it will be frustrating they haven't had full answers to the questions they raised. But it's not surprising, given the time that's passed since they took their mortgage out, that documents and records, which might have helped provide a clearer picture, are no longer available. And I understand it's more difficult to get hold of documents than it would have been because their account is closed. I'm not persuaded Barclays have deliberately failed to provide information as Mrs E and Mr E may suspect.

Mrs E and Mr E say they want a better explanation about what happened from Barclays, but they haven't said what that would contain. Given there's limited information, I don't think there's significantly more that Barclays can say. Although I'm not certain they've told Mrs E and Mr E about some relevant information they discovered during their investigation, which I'll mention.

The mortgage offer Barclays were able to provide shows Mrs E and Mr E were applying to re-mortgage in relation to the property they lived at, not a separate property, which suggests it was a residential mortgage. Barclays' investigations apparently revealed the mortgage conditions included terms consistent with it being a residential mortgage. They think the mortgage was wrongly put onto one of their BTL management systems when they took it over from W. Despite that, another system Barclays operate recognised it as a residential mortgage. I understand it's from this information that Barclays have concluded the mortgage was treated as a residential mortgage.

It's not clear they've explained all of this to Mrs E and Mr E or provided them with a full copy of the mortgage offer containing the terms and conditions they considered. But I'm not aware of any evidence to contradict Barclays' conclusions the mortgage was treated as a residential mortgage as it should have been. If Mrs E and Mr E have any evidence about that they'd like me to consider, they can provide it in response to this provisional decision.

Barclays have explained their BTL mortgages were set up on two management systems, one of which is named T. That explains T was a management system, not a separate company. And I think that should reassure Mrs E and Mr E their personal data hasn't been shared outside Barclays. I'm not aware of any evidence that it has.

Barclays say they can confirm to Mrs E and Mr E that their mortgage was a residential mortgage and incorrectly placed on their BTL system, T, when it was taken over from W. I think they should also provide the additional explanation I'll set out below.

I don't think Barclays addressed all Mrs E and Mr E's concerns when they initially responded, or that their subsequent explanations clarified the outcome of the investigations sufficiently. I understand Mrs E and Mr E will have continued to have concerns about how their mortgage had been treated and how HMRC might view their borrowing. And it will have been inconvenient for them to have had to continue to push for an explanation. I think the £250 our investigator recommended, and Barclays are prepared to pay, is fair to compensate Mrs E and Mr E for the time and effort it's taken to get an explanation of what happened from Barclays, and the worry it's caused them.

My provisional decision

Barclays Bank UK PLC should write to Mrs E and Mr E confirming their mortgage was a residential mortgage and that it was incorrectly placed on their BTL system, T, when it was taken over from the original lender. They should also explain how they reached that conclusion by setting out the evidence they relied on and provide Mrs E and Mr E with a

complete copy of their mortgage offer with the terms and conditions attached if one is still available.

Barclays Bank should also pay Mrs E and Mr E £250 compensation for distress and inconvenience.

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.

Mrs E and Mr E haven't made any comments on my provisional decision. Barclays have accepted it. So, I see no reason to change the provisional decision I reached.

Putting things right

I see no reason to change either my provisional view about how to put things right.

My final decision

Barclays Bank UK PLC should

1. write to Mrs E and Mr E confirming their mortgage was a residential mortgage and that it was incorrectly placed on their BTL system, T, when it was taken over from the original lender. They should also explain how they reached that conclusion by setting out the evidence they relied on and provide Mrs E and Mr E with a complete copy of their mortgage offer with the terms and conditions attached, if one is still available; and
2. pay Mrs E and Mr E £250 compensation for distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E and Mr E to accept or reject my decision before 18 October 2022.

Julia Wilkinson
Ombudsman