

## **The complaint**

Miss D and Mr S complain about poor service from Barclays Bank UK PLC when they applied to port their mortgage. They say they had to take out a mortgage with another lender. Miss D and Mr S ask that Barclays refunds the early repayment charge (ERC) and pays compensation for their rental, legal and storage costs and for their distress and inconvenience.

## **What happened**

Miss D and Mr S needed to move to a property that better suited their needs. They needed a property with no thresholds or changes in levels and with space for use of a wheelchair throughout. They found a property and contacted Barclays in late December 2020 about porting their mortgage. They say the developer they were buying the property from withdrew in April 2021 due to delays by Barclays.

Miss D and Mr S say despite their purchase falling through they felt obligated to sell their property, which no longer suited to their needs. They weren't able to find temporary accommodation suitable for their needs, which caused them difficulty over several months.

Miss D and Mr S found another property to buy. However, the property was given a zero valuation as Barclays didn't accept the builders warranty being offered. Miss D and Mr S challenged this, but say they didn't get a response from Barclays until September 2021. By that time, they'd applied to another lender.

Barclays offered £450 compensation which Miss D and Mr S said isn't enough. They say Barclays reneged on an offer to compensate them for their costs (about £10,000). They say it should refund the ERC.

Our investigator didn't recommend that Barclays refund the ERC, saying it was Miss D and Mr S's choice to sell their property when they did. He said Barclays should pay compensation of £650, which it agreed to do. Miss D and Mr S didn't agree. And so the complaint has come to me, an ombudsman to issue a 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.

Miss D and Mr S have repaid their mortgage with Barclays and taken out a mortgage with another lender. I need to decide what compensation, if any, Barclays should pay for the problems they experienced when they applied to port their mortgage.

I should explain that 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.

The compensation Miss D and Mr S ask for falls into three categories. A refund of their legal,

rent and storage costs. A refund of the ERC. And compensation for their upset and inconvenience.

### *Legal, rent and storage costs*

Miss D and Mr S say Barclays should pay their legal, rent and storage costs because its delays caused their first purchase to fall through. They say Barclays offered to pay the costs and then reneged on this. Barclays final response letter says it would *consider* covering the costs on receipt of evidence. It said something similar to Miss D by phone – that it would look to re-imburse costs with evidence and authority from more senior managers. Barclays told us due to the amount Miss D and Mr S were asking for (about £10,000) it needed clear evidence about why the developer withdrew from the sale, and about their application to a different lender. It said it hadn't received this when the complaint came to us.

I think it's reasonable for Barclays to want evidence of why the developer withdrew – that this was due to delays or errors by Barclays. Miss D provided a letter from their solicitor confirming that the developer withdrew from the sale in mid-April 2021. This doesn't say why the developer withdrew, only that it did. Miss D asked her solicitor if there was more information about this. Frustratingly, the developer didn't say why he withdrew from the sale.

Miss D says the property was built by a small developer and all formal contact was through solicitors, so she can't provide evidence direct from the developer. She says she was chased almost daily throughout January and February 2021 by the developer's agent. She says the developer threatened to withdraw in early February 2021 due to Barclays delays and Barclays delay with the re-inspection was the final straw.

It seems from what Miss D says that the developer put considerable pressure on Miss D and Mr S – even in January at the beginning of the application and conveyancing process. This must have been stressful, as is clear from Miss D's messages to Barclays.

Miss D and Mr S first applied to port their mortgage in late December 2020. They had an appointment with a mortgage adviser on 28 December 2020. I appreciate that Miss D and Mr S were porting their mortgage and borrowing less, but Barclays still needed to assess their application. Their circumstances could have changed since they took out their existing mortgage. And it needed to decide whether the property was good security for the loan. The underwriters were entitled to ask for further information and documents (which Miss D and Mr S provided promptly) and time to review what they received. The valuation was carried out on 2 March 2021 and Barclays issued a mortgage offer on 5 March 2021.

The mortgage offer was subject to a re-inspection of the property prior to completion. The mortgage offer says in addition to the re-inspection it required a ten-year builders certificate or a professional consultants certificate produced by an architect valid for a minimum of six years.

Miss D and Mr S's solicitor wrote to Barclays on 26 March 2021 saying "the property will be ready for re-inspection on 13 April". Barclays says it required the architect's certificate before instructing the re-inspection. There's no evidence it told the solicitor it needed the architect's certificate before the re-inspection. Barclays notes say it didn't receive the certificate, and Miss D and Mr S weren't able to provide it as it wasn't yet ready. The developer withdrew from the sale in mid-April 2021.

Barclays said there were delays with its underwriting process, and it's clear the application process took longer than Miss D and Mr S had hoped. Miss D and Mr S say the delay with the re-inspection – on top of previous delays by Barclays – was the reason the developer withdrew from the sale. Unfortunately, Miss D can't provide evidence this was the reason the

developer withdrew and their purchase fell through. It's possible there was another reason for the developer withdrawing.

Miss D and Mr S say they felt an obligation to continue with their sale, which was part of a chain. And they wanted to sell their property as it was no longer suitable for their needs. I can understand this. Of course, they had to balance this against knowing they'd need to move into rented accommodation while they bought a property, with the inconvenience and costs this involved. And risk having to pay the ERC if they were unable to complete on a purchase within the "porting period". Ultimately, it was Miss D and Mr S's decision to go ahead with the sale.

Taking all this into account, I don't think it's fair and reasonable to require Barclays to pay Miss D and Mr S's costs.

### *Early repayment charge*

Miss D and Mr S sold the property and repaid their mortgage. They paid an ERC of about £15,000.

Miss D and Mr S found a new property and made a second application to Barclays in April 2021. The application notes say *"you are unable to port as your new purchase will not complete within 90 days of sale of your existing property."*

There were some problems with this application. The property was given a zero valuation in late May 2021 as the builder's warranty wasn't on Barclays approved list. The mortgage adviser confirmed in late May 2021 that a different warranty would be provided. On this basis the valuer provided an amended valuation. Miss D says the original warranty was standard and did meet Barclays' lending policy. She sent an email to Barclays on 8 June 2021 explaining this. Barclays didn't respond. Nor did it process the mortgage application. Miss D says having heard nothing for weeks they suddenly received a mortgage offer in September 2021, and this is supported by Barclays internal notes.

But while there were errors with the second application this wasn't the reason Miss D and Mr S paid the ERC. They were aware from the outset that this purchase wouldn't complete within the porting window (90 days from when they repaid their mortgage). Even if Barclays hadn't made the errors, they'd have had to bear the cost of the ERC.

Miss D and Mr S took mortgage advice and applied to another lender on 24 June 2021. They received a mortgage offer on 7 July 2021 and their purchase completed on 21 September 2021. Although Miss D and Mr S had the inconvenience of applying elsewhere (albeit this proceeded smoothly), the evidence suggests they secured a lower fixed interest rate than offered by Barclays.

When Miss D and Mr S took out a fixed rate product they agreed to the terms, including the ERC. Barclays applied the ERC, as it was entitled to do under the mortgage terms and conditions. Barclays made errors here. But I don't think these errors make it fair and reasonable in the circumstances to require Barclays to refund the ERC.

### *Upset and inconvenience*

Barclays accepts that it made errors and caused delays with Miss D and Mr S's first porting application. While it's not clear this was the reason the purchase fell through, it would have caused inconvenience and upset to Miss D and Mr S during their sale and purchase, which is often a stressful time. And Barclays failed to process their second application. Ultimately, Miss D and Mr S applied elsewhere and it seems secured a better rate. But they were

caused some inconvenience in starting a second application with Barclays and trying to sort out the problem with the builders warranty.

As I said it's not clear from the evidence that Barclays delays were the cause of Miss D and Mr S's first purchase falling through. And it was their decision to go ahead with their sale knowing they'd need to move into temporary accommodation with the inconvenience this would involve.

Barclays offered £450 for poor service. It agreed to pay £650 as recommended by our investigator. I think for the unnecessary inconvenience and upset caused by its errors, this is fair and reasonable.

### **My final decision**

My decision is that I uphold this complaint. I order Barclays Bank UK PLC to pay £650 to Miss D and Mr S. It can deduct any amount already paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D and Mr S to accept or reject my decision before 6 December 2022.

Ruth Stevenson  
**Ombudsman**