

The complaint

This complaint's about an interest-only mortgage that Ms C and Mr C hold jointly with Barclays Bank (UK) PLC. It was due for repayment in May 2022, and Barclays has turned down their request for a term extension. Ms C and Mr C thinks that's unfair and a breach of mortgage regulations.

What happened

The broad circumstances of this complaint are known to Ms C and Mr C and Barclays. I'm also aware that the investigator issued a response to the complaint, which has been shared with all parties, and so I don't need to repeat all of the details here.

Our decisions are published, and it's important that I don't include any information that might result in Ms C and Mr C being identified. Instead I'll give a brief summary of the main points, rounding the figures where appropriate, and then focus on giving the reasons for my decision. If I don't mention something, it won't be because I've ignored it. It'll be because I didn't think it was material to the outcome of the complaint.

The mortgage started in 2006, as a capital repayment mortgage over a 25-year term; in 2007, the mortgage was changed to interest-only over a 15-year term meaning it would fall due for repayment in May 2022. In 2016, Ms C and Mr C complained about this change, and Barclays addressed the complaint in a final response in September 2016.

In early 2022, with the mortgage term approaching, Ms C and Mr C complained again about the mortgage change in 2007, describing it as a mis-sale. Barclays thought the complaint was "time-barred" because it had been raised outside the time-limits in our rules. It also referred Ms C and Mr C back to its final response from 2016, and said it had nothing to add to that.

Ms C and Mr C referred their complaint to us; meantime, they'd applied for a term extension, which Barclays had declined on the grounds of affordability. Whilst the case has been with us, the mortgage term has expired. Barclays has notified Ms C and Mr C of the remedies available to it if they don't repay, but for the moment, hasn't sought to enforce those remedies. In the meantime, Ms C and Mr C are making the monthly payments of interest, plus additional amounts to reduce the capital.

Our investigator explained that the time limits in our rules didn't allow us to consider the circumstances in which the mortgage was changed to interest-only and the term shortened. All we could do was consider whether Barclays had treated Ms C and Mr C fairly when it considered, and rejected, their application for a term extension. He didn't think it had; Ms C and Mr C have asked for the complaint to be reviewed by an ombudsman.

What I've decided – and why

I'll start with some general observations. We're not the regulator of financial businesses, and we don't "police" their internal processes or how they operate generally. That's the job of the

Financial Conduct Authority (FCA). We deal with individual disputes between businesses and their customers. In doing that, we don't replicate the work of the courts.

We're impartial, and we don't take either side's instructions on how we investigate a complaint. We conduct our investigations and reach our conclusions without interference from anyone else. But in doing so, we have to work within the rules of the ombudsman service, and the remit those rules give us.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

My starting point here is that Ms C and Mr C borrowed money from Barclays, and under the term of their agreement with Barclays, were due to repay the money when it fell due for repayment. As I have no remit to consider the circumstances in which the mortgage term was shortened, I can only proceed on the basis that the debt was due for repayment in May 2022.

I don't think Ms C and Mr C had assumed that extending their interest-only mortgage was something to which they were entitled. However, I think they may have assumed it was something that would be done as a remedy to what they saw as the wrongful shortening of the term in 2007. If that's the case, then I have some disappointing news for them.

Ms C and Mr C talked of having been misled by people at the bank who had said extending (or as they saw it, restoring) the term was a formality. Nothing in the evidence I've seen from either party corroborates that, but I have seen the letters Barclays sent them from time to time, as the term end got ever nearer. A particular example was the one dated 2 November 2020, which I consider made it very clear to Ms C and Mr C that they were expected to repay the debt when it fell due on term end.

No one is entitled to borrow money; and even when they've borrowed before, they're not automatically entitled to more time to repay the debt after it has fallen due. But a lender must treat customers fairly. In the context of an application for a term extension, that means assessing it fairly in accordance with the bank's lending criteria and being mindful of what mortgage regulation requires of it. Lenders' criteria are commercially sensitive and not generally made public.

Ms C and Mr C have argued that their payment history is impeccable and their financial position going forward is strong. However, the judgement on whether to grant the term extension was Barclays' to make, not Ms C and Mr C's, and not mine either.

Barclays was concerned to see the most recent set of accounts for the limited company of which Mr C is a director has posted a significant loss; it concluded from this that extending the term of the mortgage wasn't affordable. That was Barclays' judgement to make, based on its lending criteria, and there's no reasonable basis for me to second-guess that judgement by substituting my own view on whether, to whom, and how much Barclays should lend.

Barclays did ask for more up to date information, specifically draft accounts for 2022, three most recent months' business bank statements and a tax year overview for 2021. At the point the case was referred to us, Barclays hadn't received that information, and so wasn't in a position to change its mind. Ms C and Mr C have said the company didn't wish to give that information to Barclays, and that it wouldn't have helped in any event due to the way the company is financed. However, that would have been for Barclays to judge, once it had seen the information.

Ms C and Mr C dispute the investigator's finding that Barclays considered their options, citing Barclays' letter of 15 March 2022 as evidence it refused to consider the merits of their case. I think they are conflating two separate things here; the complaint about the change of mortgage in 2007 and the request for a term extension. The letter of 15 March 2022 dealt with the former, and whilst it referenced the latter, that was merely for context and to remind Ms C and Mr C that they needed to explore options for repaying the mortgage.

Ms C and Mr C say there's been no conversation about how the capital will be repaid. That may be true, but Barclays has written more than once remind them of the need for a strategy to repay the mortgage, including the aforementioned letter from November 2020. Also, they'd have received such a reminder on all of the annual statements they received over the years they've had the mortgage.

Ms C and Mr C have listed various strategy options they have for repaying the mortgage; these include:

- extending the mortgage for eighteen years and making capital reductions;
- savings; they already have around one third of the debt on deposit;
- selling some or all of Mr C's shareholding in his company when he is allowed to;
- downsizing when they retire and no longer need a house that size; and
- an inheritance following the death of Mr C's parents, if all else failed.

The difficulty with all of those strategies is that they are predicated on the assumption that a term extension will be granted. None of them indicate that Ms and Mr C made any provision for repaying the mortgage when it fell due this year. They're also highly speculative as to timing in themselves; I'm not sure how viable Barclays would be required to treat any of these alternative strategies, based on the regulations as they currently stand.

Barclays has said it will consider a fresh request, based on further and newer information about Ms C and Mr C's financial affairs as they are now. It's fair and reasonable that Barclays give Ms C and Mr C another opportunity to satisfy it that a term extension is affordable. But to be clear, nothing I say here obliges Barclays to agree to an extension, and nothing of that nature should be inferred.

I said at the outset that I wouldn't be commenting on every single point, and I haven't. I have, as I said I would, confined myself to those matters that I consider have a material effect on the outcome. I can see from their submissions how important this is to Ms C and Mr C. That's a natural reaction, and entirely understandable when you're as close to a situation as they are here.

But I have a different remit. I have to be objective, and impartial, and sometimes that means stepping back from the fine detail, taking an overview and deciding what is fair, reasonable and pragmatic in all the overall circumstances of the case. It also means that I'm not required to provide answers to every specific question that comes up if I don't consider doing so will affect the overall outcome. Having done that, and having considered everything that both parties have said and provided, I don't find that Barclays has treated Ms C and Mr C unfairly.

Ms C and Mr C don't have to accept my conclusions, and if they don't, then neither they nor Barclays will be bound by my final decision. Subject to any time limits or other restrictions a court might impose, Ms C and Mr C's right to take legal action against Barclays over the subject matter of this complaint won't have been prejudiced by our consideration of it.

My final decision

My final decision is that I don't uphold this complaint. My final decision concludes this service's consideration of this complaint, which means I'll not be engaging in any further consideration or discussion of the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C and Mr C to accept or reject my decision before 13 December 2022.

Jeff Parrington

Ombudsman