

The complaint

This complaint has been brought on behalf of the estate of Miss C by the personal representatives. Miss C had a mortgage with Barclays Bank UK PLC. Mr C (one of the personal representatives) has dealt with the complaint. He says Barclays has been unfair when trying to recover the mortgage debt.

What happened

Miss C died in 2014. The court granted probate in May 2015 and appointed Mr C and one other person as personal representatives. The property has been let out and the mortgage balance remains outstanding. Mr C says Barclays acted unfairly when asking for the balance to be repaid and starting recovery action. He says Barclays failed to respond to his attempts to resolve the matter.

Our investigator said Barclays was entitled to ask for the debt to be repaid. He said it hadn't acted unfairly given how long the debt had been outstanding and the property was being let without consent.

Mr C didn't agree saying:

- The core issue of his complaint is the poor administration of the mortgage account by Barclays and its failure to keep accurate and up to date records.
- Barclays failed to refer the matter to its lending panel leaving the matter in limbo for three years. He wasn't given the opportunity to discuss the matter directly with the decision maker. He says Barclays conduct has prevented his attempts to resolve the matter.
- Barclays is taking recovery action to evade criticism of its conduct. It failed to respond to his offers of settlement.
- Barclays – and our investigator – failed to take the nuanced and complex history into account. He said the beneficiaries will be able to refinance the mortgage in mid-2023.
- Barclays hasn't suffered a loss and its loan isn't at risk. He said Barclays benefitted from its own delays and his investment to develop the property as the loan to value ratio has improved. Mr C said the tenants have been asked to vacate the property.

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 should first explain that my role is to reach a decision about what's fair and reasonable in the circumstances of this complaint. I'm required to explain why I reach my decision. But I don't have to respond to each point made by Mr C.

Miss C died in mid-2014. The court granted probate in May 2015 and appointed Mr C and

one other person as personal representatives.

When Miss C died the mortgage loan, which was in her name, became payable by the estate. Barclays says it allows executors 12 months to repay a mortgage. It wrote to Mr C in late 2015 asking for the debt to be repaid.

Mr C wanted Barclays to agree a bespoke arrangement in respect of the account. He wanted Barclays to agree the loan needn't be repaid until the beneficiaries reach the age specified in Miss C's will (about 10 years from 2014). Mr C says at this point the beneficiaries will be able to take out a mortgage to repay the Barclays mortgage.

Mr C says he was told any decision about a bespoke arrangement would have to be made by Barclays lending panel. Barclays declined to refer the matter to the lending panel. I appreciate Mr C's frustration. But, ultimately, it's for Barclays to decide what the criteria are for a referral to its lending panel.

From what Mr C has said, there's enough equity in the property for the loan to be repaid in full if the property is sold. The property is let out, so Barclays doesn't have to take into account any concerns about the beneficiaries (or Mr C) losing their home if the property is sold. Mr C says Barclays and its solicitors didn't respond to his offers of settlement. Given that the loan can be repaid from the sale of the property, I don't think Barclays had fairly to agree to accept less than the amount owed or to extend the time to repay the loan. I don't know if there are options for the mortgage to be repaid without the sale of the property. Mr C could consider seeking independent financial advice.

Mr C says there were delays in resolving this matter due to poor administration by Barclays. I can't see that the personal representatives were prevented from repaying the mortgage, by selling the property or other means. It seems to me that Mr C's complaint here is that Barclays didn't agree to what he wanted, to refer the matter to its lending panel or respond to his attempts to negotiate a settlement. But, as I said, I don't think it had to do so. Even if there was confusion about whether Barclays might consider a bespoke arrangement and that delayed the personal representatives taking steps to repay the debt, I can't see that this caused detriment to the estate of Miss C.

Mr C says Barclays benefitted from the delays, as the equity in the property has increased. I think it's the estate of Miss C that will benefit from any increase in equity. And the estate benefitted from the rental income in the meantime. If the personal representatives were concerned about delays in resolving the matter (settling the debt) they could have sold the property or looked for another way to repay the mortgage.

As Mr C says, it would be better to avoid litigation which is likely to mean costs added to the mortgage debt. Barclays has been clear that it expects the debt to be repaid. I think it's fair for Barclays to ask for the debt to be repaid. And given that the debt has been outstanding since 2014 I don't think it's unfair for Barclays to start recovery action.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Miss C to accept or reject my decision before 29 December 2022.

Ruth Stevenson
Ombudsman