

## **The complaint**

Ms N complains that her buy to let (“BTL”) mortgage application received a positive decision in principle from Barclays Bank UK PLC, so she went ahead with an application through her broker, and paid fees. But she said her income was always too low for Barclays to accept.

## **What happened**

Ms N said she had tried previously to purchase a property which she intended to let out. In late 2020, a potential investment property which she had previously been interested in came back onto the market, so Ms N tried again. Ms N’s BTL mortgage application was eventually turned down by Barclays.

Ms N raised concerns about the broker who recommended the Barclays BTL mortgage. Ms N has taken court action over these concerns, which was unsuccessful. As Ms N is aware, our service has no jurisdiction to deal with advice given on BTL mortgage applications by brokers, and this complaint is against Barclays, so those concerns will not form part of this review.

But Ms N was also unhappy about what Barclays had done. She has told us that she owns her own business, and when she made her application, her company wasn’t trading due to the pandemic. She was receiving a HMRC coronavirus job retention scheme grant. But she said that the initial response from Barclays to her application was positive, and she wasn’t turned down until later. By this time, she had already paid a fee to Barclays, and engaged solicitors to work on her purchase.

Ms N set out for us her income at the time. She said she initially thought her broker must have either failed to carry out initial checks, or inflated her income, because her application wasn’t declined until a later stage. But when she input her income into Barclays’ online BTL mortgage checker (designed to support applicants who are not working with a broker) it was declined right away. Ms N said her broker told her he did do the initial checks through the system Barclays has for broker applications, and there was no decline at that stage. She also tells us that Barclays told her the figures were not inflated when her broker obtained a positive decision in principle for her.

Ms N wanted to know how Barclays could have given an initial indication to her broker that she might be accepted for a BTL mortgage, when the same figures input into Barclays’ online calculator produced an instant decline. She said she wouldn’t have paid the costs if her broker had been told she was never likely to be successful.

Ms N said Barclays had offered her half her fee back, but she thought it should pay the full fee, and more, to cover her losses. She also wanted Barclays to reimburse her for her solicitors and broker fees, and to pay the costs of her unsuccessful court case against the broker. Ms N has shown us these payments were made.

Ms N said that, from talking to other brokers, she felt that Barclays would also never have accepted an application with income supported by government grants. She said Barclays should have been upfront about that too.

Barclays said that it makes an automatic offer for BTL self-employed applications. It doesn't decline or accept these right away. It said it had then reviewed Ms N's information, and it thought that her income wasn't sustainable, so it wouldn't offer her a mortgage.

Barclays said it had offered to pay Ms N back half of the fees she paid, for the inconvenience she'd experienced during her application. But Ms N didn't want to accept that. Barclays didn't think it had made a mistake, and it wouldn't offer any more.

Our investigator didn't think this complaint should be upheld. He said Barclays had followed its own process here. It only carries out a full review of a BTL mortgage application from self-employed applicants at the application stage, not at decision in principle stage. Our investigator said Ms N's broker ought to have been aware of this, he recommended Ms N applied to Barclays, and it was his responsibility to make sure she was likely to be accepted.

Our investigator said that Barclays ultimately decided that Ms N's income wasn't sustainable. So it wouldn't go ahead with her application. He said Barclays had reviewed Ms N's financial position fairly, and it was for Barclays to decide who it would lend to. He thought its offer of refunding half the fees Ms N had paid was fair. And he said that Ms N's concern about Barclays' likely refusal to consider an income including government grants hadn't yet been raised with Barclays, so we couldn't look at that.

Ms N didn't agree. She said we were favouring Barclays, and hadn't understood her complaint. She repeated her concern, that the same application made by an individual would be turned down right away, but Barclays wasn't declining applications made through brokers until a later stage, when a fee had already been paid.

Ms N wanted her complaint to be considered by an ombudsman, so it was passed to me for a final decision. I then reached my provisional decision on this case.

### **My provisional decision**

I issued a provisional decision on this complaint and explained why I did propose to uphold it. This is what I said then:

I should set out at the start that, although I currently think this complaint should be upheld, I don't think that means Barclays has to pay all the costs Ms N says she incurred. A number of the items that Ms N has listed as losses refer, in my view, to problems with her broker, and attempts to recover her losses from him. I don't think it's fair and reasonable to hold Barclays responsible for those losses.

However, I do currently think that the core of Ms N's argument may have some force. She said that the income she earned, when input into Barclays' online checker for applicants who are not supported by a broker, produces an instant decline. But Barclays didn't instantly decline when Ms N's broker made an application.

It does look to me as if Ms N has used the same figures on the online checker, as were used for her broker's application with Barclays. And Barclays also seems to have accepted this.

Barclays says it made an automatic offer to Ms N, as a self-employed applicant, which then triggered a manual review. That's because when it processes applications from self-employed persons, it prefers to consider the application in full, at a later stage. And it says that when it did so in Ms N's case, with access to her company accounts and bank statements, it decided that her income wasn't sustainable, so it wasn't able to lend.

But Ms N says that, if Barclays was always going to decline her application because of her level of income, then it should have said so right away.

I have asked Barclays if it can show us that it might have lent, on Ms N's income, without the concerns about sustainability of that income which later surfaced. It hasn't yet demonstrated this. From what Barclays has said, it isn't clear that Ms N's BTL mortgage application was likely to be successful, given her income. Although Barclays doesn't think it did anything wrong, Barclays also now says it can see, in Ms N's case, an argument that she should have been told her application was unlikely to be successful at decision in principle stage.

I think that if doubts over Ms N's likely success could have been identified at decision in principle stage (on the basis of the limited information Barclays had at this stage) then these should have been mentioned to her. And on balance, my current view is that it's more likely than not that these doubts could have been identified at this earlier stage. I think Ms N has incurred some costs, because these doubts don't appear to have been raised by Barclays at that stage.

Barclays has offered to pay Ms N £420, which is the full amount of the fee she paid Barclays. I agree Barclays should do that.

I now turn to the additional losses that Ms N asked us to reimburse. As well as the fee Barclays charged, Ms N has asked for the following –

*Mortgage broker fee: £595* –this charge was actually made for a previous application. And even if it was charged in respect of this application, I would still say Barclays isn't responsible for Ms N's choice to use a broker who charges a fee before a formal offer is made. So I don't think Barclays has to pay this.

*Costs given to opponent: £270, Claim submission fee: £185, Court Hearing submission fee: £346* – These costs are all related to Ms N's unsuccessful attempt to recover her losses from her broker. I haven't been able to see that this happened because of anything Barclays did. So I don't think Barclays has to pay this.

*Solicitor's fee: £597.60* – Ms N engaged a solicitor to assist with her purchase. Whilst we cannot be sure that this purchase would ever have been successful, I think it's likely that Ms N would just not have hired a solicitor if Barclays had declined her application at decision in principle stage.

Ms N has shown us that she paid 80% of the quoted fee, because her solicitors said 80% of the work had already been done by the time she knew she couldn't proceed. I don't think it was unreasonable for her solicitors to have indicated that their conveyancing work was largely front-loaded, with the majority being done right away once the solicitors are engaged. So I think it's reasonable to ask Barclays to cover these costs. I will ask Barclays to pay this.

Ms N has not asked for a payment of compensation, but I do think she's been put to considerable trouble and upset here. I understand that some of this is a result of her difficult business relationship with her broker, but I also think much of this was likely to have been avoided if Barclays had raised concerns about her income at the decision in principle stage. So I think Barclays should pay Ms N £200, to make up for its part in the distress and inconvenience that this failed application caused to Ms N.

Ms N also felt Barclays would always have turned her down anyway, because she had received government coronavirus grants, during the pandemic. I can't see that this played any part in Barclays' decision to refuse Ms N a mortgage. And I have already said I think Ms N's complaint should be upheld for other reasons. So I don't think it would be appropriate for me to address a further, hypothetical concern about Ms N's application here.

This decision is provisional, and could change if either side offers further argument or evidence, but at the moment, this is what I think would provide a fair and reasonable outcome to this complaint.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Both sides replied.

### **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.

Barclays said it would agree to pay the amount I'd suggested. Ms N said she was pleased I'd suggested she should receive the valuation fee, solicitor's costs and compensation. But she felt that she should be awarded more, which she thought should be paid both by Barclays and by her broker.

Ms N said that when her broker input her self-employed income figures onto the Barclays broker system, she should have received the same answer that she got through Barclays' self-service system on its own website – a decline. She didn't think her broker should have been able to submit her application.

Ms N said Barclays says the self-employed are treated differently for mortgage applications, but the self-employed can use the affordability calculator and see whether the property is affordable. And in this case, the property in question was not affordable - it came up as a straight decline. Ms N said I'd noted Barclays hadn't produced any evidence that the property would have been affordable for her, which she felt supports this.

Ms N told us she was also dissatisfied with another area of Barclays' operations, and would be ending her association with the bank. She still felt Barclays were making money out of consumers, especially during a vulnerable time, during the peak of the pandemic when businesses and the self-employed were hugely affected.

Ms N said it was a key point in her court case against her broker, that Barclays had let the broker submit the application. She said that was why this chain of events had occurred.

Ms N also still thought that Barclays wasn't being transparent. She was sure it wouldn't approve any applicants who had been supported by government grants in the pandemic, and this was the main reason she was declined. So she felt Barclays needed to make it clear in its guidelines on its website that it didn't accept government grants as income, from the self-employed, so that there is transparency in the process. She said again, Barclays was misleading customers here.

Ms N felt that the brokerage she used (which I won't name here) should be held accountable for this as well. She couldn't complain about the brokerage, because a court hearing had already taken place. But Ms N said that Barclays should pay her all of her costs and ask the brokerage to partly reimburse it in turn.

Ms N noted that the broker she had dealt with had since left that brokerage, but she said the brokerage should still be held responsible, especially because it had tried to protect the broker. She discussed the broker's conduct at the hearing, and suggested Barclays should be prevented from engaging with this brokerage in future.

Ms N wanted all the costs she'd previously discussed returned to her, and she said there was also an interest element to the case. She wanted Barclays, or perhaps Barclays and the brokerage, to pay 91p per day in interest for the time her complaint had been outstanding.

Ms N also wanted the brokerage fee back. Ms N said she knew this brokerage fee was related to a previous application, and she hadn't been charged for the application which is the subject of this complaint. But she said the brokerage wasn't deserving of this money due to the circumstances. And Ms N said she wasn't able to go ahead with either of her two mortgage applications, which wasn't her fault. She said she'd been through a lot, and had spent time trying to recover her money.

In total, Ms N wanted Barclays to pay –

- Barclays valuation fee: £420
- Solicitor's fee: £597.60
- Compensation: £200
- Broker fee: £595
- Costs given to opponent (broker): £270
- Claim submission fee: £185
- Court Hearing submission fee: £346
- Interest: 8%, 91 pence (daily)

Ms N said she wanted to claim interest starting either on the date when Barclays turned down her mortgage application, or the date when she complained to the broker, until either the date of the hearing, or the present.

I'll look at each of Ms N's points in turn.

Firstly, I should set out the scope of my decision. Our service isn't a regulator, and I'm not looking here at Barclays' overall conduct as a mortgage lender. I'm only looking at what happened in Ms N's case. It's not part of my role to tell Barclays to treat other customers differently in future, or how to run its business, going forward. That's outside the scope of this complaint. So it wouldn't be appropriate for me to comment here on the changes Ms N suggested Barclays should make to the brokers it chooses to engage with, to its broker portal, or to its website.

Returning to the specifics of Ms N's case, my findings were that in this case, it seemed more likely than not that doubts over Ms N's chances of making a successful mortgage application could have been identified at decision in principle stage. And if so, I said these doubts should have been mentioned to her then. I think it's important to clarify that I didn't decide that Ms N's application ought to have been prevented from proceeding, so I've not agreed with Ms N on that point.

I also said in my provisional decision that I couldn't see that Ms N's receipt of coronavirus grants was one of the reasons she'd been turned down for lending. I still think that, so I still don't think it's appropriate to comment further on an issue that doesn't seem to me to be to have been raised by the circumstances of this case.

I also explained that this case is brought against Barclays. I set out in my provisional decision that I have no powers here to consider actions taken by Ms N's broker. That also

means I have no powers to require it to contribute to any award made to Ms N. Nor do I think it would be appropriate to suggest that to Barclays.

I also set out in my provisional decision why I didn't think it was appropriate to ask Barclays to pay for either Ms N's brokerage fee, or the costs involved in her court case against the broker. I still think that, so I won't repeat those views here.

Ms N is also now asking for an award of interest, which she had worked out for her case against the broker at 91 pence per day. It's not clear what this interest charge is based on (and I've already said a number of the costs Ms N is seeking to recover aren't things I can fairly ask Barclays to pay). But I haven't sought to clarify this with Ms N, as I don't think a payment of interest would be appropriate in this case. I'll explain why I think that.

I am asking Barclays to refund to Ms N some costs which she'd previously paid, so I do appreciate that she's been out of pocket for a while. But I think much of the delay in Ms N recovering these costs happened because Ms N chose initially to pursue a complaint against her broker in the courts, rather than bring a complaint against Barclays to our service. So I don't think this is a case where it would be fair and reasonable to ask Barclays to add the interest that Ms N would like to the award.

For the reasons set out above, I haven't changed my mind. I'll now make the decision I originally proposed.

### **My final decision**

My final decision is that Barclays Bank UK Plc must pay Ms N £420 to refund its fees, £597.60 to cover solicitors' fees, and £200 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms N to accept or reject my decision before 13 February 2023.

Esther Absalom-Gough  
**Ombudsman**