

The complaint

Mr M and Mrs S's complaint arises from a mortgage application made to Barclays Bank UK Plc. They say that Barclays unfairly rejected their mortgage application.

As a result, Mr M and Mrs S weren't able to buy the property and say that because property prices and interest rates surged dramatically, they are now out of pocket. They feel they've been discriminated against by Barclays because of this.

What happened

I do not need to set out the entire background to the complaint. There are several reasons for this. First of all, the history of the matter is set out in detail in correspondence, and in the case file, so there is no need for me to repeat all the details here.

I also note that Barclays has acknowledged it could have done things better and has offered compensation. So I don't need to analyse everything that's happened to decide if the bank is at fault or not; all I need to decide is what Barclays needs to do to put things right.

In addition, our decisions are published, so it's important I don't include any information that might lead to Mr M and Mrs S being identified. So for these reasons, I will instead concentrate on giving the reasons for my decision.

In early 2022 Mr M and Mrs S wanted to purchase a property. I will call this property 7 HP. They applied for a mortgage with Barclays. Mr M and Mrs S were represented by an independent financial adviser (IFA) at all times throughout this and their second mortgage application.

7HP was subject to a rentcharge. A rentcharge (or chief rent as it can also be known) was, prior to the Rentcharges Act 1977, a method used for builders to build developments on land that they did not own without paying the landowner or by paying the landowner a reduced price for the land. The landowner would either sell the land at a reduced rate or would permit the development on the land and, in return, would take an income from each of homeowners that had purchased the properties constructed.

The rentcharge is generally a nominal sum, usually just a few pounds, collected annually. It should not be confused with ground rent payable on a leasehold property, or with service charges collected by the managing agents. However, if it is unpaid, the rentcharge owner is entitled to take possession of the land.

It is therefore important for a mortgage lender to ensure that its position is protected in relation to lending on a property that is subject to a rentcharge. Although rentcharges in the UK are generally historic, there are many areas, particularly in the north of England, where rentcharges still apply.

Barclays issued a mortgage offer on 7HP on 23 February 2022. It was for a capital repayment loan of £210,999 over a term of 17 years at an initial fixed rate of 1.75% from the date of completion to 31 May 2024. The product code for this was HQ35.

After the mortgage offer was issued, Mr M and Mrs S's solicitors advised Barclays about the rentcharge on 7HP in April 2022. The bank replied:

"... we won't be able to proceed with the case until the rentcharge is removed/revoked. Alternatively we will be happy to proceed provided any one of our requirements are met in the UK Finance Lenders Handbook under section 5.15.2a. We do not accept Indemnity on such rentcharges..."

The solicitors contacted Barclays on 6 May 2022 again about this and the bank responded on 12 May 2022:

"... as long as you are confident that [original landowner] no longer exists and no claims can be made, we rely on you and we are happy to proceed provided there is no impact to our security..."

However, the purchase didn't proceed. Mr M and Mrs S hold Barclays' responsible for this.

On 20 June 2022 Barclays' system records a change of loan amount. There was a further change of loan amount on 25 July 2022.

On 26 July 2022 Barclays was advised that the property address was being changed to another property, 1 HC, for a price of £320,000. The product code was also changed to JK70 and the term extended to 25 years. All of this would have been at the request of Mr M and Mrs S's IFA. The mortgage application was amended accordingly on Barclays' system.

In July 2022 Mr M and Mrs S raised a complaint with our service.

On 4 August 2022, when the valuer tried to arrange the survey he was told *"I have been informed by the owners of this property that [Mr M and Mrs S] are no longer buying the property. I have tried to ring them but their phones are off. Please advise?"*.

Barclays' notes show that they informed Mr M and Mrs S's IFA about this.

On 14 August 2022 the IFA asked the bank to change the loan amount, deposit amount, mortgage term and property address. However, the IFA was informed that the previous application had been submitted on 11 February 2022 and was valid for six months. It had therefore expired, and a new application would be required.

On 16 August 2022 Mr M and Mrs S queried with Barclays why their application had been rejected. Barclays' internal notes show that the application hadn't been rejected, but had been closed as it was more than six months old and so the offer had expired.

A new application was begun for the purchase of another property. However, as the previous mortgage offer had expired, Mr M and Mrs H had to apply for a new product. The property they were buying I will call 22CD. Barclays issued a mortgage offer on 5 September 2022. This was on a two-year fixed rate of 3.49%. over a term of 29 years, for a loan amount of £298,800.

This property too was subject to a rentcharge, and on 6 October 2022 the same letter was sent to the solicitors as was sent in May 2022 setting out the bank's requirements concerning the rentcharge.

There was no further contact from solicitors or broker until 13 December 2022, when there was a request to change the solicitors' details. The transaction proceeded after that and I understand the purchase and mortgage completed in January 2023.

Mr M and Mrs S say that, because of discrimination by Barclays, they weren't able to go ahead with the purchase of 7HP on the lower interest rate. Barclays accepted its communication could have been better in explaining that the first application had expired, and acknowledged this had caused Mr M and Mrs S some upset. Barclays said it would pay £150 compensation.

An investigator looked at what had happened. She thought the bank could have avoided causing stress to Mr M and Mrs S by communicating with them more clearly, and that this had led them to believe they'd been treated unfairly. The investigator recommended Barclays should pay compensation of £250, which the bank agreed to do.

Mr M and Mrs S didn't agree, however. They said they'd lost 7HP without any explanation whatsoever from Barclays, and they kept wondering why the application was rejected, with no reply from the bank.

They say they've spoken to other landlords who own properties in CD – the street where Mr M and Mrs S ultimately purchased their property – and those landlords have mortgages with Barclays.

Therefore, according to Mr M and Mrs S, if Barclays rejected the mortgage application on 7HP with a 1.7% interest rate but approved the mortgage on 22CD with a much higher interest rate, this can only amount to discrimination.

Because the matter is unresolved, it falls to me to issue a final 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.

It is important to note that at all times in both mortgage transactions Mr M and Mrs S were represented by their own IFA. The applications were therefore submitted via the IFA, not directly between Mr M and Mrs S and Barclays. It would be up to the IFA and the solicitors acting on the purchase and mortgage to chase Barclays for updates, and to submit information required by the bank.

I'm satisfied that Barclays explained to the solicitors that it was happy to proceed with the mortgage on 7HP, after confirmation was received about the historic nature of the rentcharge. The evidence, therefore, doesn't persuade me that it was as a result of the rentcharge, or any other act or omission on the part of Barclays, that the purchase of 7HP didn't go ahead. There are many reasons why purchases don't go ahead, but I can't see in this case that Barclays is responsible for the purchase of 7PH not proceeding.

I see that in July 2022 Mr M and Mrs S decided to buy another property, 1HC, but didn't proceed with this. I can't hold Barclays responsible for this either, because this didn't proceed to the point where a mortgage offer was issued; the valuer was told by the sellers that Mr M and Mrs S had changed their minds about buying it.

It's unfortunate that by the time Mr M and Mrs S found 22CD both purchase prices and interest rates had gone up. Barclays has no influence over fluctuations in the property market, and the interest rates it offers to customers in order to remain competitive is up to the bank's own commercial judgement as part of its business operations. But neither of those things amount to discrimination against Mr M and Mrs S.

It was up to Mr M and Mrs S's IFA to explain to them that their mortgage offer would expire after six months. I wouldn't have expected Barclays to have had direct contact with Mr M and Mrs S about this. However, once Mr M contacted Barclays, questioning why his application had been "*rejected*", I think the bank should have explained the situation to him. I can see that this caused Mr M and Mrs S some stress. They mistakenly believed that their application had been rejected, and Mr M was becoming increasingly agitated about the situation.

Putting things right

I agree with the investigator that Barclays could have explained more clearly to Mr M and Mrs S that the mortgage offer issued in February 2022 expired in August 2022. I can see this caused Mr M and Mrs S some anguish, and led them to believe – mistakenly – that their mortgage application had been rejected. I think a payment of £250 for distress and inconvenience is proportionate, fair and reasonable in all the circumstances.

My final decision

My decision is that Barclays Bank UK Plc must pay Mr M and Mrs S £250 compensation. I make no other order or award.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any correspondence about the merits of it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs S to accept or reject my decision before 6 July 2023.

Jan O'Leary
Ombudsman