

The complaint

Ms R and Mr W are unhappy with how Barclays Bank UK PLC have managed their mortgage application. They said their application was delayed and this has led to them missing out on the stamp duty holiday.

What happened

Ms R and Mr W took a mortgage out with Barclays in September 2019 on a shared equity basis. They wanted to increase their share from 50% to 100% (also known as staircasing) so they made a mortgage application with Barclays in August 2020.

Barclays instructed a valuer to inspect the property. The valuer said the property's external walls may contain potentially combustible materials, so they wanted a satisfactory EWS1 form.

An EWS1 form is a document produced by a qualified fire safety professional reporting on the state of a property's external wall system. It's often produced where there are concerns that a building might have combustible cladding on its walls.

Ms R and Mr W acknowledge that this was difficult to obtain which meant that the application which was made in August 2020 – expired.

Once Ms R and Mr W obtained the EWS1 form for the property, a new application was submitted on 31 May 2021. Barclays have accepted that there was a delay in processing the second valuation which caused a delay of around one month, but they proceeded to send out a mortgage offer on 24 July 2021.

Completion of the staircasing occurred on 25 November 2021 and Ms R and Mr W say that due to Barclays delays, they missed out on the stamp duty holiday. They also said that the adviser made an error with regards to the deposit they needed which meant they had to pay an additional £10,000 on the day of completion which caused them unnecessary stress.

Barclays accepted there was a delay due to the processing of the second valuation, but they said that most of the delays were in Ms R and Mr W trying to obtain the EWS1 form, which subsequently meant that the first application had expired. They said that completion took a further four months so even if they had processed the valuation sooner, Ms R and Mr W wouldn't have completed before the stamp duty holiday window ended.

Barclays said that the adviser noted down an incorrect purchase price, and they have offered Ms R and Mr W £300 in recognition of this as well as for the poor complaint journey and delays in processing the valuation.

Ms R and Mr W didn't agree with Barclays, so they brought their complaint to the Financial Ombudsman Service where it was looked at by one of our investigators. The investigator didn't uphold the complaint and didn't think that the delay caused by Barclays meant that Ms R and Mr W missed out on the stamp duty holiday. He felt that the delays were mostly caused by Ms R and Mr W trying to obtain the EWS1 form. He also accepted that the adviser at Barclays noted down the incorrect purchase price which resulted in the wrong deposit being applied but thought the £300 compensation that Barclays offered overall was fair.

Ms R and Mr W didn't agree with the investigator. They said that no fault of their own there were delays which meant they missed the stamp duty holiday which resulted in them being worse off, and that £300 is not enough to rectify this. They also said that Barclays calculated the deposit incorrectly which messed up their cash flow as they had to pay more on the day of completion.

As they didn't agree, they asked for the complaint to be reviewed by an ombudsman, so it has been passed to me to decide.

My provisional decision

I issued a provisional decision on 16 May 2023. I said:

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

Application delays and stamp duty holiday

The stamp duty holiday was introduced by the government to help the housing market recover from the effects of its shutdown in the first lockdown of 2020.

From 8 July 2020 to 30 June 2021, the stamp duty nil rate band – the range of the property prices in which no stamp duty was payable – was increased to £500,000. The nil band was then reduced to £250,000 from 1 July 2021 to 30 September 2021, reverting to the previous limit of £125,000 from 1 October 2021.

Ms R and Mr W initially made their first application in August 2020. The surveyor who carried out the valuation required an EWS1 form to assess the fire safety of the property.

The EWS1 form was introduced in collaboration between government, the mortgage industry and the surveying industry following the Grenfell Tower tragedy. The fire at Grenfell Tower led to concerns across the country about the possibility of combustible cladding and other fire safety issues which might allow a fire to spread quickly through affected buildings.

The EWS1 process was designed, among other things, to give mortgage lenders enough information to decide whether a building presented a particular fire safety risk. Lenders will therefore only lend where the property is subject to the property being good security for the loan – and if there is a fire safety risk, it might not be good security.

General guidance to the surveyors and valuers from their professional body at the time was that an EWS1 will be required where there are potential cladding or other issues, and the building is six storeys or higher. And that an EWS1 may be required for smaller buildings too, if there are grounds for considering there's a risk that needs to be assessed.

In common with other lenders, Barclays took these issues into account in setting their lending criteria for lending mortgages on properties in blocks of flats and similar buildings. Barclays lending criteria states that a surveyor is to assess the building in line with directions given by Royal Institution of Chartered Surveyors (RICS) guidance in determining the risks posed by the cladding attachments to a building. Where it's deemed necessary, the surveyor will require the production of an EWS1 certificate – as was the case here.

I can see from the contact notes that Barclays provided that there were initially some issues with the EWS1 form that was submitted to the surveyors as it didn't contain full details of the property itself. The EWS1 form which was accepted was dated 23 June 2021.

As time progressed, the initial application that Ms R and Mr W had made in August 2020 had expired and the previous valuation was only valid for three months. So Ms R and Mr W made a second application on 31 May 2021.

There isn't any dispute that Barclays caused a delay of around one month by not processing the second valuation in time. But once they had done this, they proceeded to send out a mortgage offer which was dated 24 July 2021.

The crux of the issue here, is that Ms R and Mr W believe that had it not been for the delays that Barclays caused, they would have been able to utilise the stamp duty holiday.

Completion of the staircasing application didn't go through until 25 November 2021, which was four months from the date of the mortgage offer. So even if Barclays didn't cause the delay in processing the valuation, they could have possibly arranged to get the mortgage offer out sooner – so around 24 June 2021. The stamp duty holiday ended on 30 June 2021 so it's not reasonable to suggest that the mortgage would have completed by the end of that month.

The stamp duty nil band was then reduced to £250,000 from 1 July 2021 to 30 September 2021. If we take the four months that it took for completion to happen from the date of the mortgage offer, it's reasonable to suggest it would have taken the same amount of time, regardless of when the mortgage offer was issued. So if the mortgage offer was issued on 24 June 2021 – it's likely the mortgage wouldn't have completed until the end of October 2021. So Ms R and Mr W would have missed the reduction in the nil rate band too. I can't therefore reasonably say that the delay that Barclays caused in processing the second valuation would have prevented Ms R and Mr W from benefiting from the stamp duty holiday.

I appreciate that Ms R and Mr W strongly believe the delays overall have caused them to miss this window, but most of the delay was in them trying to obtain the EWS1 form which Barclays required. I understand it wasn't their fault that this took so long, but it wasn't Barclay's fault either. As stated above, the surveyor asked for an EWS1 to check the property and Barclays are entitled to rely on the opinion of the valuer. So overall, I can't agree that Barclays caused delays which meant that Ms R and Mr W missed the stamp duty holiday.

Error in calculating the deposit required

Having looked at all the evidence provided, it seems as though the purchase price increased on the second valuation which meant that the deposit which had been discussed from the first application and valuation would have changed.

Barclays said that the adviser wasn't made aware of this change which would have meant that a higher deposit would have been required by Ms R and Mr W. However, I would have expected the mortgage adviser to have checked the valuation report once it had been received to see if anything had changed. Had they done this, they would have informed Ms R and Mr W that they needed to increase the amount of their deposit – which they would have been aware of before the completion date.

Ms R and Mr W said they had to pay an additional £10,000 for the deposit on the day of completion which messed up their cash flow. I do understand that this would have been very stressful and frustrating to find this out so late in the day and that it would have caused Ms R and Mr W unnecessary effort on the day to sort out.

From looking at the evidence provided, it seems that the deposit funds were coming from savings and investments that Ms R and Mr W had, so arranging this deposit would have come from the same source regardless, but they should have been aware of this much sooner than they were.

Barclays offered £300 compensation for the inconvenience caused for the delay in uploading the second valuation and for the error they made in the deposit calculation. However, I don't think this is enough and I don't think it highlights the impact that this had on Ms R and Mr W.

Barclays have focused their error more so on the fact that they uploaded the second valuation late and said that the mortgage adviser wasn't made aware of the purchase price increasing. But like I said, they should have checked the valuation so that this didn't come as a shock on the day of completion. So I think Barclays should pay Ms R and Mr W an additional £300 for the distress and inconvenience caused. I think a total of £600 is fair and reasonable in these circumstances. I think £200 for the delay in uploading the valuation is fair and £400 is for the stress and inconvenience that the shortfall of deposit had on Ms R and Mr W.

Developments

Barclays responded to the provisional decision and accepted what I had said. Ms R and Mr W also accepted the provisional 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.

As both parties have accepted the provisional decision, and I have no further comments to consider, I see no reason to depart from my provisional decision.

My final decision

For the reasons given above, I uphold this complaint and direct Barclays Bank UK PLC to pay Ms R and Mr W £600 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R and Mr W to accept or reject my decision before 29 June 2023.

Maria Drury
Ombudsman