

The complaint

Mrs H as administratrix of the estate of the late Mr M complains that Barclays Bank UK Plc charged interest on the mortgage having said that the account was frozen at the date of his death - 27 August 2020 - and continued to charge interest although the account had been paid off.

What happened

Mr H had a mortgage with Barclays and died in August 2020 intestate. His wife Mrs H contacted Barclays on 31 August 2020 to say that she was applying for letters of administration and was told that the mortgage account was frozen. Mr H had savings accounts with Barclays. Letters of Administration didn't issue until 17 October 2022.

Barclays said that it had given confusing information about the mortgage account to Mrs H, but the position was that interest continued to accrue on the mortgage account even if it was described as frozen. The bank accepted it could have been clearer as regards the mortgage account and that it had sent letter about threatened litigation to the mortgaged property rather than Mrs S's correspondence address. Barclays accepted it had caused distress with Mrs S and offered compensation of £500.

Our investigator's view

Our investigator recommended that this complaint should be upheld as Mrs H was never made aware that interest was accruing whilst the mortgage was outstanding and if she had known, she could have used the funds Mr H held in other accounts with Barclays to redeem the mortgage and avoid the extra interest. So, our investigator recommended that Barclays write off the interest charge of £4,418.21 and pay £500 in compensation for Mrs H's distress.

My provisional findings

As I disagreed with our investigator's view I issued a provisional decision in the following terms:

"There are a number of parts to this complaint. The main issue is whether Barclays could charge interest after Mr H's death. Undoubtedly it can. Mr H borrowed money with a commitment to pay it back and after his death that responsibility falls on his estate. Until the estate pays off the balance it is responsible for paying interest on the outstanding balance. If the estate cannot immediately pay because a grant of probate is pending for example, normally the lender will allow a grace period and may not require interest payments to be met during that period, but the interest remains due.

Mrs H says she understood from conversations with Barclays staff that she wouldn't have to pay interest and our investigator felt that she was misled, and this deprived her of the opportunity to pay the mortgage off earlier from funds held to the credit of her late husband with Barclays. Barclays says it couldn't touch the money until formal Letters of Administration

had issued, so I can't say that Mrs H was deprived of that opportunity by any misstatements by members of Barclays staff.

In any event, having listened to a call in October between Mrs H and a Barclays staff member I believe that Mrs H was aware that interest would accrue on the account after Mr M's death. Mrs H tells that staff member that her understanding was that the mortgage was on hold but still accumulating interest which was in fact the case and would remain so until Letters of Administration issued. That was in a conversation of 21 October 2020 when Mrs H phoned to get the mortgage balance at date of death.

I also noted that Mrs H said that her understanding was that the mortgage was to continue although on hold until Letters of Administration issued and at that stage she could either apply to continue with the mortgage in her name or pay it off. So, I believe that Mrs H was aware that interest would be charged on the account and that she could later explore the option of continuing the mortgage in her name or paying it off.

Mrs H now questions why Barclays didn't pay it off from the money it held to the credit of Mr M. I note that she refers to a document from Barclays called "Financial and emotional support: Life after Loss" which says that's what Barclays can do. But that's to do with bank loans overdrafts and credit cards and not mortgages. In any case Mrs H would seem to have wished to keep the option of transferring the mortgage into her name open until Letters of Administration issued. If Barclays had paid it off, even assuming it could have, it would have removed that option. It also seems to me that it would have interfered with Mrs H ability to do as she wanted with the money in those accounts when they were unfrozen.

The other issue is how Barclays handled the mortgage account pending Letters of Administration issuing. I understand there were difficulties getting information from Barclays which has been dealt with in another complaint. Barclays says that it normally allows 12 months from the date of death for the relevant documents to be received before passing the matter to its litigation team. In this case it said it allowed longer and didn't do so until 31 January 2022. Should Barclays have instructed solicitors when it did? I appreciate that it has a non-performing loan and whilst Letters of Administration are pending it can do little about that. But equally Mrs H is in the same position waiting for these Letters to issue.

Barclays understood that once the papers have been submitted that it shouldn't have taken as long as it did but sometimes the process does take that long. From looking at the file Mrs H has responded to any requests for contact that Barclays made and I've seen no evidence that she was in any way delaying the process of extracting the Letters of Administration that would have justified taking the case to legal. Indeed, she has supplied evidence to us that there was a delay in the Probate offices processes that meant that there was a delay in the issue of the Letters of Administration. The Probate office apologised to Mrs H for that. I appreciate that Barclays has timelines and that it was taking action in line with its timelines, but each case should be considered on its merits. In this case I don't consider that there was evidence that Mrs H was being obstructive or failing to provide updates to Barclays when it required them. So, I don't consider Mrs H should be responsible for any legal costs arising from Barclays instructing solicitors to pursue Mrs H for the debt due on the mortgage.

In summary. I accept that Barclays can add interest to the account following Mr M's death. Whilst I accept that some of the conversations with Barclays staff were confusing, Mrs H was aware that this interest would be due. I don't consider that Barclays should have instructed solicitors to pursue Mrs H for the amount due on the mortgage pending Letters of Administration issuing. I believe that in terms of the distress caused to Mrs H that £500 is a reasonable figure but that in addition, Barclays should remove any legal charges added to the mortgage account. "

I invited submissions from Mrs H and from Barclays for me to consider before I came to my final decision. I received responses from both parties, and these appear below.

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.

Whilst Barclays accepted my Provisional Decision, its view had been that Mrs H hadn't been pro-active in her dealings with the Probate Office. But it accepted that Mrs H had told them about the difficulties she was having, and that Barclays could have done more to connect its bereavement team with Mrs H. Barclays felt that as a result Mrs H missed an opportunity to contact the bereavement team before the matter progressed to litigation. As that might well have been avoided the case going to legal, it accepted that it's reasonable to refund the litigation charges by way of payment direct to Mrs H, as the mortgage account has been redeemed, if she could supply our investigator with her account details for the receipt of that payment.

Mrs H disagreed and made the following points. The bank should not have discussed Mr M's affairs with her in October 2020 as she had no legal formal authority at that time to represent the estate; that the bank has consistently told her that the account was to be frozen and so no interest should be applied; that on 17 September 2020 she signed a Personal Indemnity form as wife and sole executor of the estate telling the bank to use any money in the Deceased's account to pay off any balances owed to the Barclays group but this was never actioned by Barclays either at the time or when Letters of Administration issued.

Mrs H forwarded to us a personal indemnity form which authorises Barclays to use any money in the deceased's account to pay off any balances owed to the Barclays Group. This document is dated the 17 September 2020 before the phone call referred to above in October 2020. Barclays say that this form relates solely to unsecured lending rather than secured lending although on the face of it, it does not make the distinction. Barclays says that following a bereavement the representative will look to sell the mortgaged property or look to arrange their own mortgage secured on the property to repay the deceased's outstanding liability and so treats the secured debt of the mortgage differently than the unsecured debt such as overdrafts and credit cards etc.

Barclays also says that Mrs H was fully aware of this given the timeline and breakdown of conversations it has provided to us. I agree with Barclays. If Mrs H believed that by signing this document in September that the credit balances would be transferred to the mortgage balance, she surely would have mentioned this in the conversation in October. That she did not do so indicates that her understanding was the same as Barclays, that this document applied to unsecured lending and the mortgage would be treated differently. Again, from the conversation in October I don't believe that her understanding that a reference to a frozen account meant that no interest would be charged rather than the mortgage was on hold with no interest payments being collected but with interest accruing. Neither do I see why I should penalise Barclays for having a conversation with Mrs H the next of kin of the deceased. My role is to decide what's fair and reasonable in the circumstances and I don't see how that was either unfair or unreasonable.

As I've set out in my Provisional Decision I'm in no doubt from listening to the conversation in October that Mrs H was aware that interest would continue to accrue on the mortgage account. The further submissions from Mrs H have not altered my view. So, after considering

the further submissions and reviewing the evidence, I'm of the view that my Provisional Decision represents a fair outcome to this complaint.

Putting things right

I require Barclays Bank UK PLC to pay compensation of £500 (unless already paid) and refund to the estate any legal charges or costs added to the mortgage account related to the proposed litigation. That refund should include a refund of any interest charged to the account in relation to those legal charges or costs together with interest at 8% pa on the amount of those charges or costs from the date of payment to the date of the refund. If Barclays considers that it is required by HM Revenue and Customs to deduct income tax from that interest, it should tell Mrs H how much it's taken off. It should also give Mrs H a tax deduction certificate if she asks for one so she can reclaim the tax from HM Revenue and Customs if appropriate.

My final decision

I uphold this complaint in part and require Barclays Bank UK PLC to pay compensation of £500 (unless already paid) and refund to the estate the amount of any legal charges or costs added to the mortgage account related to the proposed litigation.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr M to accept or reject my decision before 5 December 2023.

Gerard McManus
Ombudsman