

The complaint

Ms B and Mr B complain that Barclays Bank UK PLC wrote to them saying they'd missed mortgage payments and reported this to the credit reference agencies. They also complain that it didn't respond to their subject access request. Mr B has dealt with the complaint.

What happened

Ms B and Mr B took out a mortgage with Barclays in 2008. A condition of the mortgage was that they opened a mortgage current account (which I'll refer to as the MCA). The MCA allowed Ms B and Mr B to borrow in the form of an overdraft secured on the property. Ms B and Mr B have separated. Mr B remains in the security property.

In late 2022 the overdraft limit for the MCA was exceeded. Barclays sent a letter to Mr B saying there was an overdue amount owing on his mortgage. The letter went on to say this was for the MCA and set out the amount overdue.

Mr B made a complaint, saying he'd maintained his mortgage payments. Barclays agreed the letter was unclear as it also referred to the mortgage account. It paid £50 compensation. However, it continued to send letters as the MCA remained in excess of the overdraft limit until mid-2023.

Mr B said he didn't know Barclays had imposed an overdraft limit and as he and Ms B didn't receive monthly statements for the MCA, they didn't know the limit was exceeded.

Our investigator said Barclays sent statements that were correctly addressed, and the way the MCA was managed suggested Mr B and Ms B were aware of the overdraft balance and limit. Our investigator said Barclays wasn't responsible for payments into the MCA stopping in late 2022, and it was fair to report this to the credit reference agencies.

Our investigator said Barclays offer of £50 for any confusion caused by its letters was fair. He said while the letters mentioned the mortgage account (which is linked to the MCA) it was clear that the MCA was overdrawn.

Our investigator said Barclays should pay a further £100 compensation for not responding to Mr B's subject access request in good time. Barclays agreed. Mr B didn't agree, saying:

- He'd been denied the opportunity to provide further evidence to us as Barclays didn't respond to his SAR.
- Barclays didn't notify him before recording that the MCA was in arrears on his credit files.
- Barclays still wasn't sending statements to Ms B.
- Barclays closed their complaint without his consent.
- Barclays recently sent a letter cancelling the MCA overdraft facility, despite it having a zero balance.

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.

Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Ms B and Mr B have a mortgage with Barclays. The terms of the mortgage require them to make monthly payments. Barclays notifies them of the amount they need to pay each month.

Ms B and Mr B also have a MCA. This is a current account with an overdraft facility secured on the property. While Ms B and Mr B aren't required to make a monthly payment of a specified amount, they do need to keep the borrowing within the overdraft limit.

The MCA balance, overdraft limit and statements

Mr B says they didn't receive statements for the MCA and weren't told there was an overdraft limit. Barclays provided copies of monthly statements for the MCA and letters about the MCA addressed to Mr B and Ms B at what was their joint address and is now Mr B's address.

The monthly statements set out the overdraft limit and the MCA balance. The statements show payments (of differing amounts) into the account that match or almost match the interest being applied. These payments were made each month for several years until late 2022. This meant the overdraft balance stayed just below the limit.

Barclays sent letters from 2018 to Ms B and Mr B saying they were close to the overdraft limit. These letters also set out the overdraft limit and other information about the MCA. Barclays says the overdraft limit didn't change from mid-2021.

The annual mortgage statement (dated October 2022) refers to the MCA and the amount owed.

Taking all this into account, I think Barclays made Mr B and Ms B aware of the MCA, their balance, the interest being applied and the overdraft limit. I don't see how they could otherwise have arranged payments each month to match the interest being applied. Ms B and Mr B either received the monthly statements or were able to access this information another way.

The payments into the MCA stopped in late 2022. When interest was applied the overdraft balance exceeded the overdraft limit. It's not clear why the payments stopped. But I haven't seen anything to persuade me this was due to an error by Barclays.

Barclays sent a "statement of overdue amount on your mortgage" in December 2022. There was a separate heading for the MCA, under which it set out the overdraft limit, the amount owed and the overdue amount. I think the information about the MCA was correct.

The letter also included information about the mortgage account and Barclays accepts this was unclear. The mortgage was in credit, which was indicated by a minus sign before the credit amount. Barclays said this could cause confusion and paid £50 for the upset caused. I think this was fair.

However, no payments were made into the MCA to bring the overdraft within the limit. I think

Barclays provided enough information to Ms B and Mr B about the MCA for them to arrange this. This is supported by them being able to keep the MCA overdraft just within the limit for several years. But even if – as Mr B says – they didn't receive MCA statements the letters about the overdue payment set out the overdraft limit, the overdraft balance and the overdue amount. This provided the information necessary to arrange a payment to bring the overdraft within the overdraft limit.

Credit report

Mr B didn't provide a copy of his credit report. He sent the text of an email from one of the credit reference agencies to Barclays. This said he'd missed a payment on his flexible mortgage. Most likely the MCA is categorised for credit file purposes as a flexible mortgage, as this is the category most similar to how it operates. While Mr B says information was recorded without warning, I don't think that's right. The letter sent in December 2022 (which prompted Mr B's complaint) says information will be recorded on the credit file when there are arrears due to missed payments or the overdraft limit is exceeded by £50 or more.

Lenders are required to report correct and up to date information to the credit reference agencies. The MCA was over its overdraft limit and payments weren't made to correct this for several months. I don't think it was wrong for Barclays to record this on Mr B and Ms B's credit files.

The SAR

Mr B also raised a complaint with ICO about Barclays' failure to respond to his SAR, which ICO upheld. Barclays responded to the SAR in August 2023. Mr B has had opportunity to provide any further evidence to us following the response.

I agree that Barclays took too long to respond to the SAR and that it should fairly pay compensation for this. I think £100 is fair and reasonable in the circumstances, for the inconvenience this caused to Mr B.

Other matters

Mr B was upset that Barclays closed his complaint. Complaint handling isn't itself a regulated activity. This means we can't necessarily look into the way in which a respondent deals with complaints. If a customer isn't happy with the response to their complaint, they are able to bring it to us – as Mr B and Ms B have done.

Our rules say that we can only look into complaints after the respondent (here Barclays) has had an opportunity to look into the matter and respond. Mr B has been in regular correspondence with Barclays while the complaint has been with us, which he's shared with us. I think in large part this was to keep us up to date.

However, there are some matters – such as that Barclays isn't sending copy MCA statements to Ms B at her new address or that it wrote to Ms B cancelling the MCA overdraft – where it's not clear to me if Mr B and Ms B are making a new complaint. If so, I need to explain that I can't fairly look into these matters here. Mr B and Ms B would need to raise these matters with Barclays.

My final decision

My decision is that I uphold this complaint and order Barclays Bank UK PLC to pay £100 to Mr B. This is in addition to the £50 it has already paid.

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

Ruth Stevenson
Ombudsman