

## The complaint

Mr G has complained about a mortgage current account ("MCA") linked to his mortgage he holds with Barclays Bank UK PLC. He says Barclays kept adding interest to the account without notifying him of the increasing balance which denied him the opportunity to do something about it.

## What happened

Mr G took out this mortgage in 2007. He borrowed around £88,000 on a repayment basis over a term of just under 20 years. The 2007 mortgage offer explained the rate as *"A Variable Rate which is 0.18% above Barclays Bank PLC's Base Rate, currently 5.75%, for the whole of the term, to give a current rate payable of 5.93%."*

The mortgage offer said that Mr G was obliged to take out an MCA with a Mortgage Reserve (which is a form of secured overdraft) as a condition of the mortgage.

In 2008 Mr G took out a further advance on the mortgage. He borrowed around £30,000 on a repayment basis over an 18-year term. The mortgage offer explained the rate for the further advance as *"A Fixed Rate of 6.59% until 31/01/2012. After 31/01/2012, the rate will be a Variable Rate which is 1.49% above the Barclays Bank PLC's Base Rate, currently 2%, for the remainder of the term, to give a current rate payable of 3.49%."*

For ease, going forward I'll refer to the main mortgage and the further advance combined as the "main mortgage accounts" to differentiate them from the MCA.

In February 2014 Barclays obtained a suspended possession order due to arrears on the main mortgage accounts. The court order ordered Mr G to pay £100 a month towards the arrears of around £10,260.

We have a selection of statements available for the MCA, which I'll detail below.

The 15 October 2010 statement showed:

- an opening balance of £4,096.57,
- no money coming in,
- £2,012.95 going out,
- a closing balance of £6,109.52,
- of the money going out £2,000 was transfers out to another bank account and £12.95 was the interest charged on this debt,
- the monthly interest rate was 0.42%,
- the monthly interest that would be debited the following month would be £19.81, and
- the MCA reserve limit was £10,920.

The 17 December 2010 statement showed:

- an opening balance of £14,798.09,
- £11.49 coming in,

- £451.91 going out,
- a closing balance of £15,238.51,
- of the money going out £391.49 was transfers out to another bank account and £60.42 was the interest charged on this debt,
- the monthly interest rate was 0.42%,
- the monthly interest that would be debited the following month would be £62.06, and
- the MCA reserve limit was £15,250.

The 17 January 2011 statement showed:

- an opening balance of £15,238.51,
- £50.57 coming in,
- £62.06 going out,
- a closing balance of £15,250,
- all the money going out was the £62.06 interest charged on this debt,
- the monthly interest rate was 0.42%,
- the monthly interest that would be debited the following month would be £64.60, and
- the MCA reserve limit was £15,250.

The 16 December 2011 statement showed:

- an opening balance of £19,267.60,
- £17.60 coming in,
- £295.52 going out,
- a closing balance of £19,545.52,
- of the money going out £215 was transfers out to another bank account and £80.52 was the interest charged on this debt,
- the monthly interest rate was 0.42%,
- the monthly interest that would be debited the following month would be £76.94, and
- the MCA reserve limit was £19,610.

The 17 January 2012 statement showed:

- an opening balance of £19,545.52,
- £30.52 coming in,
- £76.94 going out,
- a closing balance of £19,601.94,
- of the money going out £10 was transfers out to another bank account and £76.94 was the interest charged on this debt,
- the monthly interest rate was 0.42%,
- the monthly interest that would be debited the following month would be £85.57, and
- the MCA reserve limit was £19,610.

The 16 November 2012 statement showed:

- an opening balance of £20,263.56,
- no money coming in,
- £82.85 going out,
- a closing balance of £20,346.41,
- all the money going out was the £82.85 interest charged on this debt,
- the monthly interest rate was 0.42%,
- the monthly interest that would be debited the following month would be £83.20, and
- the MCA reserve limit was £19,610.

I understand that since February 2012 no payments have been made into or out of the MCA, other than the monthly interest payments.

By the end of 2017 the MCA debt had increased to around £26,100 with the monthly interest at that time being around £100. By the end of 2018 the debt stood at around £27,500 with the monthly interest being around £120. By the end of 2019 the debt stood at around £28,900 with the monthly interest being around £120. By the end of 2020 the debt stood at around £30,400 with the monthly interest being around £120.

Annual mortgage statements were issued each year for the main mortgage accounts. Whilst the majority of the information related to those main accounts, there was a part which covered the MCA reserve.

We have a selection of statements available for the main mortgage accounts, which I'll detail below.

The 6 October 2010 statement enclosed the following information:

***"Paying off your mortgage***

[...]

***\*\*Mortgage Current Account Reserve (overdraft) borrowing*** ***£12,031.18***

[...]

***\*\* Your reserve balance is the amount that you have borrowed using your Mortgage Current Account Reserve facility (overdraft)***

***Important Information***

*Additional borrowing drawn down from the Mortgage Current Account Reserve is charged at the Woolwich Standard Variable Rate [...]. On any outstanding Reserve Facility balance interest will accrue and the Reserve Facility balance will increase as a result of this [...]. Any funds drawn from the Reserve Facility are secured against your property, must be repaid by the end of the mortgage term and will require you to put additional arrangements into place to repay this, as your monthly contractual mortgage repayments do not cover the additional borrowing."*

There was similar wording on the other statements, with the "*Mortgage Current Account Reserve (overdraft) borrowing*" figure increasing each year as follows:

- October 2011 £18,281.52
- October 2017 £25,805.31
- October 2018 £27,099.16
- October 2020 £30,003.34
- October 2021 £31,405.77
- October 2022 £32,941.56

Mr G has said he became aware of the size of the MCA reserve debt in April 2021 when he received a letter from Barclays.

The first complaint that was raised was that Mr G said he was unaware of the MCA and it shouldn't have been sold to him. Barclays said that complaint hadn't been made within the time limits set out in our rules and our Investigator agreed. The Investigator said Mr G had

used the MCA account, building up a debt owed through the reserve facility, so he ought reasonably to have been aware he had the product and that he had potential cause to complain if he was unhappy with it.

Mr G responded to say that wasn't the entirety of this complaint. He said he was also complaining about the consequence of this product. That is, the MCA had been hidden from view for many years as he wasn't sent statements showing the MCA. He said Barclays hadn't contacted him about the product since 2010, at which time the borrowing was around £12,000 and it now stood at around £30,000. By not contacting him about the MCA reserve debt Mr G says he wasn't afforded the opportunity for any corrective action.

It was agreed that the original complaint would be closed (which was noted to just be that the MCA was mis-sold), and this new complaint (which I'm deciding here) would be raised relating to the lack of contact over the years.

As Mr G was unhappy with Barclays' response to the follow up complaint, he referred the matter again to the Financial Ombudsman Service.

In July 2023 one of my Ombudsman colleagues issued a decision about our jurisdiction to consider this complaint. She said:

*"My decision is that our service cannot consider Mr G's complaint to Barclays Bank UK Plc about –*

- *the amount of his Mortgage Current Account debt which had accrued by 3 January 2012, when he last used the account.*
- *the amount of his Mortgage Current Account debt which accrued between 4 January 2012 and 7 April 2015, which is more than six years prior to when Mr G first made his complaint.*

*But I think our service can consider Mr G's complaint to Barclays Bank UK Plc about –*

- *the amount of his Mortgage Current Account debt which accrued from 8 April 2015 onwards, which is within six years of when Mr G made his complaint.*
- *a decision taken in 2021 to enforce this debt."*

Our Investigator then looked at that complaint and didn't uphold it. He said he wasn't persuaded Mr G didn't know the debt was growing and as interest had been added to the account when Mr G had been using it, he had no reason to believe that wouldn't still be the case over the years. He said the annual mortgage statements showed the level of the MCA reserve debt each year and he didn't think it was reasonable to ask Barclays to waive or reduce the amount due. That said, he said he could understand Mr G's confusion and frustration and he felt Barclays had provided a poor level of service. He also felt the 2021 contact was out of the blue but was satisfied that despite the letters talking about legal action none had actually been taken. In all he felt £250 compensation was due for the poor service.

Barclays accepted our Investigator's findings and agreed to pay £250 compensation. Mr G didn't agree and so the case was passed to me to decide.

### **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.

I recognise that Mr G feels very strongly about this, and I thank him for the frankness and detail of his submissions. He's clearly been through some very difficult times. I won't detail everything that he's told us here to protect his privacy, however I can assure Mr G that I've read and understood everything and taken it all into account.

I trust Mr G won't take it as a discourtesy that I've condensed this complaint in the way that I have. Although I've read and considered the whole file I'll keep my comments to what I think is relevant. If I don't comment on any specific point it's not because I've not considered it but because I don't think I need to comment on it in order to reach the right outcome.

This service is impartial between, and independent from, consumers and businesses. What this means is that we don't represent either party, we look at things independently without taking sides, and I don't act under either's instructions or take directions on what questions should be asked and answered.

I understand our Investigator's findings were disappointing. It's the nature of what we do that we generally have to find in favour of one party or the other. Our findings are based on consideration of all the facts and all the submissions made by both parties. We look at what happened and decide whether, bearing in mind any relevant law, regulations, and good industry practice, the lender acted fairly and reasonably. We also have to decide, if we think something went wrong, whether it is more likely than not that the situation now would have been any different if nothing had gone wrong.

As my Ombudsman colleague said, we can only consider the period from April 2015. But in reaching a decision about what has happened since then, it is important I think about what happened before that date albeit I can't make any findings about whether or not Barclays did anything wrong before then.

On 8 April 2015 the outstanding balance on the MCA was £22,936.41.

Based on Mr G's more recent submissions he has said the last MCA monthly statement he has in his possession is the one covering the period from 18 October until 16 November 2012.

I've reviewed the MCA transaction history from the start and I can see Mr G started to use the facility in November 2008, with the last withdrawal around then being in December 2008 at which time the balance stood at around £2,980. Interest was then added each month, and Mr G made a payment into the account of £1,000 in March 2009.

At the end of October 2009 the balance stood at around £2,080, and then Mr G started withdrawing money again in November 2009. The withdrawals continued until December 2010, with the next receipt (after March 2009) being around £11 in December 2010. At that time the balance stood at around £15,240. For a few months payments were made into the account each month to keep the balance (once interest was incurred) within the limit at the time of £15,250.

Withdrawals started again in March 2011 increasing the balance from around £15,310 to £17,390 by the end of April 2011. Payments in were made in May, June and August 2011, with withdrawals again between September and December 2011. The last withdrawal was on 19 December 2011 at which time the balance stood at around £19,560. Payments were made into the MCA in January 2012 and February 2012, with the balance after the last payment in standing at around £19,600. Since then the only transactions on the account were the interest that was accruing.

From this we can see that Mr G was actively using the MCA account up until February 2012, taking money out and putting some money in. It seems likely Mr G was broadly aware of how the account worked in terms of the monthly interest and reserve limit as it can be seen that he made credits to the account of just enough to keep the account within limit, but not enough to clear the full interest due. For example, the January 2011 statement showed Mr G paid exactly the amount needed into the account to keep it within the reserve limit.

In the January 2012 statement the closing balance was around £19,600 against a reserve limit of £19,610. The statement said £85.57 of interest would be debited the following month. I can see from the transaction history that Mr G matched that amount by paying £85.57 into the MCA on 8 February 2012, so the closing balance in February 2012 remained the same.

As Mr G made no further payments into the account the MCA went over its limit in March 2012 when the interest of around £83 was added to the account that month.

So Mr G received nine monthly statements (March 2012 until November 2012) all showing the MCA was over its reserve limit of £19,610 and that interest was being added at a rate of between around £75 to £90 a month.

The November 2012 statement showed a closing balance of around £20,350 and Mr G has had that statement in his possession to refer back to.

At no time has Barclays implied its either written off that debt, or that interest would no longer be charged on it. When our Investigator asked Mr G what he thought had happened to that debt he said it was out of sight and out of mind. He said it is quite easy to forget about it especially when one's mind is processing other types of information. He went on to explain his personal circumstances at the time meant his mind was full of other things, and he relied on companies to send him bills so he paid them.

In addition, in relation to the November 2012 statement, he said *"This statement shows an end balance of - £20,346.41 with the agreed limit of £19,610."*

*So, my first question is how come it's over the limit? I have attached this statement and you can clearly see an over limit of £734.41. This over limit amount is not highlighted or ever mentioned. When I received this statement I was in a state of financial distress which made me vulnerable and Woolwich / Barclays knew this."*

I've considered these points very carefully and I've a great deal of sympathy for the difficult situation Mr G was in. He had financial issues, as well as going through a hard time personally. Things certainly can't have been easy for him.

But I can't hold Barclays liable for that as it sent Mr G the information which set out the status of his account at that time. To be clear, I'm certainly not blaming Mr G for the situation but sometimes things happen that aren't the fault of either party. Just because Mr G wasn't to blame, doesn't mean Barclays was to blame. Up until the end of 2012 Barclays sent Mr G monthly statements that set out how his MCA was running, and those included nine statements showing he was over the reserve limit.

Mr G has said:

*"Do you really believe if I were aware of interest being added monthly I would ignore this? I would agree it is reasonable to assume that if I were aware of interest being added to the MCA on a monthly basis I would not intentionally ignore it. If I had know about it! I could have taken steps to address the matter by making extra payments, especially if I were aware of it!"*

But Mr G didn't make regular monthly payments to the account to cover the interest and/or reduce the debt either before his financial difficulties (when he was receiving monthly statements) or after he found out about the debt in April 2021.

Mr G has said he isn't in a position now to make payments to the account due to the war in Europe, high energy costs, high raw materials costs and interest rates being at an all-time high. But those weren't factors until the end of 2021 onwards, many months after Mr G became aware of the level of this debt. Even if Mr G disputed the extra interest that had been added, he would have been aware that he, at the least, still owed the amount that was outstanding all those years ago and so could have started making payments towards it.

The suspended possession order from February 2014 was due to take over eight years to clear the arrears, and we can see from the arrears statement Mr G has provided from January 2017 that the arrears still stood at around £6,200 at that point. Whilst Mr G has now said that he could have comfortably paid back £200 to £300 a month towards the MCA debt, that's not supported by the fact he didn't make those increased payments towards clearing his arrears sooner which I would have expected him to do if those funds were freely available each month.

Mr G had in his possession the monthly MCA statements up until November 2012 so even if he wasn't in a position to make payments towards the debt at the time he received them, they were there for him to review and start making payments when he was later able to. I understand Mr G feels it is out of sight out of mind, but it seems unlikely that Mr G forgot that he had owed around £20,000 on the MCA even if he hadn't thought the balance would build up further than that.

In any event, the increasing balance was on every annual statement for the main mortgage accounts that Mr G was sent over the years (not just the 2017 one, our Investigator only used that as a single example). I understand Mr G feels this information was hidden away as small print, but it was exactly where I'd expect that information to be and was in the same size font as all the other information.

I set out in the background to this decision the increasing MCA reserve debt balance that was set out in various statements as:

- October 2010 £12,031.18
- October 2011 £18,281.52
- October 2017 £25,805.31
- October 2018 £27,099.16
- October 2020 £30,003.34
- October 2021 £31,405.77
- October 2022 £32,941.56

In addition, as I also set out, the wording explained what the reserve balance was:

*"Your reserve balance is the amount that you have borrowed using your Mortgage Current Account Reserve facility (overdraft)"*

It also explained that:

- interest was accruing on the debt,
- the balance would therefore increase as a result,
- the funds were secured against the property,
- the debt must be repaid by the end of the mortgage term, and

- additional payments were needed towards the debt as the payments being made to the main mortgage accounts didn't cover it.

That information was all contained within the statements that were sent to Mr G each year and I can't hold Barclays liable if Mr G didn't read it. Having considered those statements I simply can't reach a conclusion that Mr G was unaware of the size of the MCA debt building up or that he needed to make payments towards it.

I've considered everything very carefully, including what Mr G has told us about his personal circumstances over the years. Having done so, for the time period I can consider which is from April 2015 until August 2022 (when Barclays responded to the complaint) I simply can't order Barclays to waive any of the interest that has been charged on the MCA. That's because I'm satisfied Mr G had the information he needed in his possession to know how this account operated (from the pre-November 2012 MCA monthly statements and how he previously operated the account), and how the debt was building up (from the annual statements issued on the main mortgage account). It may be Mr G didn't read that information, but I can only uphold this part of the complaint if I think Barclays did something wrong and I can't hold it liable for Mr G not reading the information that was provided. As I explained earlier, just because Mr G isn't at fault doesn't mean that Barclays is.

All that said, as our Investigator explained, due to the lack of direct chase ups about the MCA reserve being over its limit, suddenly receiving the letter in April 2021 would have been a shock to Mr G, especially as that letter set out the risk of legal proceedings. To explain, at that time there were still arrears on Mr G's main mortgage accounts following the suspended possession order (albeit they were within months of being cleared), which is why the warnings were so strong about the possibility of repossession. I understand up to the point we can consider, which is August 2022, Barclays hasn't taken any legal action against Mr G about the MCA reserve debt and so he hasn't incurred any fees or charges. But we do need to think about the shock that letter caused Mr G.

Mr G said

*"The next issue pertains to the £250...Are you serious? This amount is not even equivalent to three months worth of interest! The fact that you and the bank appear to treat this matter as unimportant, trivial, or insignificant makes the £250 seem almost negligible in comparison! You have completely overlooked the over-limit situation on the MCA. They should have contacted me, but they didn't. This is not my fault, and I should not be held responsible for their failure to communicate.*

*It is clear that you haven't taken into account the considerable stress I've endured throughout this process. It's essential to consider the emotional toll this situation has had on me."*

But the £250 isn't supposed to cover any of the interest charged on the account because, for the reasons already explained, I don't think Barclays needs to waive that. That interest was fairly due and I'm not persuaded that Mr G ought reasonably to have been unaware of how the debt was increasing over the years.

The payment of compensation here is to recognise the fact that Barclays went from not directly contacting Mr G about the MCA reserve debt, to issuing a letter which talked about potential legal action. Mr G owes the total outstanding debt so I can't take into account the ongoing emotional toll as I've not upheld that part of the complaint. All I'm thinking about here is the April 2021 letter (after there being no direct contact specifically chasing up this debt over the years) and the shock that would have caused.

Having considered everything very carefully I'm satisfied the £250 Barclays has already agreed to pay is fair and reasonable for that.

### **My final decision**

I uphold this complaint in part and order Barclays Bank UK PLC to pay £250 to Mr G in full and final settlement of this complaint. I make no further order or award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 25 December 2023.

Julia Meadows  
**Ombudsman**