

The complaint

Mr and Mrs B complain about the arrears letters Barclays Bank Plc is sending them. They say that as far as they're concerned their account is up to date and they cannot understand why they're receiving such letters.

What happened

In 2014 Mr and Mrs B took a mortgage with Barclays. They borrowed around £186,950 on capital repayment terms. They agreed to a five-year fixed interest rate of 3.55% until 31 March 2019. Thereafter the mortgage would revert to a variable rate of 3.39% above the Barclays Bank Base Rate for the remaining term.

The mortgage came with a related product, the mortgage current account (MCA). The MCA is a secured overdraft facility.

In November 2022 Barclays sent Mr and Mrs B a letter titled "Statement of overdue amount on your mortgage." The letter said that as of 17 November 2022 their main mortgage account had a prepayment balance of £166.74 and that their MCA was overdrawn by £5.03.

Mr and Mrs B complained to Barclays. They don't agree that they are in arrears, and they say they've never missed a payment. They are finding the repeated letters distressing and question why they've only started receiving such letters now.

Barclays responded to the complaint. It said that Mr and Mrs B have historical arrears on their account since 2016. A payment was missed in April 2016 which has caused the account to fall into arrears.

Barclays says that because Mr and Mrs B's payments fall due on the last day of the month and because they pay their mortgage on the first of each month – their account falls into arrears for a day each month. When Mr and Mrs B made their payment on 1 November 2022, their account was in credit by £166.74, until their next instalment was due on 30 November 2022. That put their account in arrears of £729.07 for a day, until the December payment.

Barclays says that because Mr and Mrs B's account is in less than two months' worth of arrears, no adverse information has been reported to the credit reference agencies and that will continue to be the case if the balance remains below the threshold. But Barclays has explained that due to a change in its process, customers will receive calls and letters as soon as their account falls into arrears – even by a penny and/or even for a day.

Barclays says there's no way to stop the automatically generated arrears letters in the circumstances. Barclays does not agree that any arrears should be waived but it did offer £200 compensation for the time taken to resolve the complaint.

Mr and Mrs B remained unhappy and brought their complaint to the Financial Ombudsman Service. They don't agree that Barclays can change its internal process without notifying customers first. They also don't agree that, as suggested by Barclays, they should make

their payments a day or so earlier to prevent their account going into arrears and triggering the letters.

An investigator looked into things and didn't uphold the complaint. She was satisfied that Mr and Mrs B missed a payment in April 2016 which has caused an arrears balance. And it's not unreasonable for Barclays to seek payment of any arrears. She thought £200 fairly compensated Mr and Mrs B for any delayed communication and for any confusion that they say occurred at the time of the missed payment as suggested.

Mr and Mrs B didn't agree and asked for an ombudsman's final decision on the case.

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.

Mr and Mrs B's monthly mortgage instalments fall due on the last day of each month. Each month when Mr and Mrs B's contractual monthly instalments are due, they must make that payment, in that month, to keep their mortgage account up to date.

Mr and Mrs B's account does show some arrears dating back to 2016. A direct debit on 1 April 2016 was returned unpaid. The mortgage transaction history shows that a further payment wasn't made in April 2016 to make up for the returned direct debit. The next successful payment was made on the 5 May 2016. Due to the way payments are expected to be made, the May payment was allocated to the May instalment. So Mr and Mrs B essentially missed a payment in April 2016.

Mr and Mrs B's account has fallen one month behind. But essentially the way they are managing their account means that when the account is billed at the end of the month and the direct debit is paid at the beginning of each month, this brings them out of arrears into prepayment for the month but then back into arrears once the instalment is due at the end of the next month – for a day or so until their next month's instalment is paid and then the same pattern occurs.

I've noted that Mr and Mrs B make reference to a call they say they had with Barclays in 2016 – in which they say they were told that following the missed payment, they could keep the payment date as the 1st of each month, and they wouldn't be impacted. Barclays' contact notes don't suggest a call of that nature took place at that time. The only notes from 2016 relate to request from Mr and Mrs B's bank to cancel their direct debit.

The earliest record I've seen of a call taking place in relation to this mortgage is in January 2018. Mr B called to say that he couldn't make January's payment within the month. He said he could make payment on around 2 February. Barclays said that would be fine if he also made February's payment in the same month (so two payments in February), to prevent arrears from accruing.

Mr and Mrs B say they were specifically told in 2016 that by continuing to make their payment on the first of each month, they wouldn't be impacted. I don't have any reason to doubt Mr and Mrs B's testimony about the conversation they recall in 2016, but due to the time that has passed, information is limited and it's quite possible that the call they are referring to is in fact the one that took place in 2018. I say that because the nature of this call correlates with what Mr and Mrs B say happened in 2016. That said, I've seen nothing to suggest Mr and Mrs B were told during this call, or any other call, that it was fine to miss a payment without there being any implications.

Mr and Mrs B say that by not keeping a record of the call, that they say took place in 2016, Barclays have breached the Mortgage Conduct of Business (MCOB) rules. They quote 13.3.9(1) that says a mortgage lender must make and retain an adequate record of its dealings with a customer whose account has a payment shortfall. But part two of the rules says that the business must retain such records for *three years* from the date of the dealing. So in accordance with the rules, Barclays was only required to keep such record until 2019, three years after Mr and Mrs B say the conversation about their missed payment took place. As such I'm not persuaded there has been any breach here.

In accordance with the rules, Barclays did however write to Mr and Mrs B when their direct debits were returned as unpaid over the years – specifically in 2016 and then again in 2019 and 2023.

I note that in 2019 Mr and Mrs B reinstated their direct debit. This was around the time their fixed rate ended and their mortgage reverted to a variable interest rate. They likely reverted to paying by direct debit since their monthly payments were now subject to change and to ensure that they made the right payments each month.

Barclays says it's new system generates automated letters when a customer falls into arrears, even by a penny and/or even for a day only. There is nothing in the MCOB rules that says a business is required to notify its customers when it changes its internal systems. But in accordance with the mortgage contract, any shortfall payment is payable and so Barclays is entitled to seek payment of arrears from a customer – although it needs to ensure that any repayments of an outstanding amount should be done in a way that is affordable for the customer.

Barclays have offered a solution to this. If Mr and Mrs B are able to change their direct debit to be paid on or before their instalment due date – so bringing it forward by a couple of days, this would stop them from receiving arrears letters each month. Mr and Mrs B haven't agreed to this. They say this is out of principle rather than due to a financial reason preventing them from doing so.

Unfortunately, Barclays has explained that these letters are automatically generated. I can't reasonably ask Barclays to change its whole billing system to address this individual issue. If Mr and Mrs B aren't willing to make their monthly payments by the date due, then they must accept that they may continue to receive arrears letters from Barclays.

Mr and Mrs B have recently said that, despite making a payment of £5.03 towards their MCA, to limit the impact of the letters they're receiving - they're still being written to about this amount.

From Mr and Mrs B's mortgage account transaction history I can see that payment was made to their main mortgage account. It's unclear why that happened but due to the amount paid, it's clear that it was Mr and Mrs B's intention for that payment to go to their MCA.

I have raised this with Barclays, and it has agreed to transfer £5.03 to Mr and Mrs B's MCA. The MCA balance should now be cleared. I must manage Mr and Mrs B's expectations here. Even though Barclays has agreed to make the adjustment and their MCA balance should now be cleared, this may not stop Mr and Mrs B receiving further letters about any arrears remaining on their main mortgage account. Unless Mr and Mrs B agree to change their direct debit date, they may continue to receive letters of this nature. And for the reasons I've explained it's not unreasonable for Barclays to expect the account to be brought up to date or for it to send arrears letters in such circumstances.

Barclays has offered to pay Mr and Mrs B £200 compensation for distress and inconvenience this matter has caused them. I think this is fair and reasonable in the circumstances on the basis that I don't think Barclays has acted unfairly, so I won't be directing it to pay any further compensation to that already offered.

My final decision

My final decision is that I uphold this complaint and direct Barclays Bank UK PLC to pay Mr and Mrs B £200 compensation as offered, as it appears it's not done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 4 January 2024.

Arazu Eid
Ombudsman