

The complaint

Mr and Mrs T complain that Barclays Bank UK PLC (Barclays) didn't respond to enquiries from their solicitors quick enough, which meant their property purchase almost fell through.

What happened

Mr and Mrs T had a mortgage with Barclays. In 2021 they applied to port this to a new property they wanted to buy. Barclays issued a mortgage offer to Mr and Mrs T on 25 October 2021. The mortgage had to be ported within three months of Mr and Mrs T selling their previous property, giving a deadline of 28 December 2021.

Whilst carrying out the required conveyancing work, Mr and Mrs T's solicitors sent enquiries to Barclays on 29 October 2021. The solicitors asked for the enquiries to be referred to the surveyor who had valued the property. Barclays forwarded the surveyor's response to Mr and Mrs T's solicitors on 3 November 2021. On 5 December 2021, Barclays said Mr and Mrs T's solicitors contacted it again with a further enquiry. Barclays sent the surveyor's response to Mr and Mrs T's solicitors on 8 December 2021.

On 15 December 2021, Barclays received the Certificate of Title from the solicitors. Barclays sent the funds for the mortgage to Mr and Mrs T's solicitors on 17 December 2021 which was the intended completion date. On the same day, Mr and Mrs T's solicitors called Barclays as one of the enquiries from 29 October 2021 hadn't been answered in the surveyor's response. As this information was outstanding, the contracts weren't exchanged on 17 December 2021 as planned.

On 20 December 2021, Mr and Mrs T's solicitors called and emailed Barclays as it couldn't accept the surveyor's response to complete on the mortgage as one of the enquiries hadn't been addressed. Mr and Mrs T wanted to complete that day. Barclays acknowledged the request and confirmed it would be treated as a priority. It asked for no further chasers to be sent for the next 24 hours.

Barclays sent the outstanding query to the surveyor on 21 December 2021. Mrs T told Barclays on 22 December 2021 that the sale would fall through, and the seller would put the property back on the market if it wasn't completed by midday on 23 December 2021. Mr and Mrs T's solicitors were closing from this date until January 2022.

The surveyor sent a response to Barclays on 22 December and again on 23 December 2021, and Barclays forwarded this to Mr and Mrs T solicitors on 23 December 2021. By this time, Mr and Mrs T had already instructed their solicitors to complete the purchase using their own savings. The solicitors asked Barclays if the mortgage funds could be used to reimburse Mr and Mrs T instead of going to the seller's solicitors. The solicitors returned the funds to Barclays on the same day on 23 December 2021.

Barclays wrote to the solicitors on 24 December 2021 to acknowledge receipt of the returned mortgage advance and said the funds would be held by Barclays until 14 January 2022. It gave details of how to request to utilise the funds before that date. On 14 January 2022, Barclays wrote to the solicitors again as the holding period had expired and it was now

unable to reissue the funds. Mr and Mrs T made a new application for an equity release on the property with Barclays and this was completed on 31 March 2022 with the same terms as the original offer.

Mr and Mrs T complained to Barclays in December 2022 about the service they had received. They were unhappy with the length of time it took Barclays to answer the outstanding query from their solicitors. They said this caused them to miss their first completion date and meant they had to complete the purchase with funds from their savings to stop the sale falling through. Mr and Mrs T said Barclays caused them substantial distress, caused them to be without their savings for three months and they'd had to spend a lot of time communicating with Barclays to try to resolve this situation.

Barclay sent its final response letter on 20 January 2023. It said it thought it was responsible for a delay of three days from 17 December 2021 when the solicitors contacted it about the outstanding query. But it thought the solicitors should have referred the unanswered query to it sooner than 17 December 2021, given that it had been outstanding since 29 October 2021. It offered Mr and Mrs T £200 compensation for the delays it thought it was responsible for. Mr and Mrs T didn't accept this so referred their complaint to our Service.

One of our Investigators looked into this complaint. She thought Mr and Mrs T's solicitors should have chased the outstanding information earlier than they did. While she thought Barclays weren't responsible for any potential loss of the use of funds as it had already released the funds to Mr and Mrs T's solicitors, she did think its actions had caused Mr and Mrs T unnecessary stress. She recommended Barclays pay Mr and Mrs T a further £100.

Neither Barclays or Mr and Mrs T agreed with our Investigator. So the complaint has been referred to me to make a 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.

The crux of Mr and Mrs T's complaint is that Barclays should've responded to their solicitor's enquiries sooner. And, had it done so, it would've been possible for them to complete their property purchase by porting their mortgage and not causing them significant stress.

Queries were first sent to Barclays on 29 October 2021 by Mr and Mrs T's solicitors. Barclays referred the queries to the surveyor and then responded to the solicitors with the surveyor's response within five days. Barclays acted promptly here and appropriately referred the queries to the surveyor as requested. But unfortunately, the response received from the surveyor did not answer all of the solicitors' queries.

Barclays had instructed an independent surveyor to carry out the valuation on the property and it was reasonable for it to rely on the surveyor to clarify any follow up questions about the valuation. But Barclays should've checked that the surveyor, who was acting for Barclays, had answered all of the questions. And it didn't. That said, I agree with Barclays that the solicitor bears some responsibility to ensure its queries were satisfied and there was no outstanding information needed at this point.

The solicitors progressed their title investigation and provided Barclays with the Certificate of Title on 15 December 2021. This was essentially confirming to Barclays that there were no legal problems with the property, and they were satisfied all of the conditions and requirements had been met – despite not all of its questions having been answered in October. Barclays released the funds to the solicitors on 17 December 2021 which was the

agreed completion date. I can't see that Barclays acted unfairly or caused any unnecessary delays here.

After issuing the Certificate of Title and receiving the funds from Barclays on the intended completion date, the solicitors noticed one of the enquiries hadn't been answered in the surveyor's response in November. As there was outstanding information, the contracts weren't exchanged on 17 December 2021.

This would have been very concerning for Mr and Mrs T, as they've said they were under a lot of pressure to complete before the end of December.

I know Mr and Mrs T feel strongly about this, and I'm sorry to disappoint them but I don't think the delay to the original completion date was caused by Barclays. If further information about the survey was needed before contracts could be exchanged, this should have been raised with Barclays before the Certificate of Title was provided by the Solicitors. If this had been done, I have no reason to think Barclays wouldn't have provided a response promptly from the surveyor as it later did. And completion could've gone ahead as scheduled.

I've thought carefully about Mr and Mrs T's point that Barclays should have provided a response to the query when it was first asked in October, but Barclays thought it had provided a response. It was unfortunate that the surveyor's response provided didn't cover all of the queries asked, but Barclays acted fairly by forwarding the queries on to the surveyor and then providing the response it received.

If this response wasn't sufficient to proceed, it needed to be raised with Barclays in good time – and not on the planned completion date after funds had already been issued. Based on this, whilst I agree Barclays could've taken action to potentially avoid some of these delays, I feel that Mr and Mrs T's solicitors should've realised sooner that they didn't have everything needed to complete on the intended date.

Following this, Barclays knew that the original completion date hadn't been met while information was outstanding from the surveyor. It also knew that Mr and Mrs T's ported rate was only available until the end of December. So, I'd expect it to provide a sufficient response to the outstanding query with urgency.

Barclays responded to Mr and Mrs T's solicitor's response (sent on 17 December) on 20 December 2021 to say the request was being treated as a priority. It was right to treat this as a priority, but Barclays has recognised this could have been done sooner and I can't see why the request wasn't prioritised on 17 December 2021 when it was received.

It's also unclear to me why the request wasn't sent to the surveyor until 21 December, and the first response received by the surveyor on 22 December wasn't forwarded to the solicitor until 23 December 2021. At this point Mrs T had made it clear to Barclays the purchase would fall through if this information wasn't received before midday on 23 December 2021.

I've reviewed the internal correspondence from this time, and I've seen that Barclays did try to escalate this request. But I think Barclays could have done more to ensure the information needed was provided to Mr and Mrs T's solicitors before 23 December 2021. The information wasn't provided before the deadline and Mr and Mrs T instructed their solicitors to purchase the property with funds from their savings. This would have been a distressing decision for Mr and Mrs T to make and they have said they were worried they would lose their dream home.

I think Barclays are responsible for contributing to the delays which caused Mr and Mrs T to be in this position. I agree with the Investigator that Barclays' offer doesn't go far enough to

compensate Mr and Mrs T for its part in this stressful and upsetting experience.

I understand Mr and Mrs T's reasons for using their own funds to complete the purchase, but I think multiple factors caused this to happen and I don't think it would be fair to hold Barclays solely responsible.

While Barclays could have provided the information to Mr and Mrs T's solicitor's sooner following 17 December 2021, it still did so in six days which isn't an unreasonable timeframe. Barclays had already paid the mortgage funds to Mr and Mrs T's solicitors as agreed, so I don't think it was responsible for those funds not being used to purchase the property. And I have to also consider that whilst the deadline to complete was the end of December, this was brought forward by a week due to Mr and Mrs T's solicitors closing over the Christmas period until the new year. This isn't something Barclays has caused.

Barclays also wrote to Mr and Mrs T's solicitors after the funds were returned to let them know the funds would be held until 14 January 2022. I have seen from Barclays internal correspondence that it had considered that the funds could be used to reimburse Mr and Mrs T, but the solicitors didn't contact Barclays about this before the deadline. I understand that Mr and Mrs T then needed to take out an equity release on the property and Barclays honoured the original rates. I think this was fair and reasonable in the circumstances, so I can't see Mr and Mrs T have lost out financially.

For the reasons set out above, I agree that Barclays did contribute to some delays. So I am going to uphold this complaint in part. But I don't think it was responsible overall for the reason that the porting application didn't complete in time. It follows that I don't think Barclays is responsible for Mr and Mrs T not having access to their funds between the time they purchased the property and the time the mortgage ultimately completed.

Barclays has offered £200 compensation for its delays and the distress it caused Mr and Mrs T because of this. But I don't think this goes far enough to consider the impact the delays had on Mr and Mrs T during a considerably stressful time. When assessing the impact on Mr and Mrs T, our Investigator thought £300 was a fair and reasonable amount of compensation in the circumstances. And I agree.

I'd note that Mr and Mrs T, in their submissions to us, have told us they want Barclays to be admonished for their failings in this situation and they think Barclays should be made to ensure that future customers don't go through what they went through. However, that type of action is outside of the remit of this Service. We are only able to look into individual complaints and provide redress where we think things have gone wrong. We aren't able to tell Barclays to review or change its processes – that's for the industry regulator, the Financial Services Authority.

Putting things right

For the reasons set out above, Barclays Bank UK PLC should pay Mr and Mrs T a total of £300 compensation for the distress and inconvenience this matter has caused.

My final decision

I uphold this complaint and direct Barclays Bank UK PLC to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs T to accept or reject my decision before 1 May 2024.

Rob Deadman
Ombudsman