

## **The complaint**

Mr and Mrs D complain that Barclays Bank UK PLC treated them unfairly following the ending of the term of their buy to let mortgage.

## **What happened**

Mr and Mrs D have a buy to let mortgage with Barclays, taken out in 2010 (with further borrowing taken later the same year) on interest only terms. The term of the mortgage came to an end in February 2020, and while Mr and Mrs D have continued to pay the monthly interest payments since then, they haven't repaid the capital.

Following the end of the term, Mr and Mrs D discussed re-financing the mortgage with Barclays, but in January 2021 Barclays told them that it wouldn't be willing to offer them a new mortgage. It said they would need to repay the outstanding balance.

In March 2021, Barclays said it would take legal action to recover the balance. Mr and Mrs D wrote back saying they were applying to another lender. Barclays took no further action.

In September 2021, Barclays told Mr and Mrs D it would re-start taking legal action. Mr and Mrs D complained that it hadn't replied to their March letter. Barclays replied saying that it needed to speak to Mr and Mrs D about their plans for the mortgage. Barclays tried to call Mr and Mrs D several times over the following months, without success.

In December 2022, Barclays instructed a field agent to visit Mr and Mrs D. No meeting took place, but Mr and Mrs D called Barclays to find out why they had been contacted. Barclays said that the mortgage balance was due for payment, even though Mr and Mrs D were maintaining the monthly payments. It offered them an appointment with a mortgage adviser, but Mr and Mrs D didn't accept that offer.

In July 2023, Barclays began legal action to recover the mortgage balance. Mr and Mrs D made a further complaint. Barclays didn't think it had acted unfairly, but offered £150 compensation for delays in responding to their complaint.

Our investigator didn't think the complaint should be upheld. She said that this was a buy to let mortgage, so not secured over Mr and Mrs D's home. She noted that it had by then been almost four years since the term ended, and she thought that Barclays had shown reasonable forbearance before taking action to recover the balance.

Mr and Mrs D didn't agree, and asked for their complaint to be reviewed by an ombudsman. They said that Barclays had "played cat and mouse" with them for four years before issuing proceedings. It had made threats such as the appointment of a receiver. It had told them they had six months to complain to the Financial Ombudsman Service – but then had issued proceedings before that time had expired. And they said that Barclays had charged them a rate of interest from which it had made a profit.

## **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.

Having done so, I agree with our investigator that Barclays hasn't acted unfairly in this case.

It's important to note that this is a buy to let mortgage. As such, it's not regulated and not subject to the rules of mortgage regulation. And it isn't secured over Mr and Mrs D's home; rather, it's a liability of a property rental business Mr and Mrs D are running. I appreciate Mr and Mrs D have said that they are retired and the rental income is their main income. But nonetheless they are letting out a property for profit, and have a mortgage secured over that property.

When Mr and Mrs D took out the mortgage in 2010, they agreed to repay the capital balance in 2020, and – all other things being equal – it's not unreasonable for Barclays to have expected them to do so. If Mr and Mrs D were unable to repay, then I'd expect Barclays to show reasonable forbearance, such as allowing them more time to explore other options including re-financing or selling the property.

In this case, I think Barclays has shown reasonable forbearance. It's now four years since the end of the term. Mr and Mrs D have therefore had a reasonable time to explore their options and make other arrangements.

They've provided an email from a mortgage adviser from March 2021 recommending a mortgage with another lender, and asking for financial information to complete the application. Mr and Mrs D say that because of problems with their accountant, they were unable to proceed with that application. I've not seen any evidence that Mr and Mrs D then resolved their accountancy problem, or made any other attempts to apply for a new mortgage to replace this one. They say that they had concerns about finding a new mortgage following interest rate rises in 2022, but they've now – since January 2024 – begun pursuing this option again. But it seems no new mortgage or mortgage offer has yet resulted.

Mr and Mrs D have also provided a copy of an estate agent's appraisal, from December 2023. But it doesn't seem that they've actually placed the property on the market.

The appraisal says that the property could expect to sell for around £1.35million, and the outstanding mortgage balance is around £300,000. I agree with Mr and Mrs D that there's ample equity in the property. But that doesn't mean that it's unreasonable for Barclays to expect the mortgage to be repaid. The equity means there's little risk that Barclays won't get its money back in the end – but doesn't mean that Barclays isn't entitled to expect the loan to be repaid as agreed.

I think Barclays has made reasonable efforts to work with Mr and Mrs D to reach a solution. It's tried calling them on many occasions, but Mr and Mrs D have refused to discuss the mortgage over the phone. When conversations have taken place, Mr and Mrs D have asked for some more time to explore options such as re-financing, but that hasn't come to fruition.

Mr and Mrs D have sent letters to Barclays, and it hasn't responded to them. It should have done so, and I can understand Mr and Mrs D's frustration about that. But I don't think that means that it's not entitled to expect the mortgage to be repaid either. Ultimately it's Mr and Mrs D's responsibility to find a way to repay the money they borrowed from Barclays. That means it's up to them to take active steps to arrange another mortgage, sell the property or come to some other arrangement.

Mr and Mrs D say that because Barclays didn't respond to their letters, and continued to collect payments, they believed that it must have agreed to their requests for a term extension. Or, alternatively, that in continuing to take payments it's created an ongoing legal or equitable mortgage. They make a similar point about its letters notifying them of changes to the interest rate.

But I don't agree about that. While the capital balance remains outstanding, interest is due on it. It's not unreasonable for Barclays to continue to collect the monthly interest payments – the alternative is that the balance would increase each month as interest is added but not paid. Continuing to charge, and collect, interest while the balance remains unpaid doesn't mean Barclays isn't entitled to require the full balance to be repaid, or that it has agreed to defer repayment of the capital. And while interest is being charged, it's fair that Barclays notified Mr and Mrs D of changes to the interest rate.

Ultimately it's for a court to decide if there's a valid legal or equitable mortgage in place. But I don't think there's a reasonable basis for me to conclude that Barclays had agreed to extend the mortgage term, or that it misled Mr and Mrs D into thinking it had. I think Barclays made clear on many occasions that the term had ended and it expected the capital to be repaid. I think that was fair and reasonable in the circumstances.

I don't agree the interest charged was unfair either. Interest was charged at the standard variable rate, as the mortgage offer said would happen. While that's higher than the preferential interest rate Barclays offers to some customers, no such preferential rate was in place on Mr and Mrs D's mortgage, and once the term had expired in 2020 they weren't eligible for a new one. It's not unreasonable that the interest rate includes an element of profit. Banking and mortgage lending are commercial business activities; if Barclays wasn't able to make a profit from its activities, it wouldn't be able to offer them. I don't think the level of interest charged was unfair.

I appreciate Mr and Mrs D are unhappy with how Barclays has handled things. It should have responded to their letters. It's offered £150 compensation for that, which I think is fair. But ultimately it's not unreasonable for it to want the mortgage to be repaid, as originally agreed. Barclays allowed Mr and Mrs D over three years to find a way to repay the balance, and tried repeatedly to engage with them over that period. But when the mortgage hadn't been repaid and Mr and Mrs D hadn't shown concrete plans to repay it imminently, it wasn't unreasonable that it took legal action to recover the balance.

### **My final decision**

My final decision is that Barclays Bank UK PLC has made a fair and reasonable offer to settle this complaint. It should pay Mr and Mrs D £150 compensation, if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs D to accept or reject my decision before 27 May 2024.

Simon Pugh  
**Ombudsman**