

## **The complaint**

Mr and Mrs C complain that Barclays Bank UK PLC (Barclays) gave them incorrect information on a number of occasions about when they could redeem their mortgage without paying an early repayment charge (ERC).

## **What happened**

Mr and Mrs C had a mortgage with Barclays. The interest rate was fixed at 2.13% until 31 January 2024. The mortgage was held jointly, however as Mrs C has been the main point of contact both for our service and Barclays, I'll just refer to Mrs C going forwards.

In early 2023, Mrs C began to enquire about redeeming her mortgage in full. Barclays told her that if she were to fully redeem the mortgage before the expiry of the fixed rate, she would be liable to pay the ERC – which was approximately £12,000.

Mrs C didn't feel this was fair. Considering she was a Premier Barclays customer and expiry of her rate wasn't far away, Mrs C wanted Barclays to use their discretion in order to retain her business.

Mrs C complained to Barclays on 27 May 2023.

On 30 May 2023, Mrs C spoke to a member of Barclays' Premier Banking team. The adviser told her she could secure a new rate on her mortgage from 4 August 2023. Mrs C left the conversation with the understanding that she could redeem her mortgage after 4 August 2023 without paying an ERC and that this would be confirmed in writing. The adviser sent her a brief resolution letter – called a summary resolution communication – on the same day which said that her complaint had been resolved and closed. And it explained that she could refer her complaint to our service if she wasn't satisfied with the resolution. The letter didn't explain that Mrs C could redeem her mortgage after 4 August 2023 without paying an ERC.

On 3 June 2023, Mrs C called the Premier Banking team as she hadn't received anything in writing aside from the above-mentioned letter. Mrs C again asked for written confirmation that she wouldn't be liable to pay an ERC if she redeemed the mortgage after 4 August 2023. The adviser wasn't sure of the answer so called through to the mortgage team. Mrs C didn't want to be transferred to the mortgage team. So the mortgage team told Premier Banking that Mrs C would be charged the ERC if she redeemed her mortgage more than 30 days before the expiry of the fixed rate. And they said up to 90 days before expiry, Mr and Mrs C could make a part redemption of their mortgage of up to 90% of the balance without paying an ERC. They said Mr and Mrs C wouldn't be liable to pay an ERC if they settled the mortgage within the last 30 days of the fixed rate term.

Mrs C referred her complaint to our service as she felt she'd been misadvised during the conversation on 30 May 2023.

On 17 July 2023, Barclays sent its final response letter (FRL) regarding Mr and Mrs C's complaint. Barclays said that Mrs C was never told that she wouldn't have to pay an ERC after 4 August 2023. Barclays said that, during the conversation on 30 May 2023, Mrs C was told that she could secure a new rate after 4 August 2023, but nothing was said about

waiving the ERC. Barclays also said that the terms relating to the ERC are clearly set out in Mr and Mrs C's mortgage offer documents. It did, however, offer £50 compensation in recognition of delays answering Mr and Mrs C's complaint.

On the same day, Mrs C called Barclays and enquired about the 10% annual overpayment allowance on the mortgage. During this conversation, the adviser told her that she could also pay up to 90% of her mortgage balance within the last 90 days of her fixed rate term without having to pay an ERC. And she could pay up to 100% of her mortgage balance within the last 30 days without having to pay an ERC.

On 20 July 2023, Barclays wrote to Mr and Mrs C confirming that they wouldn't be liable to pay an ERC if the mortgage was redeemed after 1 January 2024.

On 18 September 2023 Mrs C called and asked again about how an ERC might be applied if she redeemed her mortgage before the end of the term. She asked if she could repay 90% of the mortgage balance from 2 November 2023 and then only pay an ERC on the remaining 10% balance when she redeemed that. The adviser said this was correct.

On 22 November 2023 Mrs C called Barclays and asked again about Barclays' 90% within 90 days policy. Barclays clarified that within the last 90 days of Mr and Mrs C's product, they could overpay anything up to 90% of the mortgage balance without having to pay an ERC. If they paid more than 90% in that period, they would be liable to pay the full ERC. The exception to this is if they repaid the mortgage in full within the last 30 days of their rate expiry, then the entire ERC would be waived. This contradicted what Mrs C was told on 18 September 2023.

Mrs C redeemed her mortgage with Barclays in mid-December and paid the full ERC.

Mrs C asked our service to look into her complaint regarding the call on 30 May 2023 and the subsequent mis-advice she felt she received in the later calls set out above.

One of our investigators looked into Mrs C's complaint. He said that Barclays clearly provided Mrs C with conflicting and incorrect information when she asked questions about her ERC. He felt this factored into Mrs C's delayed completion on her new property. He said that Mrs C was always liable to pay the ERC in the circumstances. And she'd been given the correct information before she chose to redeem her mortgage and pay the ERC in December 2023. So he couldn't fairly ask Barclays to reduce or waive the ERC. But he said Barclays should pay Mrs C compensation of £250 to recognise the distress, inconvenience and loss of expectation caused by its poor communication with her.

Barclays accepted our investigator's recommendation, but Mrs C did not. She didn't feel that compensation of £250 was sufficient to recognise the months of stress caused to her and her family due to delaying the property purchase in view of Barclays' misleading advice. Mrs C asked for an ombudsman to review her complaint and make a final 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.

Having done so, I've reached the same overall outcome as our investigator and for broadly the same reasons.

When Mrs C spoke to the Premier Banking team on 30 May 2023, it seems that there was a misunderstanding between her and the adviser. During the call, Mrs C said that she didn't

want to speak to the mortgage team as they'd already made it clear that she'd be liable to pay an ERC if she were to redeem her mortgage before her fixed deal expired. She went on to say that she felt that the Premier Banking team should make a goodwill gesture to retain her business as she didn't feel like a valued customer. She asked if Premier Banking would at least contribute towards the ERC.

The adviser said that he could arrange a small amount of redress to recognise Mrs C's dissatisfaction, but Premier Banking wouldn't pay anything towards the ERC that she'd have to pay. Mrs C said that there was surely something Premier Banking could do. The adviser then went on to say that Mrs C could secure a new rate from 4 August 2023. And this is where it seems the misunderstanding stemmed from.

Mrs C felt that the adviser here was saying that she could redeem her mortgage after 4 August 2023 without paying an ERC. However, the adviser didn't actually say that. He said that she could look to secure a new rate from 4 August 2023.

I think it is unfortunate that there was a misunderstanding here. And I can appreciate why Mrs C was frustrated to find out a few days later that she couldn't redeem her mortgage from 4 August 2023 without paying an ERC. I do feel that the adviser could've done more to understand the crux of Mrs C's concern during this call, and ensure he was giving Mrs C the information she needed. But I've also considered that Mrs C had already been told, seemingly on more than one occasion, by the mortgage department that she would be liable to pay an ERC if she settled her mortgage early. The purpose of her call on 30 May 2023 was to establish whether Premier Banking would contribute towards the ERC and she was clearly told that it wouldn't.

On 17 July 2023 Mrs C was told that she could pay up to 90% of her mortgage balance within the last 90 days of her fixed rate term with no ERC. And she could redeem her mortgage within the last 30 days with no ERC. Although I think the adviser could've made things a bit clearer during this conversation, what she was told here was correct.

On 18 September 2023 the Barclays adviser wrongly confirmed that Mrs C could repay 90% of the mortgage balance from 2 November 2023 and then only pay an ERC on the remaining 10% balance when she redeemed that. In actual fact, the only way to avoid paying the full ERC when redeeming the mortgage was to do so within the last 30 days of her fixed rate term. So if she paid over 90% of her mortgage balance after 2 November 2023 and before 1 January 2024, then she would have to pay the full ERC.

Mrs C was then given the correct information on 22 November 2023.

From listening to the recordings of Mrs C's conversations with various Barclays advisers, and having read through our own correspondence with Barclays on this file, it seems that some Barclays staff are unclear on its 90% within 90 days policy. And I can see that senior management felt it necessary to email staff in October 2023 to clarify its policy.

Mrs C was clearly given incorrect information on 18 September 2023. And even on some of the other calls where the information she was given was correct, the advisers themselves didn't sound very sure – and admitted as much. The adviser on the 22 November 2023 said that there have been a number of misunderstandings internally about this policy.

As such, I can appreciate why Mrs C found some of these phone conversations confusing and frustrating.

That said, in line with Mrs C's mortgage terms, she would always have been liable to pay the full ERC if she redeemed her mortgage before the end of the fixed rate, although Barclays

would have waived the ERC if the mortgage was redeemed within 30 days of expiry. And even when she had confirmation this would be the case, Mrs C chose to complete on her property purchase and redeem her mortgage in December 2023.

But for the misleading information Mrs C was provided on 18 September 2023, she'd have still completed her property purchase before 1 January 2024 and therefore she'd still have paid an ERC. So I can't reasonably ask Barclays to refund the ERC.

But Barclays' communication with Mrs C could clearly have been better. And it's disappointing that even some Barclays staff appear to be confused by its own policy. As such, I agree with our investigator that Barclays should pay more compensation than the £50 it offered to Mrs C in its FRL.

Mrs C says that she believes Barclays should've put its 90 day policy in the terms of her mortgage contract. I understand why she feels this way. But this policy is a concession made by Barclays by way of a commercial decision. It isn't a contractual term. And therefore, it follows that it wouldn't be written in the mortgage contract.

Mrs C says she delayed completion of the purchase of her new property in an attempt to reduce her ERC liability. The incorrect information given to Mrs C during the 18 September 2023 call contributed to this. She said this delay increased the prospect of losing her intended property which was worrying for her and her family. So she feels that the £250 compensation recommended by our investigator doesn't go far enough.

I can appreciate this would have been a stressful time for Mrs C, and the conflicting information she had received from Barclays likely would have added to that stress and uncertainty. If, as a result of delaying completion, the prospect of her losing the property became a significant reality, I think it's likely Mrs C would've chosen to complete and pay the ERC rather than lose out. I say this because she eventually chose to redeem her mortgage before 1 January 2024 anyway even though she was aware at this point she'd pay the full ERC. So I don't think she'd have been prepared to lose out on the property solely based on whether or not the ERC would be payable. However, I do appreciate the conflicting information Barclays gave Mrs C would have caused some distress and frustration during the house purchase process.

As such, I'm satisfied the £250 award recommended by our investigator is proportionate to the impact Barclays' poor communication had on Mr and Mrs C in this case.

### **My final decision**

My final decision is that I uphold this complaint and instruct Barclays Bank UK PLC to pay £250 to Mr and Mrs C for the distress and inconvenience they caused.

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

Kathryn Billings  
**Ombudsman**