

The complaint

Mr K and Mrs S complain that Barclays Bank UK PLC wrongly recorded adverse information on their credit files about payments to their buy-to-let mortgage. As a result, they say they lost out on a fixed interest rate deal they had applied for with another lender on their residential mortgage.

What happened

Mr K and Mrs S have a buy-to-let mortgage with Barclays. In early 2022 Barclays recorded a missed or late payment on their credit files in connection with this mortgage.

In early August 2022 Mr K and Mrs S took advice from a mortgage broker about re-mortgaging their home. They got a mortgage illustration for a two-year fixed interest rate of 3.44% with a mainstream lender and decided to apply. The lender declined their application.

Mr K and Mrs S checked their credit files and found that Barclays had recorded one missed or late payment for one of their buy-to-let mortgages. They thought this must be a mistake, and first of all they say they took the matter up with the credit reference agency. They then contacted Barclays on or about 20 August 2022.

Barclays accepted that it had reported wrong information about the operation of Mr K's and Mrs S's mortgage on their credit files. On 9 November 2022 it corrected their credit files so that they didn't show any missed or late payments, and on 17 November 2022 it wrote to Mr K and Mrs S to confirm this and apologise.

In February 2023 Barclays wrote to Mr K and Mrs S again. It again said it had corrected their credit files. It also offered them £700 for the impact of its delay in resolving their complaint.

Mr K and Mrs S didn't accept that and referred their complaint to the Financial Ombudsman Service. They said they had suffered a significant financial loss as a result of missing out on the fixed interest rate they had applied for in August 2022, and they wanted compensation for that. They had since taken advice from their broker again about their residential mortgage and had re-mortgaged to Barclays on a tracker interest rate of 0.4% above Bank of England base rate until February 2025.

Our Investigator said it was more likely than not that Mr K and Mrs S had lost out on the fixed rate they had applied for because of Barclays' mistake with their credit files. She recommended that the complaint should be upheld, and said Barclays should compensate Mr K and Mrs S for the difference in the interest rate they would pay on their residential mortgage as a result, and pay them the £700 it had already offered.

Mr K and Mrs S didn't say whether or not they accepted that conclusion. Barclays did not accept it. It said that although it recognised the only adverse information on Mr K's and Mrs S's credit files was the mistaken entry it had recorded, there wasn't enough evidence to show this was the only reason the other lender declined their application, and the Ombudsman should explore this further with the other lender.

The complaint was referred to me.

My provisional decision

I came to a different view to the Investigator about how Barclays should settle this complaint, so I issued a provisional decision. I said:

There's no dispute that Barclays made mistakes in this case: it accepts that it wrongly reported adverse information on Mr K's and Mrs S's credit files and it took far longer than it should have done to respond to their complaint. It has corrected the credit files, apologised, and offered Mr K and Mrs S £700 by way of compensation.

In the circumstances, I share the Investigator's view that Barclays hasn't done enough to resolve this complaint. I have, however, come to a slightly different conclusion about how it should fairly put things right.

In August 2022 Mr K and Mrs S applied through their broker for a residential re-mortgage. Their application was declined at an early stage. Mr K and Mrs S hold Barclays responsible for this, and say the only reason the mortgage didn't go ahead was because of the mistake Barclays had made on their credit files.

Mr K's and Mrs S's broker has told us that their credit files were the reason for the application being declined, as has the lender they applied to. Barclays has said that this can't be right, on the basis that it would be harsh to decline an application on the basis of one late or missed payment, and having looked at the other lender's policy. It has said that it doesn't think it should have to compensate Mr K and Mrs S for the extra interest they have paid on their mortgage because they didn't get the fixed interest rate product they wanted, without further evidence from the lender in question.

Our Investigator had already made enquiries of the other lender and shared its responses with Barclays. She had done the same with the broker. The lender had told us:

The application was rejected automatically by the system at credit scoring stage. The application was never manually reviewed, the supporting documents were never provided because of this. The attached items are the only document [sic], notes or contact information we have regarding your enquiry.

And the lender had told the broker that Mr K's and Mrs S's application:

was declined due to adverse register search. This is an automatic decline so a full application would not have been accepted from you for your client.

I think it's clear that the lender now has only limited information about Mr K's and Mrs S's application and the reasons for its decision – and that's not surprising given the early stage at which the application was declined and the time that has since passed. I think it's also difficult to see what further enquiries Barclays expects to be made or what might come of such enquiries. And Barclays can, of course, make its own enquiries if it wishes.

It's not always possible to say with absolute certainty what would have happened had a mistake not been made. This is why we sometimes make decisions on a balance of probabilities – that is, what we think is most likely to have happened in all the circumstances and in the light of all the available evidence.

Here, I think it's more likely than not that Mr K's and Mrs S's August 2022 application to the other lender would have succeeded but for Barclays' mistake with their credit files. I've seen copies of both Mr K's and Mrs S's credit files, and the only arrears reported in the years leading up to their application was the single missed or late payment to their Barclays buy-to-let mortgage in early 2022. The lender they applied to has said their application was rejected automatically at the initial credit scoring stage, following a credit search.

I can see no particular reason for the application not to have succeeded other than Barclays' mistake. I also note that when Mr K and Mrs S later applied to Barclays for their residential re-mortgage in November 2022 their application was approved and Barclays issued a mortgage offer. So there was nothing at that stage to lead Barclays to think that they were too risky to lend to, that their credit history was a problem, or that they couldn't afford the mortgage, which by then was at a higher interest rate.

Barclays has also said that Mr K and Mrs S took too long to tell it about the problem with their credit files and too long to follow the matter up with it when they didn't hear back from it. They raised the issue with Barclays less than three weeks after they found out about the adverse credit file information, and say they were in contact with the relevant credit reference agency in the interim, trying to find out what had gone wrong. I don't think that's unreasonable. And I don't think it's reasonable to say that Mr K and Mrs S should be responsible for Barclays' failure to deal with the matter promptly when they raised it. Barclays' records show that Mr K and Mrs S asked it when they raised the problem in August 2022 for written confirmation that there were no overdue or missed payments on the buy-to-let mortgage, but Barclays didn't provide that for nearly three months.

Barclays wrote to Mr K and Mrs S on 17 November 2022 to let them know that it had corrected their credit files. Mr K and Mrs S then applied, through their broker, for a re-mortgage to Barclays within two weeks, on 29 November 2022. I don't consider this to represent an unreasonable length of time to look for another mortgage, and I think it was understandable in the circumstances that Mr K and Mrs S waited for Barclays to correct their credit files before re-applying.

Putting things right

Mr K and Mrs S received a mortgage illustration and made an application to the other lender for a fixed interest rate product of 3.44% on 2 August 2022. That fixed interest rate had an end date of 31 October 2024.

Had Barclays not made the mistake it did on Mr K's and Mrs S's credit files, I see no reason why the application to the other lender might not have been approved and the mortgage have been in place for 1 September 2022. I therefore consider that Barclays should compensate Mr K and Mrs S for the extra interest they have paid and will pay on their residential mortgage as a result of not getting the 3.44% fixed rate, as well as for the product fee and any legal fees they paid for the tracker rate (there was no product fee or legal fees for the 3.44% fixed rate product).

It's not clear what interest rate they were paying on their residential mortgage before they re-mortgaged to Barclays, so Mr K and Mrs S will need to provide Barclays with evidence of that in order for it to calculate compensation.

Barclays has already offered to pay Mr K and Mrs S £700 in recognition of the impact caused by its poor service. I agree that they should fairly receive some compensation for their inconvenience and avoidable upset, as well as the worry they experienced at a time

of rising interest rates and the higher payments they have had to find as a result of having had to take a mortgage at a higher interest rate than they should have had. I consider £700 is a fair award in recognition of their non-financial loss.

So, to settle this complaint, I propose to require Barclays Bank UK PLC to:

- calculate how much extra interest Mr K and Mrs S have paid on their residential mortgage between 1 September 2022 and the date it carries out its calculation, based on the 3.44% fixed rate they should have had and the interest they have actually paid;
- pay the difference to Mr K and Mrs S, plus simple interest on that sum at an annual rate of 8%, from the date each payment of extra interest was made to the date of settlement;
- Barclays should then complete the same calculation either:
 - on a monthly basis from the date of settlement to the fixed rate end date of 31 October 2024, paying Mr K and Mrs S the difference in interest cost to them plus annual simple interest at 8% from the date of each of their payments to the date of payment of compensation from Barclays, or
 - shortly after 31 October 2024, paying Mr K and Mrs S the difference in interest cost to them as a lump sum plus annual simple interest at 8% from the date of each payment to the date of settlement;
- refund the product fee and any legal fees they paid for the tracker product they took with it in early 2023. If Mr K and Mrs S paid those fees direct it should pay simple interest on the refund at an annual rate of 8% from the date the payments were made to the date of settlement. If on the other hand the fees were added to the mortgage it should re-work the mortgage without the fees in order that any interest that has accrued on those fees at the mortgage rate is refunded.
- pay Mr K and Mrs S £700 compensation.

If Barclays deducts tax from the 8% interest element of my proposed award, it should provide Mr K and Mrs S with a tax deduction certificate showing how much it has taken off, so that they can reclaim the tax from HM Revenue & Customs if appropriate.

Responses to my provisional decision

Barclays accepted my provisional decision and had nothing more to add.

Mr K and Mrs S didn't say whether or not they accepted my provisional decision, but they provided details of the interest rate they had been paying on their residential mortgage before they re-mortgaged to Barclays. This was a fixed rate of 1.41% until 31 January 2023, after which the rate changed to the lender's variable rate.

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.

Neither party has said they disagreed with my provisional conclusions. However, the information Mr K and Mrs S have provided about the interest rate they were paying on their residential mortgage in 2022 shows that the rate was lower than the 3.44% fixed rate they applied for with a new lender. It also shows that they had a fixed interest rate product – and I

think that is likely to have been subject to a charge for early repayment had they moved their mortgage elsewhere before the fixed rate ended on 31 January 2023.

This means that there's no basis on which I can fairly require Barclays to compensate Mr K and Mrs S for having missed out on the 3.44% interest rate product they wanted, before 1 February 2023. They were paying interest at a considerably lower rate until that date, so they haven't lost out. I think they should still fairly receive compensation from that date onwards, when the 1.41% fixed rate ended, which is also around the time the re-mortgage to Barclays was completed. I have adjusted the compensation Barclays should pay below to reflect this.

My final decision

My final decision is that I uphold this complaint. In settlement, Barclays Bank UK PLC must:

- calculate how much extra interest Mr K and Mrs S have paid on their residential mortgage between 1 February 2023 and the date it carries out its calculation, based on the 3.44% fixed rate they should have had and the interest they have actually paid;
- pay the difference to Mr K and Mrs S, plus simple interest on that sum at an annual rate of 8%, from the date each payment of extra interest was made to the date of settlement;
- Barclays should then complete the same calculation either:
 - on a monthly basis from the date of settlement to the fixed rate end date of 31 October 2024, paying Mr K and Mrs S the difference in interest cost to them plus annual simple interest at 8% from the date of each of their payments to the date of payment of compensation from Barclays, or
 - shortly after 31 October 2024, paying Mr K and Mrs S the difference in interest cost to them as a lump sum plus annual simple interest at 8% from the date of each payment to the date of settlement;
- refund the product fee and any legal fees they paid for the tracker product they took with it in early 2023. If Mr K and Mrs S paid those fees direct it should pay simple interest on the refund at an annual rate of 8% from the date the payments were made to the date of settlement. If on the other hand the fees were added to the mortgage it should re-work the mortgage without the fees in order that any interest that has accrued on those fees at the mortgage rate is refunded.
- pay Mr K and Mrs S £700 compensation.

If Barclays deducts tax from the 8% interest element of my award, it should provide Mr K and Mrs S with a tax deduction certificate showing how much it has taken off, so that they can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K and Mrs S to accept or reject my decision before 22 May 2024.

Janet Millington
Ombudsman