

## The complaint

Ms D complains that Barclays Bank UK PLC started legal action to repossess her home when she believed that she had agreed a “customer voluntary sale”.

## What happened

In 2016, Ms D extended her mortgage with Barclays for five years on an interest only basis. The mortgage had a mortgage current account reserve facility (MCA). The MCA could be used to draw down additional borrowing over the life of the mortgage.

In 2021, when the term was due to end, Ms D said she wrote to Barclays several times but never received a reply, so she spoke to it on the phone. She said she was led to believe that Barclays had agreed a customer voluntary sale (CVS), which gave her 12 months to sell the property and repay the mortgage. Ms D said she received little contact from Barclays and when she tried to speak to Barclays contacting it was difficult.

In 2022, Barclays took action to repossess Ms D’s home. In November 2023, a court order was issued in November 2023 dismissing Barclays’ claim and Ms D’s counterclaim with each party to bear its own costs of the proceedings.

I issued a provisional decision, which upheld the complaint in part. My provisional findings, which form part of this decision, were:

*When Ms D took out the mortgage she entered into a contract with Barclays where she agreed to repay the mortgage balance in full at the end of term. The mortgage offer also said that the MCA must be repaid if the main mortgage is repaid in full. So when the mortgage term ended in around August 2021, it was reasonable for Barclays to look for both the mortgage and MCA to be repaid – that is what both parties agreed when the mortgage was taken out.*

*Of course, circumstances can change and sometimes borrowers might need a little time to put in place their repayment strategy. Lenders should understand that, exercise some forbearance and explore the options that are available if a borrower is unable to repay the mortgage as planned.*

*Ms D did not ignore things when the mortgage was due to end. She said she wrote to Barclays a number of times without response during 2021. I can’t see that Barclays has provided evidence that it responded to all of those letters. And Ms D has also said that she continued not to receive answers to letters and generally poor service.*

*The evidence Barclays has provided does not show that it responded to all of Ms D’s correspondence. I accept that will have added to – but was clearly not the main source of – the stress and inconvenience Ms D suffered over a period of around a year, before the legal action began. I consider it would be fair for Barclays to compensate Ms D for that. I consider £300 is a fair amount to reflect the distress and inconvenience caused by the lack of responses from Barclays.*

*I note that my award above is only in connection with the service provided at times by Barclays. I don't consider the evidence we have supports Ms D's primary complaint that Barclays did not treat her fairly when the term of her mortgage ended or that Barclays went back on an offer of a CVS. I will explain why.*

*On 15 September 2021, Ms D spoke to Barclays. I have a recording of that phone call. In that call, Ms D explained that she would like an extension to as she was about to put her home was on the market or potentially to explore using the proceeds from the liquidation of her business to repay the mortgage.*

*Barclays explained that it operates a CVS process where it can extend the mortgage for up to a year – and potentially longer if a sale was in progress. But it also explained it would only agree to that if it had evidence the property was on the market, details of Ms D's income and expenditure to assess what she could afford to pay, and a letter of authority to speak to the estate agent. It said it would review the CVS every three months and if it was satisfied with the progress of the sale, it would confirm that in writing and extend the CVS for a further three months.*

*Barclays went on to say that it had agreed a "14 day hold" for Ms A to discuss her options with a Barclays mortgage adviser and decide what to do. By 29 September she would need to contact Barclays again.*

*Barclays also explained that the direct debit for the main mortgage account had stopped as the term had expired. And Ms D would need to make arrangements to cover the interest of around £200 a month while Ms D explored her options.*

*Ms D said she understood that Barclays had agreed to a 12-month CVS hold during the phone call. But I don't consider I could reasonably say that is what Barclays had agreed or that it was a formal offer. It said that it had agreed a 14 day hold for Ms D to consider her options. If she wanted to arrange a 12-month CVS hold she would need to contact the department again and provide all of the things it required, including an income and expenditure form. At best the offer was conditional on Ms D providing the information Barclays set out and that being acceptable to Barclays.*

*I know Ms D considers that Barclays was being unreasonable in asking for an income and expenditure form as she banked with it. But it was reasonable and in line with good practice for Barclays to do so. While Ms D banked with it, it does not follow that Barclays would have been aware of all of her income and expenditure. And it wanted to assess what Ms A could afford to pay – which may have been more than just covering the interest if it agreed the CVS. I don't consider that Barclays agreed to a payment of £220 a month for 12 months.*

*The evidence I have is that in subsequent contact with Ms D, Barclays was clear that a CVS was not in place and that Ms D would need to provide details of her income and expenditure – but Ms D refused to provide the necessary information. Therefore the CVS was never formally in place and there is no evidence that Barclays ever told her or led her to believe it was.*

*Ultimately, Ms D was in a weak bargaining position. The term of her mortgage had ended and she was in breach of contract. Barclays was prepared to offer an extension as a concession. But it reasonably required further information from Ms D to do that. She refused to provide that information. In view of that, it was reasonable for Barclays to start legal action. That should be a last resort. But I am satisfied it did what it could to engage with Ms D and it was clear that she was not going to provide the information it had asked for.*

*I don't consider the other accounts that Ms D held with Barclays were relevant. It was for Ms*

*D to decide whether to use those funds to repay the mortgage and MCA or not. While I agree that it might have reduced some of the risk for Barclays, it did not know what Ms D had planned for those funds and there was nothing it could do to prevent her withdrawing them if she wanted. I don't think it was unreasonable for Barclays not to place much weight on the other accounts Ms D held with it.*

*The complaint I am considering was addressed in a final response dated 18 August 2022 – so technically I don't have the power to consider events after that – including how Barclays conducted itself in court. I understand that court proceedings continued after Ms D had repaid both the mortgage and MCA because the issue of costs remained in dispute. But both parties agreed by way of a court order to meet their own legal costs arising from the legal action. I don't see how we could interfere with that or overturn what was agreed in court.*

*I note that Ms D is very unhappy with how the banking industry and Barclays in particular operate. But I don't have any power to look at that. I can only consider the individual circumstances of Ms D's complaint. And for the reasons I've explained, I don't see how I could uphold it.*

Barclays accepted my provisional decision. Ms D did not. She made a number of points, including:

- The outcome relied on one thing – that she had not given Barclays details of her income and expenditure. But it did not take into account that the events being complained about took place at the time of the Covid pandemic, when her business did not trade for two years.
- Barclays acted unreasonably.
- Barclays continued with repossession action through the courts even after the mortgage had been repaid.
- The conduct of Barclays during the court hearings was poor – it pushed back hearings and provided a witness statement that did not relate to her mortgage.

### **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.

We are independent and impartial. We do not act for Ms D or Barclays. We can – and do – uphold complaints. But the outcome of every complaint depends on the evidence that we are provided – and both sides have been given a fair opportunity to provide any evidence and arguments they wish.

Part of Mrs D's complaint was that Barclays had granted the CVS and had gone back on that. In my provisional decision, I set out the evidence we had. That does not support that the CVS was ever agreed – formally or informally. There was no evidence that Barclays had ever told Ms D that it had agreed the CVS. Nor was there any evidence to support that it had said or done anything that could reasonably be interpreted as having agreed to the CVS.

It was for Barclays to decide what concessions it would offer to borrowers who did not repay their mortgage as agreed at the end of term. The CVS is not out of line to the type of concession offered by many lenders in these circumstances. And nor was the type of information that Barclays requested unusual.

By agreeing a CVS a lender is essentially extending the term of the mortgage. It would not be fair or reasonable for it to do that without taking steps to make sure that the borrower could afford to maintain payments to the mortgage. It would also mean that it could consider whether there were other options that it might be able to offer Ms D.

If Ms D did not have any income, then that is something that she could have discussed with Barclays when it gathered the information about her income and expenditure – and it would have been reasonable for Barclays to take into account the impact of Covid in any decision that it made. But Ms D refused to provide details of her income and expenditure. That was her decision. In those circumstances, I don't consider it was unreasonable for Barclays not to agree the CVS. It set out clearly what it needed and gave Ms D ample opportunity to engage with it.

After reviewing things again, I don't see how I could uphold the main part of this complaint. Barclays never told Ms D that it had agreed a CVS and the information it requested was reasonable – but Ms D did not provide the information it needed. So there was no agreement to let the mortgage continue – and Barclays did not have enough information to consider or agree to the CVS. In those circumstances, and as Ms D would not engage with Barclays, it was reasonable for it to start legal action. That was a legitimate step for it to take.

I understand the court action continued once the mortgage was repaid because the legal costs were in dispute. But the court ordered that Barclays and Ms D were to bear their own costs of the court proceedings in settlement of any the claims made in court. I don't see how I could interfere in that.

Barclays has not demonstrated that it always provided Ms D with good service during this matter. But I think £300 is a fair amount to reflect the distress and inconvenience caused to her because of that.

### **My final decision**

My final decision is that Barclays Bank UK PLC should pay Ms D £300.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 3 July 2024.

Ken Rose  
**Ombudsman**