

The complaint

Mr P complains that Barclays Bank UK PLC has started legal action to repossess his home, because of the considerable arrears on his mortgage. Mr P sent medical evidence of ill health, and said he was asking for a hold, but Barclays wouldn't help him.

What happened

Mr P said he doesn't have a regular income, and has been living on a modest pension, although this has increased somewhat recently. He said Barclays had started legal action to repossess his home, which is also his place of work. He said he'd asked Barclays to put this on hold, so he can work on stabilising the situation, but Barclays said no.

Mr P said he is in serious ill health, and supplied medical evidence going back some years, showing that his medical issues have been a long-term problem. He said he just wanted some understanding and breathing space, but Barclays had told him things could go to court at any time.

Barclays said it didn't feel it could now hold off litigation action. When this complaint came to our service, Barclays said Mr P's mortgage arrears were then in excess of £80,000. Barclays said Mr P's problems in paying his mortgage have been an issue for quite some time, and these mortgage arrears had been building up since 2017.

Barclays said it was aware of Mr P's ill health, and had previously supported Mr P through its specialist support team. But that team had been unable to help Mr P to find a solution to his financial difficulties. And Barclays was concerned about the size of the arrears, as well as the length of time Mr P's financial problems had been ongoing. So Barclays had passed this case to its litigation team. Barclays said that not going ahead with litigation action now could result in the arrears going even higher, and leaving Mr P in an even worse financial position.

Our investigator didn't think this complaint should be upheld. She started by noting that Mr P had complained to our service previously about Barclays' proposal to take legal action. A decision dated 23 September 2021 set out that Mr P's complaint wasn't upheld. Our investigator said she couldn't reopen that issue for Mr P.

Our investigator said the arrears on the mortgage had further increased since 2021, to a point where Barclays felt it needed to act. Our investigator said this was a decision Barclays is reasonably allowed to make. Barclays does have to take Mr P's circumstances into account, but she said that doesn't mean Barclays can't take legal action or that it has to agree to Mr P's proposals or requests for more time.

Our investigator noted Mr P's suggestions for how he could tackle the arrears, and she encouraged him to speak to Barclays about his plans, as well as to seek independent financial and legal advice.

Our investigator said Mr P previously hoped to reduce his arrears with funds from a legal action, but after some years that matter was settled with no reduction in the debt to Barclays.

Mr P now anticipated funds from another legal action, but there was no guarantee that this would be settled quickly and in Mr P's favour. Our investigator noted that Barclays had reviewed Mr P's case a number of times, and had considered Mr P's vulnerabilities and circumstances, but it had decided to change Mr P's main contact from the specialist support team to Barclays' litigation team. Our investigator didn't think Barclays' decision to move to litigation was unreasonable or that it did anything wrong here.

Mr P replied to object. He said our investigator had based her conclusions on our service's previous final decision, made in 2021, but he said his medical conditions affect his memory, and mean he couldn't recall the previous decision. He said that made it fundamentally unfair to reject his current complaint based upon the previous outcome.

Mr P also said he was continuing his discussions with Barclays, but he said he genuinely needed more time to work through various options. Mr P said Barclays wasn't providing any practical support.

Our investigator didn't change her mind. She sent Mr P the previous final decision, and explained this wasn't the reason she didn't think this complaint should be upheld. But she did think nothing had changed in relation to Mr P's mortgage since 2021, except that the arrears had further increased. So she didn't think the decision Barclays had made to move to litigation now was unreasonable or unfair.

Our investigator said she would encourage Mr P to continue talking to Barclays. And she said that when Barclays moved Mr P's case from the specialist support team to litigation, that didn't mean it was any less aware of his financial difficulty and health conditions. She said she could see that Barclays remained aware of Mr P's position. She didn't think it would be fair to say the decision to move to litigation demonstrated a lack of compassion.

Mr P then wrote again, to say he'd just paid £30,000 towards his arrears. Mr P also said he'd recently been the victim of fraud on his bank accounts. He thought Barclays ought to put its legal action on hold until this was resolved.

Barclays acknowledged Mr P had made a payment, but said that the arrears remained over £68,000.

Because no agreement was reached, this case then came to me for 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.

I've reached the same overall conclusion on this complaint as our investigator.

As our investigator noted, on 23 September 2021 an ombudsman reached a decision on a complaint raised by Mr P about how Barclays was responding to the arrears on his mortgage. Because our service has previously provided an ombudsman's decision on Barclays' approach to Mr P's arrears, on 23 September 2021, I don't think it would be appropriate for me to comment again here on the issues covered in that decision.

I understand that Mr P doesn't have a clear recollection of this decision. I can see that our service has recently sent this to him again. I'm sorry to hear that Mr P's memory has been affected by his health conditions, but I don't think that means it is fundamentally unfair, as Mr P suggested, for the September 2021 decision to stand.

I can look at what happened more recently. And I can see that Barclays has, since the date of our service's previous decision, continued to move towards litigation over Mr P's arrears. At the time of Mr P's complaint to our service, these arrears stood at over £80,000. Although Mr P has recently managed to reduce the arrears, they are still over £68,000. And as this mortgage has been in arrears since 2017, this does appear to be a longstanding problem.

I understand that Mr P previously had hopes that winning a legal case would provide funds to allow him to repay the arrears, and may still have some hopes that another case will provide funds. But unfortunately these plans haven't yet allowed him to repay the arrears, and this mortgage remains in considerable arrears. I don't think Barclays has to delay litigation in this case further, to await the outcome of any further legal cases.

Mr P told us that he has been talking to Barclays about his plans to find a way to pay back the arrears, and I would encourage Mr P to continue the conversations he's been having with Barclays. But Mr P told us that he needed extra time to put these plans in place, and he said this was partly so that he could wait for reductions in the current interest rates, or improvements in property values, both of which he was expecting in the next few months. I don't think that it would be fair and reasonable for me to say that, as part of supporting Mr P in his financial difficulties, Barclays has to wait for interest rates to drop, or for the housing market to improve.

Mr P has also shown us evidence of his health issues, dating back some years. I won't set out any medical details here, but I have taken them into account in reaching my decision. And I can see that Barclays is also aware of Mr P's ill health. But in late 2021, it took the decision to move his case away from the specialist support team to litigation. Barclays has explained to our service that this team hadn't been able to work with Mr P to find a solution to his arrears, and Barclays was concerned that the arrears were mounting. So Barclays said it felt that moving to litigation was appropriate in this case.

I know Mr P feels that his case requires ongoing specialist support, but, like our investigator, I don't think Barclays has ignored Mr P's medical conditions or his personal circumstances. I do think the decision Barclays has taken here, is fair and reasonable in the circumstances of Mr P's case.

Mr P told us that more recently, he'd been a victim of fraud, and he felt Barclays ought to suspend all legal action until this matter was resolved. But the events Mr P tells us about now don't appear to have formed part of his complaint to Barclays, so Barclays hasn't had the chance to provide its own views and input on this matter. That means I can't fairly comment on this now.

I don't think it would be appropriate for me to comment on Mr P's fraud concerns here, or alternatively to delay resolution of this complaint so it can also include an investigation of these concerns which Mr P has more recently raised. I don't think it would be fair and reasonable, at this point, for me to ask Barclays to delay its litigation action further for these reasons.

I understand how important this complaint, and the underlying issues, are to Mr P, so I appreciate that Mr P will be deeply disappointed by my decision, but I don't think Barclays has been unfair or unreasonable here. And that means this complaint won't be upheld.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 26 September 2024.

Esther Absalom-Gough
Ombudsman