

The complaint

Miss W and Mr W's complaint is that Barclays Bank UK PLC declined their application to port (transfer) their mortgage interest rate product onto a new mortgage on another property, a decision they consider to be unfair. As a result, they had to pay an early repayment charge (ERC) when they redeemed the mortgage.

To settle the complaint, Miss W and Mr W want Barclays either to agree to offer them a new mortgage and port their previous interest rate product, or refund the early repayment charge (ERC).

What happened

I do not need to set out the full background to the complaint. This is because the history of the matter is set out in the correspondence between the parties and our service, so there is no need for me to repeat the details here.

In addition, our decisions are published, so it's important I don't include any information that might lead to Miss W and Mr W being identified. So for these reasons, I will instead concentrate on giving a brief summary of the complaint, followed by the reasons for my decision. If I don't mention something, it won't be because I've ignored it; rather, it'll be because I didn't think it was material to the outcome of the complaint.

Miss W and Mr W had a mortgage with Barclays. It was on an interest rate of 1.83% fixed until 31 July 2024. If the mortgage was redeemed, in whole or in part, over and above the annual 10% allowance, an ERC of 3% of the amount repaid was payable.

In November 2023, through their mortgage broker, Miss W and Mr W applied to Barclays for a new mortgage on another property. They wanted a new mortgage from Barclays, for the same amount they already owed on their existing mortgage (just under £642,000) and to port the interest rate product.

A valuation fee was paid and the valuation was carried out in December 2023. On 18 December 2023 the valuation fee was refunded. This was because the amount of the mortgage meant that no valuation fee should have been charged, and so it had been requested in error.

On 23 December 2023 Barclays drew to the broker's attention the need for Timber and Damp reports to be obtained. However, Barclays didn't at that time provide a copy of the valuation, which said that the property was unsuitable for mortgage purposes.

On 2 January 2024 Barclays told the broker that the property wasn't suitable for lending. This was because the property required complete refurbishment and so was outside lender policy, as it wasn't habitable.

Barclays said that if a new property was found, this could be updated on the application. Barclays also said *"Or if the required work is completed, please arrange for the specialist*

reports to be carried out and forward to us... We will then pass to the Valuers to review and confirm the property is suitable security."

Miss W and Mr W arranged for the Timber and Damp reports to be forwarded to Barclays, and these in turn were sent on to the surveyor who'd carried out the valuation on Barclays' behalf. But on 11 February 2024 Barclays confirmed that the surveyor had said: *"The property will remain unsuitable due to the property being in a poor state of repair/refurbishment and whilst there is an intention to complete the works, the Bank's policy doesn't allow retentions..."*

Mr W, who has dealt with the matter throughout, complained to Barclays. In its final response letter, Barclays explained that the property wasn't suitable for a mortgage and so its decision to decline the application had been correct.

Miss W and Mr W brought their complaint to our service. An Investigator looked at what had happened. He thought Barclays should refund the cost of the Timber and Damp report that had been obtained. This was because Barclays would never have lent against the property, regardless of the report. In addition, the Investigator awarded simple interest of 8% per annum on the amount of the report.

Miss W and Mr W didn't accept the Investigator's findings. Mr W has made further points, which I summarise below:

- Outside of whatever Barclays' company policy states or the financial regulations the bank has to follow, Barclays had numerous opportunities to state it wouldn't lend against the property, and had numerous opportunities to discuss this, or decide not to invoke the ERC, none of which Barclays did.
- This goes outside Barclays' core values of *"Respect, integrity, Service, Excellence and Stewardship"*.
- The use of a *"call centre"* surveyor is what caused the issue, together with Barclays' directions on ticking boxes. If Barclays had accepted the survey he and Miss W had commissioned, not a mortgage valuation, then the bank would have noted all the points clearly detailed. Even without a property on it, the land value itself was above market rate.
- Barclays could have offered a simple solution and engaged with him or the broker. Not only did he and Miss W pay the mortgage back in full, which was on a lower rate, but Barclays could then invest the funds into higher interest rate investment, making further profits. This was compounded by the insult of the £20,000 ERC.
- Barclays could have resolved this by engaging with them from the beginning, or from the beginning made it clear it wouldn't lend.
- Because buying a home is an emotional investment, Barclays has an obligation to treat it as such.
- Looking at what is fair and reasonable, he can't see how a decision can be made in Barclays' favour on this.

- If Barclays is prepared to refund the ERC, he and Miss W would be prepared to enter into a new mortgage application in an effort to get this resolved.

The Investigator asked Barclays if it would be prepared to refund the ERC and consider a new mortgage application on the property, but the bank declined. Barclays said the application had been correctly declined so the bank would never be able to agree to a port. There were therefore no grounds for a refund of the ERC because there had been no bank error.

Because the matter is unresolved, it falls to me to issue a 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'm afraid I have disappointing news for Miss W and Mr W; I don't think Barclays acted unfairly when it declined the application. These are my reasons.

The crux of the complaint is that Barclays refused to lend against the property Miss W and Mr W wanted to buy.

Barclays is entitled to set its own lending criteria. Decisions that Barclays makes in respect of what those criteria are, its attitude to risk involved in this particular lending assessment, and whether it should lend and if so, on what terms are clearly discretionary matters for Barclays' own commercial judgement that I cannot interfere with.

I think Barclays could have made it much clearer at an earlier stage that the property wasn't suitable for mortgage purposes. Although in its email of 2 January 2024 Barclays told the broker this, the email is ambiguous, suggesting that the Timber and Damp report that had been requested might make a difference, when in fact it never would have.

Barclays was entitled to rely on the expert opinion of its surveyor, who said the property was uninhabitable. Whilst I note Mr W's criticism of the surveyors used by Barclays, referring to them as a "*call centre*", it is a reputable firm of surveyors. Barclays was under no obligation to accept a report provided by Miss W and Mr W instead of commissioning its own mortgage valuation report.

I've looked at the survey report provided by Miss W and Mr W, as well as the archived online property details. From these I can see that the house, whilst not exactly derelict, has clearly not been lived in for many years, with parts of it heavily overgrown with ivy, and clearly needing extensive refurbishment before it could be considered habitable.

Miss W and Mr W's surveyor estimated the cost of the work needed to be £114,650, which I think is overly optimistic. For example, he quotes £10,000 for a new kitchen, and £20,000 for three bathrooms and a cloakroom, both of which items would be at the 'budget' end of the scale for a property of this size.

I think it's likely that considerably more than £114,650 would be needed to refurbish the property. I can see from the location and the type of property that, once fully refurbished, it will be a substantial family home. But Barclays doesn't lend against refurbishment projects, and that's a decision the bank is entitled to make.

Because the property wasn't habitable, and as such was outside Barclays' lending criteria, Barclays couldn't offer a mortgage on it. I appreciate Mr W believes that a discussion with Barclays would have made a difference to this outcome. But I'm satisfied that discussing the application wouldn't have changed the property from being unsuitable for lending to being suitable for a mortgage. Barclays isn't under any obligation to disregard its lending criteria to meet an individual customer's requirements, particularly in relation to the type of property it is willing to lend against.

In the circumstances, I'm satisfied that Barclays gave fair consideration to this application. This means that there is no basis upon which I can find that Barclays has treated Miss W and Mr W unfairly or unreasonably when it declined to lend on this property.

This means that I'm also satisfied Barclays was entitled to charge the ERC. This wasn't a penalty, but was a contractual term to which Miss W and Mr W had agreed when they originally took out the mortgage. Although Mr W mentioned to the Investigator that he thought the ERC had been incorrectly charged, the amount charged (just under £20,000) does appear to be correct, being 3% of the amount repaid of just under £640,000.

However, I think Barclays could have explained more clearly on 2 January 2024 that the bank wouldn't lend on the property at all. Instead, Miss W and Mr W were put to the trouble and expense of providing Timber and Damp reports which made no difference whatsoever to Barclays' lending decision, given the property fell outside its lending criteria. Barclays has agreed to reimburse the cost of the report, which I think is fair and reasonable.

I know this isn't the outcome Miss W and Mr W were hoping for. I've noted what they've said about their reasons for wanting to move out of their previous property, and I acknowledge this was an emotional move for them. But I have to put aside my natural feelings of empathy and decide the case on the basis of the evidence. Having done so, I'm unable to find Barclays did anything wrong in refusing to lend against this particular property.

Putting things right

To settle the complaint, I direct Barclays Bank UK PLC to do the following:

- reimburse Miss W and Mr W for the cost of the Timber and Damp report (£222);
- pay interest at 8% simple on £222 from the date of payment (Miss W and Mr W to confirm this date with Barclays) until the date Barclays pays the settlement.*

* If Barclays considers that it is required by HM Revenue & Customs to withhold income tax from any interest, it should tell Miss W and Mr W how much it has taken off. Barclays should also give Miss W and Mr W a tax deduction certificate if requested, so the tax can be reclaimed from HM Revenue & Customs if appropriate.

My final decision

My final decision is that I partly uphold this complaint. I direct Barclays Bank UK PLC to settle the complaint as outlined above.

This final decision concludes the Financial Ombudsman Service's review of this complaint. This means that we are unable to consider the complaint any further, nor enter into any discussion about it.

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

Jan O'Leary
Ombudsman