

## **The complaint**

Mrs C complains that Barclays Bank UK PLC has not offered her a new interest rate on her mortgage, meaning she's been over-charged interest as a result. The complaint has been brought by her husband Mr C acting on her behalf.

## **What happened**

Mrs C has had a mortgage with Barclays for many years. The initial interest rate expired in 2005 and the mortgage has been on the standard variable rate (SVR) since then.

In 2005, Mrs C was letting the property out. She applied for a new interest rate, but Barclays refused to offer a new rate while the property was let. It also turned down an application to switch to a buy to let mortgage.

In 2020, Mrs C complained to Barclays about being trapped on the SVR and not being offered a new interest rate. She said this made her a mortgage prisoner. Mrs C brought that complaint to us, where it was considered by another ombudsman. That ombudsman said:

- We can only consider whether Barclays has charged interest fairly, or ought to have offered a new interest rate, during the six years leading up to the complaint; that is, from 23 May 2014.
- In that time, there was no evidence that Mrs C had asked for a new interest rate. Barclays was required to treat any application it received fairly – but was not required to pro-actively contact customers to offer them new interest rates or invite them to apply for one.
- In any case, even if Mrs C had applied, she wouldn't have been eligible for a new interest rate because this was a residential mortgage but Mrs C was letting out the property. That had recently changed, and Barclays had offered Mrs C a new rate, but she had declined to accept it.
- As a result, Barclays had not treated Mrs C unfairly.

More recently, Mrs C has brought a further complaint. Mrs C again complains that she is on the SVR and unable to transfer to a new interest rate. She complains about the entire period since 2005. She said that Barclays had agreed to the property being let out and should not have treated her as having been in breach of contract; if Mrs C had known Barclays took that view, she would have applied again for consent to let. And she said that Barclays had recently offered a rate tracking 1.9% above Bank of England base rate for two years, but that had not been implemented.

Barclays didn't uphold the complaint. It said that it had refused a rate switch application in 2005 because the property was let out. Mrs C didn't meet the criteria to switch to a buy to let mortgage either. Barclays said it had no record of later applications for a new interest rate. It may have told her more recently that it now did have a tracker rate available to customers in her situation – but Mrs C had not actually made an application.

Our investigator didn't think it would be appropriate to reopen the issues covered by the previous complaint. So he only looked at the fairness of interest charged since then, and didn't think that part of complaint should be upheld. He said he hadn't seen any evidence that Mrs C had applied for a new interest rate, so he couldn't conclude she'd been treated unfairly.

Mrs C didn't agree with either part of the investigator's conclusions. I've separately decided to dismiss the complaint about the fairness of interest charged before 23 May 2020 on the basis that this part of the complaint was dealt with by the previous ombudsman. In this decision, I'm dealing with the merits of the complaint about the fairness of interest charged since that date.

In respect of that part of the complaint, Mr C said Mrs C has a residential mortgage but has been letting the property out with the full knowledge and consent of Barclays. If Barclays rejected applications for a new rate on the basis that the property was let without consent, that wasn't correct. And if it changed its policy and refused new rates when property was let whether or not consent was in place, that made Mrs C into a mortgage prisoner and so was unfair. It had no right to make such a decision and doing so is equivalent to applying new affordability rules to existing customers.

Mr C said that in 2020, Barclays wrote to him saying that a new interest rate was available, confirming that it had noted on its system that Mrs C had permission to let the property. Mr C has his own mortgage and is letting that property out with consent – he was given that rate, which is lower than the SVR. So Mrs C is not being treated fairly in comparison with Mr C.

### **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 agree with the previous ombudsman that there's no obligation on Barclays – whether in law or regulation, or in the terms of the mortgage agreement – for it to offer new interest rates to existing customers. It has chosen to do so, and having chosen to do so it should treat any applications it receives fairly. But in the absence of an application it's not unreasonable that it doesn't impose an interest rate – customers may have chosen not to apply for good reason. And there's no obligation on Barclays to pro-actively contact customers and invite applications either.

With that in mind, I've looked at what has happened since 23 May 2020. There's no evidence in Barclays' records of an application for a new interest rate having been made. And Mr C hasn't provided any evidence of an application either.

Mr C has referred to an email Barclays sent. I haven't seen the original email, but I've seen the text that Mr C has quoted. Barclays doesn't dispute the existence or content of it.

The quoted text says:

“I have also noticed that we have a new product available only for customers with permission to let mortgages which may be interesting for [Mrs C's] mortgage which is on a higher standard variable rate. It's a 2 year tracker at 1.9% + Base rate (2%) with a £299 application fee and no early repayment charges. It won't make a huge difference in monthly as the balance is low but I thought you might be interested.”

This email is dated 2 April 2020 – although that's in the period the previous ombudsman considered, she didn't take into account this specific email, so I'm satisfied I can consider

here whether this amounted to an offer of a rate which Barclays then failed to implement, leading to interest having been unfairly charged since then.

I don't think it is. As this is a residential mortgage (albeit on a property which is let out), I'd expect an offer of a new interest rate to include an illustration (as required by MCOB 7.6.18 R). There's no evidence of an illustration having been produced.

And in any case, I think it's clear from the quoted extract of the email that Barclays was drawing Mr and Mrs C's attention to the existence of an interest rate that they might want to consider. This was not a formal offer of a new interest rate, or a commitment to apply it to Mrs C's mortgage. It was provision of information about what might be available, which Mrs C could act on by making an application if she chose to do so.

I've seen no evidence that Mrs C followed this up by confirming that she would like to apply for this rate. Without an application being made, Barclays couldn't apply the rate to her mortgage. That means it hasn't acted unfairly in continuing to charge the standard variable rate – in the absence of an application to change the rate which has been accepted by Barclays, that is the contractual rate applicable to her mortgage.

Mr C also says that the fact of the earlier complaint should have prompted Barclays to review the mortgage and pro-actively offer new rates. As I've said, there was no obligation on it to do so. And in any case, it did draw a new rate to Mrs C's attention, in April 2020 when it told Mr C about the new tracker rate – but Mrs C didn't follow that up with an application.

Taking all that into account, I don't think Barclays has acted unfairly and so I don't uphold this complaint.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 26 March 2024.

Simon Pugh  
**Ombudsman**