

The complaint

Mr O is unhappy with his treatment by Barclays Bank UK PLC in relation to his mortgage.

He believes Barclays should've done more to alter its method of communicating with him and that it wasn't fair for it to proceed with litigation after he'd informed it of his intention to take out a Lifetime Mortgage when turning 55.

What happened

Mr O held a mortgage and associated mortgage current account with Barclays. The original mortgage term expired in August 2023 and since making this complaint the mortgage has been repaid, seemingly after Mr O successfully applied for a Lifetime Mortgage with a different lender.

Mr O has faced significant personal challenges in recent years and Barclays' records indicate that since late 2017 Mr O only has only made one payment to the mortgage – a lump sum payment of around £26,500.

Mr O has raised a number of complaints over time about his treatment in relation to the mortgage and he has referred a number of complaints to the Financial Ombudsman Service before this one.

In June 2023 Mr O complained to Barclays about the way in which it was communicating with him in relation to the threatened repossession of the mortgaged property. He said that due to a number of medical conditions, he needed to have all communications sent in writing to give him time to read it and take it all in – as he couldn't remember the whole of a telephone conversation. He'd previously informed Barclays that he also had a hearing impairment which made it difficult for him to engage over the telephone. Mr O said that he didn't think Barclays was making reasonable adjustments under the Equality Act.

Barclays responded to Mr O to say it was upholding his complaint. It apologised for the distress caused, offered Mr O £200 as an apology and said it had updated Mr O's account with the situational and health related information he'd shared. It also though (somewhat confusingly) said that whilst it acknowledged Mr O's request to have everything in writing, due to the arrears on Mr O's account, it would continue to use the telephone to contact him as part of a range of contact methods.

It said that discussing options can take time and it could best answer his questions and concerns over the phone. The response ends with Barclays apologising for being unable to arrange options which best suited Mr O's current needs.

Mr O remained unhappy and asked that the Financial Ombudsman Service look into the matter. Barclays had informed him that it was no longer prepared to put a hold on the account and would be proceeding with litigation. Mr O didn't think this was fair as he intended to apply for a Lifetime Mortgage in April 2024 to repay the Barclays loan. This was included as part of the complaint in the request to Barclays for its file papers and now forms part of the wider complaint.

The original mortgage term expired in August 2023 and it appears the account was moved at that point from litigation to the maturities department. It also appears that shortly after, the Independent Financial Adviser (IFA) that Mr O had engaged regarding re-financing options had authority to communicate with Barclays on his behalf and that much of the communication from this point was between Barclays and the IFA.

An Investigator here issued an assessment of the case. In summary, they didn't think Barclays had acted unfairly in terms of its communication with Mr O and its explanation around this. Mr O asked for the case to be escalated to an Ombudsman.

The case was passed to me. I issued provisional findings to both parties, within which I said:

"I consider there are two key issues in this case:

- Has Barclays treated Mr O fairly in terms of the way in which it responded to his requests for it to communicate in a particular way about his account?*
- Was Barclays decision to initially not put a hold on the account pending Mr O applying for a Lifetime mortgage at age 55 to repay the balance, reasonable?*

Communication

Mr O says he had told Barclays he found it difficult to communicate over the phone due to his hearing being impaired and other health conditions and that if there needed to be phone calls, he wanted everything to also be put in writing – to have time to read it and take the information in. In the final response letter issued in August 2023, Barclays said it was upholding Mr O's complaint. It said it had updated his account with the situational and health related information Mr O had shared and offered him £200 for the distress and inconvenience caused to him. However somewhat confusingly, in the same letter (and despite upholding the complaint) it seemed to suggest that it needed to continue to make telephone calls moving forwards and wasn't prepared to put everything into writing.

I recently asked Barclays for a further explanation as to why it believed its decision to continue to make phone calls to Mr O and not put everything in writing meant that it had treated him fairly, bearing in mind his individual circumstances. I pointed out that in addition to the reasons Mr O had given as to why he found it difficult to speak over the phone, at the point of raising his complaint, Mr O hadn't made payments to the account for some time. And that he'd communicated an intention to seek a Lifetime mortgage upon turning 55 in order to repay the loan. Bearing this in mind, it wasn't clear to me why it was necessary to include phone calls within its ongoing communication strategy.

Barclays responded to say that as part of its contact strategy it makes calls to customers whenever possible, and that it couldn't communicate in writing only as part of the relevant team is telephony based.

The mortgage has now been repaid and so this isn't an ongoing issue. But I still need to consider whether Barclays has treated Mr O fairly in its response to his request for it to alter the way it communicated with him. I must make clear that it is not for me to make a finding on whether Barclays has breached the Equality Act. Only a court could make such a finding. But what I can do is consider whether Barclays has treated Mr O fairly, bearing in mind what the Equalities Act says as well as the expectations on firms to treat vulnerable customers fairly, having regard for a customer's particular circumstances.

Having considered this, I'm of the view that Barclays hasn't provided a satisfactory explanation as to why it needed to continue to make calls after Mr O had asked it to alter the way it was communicating with him. Mr O had made his position on the account and his forward plan clear to Barclays.

Bearing this in mind, I cannot see why Barclays considered it necessary to continue to contact Mr O by telephone when it knew that Mr O found this difficult. It seems to me that his financial circumstances were unlikely to materially change until he turned 55 and could apply for a Lifetime Mortgage. I will return later to what I think Barclays needs to do to put things right, in this respect.

Barclays initially not agreeing to put a hold on the account, pending Mr O turning 55 and applying for a Lifetime Mortgage to repay the loan.

It appears Mr O has had difficulty meeting the repayments on the mortgage since at least 2017 and that the mortgage was due to finish around the middle of 2023. At this point, the account was substantially in arrears, with very few payments having been made over a long period of time.

From what Mr O has recently told us, after Barclays had initially declined his request and decided to proceed with litigation proceedings, it subsequently agreed to put a hold on the account, pending Mr O applying for a Lifetime Mortgage at 55 (which he did, was successful, and the Barclays loan has since been repaid). Mr O says Barclays applied costs of around £100 to his account, as a result of initially deciding to proceed with litigation, when he thinks it shouldn't.

I need to consider whether it was fair for Barclays to initially decline Mr O's request for the account to be put on hold – before it then agreed to do this. Having done that, I'm not convinced it was fair. Whilst the account was substantially in arrears, Mr O had explained to Barclays how he intended to repay the loan and it looks like he'd provided Barclays with information about the value of the property showing there was significant equity in the property. Such that even though Mr O wasn't making any repayments, agreeing a hold until Mr O turned 55 and could apply for a Lifetime mortgage was unlikely to significantly increase the risk to Barclays. As mentioned, it seems Barclays subsequently agreed a hold on the account until Mr O could apply for a Lifetime Mortgage. I'm not aware that Barclays' subsequent decision to agree the hold was made on the basis of any materially new or different information. As such, I consider this is the decision Barclays should have reached at outset – and that this would've represented appropriate forbearance.

Putting things right

As I've concluded that Barclays should have agreed the hold request initially, it should refund all costs associated with its initial decision to proceed with litigation, plus interest on those costs. It should then add 8% simple interest to that figure from the date the Barclays loan was repaid to the date of settlement.

I then need to think about the broader impact of the way in which Barclays dealt with Mr O's request for it to communicate differently with him and the initial decision that it took to proceed with litigation rather than agree the hold on the account.

Mr O has explained how Barclays' actions have led to him experiencing further health problems. I am sorry to hear of the health issues Mr O has experienced. I don't have evidence to show that Barclays' actions are the direct cause of the health issues Mr O described after raising his complaint.

However, I can consider Mr O's health and the impact of Barclays' actions on him, when thinking about what would be an appropriate award to reflect the unnecessary distress and inconvenience caused to Mr O.

Barclays has already offered Mr O £200 in response to his complaint. Taking everything into account, I believe Barclays should pay Mr O a total of £750 to reflect the unnecessary distress and inconvenience caused to him. Such an award is appropriate where the impact of mistakes has caused considerable distress, upset and worry – and/or significant inconvenience and disruption that needs a lot of extra effort to sort out. I consider that reflects the situation here.

Both parties should let me know whether they agree with my provisional findings by 5 September 2024 at the latest. If either party disagrees, they also need to let me have any further evidence and/or arguments they want me to take into account, before I reach a final decision (if one is required)."

Mr O replied to say he agreed with the provisional findings.

Barclays responded to say it disagreed. It provided further contact notes going back to 2017 to be taken into account. In summary, Barclays said that it had been unable to find within its records a direct request from Mr O for everything to be in writing. It said that Mr O had only told it that he had difficulty speaking over the phone when dealing with agents not based in the UK. It said that there was nothing in its collections notes confirming that Mr O only wanted communication in writing, prior to making his complaint.

Barclays said it had provided Mr O with lots of support over the years and that its decision to move the account to litigation and continue with that process was the correct one - given the arrears on the account and the lack of payments. It said that although Mr O had said he planned to get a Lifetime Mortgage when turning 55, this was in no way concrete and Barclays hadn't received any evidence of this.

Barclays clarified that it hadn't altered its decision about proceeding with litigation, rather it had put proceedings on hold whilst the Financial Ombudsman Service was considering the complaint.

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 uphold this complaint for largely the same reasons as set out in my provisional thoughts (which form part of this Final Decision). I still consider that there remain two fundamental issues, one being Barclays' response to Mr O's request for it to communicate in a different way with him and the other being Barclays' decision to proceed with litigation after Mr O had communicated his plan to apply for a Lifetime Mortgage.

Communication

I've considered what Barclays has said in response to my provisional thoughts. There is evidence in the notes supplied by Barclays that before raising the complaint, Mr O had requested that Barclays communicate in writing only.

The complaint letter itself refers to Mr O wanting Barclays to put everything into writing as well as phone calls. I consider the upshot here is the same – Mr O had expressed difficulty with his hearing and understanding such that he asked Barclays to put everything in writing. Bearing this in mind, I find that Barclays' response to Mr O that it would be sticking to its normal communication approach means that it hasn't treated Mr O fairly. I still find it to be the case that Barclays hasn't provided adequate justification for why it wouldn't alter its standard approach.

I do note that after the complaint there appears to have been limited direct communication between Barclays and Mr O – with the IFA he'd engaged having authority to engage with Barclays on his behalf.

Barclays' decision to proceed with litigation around the time of the complaint

Repossession is meant to be a last resort. In response to my provisional findings, Barclays has said that whilst Mr O had mentioned he would be applying for Lifetime mortgage, Barclays hadn't been provided anything concrete to support this.

I'm not sure what Mr O could've provided at that time that Barclays would've considered to be 'concrete' – as he hadn't turned 55 and couldn't yet apply for such a mortgage. What I can see is that in addition to Mr O setting out his intention to apply for a Lifetime Mortgage when turning 55 in April 2024, the IFA working with Mr O had contacted Barclays in June 2023 setting out that they were looking at suitable ways to re-finance to avoid repossession.

I can see that Barclays had also been provided with an Estate Agent marketing report also in June 2023 indicating the property had a value in the region of £475,000 at that point. It looks like the total balance owed at that time including arrears was around £65,000. This means that even if Mr O were to make no payments between then and April 2024, there would still very likely be a significant amount of equity in the property, limiting the risks to both Barclays and Mr O of repossession being put on hold until that time. This includes consideration for the additional interest that would be applied.

So whilst I accept that Barclays didn't change its mind about putting repossession on hold – and that it only did this because of the open complaint at this Service, I do not agree that Mr O's account and situation had reached the 'last resort' stage. Mr O was being supported by an IFA and had notified Barclays of a credible means of repaying the loan by around April 2024. Such a delay to repossession proceedings was unlikely to increase either party's risks in a way that meant repossession needed to happen at that time.

So I still find that Barclays' decision taken around the time Mr O made his complaint was unreasonable and that any costs applied specifically as a result of that decision, should be refunded to Mr O.

Putting things right

Barclays should refund all costs associated with its decision to proceed with litigation around the time Mr O made his complaint, plus interest on those costs. It should then add 8% simple interest to that figure from the date the Barclays loan was repaid to the date of settlement.

Barclays should pay Mr O a total of £750 to reflect the unnecessary distress and inconvenience caused to him through a combination of its response to his request for it to alter its standard method of communication and its decision to proceed with litigation for repossession, when this wasn't a last resort.

Such an award is appropriate where the impact of mistakes has caused considerable distress, upset and worry.

Although there doesn't appear to have been a great deal of direct contact between Barclays and Mr O following the complaint, I still consider that reflects the situation here, given the inherent upset caused by Barclays' response to Mr O's request for different communication and its decision to proceed with litigation. And with consideration to the particular impact of the issues on Mr O, given his health challenges and wider circumstances.

My final decision

My final decision is that I uphold Mr O's complaint about Barclays Bank UK PLC and I direct it to do what I've set out above under 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 8 October 2024.

Ben Brewer
Ombudsman