

## The complaint

Mr and Mrs V feel that Barclays unfairly applied an early repayment charge (ERC) when they redeemed their mortgage early.

## What happened

Mr and Mrs V had a mortgage with Barclays and were paying a fixed interest rate of 1.17% until 30 November 2023.

It was Mr and Mrs V's intention to redeem the mortgage in full following the expiry of their fixed rate period. The mortgage terms said that if Mr and Mrs V redeemed the mortgage before 30 November 2023, they would be liable to pay an ERC.

Mrs V called Barclays on 27 September 2023. She explained that she had the funds to fully redeem the mortgage and asked when she could do so without incurring an ERC. Mrs V was told that if she redeemed the mortgage within 30 days of the expiry of the current deal, she wouldn't be liable to pay an ERC.

On 13 October 2023, Mrs V called Barclays to request a redemption statement showing the amount that would be required to repay the loan on 10 November 2023. Barclays sent them that statement.

On 24 October 2023, Mr and Mrs V paid the figure set out in the redemption statement. As the mortgage was repaid before 1 November 2023, Barclays applied an ERC of £2,784.97. This meant that they hadn't paid off their balance in full and the mortgage remained outstanding.

Mr and Mrs V didn't feel this was fair. They felt that information relating to the redemption statement was unclear as to when payment had to be made to avoid paying an ERC. They subsequently made a complaint to Barclays.

Barclays didn't uphold the complaint. It said that Mr and Mrs V were given clear and accurate information about the redemption of their mortgage. Barclays concluded that the ERC had been charged fairly.

Mr and Mrs V were unhappy with this outcome and therefore referred their complaint to our service.

One of our Investigators reviewed Mr and Mrs V's complaint. He listened to the September and October calls. He said Mrs V was rightly told in September that she would avoid an ERC if she redeemed the mortgage any time in November. And when she called in October, she requested a redemption statement for 10 November, which correctly didn't factor in an ERC for that date. Our Investigator found that Mrs V didn't specifically ask about the ERC during that call and so it wasn't unreasonable that it wasn't discussed by the adviser either. As such, the investigator felt that all the information provided to Mrs V was correct and he didn't uphold the complaint.

Mr and Mrs V didn't accept the Investigator's view. They asked if a compromise could be made whereby they'd only pay half of the ERC. Our Investigator asked Barclays if it would be willing to consider this. Barclays declined the request. It said that it charged the ERC fairly, therefore it wouldn't be willing to waive all or part of the charge.

As Mr and Mrs V didn't accept our Investigator's view, the complaint was passed to me to decide. I issued a provisional decision explaining why I intend to uphold the complaint. An extract of which is as follows:

*"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*Mr and Mrs V don't dispute that an ERC is chargeable in line with their mortgage terms. However, they say that they made several calls to Barclays to understand exactly how the redemption process worked and the ERC terms that apply, to help inform their decision making around their plans. But they say that the information they received during these calls was misleading, causing them to make payment sooner than they ought to have, to avoid an ERC being applied on redemption.*

*I've listened to the September and October calls, to see if that is in fact the case.*

*On 27 September Mrs V called Barclays to ask about the process of redeeming the mortgage in full. She explained that she was aware the current mortgage deal expired in November but said she had the funds to repay the mortgage sooner than that. She asked when she could redeem the mortgage without incurring an ERC.*

*I'm satisfied that during this call, Mrs V was provided with clear, fair and not misleading information about how the redemption process worked. And I think the adviser clearly explained when the ERC would and wouldn't apply during the call.*

*The adviser explained that, if Mr and Mrs V repaid the mortgage within the last 30 days of the rate expiry, they wouldn't be subject to pay the ERC. On more than one occasion during the call, the adviser explained that an ERC wouldn't be payable if they redeemed their mortgage at any time in November. And the adviser did stress that Mr and Mrs V would need to wait until 1 November before making the payment in order to avoid the ERC.*

*The adviser went on to explain that Mrs V could request a redemption statement in advance of a date in November so she'd know how much would need to be repaid on that day. Mrs V said that it made sense to request a redemption statement around mid-October and then pay off the mortgage around mid-November. That way November's payment will already be factored into the settlement figure.*

*On 13 October Mrs V called to request a redemption statement. It's during this call that I think she was given misleading information – leading to confusion about when the ERC would and wouldn't apply.*

*The statement was requested to reflect a payment date of 10 November, so the ERC wasn't accounted for in the settlement figure as it wouldn't have been payable on that date. Mrs V asked several questions to understand how the November contractual payment would be factored into the final redemption figure.*

*During the call the adviser provided the final redemption figure and voluntarily told Mrs V that she could make the payment amount quoted any time between now and 10 November, if she chose to.*

*The adviser wasn't wrong to say this, as it's true Mrs V could've redeemed the mortgage sooner if she wanted to. However, the only impact described for making a payment before 10 November was that the mortgage account would be in credit. There was no mention by the adviser of an ERC being applicable if the payment was made before 1 November, as was the case here.*

*I accept Mrs V didn't ask the adviser about avoiding an ERC during this call. As the adviser told Mrs V that she could make payment at any time up to 10 November, I think he also had an obligation to provide Mrs V with all the necessary information to fully understand the implications of doing so – most importantly that an ERC would be payable before 1 November. Telling Mrs V that she could pay the redemption figure for 10 November at any time before 10 November – but not also making it clear that if she did so before 1 November that would trigger the ERC – meant that Mrs V wasn't given the full information that she needed. In my view, therefore, this wasn't clear, fair and not misleading – and it meant Mrs V wasn't given all the information that she needed to make a timely and effective decision about what to pay when.*

*By the adviser omitting to explain the full implications of Mrs V making that payment at any time – including the key issue of the ERC applicable, I think Barclays didn't treat Mrs V fairly. In saying that, I've taken into account my previous finding that Mrs V was given correct and complete information on the earlier call. But I don't think that changes my conclusions – because in the later call the implication was clear that Mrs V could pay the 10 November figure at any time without an ERC, and I think that's what she relied on. Barclays is the expert here, and I don't think it's reasonable to expect Mrs V to have understood that this wasn't correct and acted on the September call instead.*

*So, to conclude, I think the information given to Mrs V in this call was misleading. Information relating to the ERC applicable if she made payment ahead of 1 November was vital towards her making an informed and timely decision about paying off their mortgage.*

*The ERC wasn't mentioned at all. And so it's plausible when Mr and Mrs V say that they thought once they had the redemption figure, they could make the quoted payment at any time without incurring an ERC – based on the level of information provided to them by the adviser. In addition, the redemption statement itself doesn't make it clear what will happen if Mr and Mrs V make their payment ahead of the set redemption date.*

*Because Mr and Mrs V paid the redemption figure on 24 October, Barclays charged the ERC. I'm persuaded that Mr and Mrs V didn't want to pay an ERC and they tried to avoid doing so. I also accept that they genuinely believed they'd done the right thing and didn't think that sending the redemption funds to Barclays on 24 October would result in them being charged.*

*For the reasons I've explained, I don't think it's fair that Mr and Mrs V incur an ERC in the circumstances. Had they been provided with clear, fair and not misleading information about the redemption of their mortgage, I see no reason why they wouldn't have waited to repay their mortgage eight days later to avoid incurring an ERC.*

*I also agree that this matter has caused Mr and Mrs V a degree of distress and inconvenience. They've confirmed that they've since paid the ERC and had to find the funds to do so. They've likely spent several months worrying that they'd lost out on the ERC funds as a result of paying their mortgage prematurely. Barclays should pay Mr and Mrs V compensation for this. I think £300 fairly reflect the impact described.*

### *Putting things right*

*To put things right Barclays Bank UK PLC should:*

- *Refund the ERC paid by Mr and Mrs V on redemption of their mortgage, plus 8% simple interest on the balance from the date of payment until the date of settlement; and*
- *Pay Mr and Mrs V £300 compensation*

*\*\* If Barclays Bank UK PLC considers that it's required by HM Revenue & Customs (HMRC) to take off income tax from the interest, it should tell Mr and Mrs V how much it's taken off. It should also give Mr and Mrs V a certificate showing this if they ask for one, so they can reclaim the tax from HMRC, if appropriate.*

### *My provisional decision*

*My provisional decision is that I uphold Mr and Mrs V's complaint against Barclays Bank UK PLC and direct it to put things right as set out above."*

Both parties responded to my provisional findings. Mr and Mrs V accepted the findings and said they had nothing further to add.

Barclays responded by providing a copy of the redemption statement – asking that the details of which be taken into account when reaching my final decision. Barclays says that the redemption statement informed Mr and Mrs V about the ERC and the redemption date – specifically that payment made before 31 November 2023 will incur an ERC and payment after 31 November will require a new redemption statement.

Barclays says that although the call on 13 October 2023 may have led to confusion, the redemption statement produced on this date is clear. The redemption statement clarifies when Mr and Mrs V needed to make payment and what the payment would need to be, depending on the date it was made. These are dates between 10 November 2023 and 31 November 2023.

I've taken any further submissions into account when reaching my final decision on this case.

### **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.

In doing so, I've specifically considered the comments Barclays has made in response to my provisional findings.

I can confirm that a copy of the redemption statement was provided to our service by Mr and Mrs V as part of their initial submissions.

As explained in my provisional decision, having considered the contents of the redemption statement – it doesn't make it clear what will happen if Mr and Mrs V make their payment ahead of the set redemption date.

While there is information in the redemption statement that explains what will happen if

Mr and Mrs V pay their mortgage after the redemption date or later than the expiry of the redemption period, there is no mention of an ERC if the balance is repaid before the redemption date of 10 November 2023 and more importantly before 1 November 2023 – the date after which no ERC becomes due.

Having carefully considered all the facts of this case, I see no reason to depart from my provisional findings.

### **My final decision**

My final decision is that I uphold Mr and Mrs V's complaint against Barclays Bank UK PLC and direct it to put things right as follows:

- Refund the ERC paid by Mr and Mrs V on redemption of their mortgage, plus 8% simple interest on the balance from the date of payment until the date of settlement; and
- Pay Mr and Mrs V £300 compensation

\*\* If Barclays Bank UK PLC considers that it's required by HM Revenue & Customs (HMRC) to take off income tax from the interest, it should tell Mr and Mrs V how much it's taken off. It should also give Mr and Mrs V a certificate showing this if they ask for one, so they can reclaim the tax from HMRC, if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V and Mrs V to accept or reject my decision before 29 October 2024.

Arazu Eid  
**Ombudsman**