

The complaint

Mr M and Miss S complain that the Early Repayment Charge (ERC) Barclays Bank UK PLC applied to their mortgage at redemption was unfairly excessive.

What happened

Mr M and Miss S had a mortgage with Barclays that was split into two accounts, each with different interest rate products. One was due to run until January 2025, and the other was due to run until October 2025. Mr M and Miss S have said that due to a change in circumstances, they had to sell their home earlier than planned and so redeemed their mortgage in May 2024.

When the mortgage was redeemed, Barclays applied an ERC of £8,221,69.

Mr M and Miss S complained. They didn't think it was fair that Barclays should profit from their change of circumstances when they'd been forced to sell their home within the product term. They said the amount of ERC Barclays received was more than it would be losing in the interest payments Mr M and Miss S would have paid had the mortgage continued as intended. They felt Barclays had demonstrated an unfair imbalance of power and it was unreasonable to take such a large amount from a young family during a cost of living crisis.

Barclays didn't uphold the complaint. One of our Investigators looked into things and explained that he didn't think Barclays had acted unfairly when it applied the ERC to the mortgage.

Mr M and Miss S disagreed, and so the complaint has been passed to me to decide.

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.

Both the relevant mortgage offers for Mr M and Miss S's mortgage accounts set out that an ERC would be charged if they redeemed the mortgage before 31 January 2025 for account one, and 31 October 2025 for account two. Both offers said the ERC would be 3% of the total amount repaid. So I'm satisfied that when Mr M and Miss S redeemed their mortgage before the product end dates, Barclays applied the ERC in line with the mortgage contracts that Mr M and Miss S had agreed to, as it was entitled to do.

The regulator's rules and guidance set out the requirements for lenders when setting their ERCs. In summary the rules say that the ERC must be expressed as a cash value, and that it must be a reasonable pre-estimate of the costs as a result of the customer repaying the mortgage early. The guidance also says the ERC can be calculated across a tranche of mortgages of a similar type, rather than on each individual mortgage for individual customers.

I'm satisfied the ERC was set out clearly in each of Mr M and Miss S's mortgage offers. It was expressed as a cash value, and it was clear that the charge would be payable should the mortgage be repaid before the product end dates. Mr M and Miss S agreed to the mortgage on that basis. Whilst Mr M and Miss S may feel Barclays charging them over £8,000 is excessive in their particular circumstances, the ERC is not calculated on an individual basis. It is a fixed percentage that reflects a reasonable pre-estimate of the costs Barclays would incur from the mortgage being repaid early. That is calculated across a tranche of mortgages, and not individually for each borrower.

Mr M and Miss S have said that the ERC Barclays charged them was not reflective of the actual loss incurred by Barclays from the interest it would no longer receive under the mortgage contract. But there are costs incurred by Barclays for making changes to the mortgage within the term, and it's not as simple as Barclays just covering the lost interest payments that it would otherwise have received from Mr M and Miss S for the remainder of the term.

Lenders generally raise money to offer preferential rates for their mortgage customers on the wholesale money markets. There's a cost to that, and it's generally fixed in advance. But the lender expects to receive a return to outweigh those costs. If a mortgage ends early, it doesn't get back all the returns it expected, and so doesn't make back the costs in raising the funds to offer that preferential rate.

It's complex and onerous for lenders to calculate individual losses as and when individual customers decide to terminate their contracts early. And it isn't possible to estimate, for any given individual, when or if they might do so. So Barclays is allowed to project how many customers, on average, are likely to terminate early and, on average, at what point they're likely to do so, and to apportion that cost across the mortgages in the group.

I understand that Mr M and Miss S had not planned to redeem their mortgage early, and it was their personal circumstances that meant they had to change their plans. But I'm not persuaded that means Barclays ought to have waived its rights under the contract to charge the ERC. I appreciate this will come as a disappointment to Mr M and Miss S, but I'm not persuaded Barclays was acting unfairly when it applied the ERC to the mortgage at redemption.

My final decision

Considering everything, for the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Miss S to accept or reject my decision before 30 December 2024.

Kathryn Billings
Ombudsman