

The complaint

Mr R complains that Barclays Bank UK PLC hasn't provided him with documents he asked it for in connection with his mortgage, it hasn't replied to all his correspondence, and it took legal action but its representatives failed to attend the court hearing.

What happened

Mr R has a mortgage and a mortgage current account with Barclays. The mortgage, of around £500,000, was taken out in 2008. It was arranged on an interest-only payment basis over a term of 25 years.

On 21 September 2023 Mr R wrote to Barclays by recorded delivery. He says he sent Barclays a notice, not a letter, and describes his correspondence as a "DSAR [data subject access request] and Notice of Conditional Acceptance". It said Mr R would pay £50 a month to the mortgage until Barclays provided him with the information he asked for, which included the signed mortgage contract and information under his DSAR. It said Mr R would pay that amount for six months and after that period the mortgage debt would be considered cleared and he would pay nothing more.

Barclays didn't respond. On 1 November 2023 a firm of solicitors wrote to Mr R. They said they were acting for Barclays and were writing in response to Mr R's letter of 21 September 2023. They said Barclays would be responding to Mr R's DSAR and that Mr R owes the mortgage debt, his mortgage was in arrears, and he should arrange to make payment as soon as he could or discuss any financial difficulties with Barclays.

Mr R received a response to his DSAR but not to his other requests and questions. He wrote again to Barclays and the solicitors a number of times, but didn't always receive replies. In May 2024 a possession hearing took place. Mr R attended court but neither Barclays nor solicitors acting for it attended. Barclays' claim was struck out.

Mr R complained about Barclays' failure to attend the hearing and its decision to take legal action when he had said he was prepared to pay the mortgage arrears if it first provided him with the documents he wanted. He also complained that it had failed to provide him with these documents: specifically, the original title documents for his property and the original signed mortgage agreement.

Barclays apologised for not replying to Mr R's correspondence, for going ahead with court proceedings after Mr R had told it he was willing to make payments, and for its solicitors not attending the court hearing. It said his correspondence hadn't reached the right departments and this was why it hadn't replied. It said it had sent him documents in October 2023 in response to his DSAR, and he could obtain copies of his deeds from the Land Registry. It offered him £400 compensation by way of apology and said it would arrange for the original signed mortgage paperwork to be sent.

Mr R didn't consider his complaint resolved, so one of our Investigators looked into it. She found that Barclays' service had fallen short, and she recommended that it refund any legal costs and interest it had added to Mr R's mortgage for the May 2024 hearing, as well as

Mr R's costs for the hearing subject to evidence of those costs, and pay Mr R £400 compensation. She also sent Mr R a copy of the title documents which Barclays had sent her.

Barclays accepted that conclusion, but Mr R did not. He felt that the legal issues at the heart of this dispute hadn't been properly considered and asked for an Ombudsman's review.

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've also considered relevant law, and I think it's important to point out that the Financial Ombudsman Service has no power to determine whether or not a contract is enforceable, so I'm not going to make a decision about that here. I am however satisfied that it's reasonable for Barclays to seek payment of the mortgage Mr R took out from him and to apply the terms and conditions of the mortgage contract until the debt is repaid. Mr R can pursue the question of enforceability in court if he wishes, although he may want to take advice from a qualified solicitor first.

Mr R wants to see the original, signed mortgage agreement and title documents. Barclays has responded to his DSAR, and I understand that Mr R has received copies of the mortgage offer and title documents. Barclays has also explained to him that title information for his property is stored electronically at the Land Registry, and he can check that information there. I don't require Barclays to provide Mr R with any further documents to settle this complaint.

However, I consider that Barclays, and the solicitors acting for it, dealt poorly with Mr R's requests and failed to reply consistently and clearly to his correspondence. Barclays and the solicitors also appear not to have communicated with each other, and as a result it took a considerable amount of time for Barclays to realise that the solicitors had in fact replied to Mr R's initial "notice" in November 2023. I think that had Barclays handled this matter appropriately it could well have been resolved much more quickly and amicably, avoiding the legal action Barclays took to recover the debt in 2024 and the court hearing which its solicitors failed to attend.

Barclays has accepted some of its shortcomings and offered Mr R £400 compensation. I think that's a fair and reasonable award for Mr R's non-financial loss, in recognition of the frustration and inconvenience he has been caused, as well as the time and stress of attending the court hearing. In taking that view I've also kept in mind that it was Mr R's decision to pay £50 to his mortgage each month instead of the much higher contractual monthly payments and to allow arrears to build up. I'm satisfied that Barclays and its solicitors told Mr R that legal action may be taken if the arrears weren't repaid and that Mr R could contact Barclays to discuss payment options if he was in financial difficulty.

I share the Investigator's view that Mr R should also fairly receive compensation for the financial losses he incurred as a result of the May 2024 court hearing. I consider that any costs added to the mortgage in respect of the hearing should be refunded along with any interest charged on them, plus Mr R's costs arising from the hearing, given that Barclays' claim was struck out for non-attendance.

Mr R has invoiced Barclays for his time, costs and distress, amounting to £8,500. Included in that total are £40 for costs of travel to court and parking in May 2024, lost earnings of £460 for the day of the hearing, and legal costs in connection with the hearing of £1,000. Our Investigator has asked Mr R for evidence of these costs. He has provided a copy of a receipt

for payment of £2,000 in cash, but the receipt doesn't say what services the payment was for. Mr R says the £2,000 was for "the preparation and service of the Notice of Settlement of Alleged Arrears, Notice of Non-Response, Rescission contract, and consultations".

I find no basis on which I can fairly require Barclays to pay for any costs Mr R incurred for representation other than for the May 2024 court hearing, so I don't require it to pay the £2,000 Mr R has claimed. I do think Barclays should pay his other costs, subject to Mr R providing Barclays with reasonable evidence of having paid them, as set out below.

I know this isn't the outcome Mr R wanted or the explanation he hoped for. As I've said, the enforceability or otherwise of a contract is not a matter I can decide. And it's not appropriate for me to require Barclays to respond to Mr R's questions in a particular way. Barclays has provided Mr R with the documents it considers necessary to satisfy his enquiries, and I don't require it to provide anything further in order to resolve this complaint.

In all the circumstances, I don't consider that a fair and reasonable outcome would be for me to say Barclays can't seek payment from Mr R of what he agreed to pay under the mortgage agreement. I understand that the mortgage is still in arrears and Barclays is considering possession proceedings. I encourage Mr R to pay the arrears if he can, and if not to engage with Barclays to try to come to an agreement for repayment.

Putting things right

In settlement of this complaint, if Mr R accepts my decision Barclays Bank UK PLC must:

- 1) Refund to the mortgage any legal costs it added to the mortgage balance for the May 2024 court hearing and any interest applied to those costs.
- 2) Pay Mr R £40 in respect of his travel and parking costs for attending the court hearing in May 2024.
- 3) Pay Mr R his lost earnings for the one day of the court hearing in May 2024, subject to Mr R providing evidence to Barclays of his usual daily earnings at around that time, to a maximum of £460 as Mr R has set out in this complaint.
- 4) Pay Mr R any legal costs he incurred in connection with the May 2024 court hearing, up to a maximum of £1,000 as Mr R has set out in his complaint, subject to Mr R providing Barclays with evidence of these costs in the form of an itemized invoice and receipt of payment from a regulated firm of solicitors.
- 5) Pay Mr R £400 compensation if it hasn't already done so.
- 6) Pay Mr R interest on 2), 3) and 4) above at an annual rate of 8% simple from the date each payment was made or lost to the date of settlement. Barclays may deduct income tax from this element of my award, but it should tell Mr R what it has deducted so he may reclaim the tax from HMRC if he's entitled to do so.

My final decision

My final decision is that I uphold this complaint and Barclays Bank UK PLC should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 26 June 2025.

Janet Millington
Ombudsman